

COUNCIL DECISION

of 21 December 1990

concerning the implementation of an action programme to promote the development of the European audiovisual industry (Media) (1991 to 1995)

(90/685/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas the Heads of State and Government meeting in the European Council in Rhodes on 2 and 3 December 1988 pointed out that it is extremely important to strengthen efforts, including cooperation, to develop Europe's audiovisual capacity, whether with regard to the free movement of programmes, to the promotion of the European high-definition television system or to a policy of encouraging creativity, production and broadcasting so as to provide an opportunity of demonstrating the richness and diversity of European culture;

Whereas the Community already possesses certain instruments designed to put such a policy into practice;

Whereas, on 3 October 1989, the Council adopted Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities ⁽⁴⁾; whereas that Directive contributes to the establishment of a large audiovisual market which must benefit both the audiovisual industry and ordinary citizens and which has yet to be consolidated;

Whereas, on 27 April 1989, the Council adopted Decision 89/337/EEC on high-definition television ⁽⁵⁾;

Whereas, between 30 September and 2 October 1989, the Commission and the French Government jointly organized the European Audiovisual Conference in Paris; whereas the professionals meeting on that occasion stressed the need for stronger Community action, particularly to encourage audiovisual creative work;

Whereas the Joint Declaration of 2 October 1989 adopted by 26 European countries and the Commission established a transnational cooperation structure entitled Audiovisual Eureka;

Whereas the Heads of State or Government, meeting in the European Council in Strasbourg on 8 and 9 December 1989, hoped that a Community action programme following on from the Media (measures to encourage the development of the audiovisual industry) programme would receive the necessary financial resources and that the necessary synergy with Audiovisual Eureka would be ensured;

Whereas on 7 May 1990 the Council took note of the Commission communication on audiovisual policy which set out the priority objectives and lines of action measures of a Community policy providing an overall approach to regulatory, technological and industrial questions in the audiovisual sector and establishing an indicative timetable for the submission of the specific proposals required for its implementation;

Whereas the development of the industrial aspects of this overall policy, including those of improving the economic and commercial management abilities of professionals in the audiovisual industry, will have to be based on the experience acquired and the positive results achieved by the Commission in applying the pilot phase of the Media programme; whereas the evaluation of the phase carried out by the Commission and by a group of independent experts has demonstrated the need, if Europe's audiovisual capacity is to be expanded, for a longer-term programme;

Whereas, beyond the continuation and intensification of work on projects launched during the pilot phase, the implementation of new pilot projects may have a catalysing effect on areas of the European audiovisual market which have as yet not been adequately explored;

Whereas Community action should take account of the work to be carried out within the framework of Audiovisual Eureka;

Whereas for this purpose encouragement should be given, via the appropriate instruments and in the spirit of the Joint Declaration of 2 October 1989, to the development of complementary relationships between Community schemes and those carried out within the framework of Audiovisual Eureka;

Whereas, as stated in the Joint Declaration of 2 October 1989, Audiovisual Eureka projects are not intended to replace Community schemes, their objective being rather to extend or supplement them as appropriate;

⁽¹⁾ OJ No C 127, 23. 5. 1990, p. 5.

⁽²⁾ OJ No C 324, 24. 12. 1990.

⁽³⁾ Opinion delivered on 20 September 1990 (not yet published in the Official Journal).

⁽⁴⁾ OJ No L 298, 17. 10. 1989, p. 23.

⁽⁵⁾ OJ No L 142, 25. 5. 1989, p. 1.

