



# Support for the trans-national distribution of European films - The « Automatic » scheme 2007

## **CALL FOR PROPOSALS EACEA/05/07**

Guidelines for the submission of proposals to obtain financial support

NB: This call is subject to the adoption of the MEDIA 2007 work programme (see introduction p. 3)

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### 1. INTRODUCTION

This call for proposals and attached guidelines (hereafter: "Call for proposals") are based on the Decision n° 1718/2006/EC of the European Parliament and of the Council of 15 November 2006 concerning the implementation of a programme of support for the European audiovisual sector (MEDIA 2007). 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.

More generally, the implementation in 2007 of Call for Proposals is subject to the following condition:

-adoption of the work programme relating to the MEDIA programme 2007 after referral to the programme committee.

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 implements 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 (hereafter "the Agency").

## 2. OBJECTIVES

#### 2.1 Objectives of the Programme

The global objectives of the programme are the following:

- a) To protect and enhance cultural diversity and the European audiovisual heritage, to guarantee public access and to encourage cultural exchanges;
- b) To increase the circulation of European audiovisual works within and outside of the European Union, and
- c) To reinforce competitiveness of European audiovisual works within the framework of an open and competitive European market.

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 nondomestic European cinema films, and
- to foster the wider trans-national 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 audiovisual production capacity and/or a restricted linguistic or geographical area.

#### 2.2. Objectives of the "Automatic scheme"

The aim of the "automatic" support scheme is to encourage and support the wider transnational distribution of recent non national European films by providing funds to operators for further investment in such films based upon their record of generating an audience for European films.

The scheme also aims to encourage the development of links between the production and distribution sector thus improving the competitive position of non national European films.

#### 2.3. Priorities of this Call for proposals

This Call for proposals is aimed at European companies whose activities contribute to the realisation of the above objectives, and in particular at cinema distribution companies. It explains how to submit a proposal with a view to the generation of a potential Fund in the framework of the "automatic" support scheme.

The « automatic » support scheme works in two phases:

- 1. The generation of a potential Fund, proportional to the number of paying admission tickets sold for non-domestic European films in States participating in the Programme, up to a fixed ceiling per film and adjusted for each country.
- 2. Reinvestment: the potential Fund thus generated by each company must be reinvested in:
  - the co-production of non-domestic European films;

- the acquisition of distribution rights, for example by means of minimum guarantees, of non-domestic European films, and/or in
- editing costs (prints, dubbing and subtitling), promotion costs and publicity costs for non-domestic European films.

## 3. CALENDAR

Applications must be sent to the Agency by the following deadline (the postmark will be taken as proof of timely sending): ultimately at **30 April 2007**.

See Section 12.3 of this Call for proposals for a detailed description of the procedure to follow when submitting an application.

## 3.1. Calendar for "Generation" stage

Applicants will be informed normally within 6 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.

## 3.2. Calendar for "Reinvestment" stage

Reinvestment applications must be sent to the Agency ultimately at 1<sup>st</sup> October 2008 (the postmark will be taken as proof of timely sending).

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 – Co-production	From the date of the signature of the co-production contract (which must be between 1 August 2007 and 1st October 2008) until 16 months after this date.
2 – Minimum guarantees	From the date of the signature of the distribution contract (which must be between 1 August 2007 and 1st October 2008) until 16 months after this date.
3 – Distribution costs	From 5 months before the first release of the film in the relevant territory (which must be within 12 months starting from the sending date of the application) until 6 months after this date.

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.

If after the signing of the agreement and the start of the project it becomes impossible for the beneficiary, for fully justified reasons beyond his control, to complete the project within the scheduled period, an extension to the eligibility period may be granted if requested before the end of the eligibility period as specified in the agreement.

## 4. AVAILABLE BUDGET

The maximum budget available under this Call for proposals will be 13,250.000 €. 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. Under no circumstance may the amount of the financial contribution awarded by the Agency exceed 60% of the total eligible costs of the projects. The recipient company must guarantee the remaining finance.

"Generation": The total annual amount of potential funding available to each distributor shall be determined on the basis of the paid admissions to recent non-national European films achieved by the distributor in the reference year (2006).

In the case of "Reinvestment", the amount of the financial contribution awarded to each company is determined with respect to the cost and nature of each proposed reinvestment project (production, distribution Minimum Guarantees and P&A costs). Support will be in the form of a subsidy.

