



**SUPPORT FOR THE TRANSNATIONAL DISTRIBUTION OF EUROPEAN
FILMS AND THE NETWORKING OF EUROPEAN DISTRIBUTORS
THE « SELECTIVE » SCHEME**

CALL FOR PROPOSALS 92/2003

<p>GUIDELINES FOR THE SUBMISSION OF PROPOSALS TO OBTAIN FINANCIAL SUPPORT</p>
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1. INTRODUCTION.

This call for proposals is based on Council Decision on the implementation of a programme encouraging the development, distribution and promotion of European audiovisual works (Media Plus – Development, Distribution and Promotion 2001 - 2005), of the 20th of December 2000 (2000/821/CE) and published in the Official Journal of the European Communities on the 17th of January 2001 (OJ L13, pp 34-43).

Objectives of the programme.

The objectives of the programme in the distribution sector 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-domestic European cinema films;
- to foster the wider transnational dissemination of non-domestic European films, through incentives to stimulate their distribution and their screening in cinemas, inter alia by encouraging co-ordinated marketing strategies.

Particular attention will be paid to the development of potential in/of 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 obtaining a financial contribution from the Community.

The support scheme's aim is to foster the wider transnational distribution of non-domestic European films and to encourage theatrical distributors in particular to invest in promotion and adequate distribution for non-domestic European films. It also aims to encourage the establishment and consolidation of co-operation networks between European distributors, as well as co-operation between distributors, sales agents and/or producers.

Financial support

The amount of the financial contribution awarded to each company by the Commission is determined with respect to the cost and nature of each proposed action. Under no circumstance may the amount of financial contribution awarded by the Commission to each beneficiary and for each project supported exceed 50 % of the eligible costs of the proposed action. The beneficiary must provide guarantees for the remaining finance.

Agreement

The distribution projects selected will be the subject of an agreement concluded between the Commission and each distributor, which shall especially set out the arrangements for payment and repayment of the financial support granted.

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** :

This Call for Proposals aims at providing financial support to European theatrical distribution companies applying as a grouping for the distribution of one or several European non-national films.

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 countries that satisfy the conditions laid down in Article 11 of Decision N° 2000/821/EC (Bulgaria, Cyprus, Czech Republic, Estonia, Latvia, Lithuania, Poland, Slovakia, Slovenia).

In particular, applications from companies registered in and/or owned in majority by nationals of countries which are candidates to join the European Union¹ will be eligible for this Call for Proposals subject to the coming into force of their country's participation in the MEDIA Plus Programme. The signature of agreements with successful applicants from these countries shall be subject to the coming into force of their country's participation in the MEDIA Programme by this date, and the fact that the proposed action is not completed at that date.

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, Denmark, Finland, Greece, Ireland, Iceland, Liechtenstein, Luxembourg, Norway, Netherlands, Portugal, and Sweden, as well as all countries which are candidates to join the European Union and which fulfil the conditions defined in the above paragraph ("Participating countries").

2. **Eligible Companies**

¹ The following countries are to join the European Union (and thus the MEDIA Plus Programme) on the 1st of May 2004 : Hungary and Malta.

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.

Theatrical distribution

All commercial activity designed to bring to the attention of a wide audience a film through exploitation in cinema theatres. Such activity includes 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...).

Theatrical distribution company / theatrical distributor

A company that fulfils the following criteria will be considered as a theatrical distribution company / theatrical distributor:

- it is the holder of the theatrical distribution rights for a 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 the distribution company which fulfils most of the criteria defined in the above paragraph.

The use of “physical distributors” for certain services (booking of cinemas, circulation of prints and/or collection of receipts) is allowed, provided that it has been previously disclosed to the Commission. “ Physical distribution” companies shall not be eligible.

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;

and

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

+	Points
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Director	3
Scriptwriter	3
Composer	1
Actor 1	2
Actor 2	2
Actor 3	2
Production Design/Art Direction	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 **2001**.

Films consisting of advertising, pornographic or racist material or advocating violence are excluded.

Non-domestic European Film

European films will be considered as domestic in that member state or territory participating in the MEDIA Programme whose citizens / residents have participated in the most important manner in the making of the film, on the basis of the points table shown above.

They will be considered as non-domestic in all the other territories.