Whereas the European audiovisual industry matches supply to demand and should therefore act to overcome fragmentation of the markets and overhaul its production and distribution structures, which are too narrow and do not yield an adequate return;

Whereas, in this context, special attention needs to be given to small and medium-sized undertakings and to countries in Europe with smaller audiovisual capacity, when adapting market structures; whereas action should therefore be taken to ensure all appropriate coordination with the Community initiatives now under way in these fields;

Whereas in the development of the programme-making industry, account needs to be taken of the position of countries in Europe with smaller audiovisual production capacities and/or with a limited geographical and linguistic area;

Whereas the development of the programme-making industry calls for a mastery of new technology and should enable economies of scale to be made;

Whereas increased use of new forms of technology, particularly European forms, including high-definition television, in the areas of audiovisual programme production and distribution, may help to enhance the value of the technologies in question;

Whereas it appears necessary to supplement other Community measures to encourage the development of the European audiovisual industry by a scheme to improve the economic and commercial management abilities of professionals in the audiovisual industry;

Whereas the response to the challenges generated by evolving communications techniques and the growing requirement for audiovisual programmes is to be found first and foremost in the commitment and drive displayed by the professionals;

Whereas the media professionals and the Member States must be closely involved in developments during the main phase of the programme; whereas the exchange of information and experience and consultation between the various parties involved and the Commission are vital to the task of enhancing the effectiveness and overall cohesion of the Community's audiovisual policy;

Whereas due regard for the principle of subsidiarity entail that the purpose of the Community's measures in this area should not be to replace but to complement what is being done by the authorities in the Member States; whereas establishing machinery for liaison and cooperation is subsidiary to national efforts;

Whereas the primary aim of financial input from the Community must be to stimulate complementary financial contributions from interested parties, thereby having a multiplier effect on the development of the audiovisual industry;

Whereas measures designed to establish the internal market gradually over a period ending on 31 December 1992 need to

be adopted; whereas the internal market comprises an area with no internal frontiers in which freedom of movement for goods, persons, services and capital is guaranteed;

Whereas, to attain the objectives of the Community as set out in Article 2 of the Treaty, it appears necessary to promote the European audiovisual programme-making industry as part of the operation of the single market; whereas, since the Treaty has not provided the necessary powers, it is necessary to have recourse to Article 235;

Whereas the funds estimated as necessary for the Community's contribution to the whole of the programme amount to ECU 200 million; whereas the allocations will be determined on the basis of the financial perspectives and within the limits of the amounts available for each year's budget,

HAS DECIDED AS FOLLOWS:

Article 1

An action programme to promote the development of the European audiovisual industry (the Media programme) hereafter referred to as 'the programme', is hereby adopted for a period of five years from 1 January 1991.

The funds estimated as necessary for the Community financial participation in the programme for the years 1991 to 1992 amount to ECU 84 million.

Article 2

The aims of the programme shall be as follows:

- to help create a favourable environment within which Community undertakings will act as a driving force alongside those from other European countries,
- to stimulate and increase the competitive supply capacity of European audiovisual products, with special regard for the role and requirements of small and medium-sized undertakings, the legitimate interests of all professionals who play a part in the original creation of such products and the position of countries in Europe with smaller audiovisual production capacities and/or with a limited geographical and linguistic area,
- to step up intra-European exchanges of films and audiovisual programmes and to make maximum use of the various means of distribution which either exist or are still to be set up in Europe, with a view to securing a better return on investment, wider dissemination and greater public impact,
- to increase European production and distribution companies' share of world markets,
- to promote access to and use of the new communications technologies, particularly European ones, in the production and distribution of audiovisual material,

- to encourage an overall approach to the audiovisual industry which allows for the interdependence of its various sectors,
- to ensure that action taken at European level complements that taken at national level,
- to contribute, in particular by improving the economic and commercial management abilities of professionals in the audiovisual industry in the Community, and in conjunction with existing institutions in the Member States, to creating conditions which will enable undertakings in that sector to take full advantage of the single market dimension.

Article 3

The measures described in Annex I shall be put into effect to attain the objectives set out in Article 2. The measures shall be implemented in accordance with the procedure laid down in Article 7.

Article 4

In implementing the programme, particular attention will be given to Community participation in Audiovisual Eureka projects which complement or extend the measures referred to in Article 3 and satisfy the criteria for Community involvement set out in Annex II.