## 5. ELIGIBILITY CRITERIA

## 5.1. 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.

#### Cinema / theatrical distributor

A cinema / theatrical distributor is involved in 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 audiovisual 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.).

Digital distribution can also be supported as long as it is of a minimum quality (=1,3 k).

This excludes DVD, DVIX, Digital Beta or any other support whose resolution is below 1.3K as a copy or source of the films for theatrical release.

Costs that are specific to digital distribution (master or any other digital equivalent of the internegative and duplication costs) are thus eligible.

Distributors can be supported for digital and non-digital distribution of a film at the same time.

A cinema / theatrical distributor must fulfil the following criteria:

- 1. be the holder of the theatrical distribution rights for the film in the territory concerned:
- 2. carry out the theatrical distribution of the film in the territory (determines the release date; plans, controls and executes the distribution and promotion campaign), and
- 3. pay the associated distribution costs.

In the event that distribution activities are shared between several companies, the contracts/agreements between these companies must be previously disclosed to the Agency. The Agency will consider as eligible a distribution company that fulfils most of the criteria defined in the above paragraph.

The use of « physical distributors » for specific services (booking of cinemas, circulation of prints and collection of receipts) is allowed, provided that it has been previously disclosed to the Agency. Such « physical distributors » shall not be eligible for support.

#### 5.2. 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 2007 Programme (Iceland, Liechtenstein and Norway), as well as Switzerland <sup>1</sup>.

## 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, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Sweden and Switzerland.

## 5.3. 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 / legal 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):

Switzerland's participation is subject to the conclusion of a new cooperation agreement in the framework of the MEDIA Programme.

+	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
Total	19

Recent films are those whose first copyright has been established during or after 2003.

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.

#### 5.4. Eligible admissions

The cinema admissions where a normal ticket price was actually paid to the relevant exhibitor (including any special offers or discounts) but explicitly excluding those admissions where no fee was paid.

Only those paid admissions declared by the applicant distributor and certified by the relevant national correspondent will be considered as eligible.

#### 5.5. Eligible applications

To be eligible, the applications must:

- 1. be sent to the Agency by the relevant deadline (postmark will be taken as proof of timely sending.)
- 2. respect these guidelines and be correctly and fully completed;
- 3. be submitted using the official application forms (Annex 3 and 4);
- 4. include a detailed, balanced and correctly calculated budget complying with all the conditions set out under section 9 of this Call for proposals;
- 5. include all the official forms, duly completed and signed by the legal representative of the company, and
- 6. include all documents requested in the Checklist (see application forms).

The Agency reserves the right to request additional information from the applicant.

## 6. EXCLUSION CRITERIA

Applicants must certify that they are not in any of the situations described in Articles 93 & 94 of the Financial Regulations applicable to the budgets of the European Communities (EC Council Regulation, Euratom-n° 1605/2002 25 June 2002.) These situations are set out below.

Applicants are excluded from participation in this Call for proposals for the following reasons:

- (a) they are bankrupt or entering bankruptcy proceedings, their business is administered by the courts, they have entered into an arrangement with creditors, they have suspended business activities, are the subject of proceedings concerning these matters, or are in a similar situation arising from an analogous procedure provided for in national legislation or regulations;
- (b) they have been convicted of an offence concerning professional conduct by a judgment which has the force of res judicata;
- (c) they have been guilty of a serious offence proven by any means which a 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 where they are established or with those of the country of the contracting authority or of the country where the project is to be implemented;
- (e) they have been the subject of a judgment 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 contractual obligations.

Applicants cannot receive a contribution if they are in one of the following situations while the grants procedure is in progress:

- (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.

Administrative and financial penalties may be imposed by the Agency on applicants found guilty of false declarations or who admit to a serious breach of their contractual obligations under a previous contract or call for tender, in accordance with the provisions of Articles 93 to 96 of the Financial Regulation.

In order to respect these criteria, the legal representative of the company must sign a declaration of honour stating not to be in any of the situations set out in Articles 93 & 94. This declaration is included in the Application Forms provided in Annex 2 and 3.

## 7. SELECTION CRITERIA

The selection criteria are aimed at assessing the applicant's operational and financial capacity to complete the proposed project or work plan.

## 7.1. Operational Capacity

The applicants must provide evidence of:

#### -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** in its own language (<a href="http://europa.eu.int/comm/budget/execution/legal\_entities\_fr.htm">http://europa.eu.int/comm/budget/execution/legal\_entities\_fr.htm</a>) 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.

