



## **CALL FOR PROPOSALS 13/2005**

### **SUPPORT FOR THE TRANSNATIONAL DISTRIBUTION OF EUROPEAN FILMS - THE « AUTOMATIC » SCHEME 2006**

<b>GUIDELINES FOR THE SUBMISSION OF PROPOSALS TO OBTAIN FINANCIAL SUPPORT</b>
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#### **Contents :**

- 1. Introduction**
- 2. Eligibility Criteria**
- 3. Selection Criteria**
- 4. Award Criteria**
  - A « Generation » Stage**
  - B « Reinvestment » Stage**
- 5. Financial Support**
- 6. Evaluation and Award Procedures**
- 7. Presentation and Submission of Proposals**

- Annexes :**
- 1. Financial Guide**
  - 2. Information Points (MEDIA Desks and Antennae)**
  - 3. National Correspondents**
  - 4. Application forms – “Generation”**
  - 5. “Reinvestment” project forms**

## **1. INTRODUCTION.**

This call for proposals is based on Council and European Parliament Decision 846/2004/EC of 29/04/2004 amending Council Decision 2000/821/EC of 20/12/2000 on the implementation of a programme encouraging the development, distribution and promotion of European audiovisual works (Media Plus – Development, Distribution and Promotion).

### Objectives of the programme.

In the distribution sector, the objectives of the programme include 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 national European cinema films;
- to foster the wider transnational dissemination of non national 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.

### 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 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 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.

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;
- editing costs (prints, dubbing and subtitling), promotion costs and publicity costs for non-domestic European films.

### Financial support

“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 (**2005**).

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). Under no circumstance may the amount of the financial contribution awarded by the Commission exceed 60% of the overall costs of the projects. The recipient company must guarantee the remaining finance. Support will be in the form of a grant.

## **2. 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 in majority by nationals from the Member States of the European Union, countries of the European Economic Agreement participating in the MEDIA Plus Programme (Iceland, Liechtenstein and Norway), as well as those other countries that satisfy the conditions laid down in Article 11 of Decision N° 2000/821/EC (Bulgaria and Switzerland).

##### Countries with a low audiovisual production capacity

For the purposes of this Call for Proposals, the following countries will be considered as countries with a low audiovisual production capacity : Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, Greece, Hungary, Ireland, Iceland, Liechtenstein, Latvia, Lithuania, Luxembourg, Malta, Norway, Netherlands, Poland, Portugal, Slovakia, Slovenia, Sweden and Switzerland, as well as those countries which are candidates to join the European Union and which fulfil the conditions defined in the above paragraph (Bulgaria).

## **2. Eligible Companies**

### *European company*

Company registered in one of the Member States of the European Union or of the countries participating in the MEDIA Plus Programme as defined in this Call for Proposals, and which is owned and continues to be owned, whether directly or by majority participation, by nationals from these countries.

### *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 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 inter-negative and duplication costs) are thus eligible.

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

### *Theatrical distribution company / theatrical distributor*

A cinema / theatrical distributor is a company that fulfils the following criteria :

- it is the holder of the theatrical distribution rights for the film in the territory concerned ;
- it carries out the theatrical distribution of the film in the territory (determines the release date; plans, controls and executes the distribution and promotion campaign) ;
- it pays 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 Commission. The Commission 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 Commission. Such « physical distributors » shall not be eligible for support.

### 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 companies established in one or more 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 majority 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.

#### **4. Eligible admissions**

Those 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.

#### **C Situations of exclusion:**

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 **declarations** in Annex 4 and/or 5).

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 Commission 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 Commission 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).

### **3. SELECTION CRITERIA**

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

The applicants must provide evidence of:

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

The Commission 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)
- 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)**

#### **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 obligatorily be included in the proposal submitted:

- the curriculum vitae of the legal representative of the company and of the Head of distribution (if any);
- the list of films distributed by the applicant over the last two years.

**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 independent Chartered Accountant or auditor;
- 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. The information given (in figures) 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 Commission 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 Commission 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.

The Commission reserves the right not to select proposals submitted by distributors 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.



## **4. AWARD CRITERIA**

### **A 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 (**2005**).

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 (**2005**) 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 Commission’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 01/01/2005 and 31/12/2005;
  - 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	0,45 Euro	0,55 Euro	0,70 Euro
Bulgaria, Cyprus, Czech Republic, Estonia, Finland, Greece, Hungary, Iceland, Ireland, Latvia, Lithuania, Luxemburg, Malta, Portugal, 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, Norway, Poland, Portugal, Sweden, Switzerland, UK	3 000 Euro
Bulgaria, Cyprus, Czech Republic, Estonia, Finland, Hungary, Iceland, Ireland, Latvia, Lithuania, Luxemburg, Malta, Slovakia, Slovenia	1 000 Euro

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 total of 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 European Commission 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.