In implementing the programme, the Community may also contribute to promoting cooperation with professionals in the audiovisual industry in Central and Eastern European countries.

The Community shall also contribute to the operating costs of the Audiovisual Eureka Secretariat and to the setting-up of the European Audiovisual Observatory.

Article 5

The annual appropriations allocated to the measures provided for in the programme shall be adopted in the framework of the budgetary procedure.

Article 6

As a rule, parties to contracts with the Commission for the implementation of the measures provided for in Article 3 must provide a substantial proportion of the funding, representing at least 50 % of their total cost.

Article 7

1. The Commission shall be responsible for implementing the programme.

2. For the purpose of carrying out that task, the Commission shall be assisted by an Advisory Committee consisting of representatives appointed by each Member State and chaired by a representative of the Commission. The members of the committee may seek assistance from experts or advisers.

3. The representative of the Commission shall submit to the committee a draft of measures concerning:

- (a) the general guidelines governing the programme (prior examination of aims and priorities, of the details of Commission participation, the implementation and operation of the various measures, criteria for selecting contractors and for granting Community support;
- (b) the annual budget breakdown, within each type of measure, details of financial participation including the application of the provisions of Article 6 and the duration of each measure;
- (c) those matters relating to the general balance of the implementation of the programme (transition from the exploratory phase to the pilot phase, transition from pilot measures to their principal phase, participation in Audiovisual Eureka projects), contributions within the meaning of the second paragraph of Article 4 and agreements provided for in Annex II;
- (d) the evaluation of the programme for the purpose of presentation of the reports provided for in Article 8.

4. The committee shall deliver its opinion on the draft measures referred to in paragraph 3 within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. When a vote is taken within the committee, the votes of the representatives of the Member States shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the committee, they shall be communicated by the Commission to the Council forthwith.

In that event, the Commission may defer implementation of the measures which it has decided by one month.

The Council, acting by a qualified majority, may take a different decision within the time limit laid down in the previous subparagraph.

5. The Commission may, in addition, consult the committee on any other matter relating to the implementation of the programme.

The committee shall deliver its opinion within a time limit which the chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

The Commission shall take the utmost account of the opinion delivered by the committee. It shall inform the committee of the manner in which its opinion has been taken into account.

Article 8

After the programme has been in operation for two years, and within six months of the end of that period, the Commission, after having consulted the committee referred to in Article 7, shall present a report on the results achieved

to the European Parliament, the Council and the Economic and Social Committee, accompanied, where necessary, by appropriate proposals.

On expiry of the programme, the Commission, acting in accordance with the procedure laid down in Article 7, shall send a report on the implementation and results of the programme to the European Parliament, the Council and the Economic and Social Committee.

Done at Brussels, 21 December 1990.