- 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 distribution (if they are not the same person), and
- a list of films distributed by the applicant over the last two years.

#### 7.2. Financial Capacity

The applicants must provide evidence of:

- 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 6 of Company Application Form) carefully and fully completed and signed by the legal representative and the approved external auditor. 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 cofinancing 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 considers 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 pre-financing payment.

## **7.3.** Audit

When one distributor's cumulative requests for financial contributions exceed € 500.000 under this Call, she/he will have to provide an audit report produced by an approved external auditor¹. This report certifies the accounts of the last or most recent fiscal year.

The Agency reserves the right not to select proposals submitted by distributors who have not fulfilled their obligations under the 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.

#### 8. AWARD CRITERIA

#### 8.1. Generation Stage:

A potential Fund will be attributed to eligible European distribution companies on the basis of the admissions achieved by the European non-national films distributed by the applicant in the reference year (2006).

<sup>&</sup>lt;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 (IO n°L 126 of 12/05/1984).

Within the limit of the budgetary resources available, the potential Fund will be calculated based upon a fixed amount per eligible entry.

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

The potential Fund will be calculated on the following basis.

- All paid admissions generated by recent non-national European films shall be declared by the applicant companies using the attached forms. Only paid admissions achieved between the 1st of January and the 31st of December in the reference period (2006) will be eligible. The paid admissions achieved by a film already supported by the MEDIA Programme shall be eligible.
- On the basis of the applicants declarations, and with the co-operation of the correspondents designated by the Member States, the total number of eligible paid admissions per company per territory per year shall be calculated according to the following formula:
  - all paid admissions for a single non-national European film shall be eligible up to a limit fixed per film and per territory of 700,000 admissions;
  - this limit can be reached in one or more years but in any case all paying admissions over 700,000 for an individual film shall not be eligible.

Only those paid admissions declared by the applicant and certified by the relevant national correspondent will be considered as eligible.

- The following information shall be published on the Agency's website and via the MEDIA Desks and Antennae.
  - name and territory of the distribution company;
  - title(s) of the non national European film(s) distributed;
  - number of admissions made by the film(s) between 01/01/2006 and 31/12/2006, and the
  - amount of automatic support generated on that basis.

All other information supplied shall be treated as confidential.

• The amount of the potential Fund generated will be obtained by multiplying the number of eligible admissions by a fixed amount per admission using the following formula:

Territory of distribution	Amount per eligible admission		
·	Films originating from France and United Kingdom	Films originating from Germany, Spain and Italy	Films originating from countries having a limited audiovisual production capacity
Germany, Spain, France, Italy	0,40 Euro	0,50 Euro	0,70 Euro
Austria, Belgium, Denmark, The Netherlands, Norway, Poland, Sweden, Switzerland, United Kingdom		0,55 Euro	0,70 Euro
Bulgaria, Cyprus, Czech Republic, Estonia, Finland, Greece, Hungary, Iceland, Ireland, Latvia, Liechtenstein, Lithuania, Luxemburg, Malta, Portugal, Romania, Slovakia, Slovenia	0,50 Euro	0,60 Euro	0,70 Euro

Films originating from a country with a high audiovisual production capacity will generate 0,10 euro less per admission than foreseen in the table above if they are distributed in a territory of which a significant part belongs to the same linguistic area provided that the film is shot in that common language.

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

One of the principal objectives of the « Automatic » support scheme is to have a significant effect upon the marketing of European films. Thus, and for reasons of efficiency, a series of minimum availability thresholds have been defined.

TERRITORY OF DISTRIBUTION	Availability Threshold of the potential Fund
Germany, Spain, France, Italy	10 000 Euro
Austria, Belgium, Denmark, Greece, The Netherlands,	3 000 Euro
Norway, Poland, Portugal, Sweden, Switzerland, UK	
Bulgaria, Cyprus, Czech Republic, Estonia, Finland,	1 000 Euro
Hungary, Iceland, Ireland, Latvia, Liechtenstein, Lithuania,	
Luxemburg, Malta, Romania, Slovakia, Slovenia	

In the event that the potential Fund generated by a company in a given year does not reach the minimum threshold, the potential Fund will not be available. This amount may however be carried forward and be available in the following year, if the accrued potential Fund generated for the two years is greater than the availability threshold.