4. Eligible Groupings

- **In the case where a grouping of distributors has not yet been supported in the framework of the « selective » support scheme for distribution of the MEDIA Plus programme for the proposed film :**

Only applications from groupings of at least **five** distributors operating in different national territories (and preferably with different languages) which propose to distribute one or more recent non-domestic European films may be eligible.

The theatrical release of the film (not including previews or special screenings) shall take place in the territories concerned at the earliest on the same day as the relevant deadline for submission of this call for proposals, and at the latest within 18 months of this date.

Deadline for submission (Section 6)	Film must not be released before	Film must not be released after
15 March 2004	15 March 2004	15 September 2005
10 July 2004	10 July 2004	10 January 2006
1st December 2004	1st December 2004	1st June 2006

- **In the case where a grouping of distributors has already been supported for the proposed film in the framework of the « selective » support scheme for distribution of the MEDIA Plus Programme:**

One or more distributors who so wish may join an existing grouping already supported in the framework of MEDIA Plus for the distribution of the same film.

The theatrical release (not including previews or special screenings) shall take place in the relevant territory at the earliest on the day of the relevant deadline for submission of this call for proposals, and at the latest within **18 months** of the deadline at which the initial grouping of distributors supported had submitted its application.

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 **declaration** in Annex 3).

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.

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

The proposal submitted must include:

- the audited accounts for the last fiscal year;
- 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).

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

The proposal submitted must include:

- 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.

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.

4. AWARD CRITERIA

The award criteria make it possible to assess the quality of the proposals submitted in the light of the set objectives and priorities. The European Commission will decide to award grants on the basis of the following:

- **In the case where a grouping of distributors has not yet been supported in the framework of the « selective » support scheme for distribution of the MEDIA Plus programme for the proposed film :**

Within the limits of the budgetary resources available, the European Commission will select the groupings of distributors which score the highest number of points, based on the following criteria :

	Points
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Number of eligible distributors in the grouping (minimum 5)	1 point per eligible distributor
Production cost of the proposed film > 5 million €	0
Production cost of the proposed film between 3 and 5 million €	2
Production cost of the proposed film < 3 million €	3
Film produced in FR or UK	0
Film produced in DE, ES or IT	1
Film produced in a country with a low production capacity	2
Film produced in a new Member State or participating country	4
First or second feature film of the director	2
Documentary	2
Animation film	1
Film for children	1
The co-ordinator of the grouping is the sales agent / producer of the film (+ 1 if the sales agent is from a different country than the film)	2

A special attention will be paid to permanent groupings of distributors who own the distribution rights and apply for support in several territories at a time. One point will be awarded for each territory where the applying grouping can be qualified as the theatrical distributor of the film (see definition above). To reward and to encourage this kind of European distribution structures, two extra points will furthermore be given to such groupings.

If selected, the grouping may be awarded a higher percentage of MEDIA contribution (within the 50% limit) considering the higher costs incurred for joint or co-ordination activities.

For the avoidance of any doubt, companies who have subsidiaries in other territories are not considered as permanent groupings in the meaning of this Call.

- **In the case where a grouping of distributors has already been supported for the proposed film in the framework of the “selective” support scheme for distribution of the MEDIA Plus Programme:**

Within the limits of 15 % of the budgetary resources available at each session, the Commission will “automatically” select these projects, provided they meet the conditions defined in sections 2 and 3 of this Call for Proposals.

5. FINANCIAL SUPPORT

5.1. Amount of the financial contribution

The amount of the financial contribution granted to selected distributors will be determined by the Commission with regards to the following criteria :

- the distribution and promotion plan and budget for the proposed film(s), and the forecast results of the theatrical release (expected number of admissions and Box Office results);
- the conditions of theatrical release (number of prints in relation to the target market);
- the performance of the distributor in the execution of its previous contracts with the MEDIA II Programme and MEDIA Plus Programme (respect of the submitted distribution budgets).

The maximum financial contribution which can be granted is **€ 150 000** per distributor per film distributed.

The financial contribution awarded will in no event exceed **50 %** of the distribution budget submitted by any distributor for each film. The distributor must guarantee the part of the financing not covered by the community support.

The grant is made up of two parts :

- A **subsidy**, up to a maximum amount of 30 000 € per film per distribution territory (or of 40,000 € per film per distribution territory if the film supported is an animation film or a children's film), intended to co-finance a maximum of 50 % of the eligible dubbing and subtitling costs;
- A conditionally repayable **advance** intended to co-finance a maximum of 50 % of the other eligible distribution costs.