For the Council

The President

A. RUBERTI

ANNEX I

MEASURES TO BE PUT INTO EFFECT AND INDICATIVE BREAKDOWN OF COSTS

		(millions of ecus)
1. Distribution mechanisms		85
1.1. <i>Distribution of films in cinemas</i>		40
— Significant development of action taken by EFDO (European Film Distribution Office) to promote the cross-frontier distribution of European films in cinemas, in particular by extending support to works produced at a cost of up to ECU 4 500 000.	×	
— Measures to promote European films outside the Community (offices for the promotion of European films and television programmes, group presence at festivals and fairs).	× × ×	
— Study and implementation of measures to promote the film sector (cinemas).	× × ×	
1.2. <i>Distribution on video cassette</i>		10
— Prolongation of the EVE measure (European Video Area), which is a system of advances on receipts to promote the production and cross-frontier distribution of European films and programmes; extension of the system, by encouraging the creation of cross-frontier networks of publishers to promote the output of European films and programmes on video cassette.	× ×	
1.3. <i>Support for multilingualism in television programmes</i>		10
— Extension of the Babel scheme ('Broadcasting across the barriers of European language'), to promote the circulation of European products designed for television, by offering support for dubbing or subtitling and by means of research into ways of perfecting these techniques including their harmonization.	×	
— Support for the development of multilingual television programmes or broadcasts.	× × ×	
— Undertaking, within the framework of Babel, measures for perfecting the skills of journalists and other audiovisual professionals, who work in a multilingual environment or specialize in dubbing or subtitling.	×	
1.4. <i>Development of markets and support for the dissemination of the work of independent producers</i>		25
— Intensification of the EURO-AIM scheme, a services structure which organizes the group presence of independent producers on international markets and gives them advice; it will:	×	
— ensure a more conspicuous European presence on the major markets,		
— highlight particular sectors of production (archives, documentaries, youth interests, etc.),		
— develop promotional activities on non-Community markets,		
— develop the services available to small and medium-sized producers,		
— computerize the compilation and dissemination of data on independent European production.		
— Encouragement of the broadcasting by television stations of programmes produced by independent European producers.	× × ×	
2. Improvement of production conditions		75
2.1. <i>Development of preproduction</i>		23
— Development of the European Script Fund (encouragement for the development of screenplays and preproduction) by increasing its financing capacity and providing, in addition, professional services such as:	×	
— assistance in the field of script writing,		
— assistance with regard to the financing of production,		
— extension of aid for development and preproduction to companies presenting 'packages' of programmes.		

× Measure in progress; existing management structure.

× × Pilot measure in launch phase; existing management structure.

× × × Project in consultation phase; management structure to be created.

(millions of ecus)

— Extension of these measures by offering appropriate support for creative documentaries.	x x x	
— Development, with the support of Script, of the professional skills of European screenplay writers, in particular by organizing 'script doctoring' sessions.	x x x	
2.2. Restructuring of the animated cartoon industry		23
— Strengthen Cartoon/European Association of Animation Film by:	x	
— encouraging the formation of networks of production studios by co-financing coordination and management costs; ensure that complementary measures are taken to train the cartoonists, studio managers and graphics coordinators who will be needed to form these networks,		
— contributing to the harmonization and computerization of production modes and to the industrialization of working methods,		
— supporting the production of 'pilots' by providing seed capital in the form of advances on receipts,		
— developing an information system specific to the European animated film industry based on meetings between producers and distributors as well as the computerization of professional information.		
2.3. Use of new technologies, in particular European ones, in the production of programmes		20
— Extension of the activities of the Media investment club:	x	
— by increasing the number of its members,		
— by issuing invitations to tender so as to encourage innovative projects,		
— by providing support for measures designed to promote the production of films and programmes using the European HDTV standard (in liaison with Audiovisual Eureka and EEIG 'Vision 1250'),	x x	
— by promoting schemes for the initiation of professionals in the use, in the production of audiovisual works, of new techniques in image synthesis, digital TV, high-definition TV, interactive TV, etc.		
2.4. Contribution to the establishment of a 'second market', in particular using archive material		9
— Support for the operation and consolidation of MAP-TV (linking up of European archives services).	x	
— Turning this 'memory bank' and the European film and television heritage to advantage by conserving, restoring, re-issuing and rebroadcasting works or by using extracts for the production of new programmes.	x x	
— Research into and experimentation with solutions for the problems concerning copyright royalties, which hamper the use of archives.	x x	
— Production of catalogues to be used for the promotion of archives.	x x x	
3. Stimulation of financial investment		10
— Encouragement for the establishment and development of structures designed to mobilize and stimulate investors (Media-Venture, Euro-Media guarantee, investment pools, etc.).	x x	
4. Improving the economic and commercial management abilities of professionals		15
— Pursue and diversify the measures taken by European Audiovisual Entrepreneurs/EAVE to promote the training of young producers with a view to the large market.	x	3
— Develop, in conjunction with national institutions, other further training measures, coordinated in particular by the Media business school, in order to respond to the economic and commercial problems faced by those working in the audiovisual field at European level.	x x	12
5. Development of potential in countries with smaller audiovisual production capacities and/or with a limited geographical and linguistic area; other measures	x x x	15
6. Participation in Audiovisual Eureka projects	x	(p.m.)
A significant amount of the total appropriation allocated to each of the types of measures 1 to 5 must be devoted to such participation.		