Following the calculation of the potential Fund generated, a notification letter will be sent by the Agency to the beneficiary. This letter will indicate the amount of the potential Fund and the reinvestment criteria to meet to be able to use this potential Fund.

## 8.2. Reinvestment Stage:

The potential Fund generated may only be used through reinvestment projects.

The potential Fund can be reinvested:

- 1. In the production of new non-national European films (i.e. films not yet completed at the date of application for reinvestment).
- 2. In the meeting of Minimum Distribution Guarantees for recent non-national European films.
- 3. In the meeting of distribution costs i.e. P&A (promotion and advertising) for recent non-national European films.

For reinvestment modules 1 and 2, the distributor can be eligible for selective support for the distribution of the same film.

Where the automatic support is to be reinvested in distribution costs (3), it is not cumulative with the selective support for the same film.

Reinvestment of the potential Fund into completed projects (i.e. released films) is impossible. This applies to all modules.

Distributors can present applications for reinvestment projects starting from 30 April 2007.

Please note that these projects will only be processed by the Agency after the establishment of the letter informing the beneficiary of the amount of the potential Fund she/he has generated. The reinvestment projects will be treated on the basis and within the limits of the potential Fund generated by the distributor as calculated and notified by the Agency. Reinvestment projects must be approved by the Agency.

In order to be eligible, reinvestment projects of the potential Funds generated by this Call for proposals must fulfil all three of the following conditions:

#### begin at the earliest on 1 August 2007

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

Module	Earliest start date of the project	
1. Co-production	The co-production contract can be signed at the earliest on 1/08/2007	
Minimum guarantee	The distribution contract/licence agreement must be signed at the earliest on 1/08/2007	
3. P&A costs	The first theatrical release of the film in the territory must take place at the earliest on 1/08/2007	

•	be submitted to the	Agency	within t	the following	deadlines :
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Module	Deadline for presentation of the reinvestment project
1. Co-production	Within 3 months of the signature of the co-production contract
2. Minimum guarantee	Within 3 months of the signature of the distribution contract (Deal Memo or Long Form Agreement)
3. P&A costs	At the latest the day of the first theatrical release of the film in the territory

#### Examples:

The reinvestment in a minimum guarantee (module 2) for which the distribution contract / license agreement was signed between the distributor and the producer / sales agent on 10 August 2007 is eligible. The request for reinvestment must be presented to the Agency at the latest on 10 November 2007.

The reinvestment in P&A (module 3) for which the first theatrical release date in the territory of the beneficiary distributor is set on 8 August 2007 is eligible. The request for reinvestment by the distributor must be presented to the Agency at the latest on 8 August 2007.

• be submitted to the Agency at the latest on 1st October 2008. The potential Fund which is not reinvested by the beneficiary on this date will be lost.

When one distributor's cumulative requests for financial contributions exceed € 500.000 under this Call, she/he will have to provide an audit report produced by an approved external auditor. This report shall certify the accounts of the last available fiscal year. The report will have to be produced at the latest by the time the distributor submits the reinvestment project by which the accumulated financial contributions requested under this Call exceed € 500.000.

#### 9. FINANCIAL CONDITIONS

Financial contributions granted in the framework of this Call for proposalswill 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.

#### **Exchange Rates**

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

<u>For those countries which are not members of the euro area</u> or for expenses incurred in the currencies of countries which are not part of the euroarea, the exchange rate to be used is the official exchange rate published at the beginning of each month for the month in which

- the reinvestment project is presented
- · the financial report is drafted

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

### 9.1 Payment Procedure

Should an application be approved, a financial agreement (drawn up in euro) specifying the conditions of the grant and the level of Agency financing will be concluded between the Agency and the beneficiary. The beneficiary will receive the original agreement in two copies which will have to be signed and returned to the Agency, who will be the last party to sign.

As a general rule, in case if all provisions of Chapter 5 and 7 are applied by the beneficiary, payments will be made as follows:

- A pre-financing payment of 50% will be transferred to the beneficiary within 45 days of the date when the last of the two parties signs the agreement and all the necessary guarantees have been received. This payment is an instalment designated to provide cash flow for the beneficiary.
- Payment of the balance is made after the end of the action on the basis of the implementation of the project and the approbation by the Agency of final reports. In order for the Agency to agree to a payment, additional information may be requested from applicants when the final reports are submitted. The amount of this final contribution depends on actual costs incurred by the beneficiary within the period of eligibility of costs and the levels of co-financing ultimately obtained. If applicable, the beneficiary will be required to reimburse any surplus already paid as part of initial prefinancing. The final payment will be made within 45 days following approval by the Agency of the final reports accompanying the request for payment of the balance.