## **B      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 reinvestment projects starting from **30 April 2006**.

Please note that these projects will only be processed by the Commission 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 Commission. Reinvestment projects must be approved by the Commission.

As the MEDIA Plus Programme ends on 31/12/2006, the award of grants to reinvestment projects to be funded in 2007 shall be subject to the adoption of the new MEDIA Programme as from 2007.

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 30 April 2006 (modules 1 & 2) or 30 July 2006 (module 3)**

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

<b>Module</b>	<b>Earliest start date of the project</b>
1 – Co-production	The co-production contract must be signed at the earliest on <b>30/04/2006</b>
2 – Minimum guarantee	The distribution contract/licence agreement must be signed at the earliest on <b>30/04/2006</b>
3 – P&A costs	The first theatrical release of the film in the territory must take place at the earliest on <b>30/07/2006</b>

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

<b>Module</b>	<b>Deadline for presentation of the reinvestment project</b>
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
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 May 2006 is eligible. The request for reinvestment must be presented to the Commission at the latest on 10 August 2006.

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 2006 is eligible. The request for reinvestment by the distributor must be presented to the Commission at the latest on 8 August 2006.

- **be submitted to the Commission at the latest on 1st October 2007.** 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 **€300.000** under this call, she/he will have to provide an external audit report produced by an approved auditor. That report shall certify the accounts for the last financial year available and give an assessment of the financial viability of the applicant, i.e. demonstrate that the applicant has stable and sufficient sources of funding to maintain her/his activity throughout the period during which the action is being carried out and to participate in its funding.

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 €300.000.

## 5. FINANCIAL SUPPORT

### 5.1. 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 reinvestment film		
	FR - UK	DE, IT, ES	Country with a low production capacity
Module 1 (co-production)	60 %	60 %	60 %
Module 2 (MG) Licence agreement signed before completion of the principal photography of the film	60 %	60 %	60 %
Module 2 (MG) Licence agreement signed after completion of the principal photography of the film	40 %	50 %	60 %
Module 3 (P&A)	50 %	50 %	60 %

Examples :

<u>Reinvestment project :</u> 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
<u>Reinvestment project :</u> 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

<u>Reinvestment project :</u> 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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## 5.2 Payment of the Project Allocation

Every reinvestment project will have to be approved in writing by the Commission.

The Commission will agree on the reinvestment projects through an approval letter setting out the terms and conditions of the Project Allocation granted (i.e. the amount of potential fund reinvested in the project, the period of eligibility of costs...).

Under the proviso that the beneficiary complies with the terms of the Agreement, each Project Allocation will take the form of a grant.

Payment will normally be made in two parts :

- 50% following the approval of the reinvestment project by the Commission ;
- the balance on presentation to the Commission and acceptance by the Commission of the final eligible costs of the project, certified by an independent chartered accountant.

**The beneficiaries will notify the Commission of any significant alteration in the budget of any reinvestment project (variation of more than 30 %) at the latest in the Financial Report.**

If this alteration implies a reduction of the total distribution costs or a variation between headings of more than 50 % from the forecast budget, the beneficiaries must justify this reduction and request prior written approval of the Commission for this variation.

If the final distribution costs are below 50 % of the forecast budget without justified commercial reasons and without written information from the distributor to the Commission and acceptance by the Commission of this variation, the Commission will terminate the Agreement.

## **6. EVALUATION AND AWARD PROCEDURE**

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

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

### *Timetable*

Applicants may send their declaration of admissions to the European Commission **between 1<sup>st</sup> March 2006 and 30 April 2006**. All complete proposals sent before the deadline will be examined.

The date of notification of the generated award will depend on the quickness of the certification process by the corresponding national authorities. The outcome may normally be expected 5-6 months after the closing date.

### *Award procedure*

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

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

Proposals which meet the eligibility and selection criteria will be submitted to an evaluation process.

For the verification of information declared by the applicant distributors, the Commission will work in co-operation with national correspondents designated by the Member States (list enclosed, subject to change).

Applicants will be informed as soon as possible whether or not the Commission has decided to grant them a financial contribution. This decision will be final.

The Commission will publish the name and address of the beneficiary, the subject of the grant and the amount and the rate of financing. This will be done, in agreement with the beneficiary, and unless publication of the information may threaten the safety of the beneficiary or harm their business interests. In the event that the beneficiary does not agree to this, they should attach a detailed justification, which the Commission will consider in the process of deciding on the award of the grant.

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

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

### Deadline for submission of proposals

The closing date for submission of proposals (postmark date) in view of the “generation” of a potential Fund is **30 April 2006**.

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 duplicate by using the attached application forms and providing the required annexes.

Proposals must include the following items (see Annex 4) :

- a) Application form “COMPANY 2006” (to be filled in ONLY once a year **and** in case of changes) or the most recent copy of its page 2.
- 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).

as well as the annexes defined in the application forms.