5.2 Payment of the financial contribution

The arrangements for payment and repayment of the financial support will be set out in the contracts that will be signed between the Commission and each distributor for each film distributed.

The payment of the financial contribution will normally be in two instalments:

- 50 % on signature of the contract between the Commission and the beneficiary ;
- the remainder following the acceptance by the Commission of the final eligible distribution costs, certified by an independent chartered accountant, and of the most recent report on the results of the distribution (Royalty Statement).

The beneficiaries will notify the Commission of any significant alteration of the distribution plan (variation of more than 30 % of the total distribution budget or between headings of the provisional budget) 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 distribution 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 shall terminate the Agreement.

5.3. Repayment of the conditionally repayable advance.

The repayment of the conditionally repayable advance will be made on the basis of the following principals, which will be set out in the contracts that will be signed between the Commission and each distributor for each film distributed.

The repayment of the conditionally repayable advance will be made from the distributor's net returns from the theatrical release of the film(s) over a period of **12 months** following the date of theatrical release of the film in the relevant territory.

The net returns of the distributor are defined as follows : gross distribution returns, deduction made for the contribution of the distributor to the final distribution costs (excluding Minimum Guarantees paid or to be paid by the distributor for the film).

The distributor shall repay the Commission **60 %** of the distributor's **net returns**, up to the amount of the conditionally repayable advance granted by the Commission.

If the net returns of the distributor are insufficient to repay all or part of the conditionally repayable advance, the Commission will waive the repayment of the remainder of the advance, which will be converted into a subsidy.

6. EVALUATION AND AWARD PROCEDURES

Duration and validity of the Call for Proposals

The present guidelines are valid for the year 2004. The selection of projects presented at the deadline of 1st December 2004 shall be subject to the availability of budget for the year 2005.

Timetable for award procedures

Applicants may present proposals to the Commission at any given date. All complete proposals sent before the deadlines laid down below will be examined by the Commission. The outcome of the award procedure may normally be expected 12 weeks after the relevant closing date.

Closing dates for submission of proposals :

15 March 2004

10 July 2004

1st December 2004

Evaluation and award procedure

The Commission will take the final decision regarding the award of grants. The budget allocated to the selective support to distribution in 2004 (deadlines of 01/12/03, 15/03/04 and 10/07/04) will be at least 12 M €.

The Commission reserves the right not to process proposals which lack the required documentation (documents listed in the application forms) at the deadline. The examination of dossiers rejected on this basis will be postponed to the following deadline, under the proviso that the requirements defined in sections 2 and 3 above are respected.

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

The Commission will be assisted by a Technical Assistance Office in the processing of applications and the assessment of projects. Proposals which meet the eligibility and selection criteria will be submitted to an evaluation process, including in particular recourse to independent experts. The choice of these experts will be based upon competence, independence and a thorough knowledge of theatrical distribution and the European audiovisual market.

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.

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

6. PRESENTATION AND SUBMISSION OF PROPOSALS.

The groupings of European distribution companies who wish to benefit from the support described above must present their proposals in duplicate by using the attached application forms and provide the required annexes.

Each proposal must contain the following elements (and its annexes):

- a) Application form DISTRIBUTOR (to be filled in and signed by each applicant distributor)
- b) Application form FILM/GROUPING (to be filled in and signed by the Co-ordinator of the grouping)

The application form COMPANY 2004 must be filled in by the distributor ONLY once a year **and** in case of change (see Annex 3).

They must be sent by registered post, by express courier or delivered by hand to the following address:

European Commission
Directorate-General for Education and Culture
MEDIA PLUS Programme
Mr Jacques Delmoly (Office: B-100, 4/20)
B-1049 Brussels - Belgium

Office address (if delivered by hand):
Rue Belliard 100, 4th floor, Office n° 20
B - 1040 BRUXELLES

For proposals delivered by hand, thank you for delivering them before 17h00.

ENVELOPES SHOULD BE CLEARLY MARKED :

“MEDIA PLUS - DISTRIBUTION 92/2003 - SELECTIVE CINEMA”

Applicants submitting a proposal by courier are asked to send, before the deadline, a fax announcing their intention to apply at the following number: +32 2 299 92 14.

Contacts at the European Commission

The Commission service responsible for implementing the MEDIA Plus Programme is Unit C-3 of Directorate General EAC - Education and Culture.

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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 as per the list in annex 2.

Annex 1 - FINANCIAL GUIDE.