The Agency will establish the amount of the final payment to be made to the beneficiary on the basis of the final reports certified by an independent and approved external auditor.

## 9.2. Audit report

An external audit of accounts, produced by an approved external auditor, may be required in support of any payments on the basis of an analysis of management risks. The audit report must be attached to the payment request, its purpose being to certify that the accounts concerned are sincere, reliable and substantiated by adequate supporting documents.

#### 9.3 Guarantee

The Commission may require any organisation which has been awarded a grant to provide a guarantee first, in order to limit the financial risks linked to the pre-financing payment.

The purpose of this guarantee is to make a bank or a financial institution, third party or the other beneficiaries stand as irrevocable collateral security for, or first-call guarantor of, the grant beneficiary's obligations.

This financial guarantee, in euro, shall be provided by an approved bank or financial institution established in one of the Member State of the European Union.

The guarantee may be replaced by a joint and several guarantee by a third party or by a joint guarantee of the beneficiaries of an action who are parties to the same grant agreement.

The guarantee shall be released as the pre-financing is gradually cleared against interim payments or payments of balances to the beneficiary, in accordance with the conditions laid down in the grant agreement.

## 9.4 Double financing

Subsidised projects may not benefit from any other Community funding for the same activity.

#### 9.5 Categories of eligible costs.

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

- directly linked to the distribution of the film concerned;
- actually incurred by the beneficiary;
- identifiable and controllable on the basis of justifying documents, and
- 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 Approved Project. This accounting and classification system will facilitate the verification and certification of the final costs by the approved external auditor necessary for the payment of an eventual financial contribution.

The categories of eligible costs are clearly identified in the form "Distribution Budget". The following categories can be distinguished:

### 9.5.1 Eligible costs for reinvestment in Module 1 (co-production).

Only those costs linked to the investment of the distributor in the co-production and which are set out in the co-production contract signed with the producer and / or co-producer of the film will be eliqible.

#### 9.5.2 Eligible costs for reinvestment in Module 2 (MG).

Only the costs of the Minimum Guarantee set out in the distribution contract signed with the producer or sales agent of the film will be eligible.

It is common that distribution rights are acquired by distributors for multiple territories and that the amount of the Minimum Guarantee is defined for all these territories.

The Agency can only co-finance the Minimum Guarantee for the territory of the distributor concerned. The amount of the eligible Minimum Guarantee will therefore be reduced following the methods established in the light of experience and set out below:

Territories	Division of the MG
Germany - Austria	- Germany: 90 %
	- Austria: 10 %
Belgium - Luxemburg	- Belgium: 97,5 %
	- Luxemburg: 2,5 %
	For French language films:
	- Belgium: 73%
	- Luxemburg: 2 %
BENELUX	- Netherlands: 25 %
(Belgium - Netherlands	
Luxemburg)	For other films :
	- Belgium: 48 % (without LU: 50%)
	- Luxemburg: 2 %
	- Netherlands: 50 %
Greece - Cyprus	- Greece: 97,5 %
	- Cyprus: 2,5 %
United Kingdom –	- United Kingdom: 95 %
Ireland	- Ireland: 5 %
Scandinavia	- Sweden: 35 %
(Denmark - Finland -	- Norway: 30 %
Iceland - Norway -	- Denmark: 25 %
Sweden)	- Finland: 9 % (without Iceland: 10 %)
	- Iceland: 1 %
Czech Republic -	- Czech Republic: 80 %
Slovak Republic	- Slovak Republic: 20 %
Estonia - Latvia –	- Estonia: 30 %
Lithuania	- Latvia: 30 %
	- Lithuania: 40 %
Switzerland -	- Switzerland: 99%
Liechtenstein	- Liechtenstein: 1%

The other examples of multi-territory acquisitions will be treated individually. The decision of the Agency on the relevant deduction will be final.

#### 9.5.3. Eligible costs for reinvestment in Module 3 (Distribution Costs)

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

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

**Publicity Material:** design, layout and printing of the posters, slides and photographs, production of advertising spots for radio and TV, flyers, design and layout of press advertising, .......

**Publicity Spaces:** placing of the cinema trailers, purchase of advertising spaces (poster, TV, Radio, Press), distribution of flyers / postcards and mailing, ...