Applicants may submit proposals

- by post, for which purposes the relevant date is to be the date of despatch by registered post, as evidenced by the postmark; or
- by hand-delivery by the applicant in person or by an agent, including courier-service, against a signed & dated receipt.

at the following **NEW** address:

Education, Audiovisual and Culture Executive Agency (EACEA)  
*Costas Daskalakis*  
BOUR 3/30  
Rue de Genève 1  
B-1049 Brussels  
Belgium

**ENVELOPES SHOULD BE CLEARLY MARKED :**

**“MEDIA Plus - DISTRIBUTION 13/2005 – AUTOMATIC CINEMA”**

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:

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*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 “Automatic” support system works in two successive stages:

- The generation 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 2005, within the limits for each film and adjusted for the relevant territory.
- The mobilisation or reinvestment 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:

	<b>Stage 1: GENERATION</b>	<b>Stage 2: REINVESTMENT</b>
<b>Distributor</b>	Application from the distributor for the generation of the support (declaration of the paid admissions)	Presentation of reinvestment projects
<b>Commission</b>	Calculation of the potential fund generated  Signature of the Agreement informing the distributor of its available potential fund and of the reinvestment rules	Notification of approval (or rejection) of reinvestment projects by a letter setting out the terms of the Project Allocation granted
<b>Payment of a Community Financial Contribution</b>	No	Yes

The purpose of this section is to define clearly for the applicants the procedures to follow when filling in 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 by the Commission.

### **1     Reinvestment Application Forms.**

All reinvestment requests must be made using the application forms attached to the current Call for Proposals (Annex 5) together with two copies of the requested documents except where otherwise specified.

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 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.

<b>Module</b>	<b>Period of the Eligible Costs</b>
1 – Co-production	From the date of the signature of the co-production contract (which must be between 30 April 2006 and 1st October 2007) until 16 months after this date
2 – Minimum guarantees	From the date of the signature of the distribution contract (which must be between 30 April 2006 and 1st October 2007) 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 between 30 July 2006 and 1st August 2008) until 6 months after this date.

In addition to the above rules, in no case may the period of eligible costs start more than 10 months before the signature of the Agreement between the beneficiary and the Commission, nor finish more than 25 months after this date. In case of conflict between the above rules and the present rule, the present rule shall apply.

### **2.2. 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
- 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 independent chartered accountant necessary for the payment of an eventual financial contribution.

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

### 2.2.1 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 coproducer of the film will be eligible.

### 2.2.2 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 Commission 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:

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

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

### 2.2.3. 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>1</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>1</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 contract, the Commission requires the beneficiary to produce a statement of the final costs of the project. This document must be certified by an independent chartered accountant on the basis of justifying documents and the accountancy records of the beneficiary. Therefore the costs of this certification are eligible.

### 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” 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)**

#### Personnel, third party assistance, travel and accommodation of company personnel.

A flat-rate fee up to a maximum of 8 % of the eligible direct distribution costs, within the limit of € 16,000 per project, to cover the following indirect costs of the beneficiary relevant to the project: salaries and social security costs for the staff, travel and subsistence costs for the staff at markets and festivals.

#### 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 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 distribution budget.

The amount of indirect costs accepted will be limited to respectively :

- 8 % of the final direct eligible costs of the project, within the limit of €16.000 per project for the “Personnel, third party assistance, travel and accommodation of company personnel” sub-heading ;
- 7 % of the final direct eligible costs of the project, within the limit of €14.000 per project for the “overheads” sub-heading.

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.

### 2.3 Categories of ineligible costs.

In all cases, the following costs are ineligible:

- unnecessarily high expenses which are unjustified;
- 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
- 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)

### **3. 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 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>).

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

Should the reinvestment project be approved by the Commission, an agreement shall be signed between the Commission and the beneficiary, by which the beneficiary shall undertake to allow Commission 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 Commission may be subject to confidentiality arrangements to be agreed between the Commission and the beneficiary.

The beneficiary shall also agree to the Commission and the Court of Auditors of the European Communities verifying the use to which the financial contribution is put in accordance with the Council Regulation No 1605/2002 of 25 June 2002 on the Financial Regulation, published in OJ No L 248 of 16 September 2002, applicable to the general budget of the European Communities, as amended, throughout the duration of the agreement and for five years after its end date.

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



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

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*Updated: 10.11.2005*

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**AUTOMATIC SUPPORT TO CINEMA DISTRIBUTION**

(subject to change)

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#### **Annex 4 – Application Forms for the « Generation » of the Automatic Support Scheme**

Application form « Company 2006»

Application form « Films » (including the admissions statement)

#### **Annex 5 – Reinvestment Project Forms**

Module 1 – Co-production

Module 2 – Minimum Guarantee

Module 3 – Distribution costs (P&A)