Introduction.

The purpose of this section is to define clearly for the applicants the procedures to follow when setting out the project and the budget to be applied for, as well as the normal financial principles which will be applied in the framework of the execution of the contract for financial support signed by the Commission in the event that the presented project is selected.

In the course of the operation of the MEDIA Programme and the audits carried out by the Commission of a certain number of selected projects, a series of errors and omissions have been identified. These errors prolong and needlessly complicate the process of selection, as well as the treatment of payments and repayments of the selected projects, for both the beneficiaries and the Commission.

The remarks below will thus be useful for applicants and beneficiaries in reducing the number of queries and requests for additional information that are often required for the finalising of an application dossier or the execution of the support contracts.

1 Application Forms and the Provisional Budget

All requests for financial support within the current Call for Proposals must be made using the application forms attached to the current Call for Proposals.

The budget must be presented using the form “Distribution Budget” set out in the Application Form “Distributor”.

Applicants must pay particular attention to the evaluation of the provisional costs. The services of the Commission have developed, during MEDIA II and MEDIA Plus, a sound knowledge of the applicable prices for the differing European markets for the categories of costs used in the budget : costs which are overestimated or manifestly superior to known market prices will not be accepted.

Equally, applicants must indicate the quantities (no. of dubbed/subtitled prints, no. of dubbed/subtitled trailers, posters,) in the “quantity” column of the provisional budget.

2. Eligible Costs

2.1. Duration of the eligible costs

Only those costs incurred by the beneficiary for the execution of the project (theatrical distribution) during a period starting **5 months before the release of the film in the territory and ending 6 months after the release**, will be eligible.

If the release date is postponed / modified by the beneficiary, the period of the eligible costs will be adapted according to the new release date along the lines set out above (from 5 months before the release to six months afterwards).

In all cases, the period of the eligible costs cannot start more than 8 months before the signature of the agreement between the beneficiary and the Commission and finish at the latest 20 months after this date. The signature of the agreement shall normally take place 4 months after each application deadline.

2.2. Categories of eligible costs

The categories of eligible costs are clearly identified in the form “Distribution Budget”.

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.

Moreover, the beneficiaries of a community support are obliged to maintain a clear analytical accounting of the costs for each supported distribution 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:

Costs of Promotion and Publicity (section 1)

Publicity Material : internegative and copies of the trailers; dubbing and subtitling of the trailers; 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.....

Prints and Production Costs (Section 2)

These costs comprise the costs related to the manufacturing and circulation of the prints for exploitation of the film in the cinemas : printing of an internegative and prints of the film, dubbing and subtitling the prints of the film, insurance, transport and taxes, print maintenance, costs for the national systems of certification of the film.

Other Costs (Section 3)

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 and a statement of the revenues after twelve months. These two documents must be certified by an independent chartered accountant on the basis of evidencing documents and the accountancy records of the beneficiary. Therefore the costs of this certification are eligible.

Other Costs

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

Overheads (Section 4)

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

Certain costs will be considered as ineligible if they are not clearly identified in the provisional budget or if they have not been previously notified to the Commission (sub contracting costs or costs of any physical distributor, costs invoiced by a subsidiary company of the beneficiary company or by persons linked to the beneficiary company).

In all cases, the following costs are ineligible :

- unnecessarily high expenses which are unjustified;
- costs which are not identifiable or controllable on the basis of supporting documents
- costs which are not registered in the accountancy or financial records of the beneficiary
- capital investment costs;
- general provisions (for losses, future debts, etc)
- financial costs (bank charges, costs of opening and maintaining bank accounts, bank transfers and other bank charges)
- debts
- loan interests
- 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 who 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 (available from the MEDIA Desks and Antennae and from the web site of the Commission at <http://europa.eu.int/comm/budget/infoeuro>).

Deadline for the submissions of Proposals	Average exchange rate (Infor Euro) of the month of
15 March 2004	March 2004
10 July 2004	July 2004
1st December 2004	November 2004

Annex 2 - MEDIA DESKS AND ANTENNAE

BELGIË/BELGIQUE/BELGIEN (BE)

Vlaamse Gemeenschap:

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Annex 3 – Application Forms

- **Application form Company 2004**
To be filled in once a year **and** in case of change by each distributor
- **Application form Distributor**
To be filled in by each applicant distributor
- **Application form Film/Grouping**
To be filled in by the Co-ordinator of the grouping