**Promotion:** Promotion material such as press dossiers, organisation of press screenings, premieres or receptions for launching the film in the territory, organisation of test screenings, travel and accommodation of the director / cast of the film in the distribution territory for the promotion of the film, design and construction of a web site / homepage for the promotion of the film, EPK, ...

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

These costs comprise the costs related to the optical and digital manufacturing and circulation of the prints/digital copies for 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 and therefore to be exluded from digital 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)

#### **Audit Costs:**

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

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

#### Other Costs:

A space is provided in the form for the disclosure of other costs, directly linked to the project which are not expressly provided for in the form. These "other costs" must not fall under costs listed under Chapter 9.6 'ineligible costs' and have to be clearly identified and detailed in the application form and/or in the financial report for them to be eligible. Moreover, those costs normally associated with the normal running of the company are not eligible under this heading.

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

#### Overheads:

A flat-rate fee up to a maximum of 7% of the eligible direct distribution costs, 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 total amounts of indirect costs charged by the beneficiary who has different financial support contracts cannot exceed the total costs incurred by the beneficiary for these categories of costs for the financial reporting period.

## 9.6. Categories of ineligible costs

In all cases, the following costs are ineligible:

- costs which are not identifiable or verifiable on the basis of supporting documents;
- costs which are not registered in the accountancy or financial records of the beneficiary;
- return on capital;
- provisions for losses or potential future liabilities;
- financial costs (bank charges, costs of opening and maintaining bank accounts, exchange charges and other bank charges);
- debts or debts service charges;
- loan interest;
- doubtful debts:
- exchange losses;
- VAT, unless the beneficiary can show that he is unable to recover it;
- contributions in kind (such as publicity partnerships with various media);
- costs declared by the beneficiary and covered by another action or work programme receiving Community grant;
- costs that are to be considered as indirect costs (postal charges...), and
- excessive or reckless expenditures.

## 9.7 Legal entity

See Section 7.1 of these Guidelines

## 10. EVALUATION AND AWARD PROCEDURE

The purpose of this section is to define clearly for the applicants the procedures to follow when filling in and submitting reinvestment projects.

## Duration and validity of the Call for proposals

These guidelines are valid for the years 2007 (generation) and 2008 (reinvestments).

#### Deadline for submission of proposals

Proposals for the "generation" of a potential Fund must be sent (postmark date) ultimately at **30/04/2007.** 

#### 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 any final decision on granting support is taken.

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.

The "Automatic" support system works in two successive stages:

- The <u>generation</u> of the support: a potential Fund is generated by the eligible distribution companies in proportion to the number of paying theatrical admissions achieved by the non national European films distributed in 2006, within the limits for each film and adjusted for the relevant territory.
- The <u>mobilisation or reinvestment</u> of the potential support in the co-production, acquisition (MG) or the distribution of new non-national European films.

These two stages can be summarised as follows:

_	Stage 1: GENERATION	Stage 2: REINVESTMENT
Deadline	30/04/2007	1/10/2008
Distributor	Application from the distributor for the generation of the support (declaration of the paid admissions)	Presentation of reinvestment projects
Agency	Calculation of the potential Fund generated  Notification of approval (or rejection) of its available potential Fund and of the reinvestment rules	Acceptance/Rejection of the reinvestment project  Signature of the Agreement between the Agency and the beneficiary
Payment of a Community Financial Contribution	No	Yes

### Reinvestment Application Forms.

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

Three types of reinvestments are possible:

Module 1: In the production of new non-national European films (i.e. not yet completed at the time of the submission of the reinvestment application).

Module 2: In Distribution Minimum Guarantees for new non-national European films.

Module 3: In distribution costs (prints / publicity) for new non-national European films.

Reinvestment projects must be submitted within the deadlines set out in Section 8.2 of these Guidelines.

#### Amount of the Project Allocation

The amount of the potential Fund that may be drawn for a given reinvestment project may not exceed a certain percentage of the total cost of the proposed reinvestment project, defined in the following table:

Maximum percentage of the reinvestment project's costs to be covered by				
the reinvested Fund				
	Country of	origin of the reinv	estment film	
	FR - UK	DE, IT, ES	Country with a	
			low production capacity	
Module 1 (co-			capacity	
production)	60 %	60 %	60 %	
Module 2 (MG) Licence agreement				
signed before completion of the principal	60 %	60 %	60 %	
photography of the film				
Module 2 (MG) Licence agreement				
signed after completion of the	40 %	50 %	60 %	
principal photography of the film				
Module 3 (P&A)	50 %	50 %	60 %	

## **Examples:**

Reinvestment project:  Module 2 (MG), contract signed before completion of the principal photography of a UK film.  Amount of MG: 600 000 Euro	Maximum amount which can be covered by potential Fund (60%): € 360 000
Reinvestment project : Module 3 (P&A) UK Film Distribution budget (P&A): 60 000 Euro	Maximum amount which can be covered by potential Fund (50%): € 30 000

Reinvestment project:  Module 2 (MG)  Date of completion of principal photography irrelevant Irish Film  Amount of MG: 100 000 Euro	Maximum amount which can be covered by potential Fund (60%): € 60 000
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## 11. 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 applicant's 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.

## 12. PRESENTATION AND SUBMISSION OF PROPOSALS

#### 12.1. Publication

The Call for proposals is published in the Official Journal of the European Union and is accessible on the MEDIA Programme website at the following address: <a href="http://ec.europa.eu/media">http://ec.europa.eu/media</a>

## 12.2. Application forms

Applications must imperatively be submitted using the official application forms, including the official budget form, (Annex 3 and 4), and signed by the applicant's legal representative. The official forms can be downloaded from the website mentioned in 12.1.

## 12.3. Submission procedure

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

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

- a) Application form « COMPANY 2007 » in two copies.
- b) Application form « Film » for each NOT YET QUALIFIED film distributed by the applicant (to be filled in and signed by the distributor or by the producer/sales agent), only one copy.

as well as the annexes defined in the application forms.

Proposals and documents must be 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 (at the latest on 30.04.2007 before 15h00) by the Agency. to the following address:

Education, Audiovisual and Culture Executive Agency (EACEA)
Constantin Daskalakis
BOUR 3/66
Avenue du Bourget, 1
B-1049 Brussels
Belgium

**Envelopes should be clearly marked:** 

#### MEDIA 2007 - DISTRIBUTION EACEA/05/07 - AUTOMATIC CINEMA

Only applications which fulfil all of the eligibility criteria will be considered eligible and assessed. Ineligible applications will not be considered for a contribution and will receive letters stating the reasons for such rejection.

The applicant has to submit all distribution agreements relevant to the application, including agreements already submitted when applying for support under any previous call of the MEDIA programme. Incomplete applications will be considered non-eligible.

Selected applications will be subject to a financial assessment. In this context the Agency may request additional information or guarantees from applicants before taking any final decision on granting support.

The information submitted by the distributor will be treated as confidential.

No file or document submitted will be returned to applicants at the end of the evaluation and award procedure.

## 12.4 Applicable Rules

- Council Regulation (EC Euratom) n°1605/2002 of 25<sup>th</sup> June 2002 concerning the Financial Regulations applicable to the budgets of the European Communities.
- Council Regulation (EC Euratom) n°2342/2002 of 23<sup>rd</sup> December 2002 (implementation rules concerning the Council Regulation.) as amended by regulation 1261/2005 of July 20<sup>th</sup> 2005
- Council Regulation 1261/2005 as modified by the Regulation of the Commission 1248/2006 concerning the financial rules applicable to the general budget of the European Communities.
- Decision n° 1718/2006/EC of the European Parliament and of the Council of 15 November 2006 concerning the implementation of a programme of support for the European audiovisual sector (MEDIA 2007)

Any MEDIA grant for module 1, 2 or 3 of the automatic support shall remain the exclusive property of the beneficiary. Community Law and the general conditions of any eventual contract offered to a distributor clearly lay down the fact that the Community Contribution (Grant) "shall be used by the Beneficiary solely, exclusively and directly in discharging eligible expenses incurred".

## 12.5. Contacts

#### Contacts at the EACEA

The Commission service responsible for implementing the MEDIA 2007 Programme is the EAC Executive Agency (EACEA).

Any requests for clarification should be addressed to:

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#### National contacts

Additional information, as well as guidelines and application forms in the Community's official languages other than French and English are available at MEDIA Desks and Antennae (Annex 1).

## **Annexes**

## **Annex 1 - MEDIA DESKS & ANTENNAE**

## <u>Annex 2 – National correspondents Automatic support to Cinema Distribution</u>

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

Application form « Company 2007 »

Application form « Films » (including the admission statement)

## <u>Annex 4 – Reinvestment project forms</u>

Module 1 – Co-production

Module 2 - Minimum Guarantee

Module 3 – Distribution costs (P&A)

## **Annex 1 - MEDIA DESKS & ANTENNAE**

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**Rachel Schmid** 

Updated: 05.03.2007

# Annex 2 - NATIONAL CORRESPONDENTS AUTOMATIC SUPPORT TO CINEMA DISTRIBUTION

<u>AUSTRIA</u>	BELGIUM	BULGARIA
Werner MÜLLER	Jack VERBEKE	Ralitsa NIKOLOVA
FACHVERBAND DER AUDIOVISIONS-	S.I.C.R I.C.D.O.	NATIONAL FILM CENTRE
UND FILMINDUSTRIE ÖSTERREICHS	Contrôle des recettes -	
	Controledienst Ontvangsten	
Wiedner Haupstrasse 63, Postfach 327	Square Plasky 92 - 94	2A Blvd Dondukov
A-1045 Wien	B-1030 Bruxelles	BG - 1000 Sofia
T: 00 43 590 900 or 590 3010	T: 00 32 2 648 17 08	T: 00 359 2 988 38 31
F: 00 43 590 900 or 276	F: 00 32 2 648 93 57	F: 00 359 2 987 36 26
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OFFICE FEDERAL DE LA	PRESS AND INFORMATION OFFICE/	MINISTERSTVO KULTURY
STATISTIQUE SECTION	AUDIOVISUAL PRODUCTION	Zahranicni odbor
POLITIQUE, CULTURE ET MEDIAS	SERVICES	Zamamom Gasor
Espace de l'Europe 10	Apellis Street	Maltezske namesti 1
CH - 2010 Neuchâtel	CY- 1456 Nicosia	CZ - 160 00 Praha 1
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F: 00 41 32 713 61 88	F: 00 357 22 66 21 68	F: 00 420 224 324 282
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	FIN - 00160 Helsinki	F - 75784 Paris
E-28071 Madrid	1 114 00 100 1101011111	
E-28071 Madrid T: 00 34 91 701 72 57	T: 00 358 9 62 20 30 44	T: 00 33 1 44 34 37 12
		T: 00 33 1 44 34 37 12 F: 00 33 1 44 34 34 80

<u>GREECE</u>	<u>HUNGARY</u>	<u>IRELAND</u>
Dimitra ARGYROU MINISTRY OF CULTURE	Miklos TABA  NEMZETI FILMIRODA ( NATIONAL FILM OFFICE )	Sabina O'DONNELL DEPARTMENT OF ARTS, SPORTS & TOURISM Film Section
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PARX Business Consulting	S.I.A.E.	MINISTRY OF CULTURE
ARA Dusiness Consulting	Sezione Cinema	MINIOTATI OF GOLFORE
Skogarhilio 12	Via della Letteratura 30	J. Basanaviciaus 5
IS-150 Reykjavik	I-00144 Roma	LT-2600 Vilnius
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F: 00 354 550 53 04	F: 00 39 06 59 90 20 06	F: 00 370 52 62 31 20
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N.F.C.	FILM & KINO	POLSKI INSTYTUT SZTUKI
p/a N.V.F.	National Association of Municipal Cinemas	FILMOWEJ
Teleport Boulevard 110	P.O. Box 446 Sentrum (Filmens Hus, Dronningensgate 16)	ul Krakowskie Przedmiescie 21/23
NL-1043 EJ Amsterdam	N-0104 Oslo	PL - 00 -071 Warszawa
T: 00 31 20 38 68 630	T: 00 47 22 47 45 00	T: 00 48 22 42 10 518
F: 00 31 20 38 68 631	F: 00 47 2247 46 99	F: 00 48 22 22 42 10 241
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INSTITUTO DO CINEMA, AUDIOVISUAL E MULTIMEDIA (ICAM)	REPUBLIC OF SLOVENIA MEDIA DEPARTMENT	FOR AUDIOVISUAL POLICY
		Nomestic CND 22
R. Sao Pedro de Alcantara 45. 1er	Maistrova 10	I Namestie SNP 33
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## Annex 3 – Application forms for the « generation » of the support

Application form « Company 2007 »

Application form « Films » (including the admission statement)

## <u>Annex 4 – Reinvestment project forms</u>

Module 1 – Co-production

**Module 2 – Minimum Guarantee** 

Module 3 – Distribution costs (P&A)