ANNEX II

COMMUNITY INVOLVEMENT IN AUDIOVISUAL EUREKA

Both Community-policy and Audiovisual Eureka are pursuing the same general objective, i.e. to boost Europe's audiovisual capacity in accordance with the conclusions of the Rhodes and Strasbourg European Councils. In this connection, Annex II to the Joint Declaration on Audiovisual Eureka adopted in Paris on 2 October 1989 states that the European Community will be able to participate in Audiovisual Eureka projects, in particular through its programmes, but that these projects are not designed to replace the existing cooperation frameworks, their objective being rather to extend or supplement them as appropriate. In partical terms, the Community will be involved in two ways: the opening-up of Community projects to professionals of non-member countries (on contractual terms to be defined) and Community involvement in Audiovisual Eureka projects which fit into the action measures described in Annex I.

The concept of Community 'added value' will determine Commission involvement in Audiovisual Eureka.

The positive complementarity between the Community action programme and Audiovisual Eureka is helped by the difference in their nature:

- the action programme is a coherent set of incentive measures acting upstream and downstream of production proper with an effect of scale deriving from the participation of the 12 Community countries,
- Audiovisual Eureka offers a host structure (based on the original Technological Eureka) for helping professionals to devise and execute transnational projects by the multiplication of initiatives especially in the production field, with the flexibility afforded by the involvement of private and public partners in varying proportions.

The specific characteristics of these two instruments can produce synergies of two types.

1. *The Community action programme extended to include new partners*

The Community added value will be enhanced by the effects of geographical, economic and creative enlargement.

The professionals of the countries which adopted the 'Joint Declaration' could be invited to participate in the initiatives of the action programme, in the framework of agreements within the meaning of Article 228 of the Treaty between their countries and the Community. Participation will be formalized in agreements between the new non-Community participants and those responsible for the project in question within the framework of the action programme. The new participants will make a financial contribution, proportional to their participation in the project.

The action programme has a Community character and will be implemented by the Commission assisted by the Advisory Committee provided for in Article 7. However, extending it to non-Community participants will give it much greater commercial and economic potential.

2. *The Community as a partner in Audiovisual Eureka projects*

The Community stands to gain from Eureka projects, where the broader dimension could have a positive impact on the activities of the audiovisual programmes industry in Europe.

The Community will be able to take part in Audiovisual Eureka projects via its action programme. In each case the arrangements will be specified in a specific agreement.

Participation will be designed in particular:

- to increase the coherence of the various initiatives of the action programme by means of participation in projects which build on the measures already undertaken,
- to generate synergies between projects which, when joined together, could have a propulsive effect,
- to stimulate the independent production sector,
- to help in creating a second market for the distribution of European works,
- to provide projects with the extra finance they need in order to use and derive maximum benefit from the new European technologies applied to programmes (notably HDTV),
- to ensure by means of support for a project, that the potential of countries 'with lesser audiovisual capacity' is used to best effect,
- to contribute to the success of Audiovisual Eureka in order to attain the general objective of boosting Europe's audiovisual capacity.

Projects eligible for Community support may come under any of the types of measures of the programme referred to in Article 3. Such support will be determined by reference to the specific features of each project and according to whether the audiovisual Eureka instrument is suited to the objectives aimed at. The Advisory Committee provided for in Article 7 will give its opinion on the Audiovisual Eureka projects to be supported by the Community.

3. *Other forms of participation in Audiovisual Eureka*

The Community will make a contribution — according to the percentage rate agreed within the Coordinator's Committee — to the operating costs of the Audiovisual Eureka Secretariat and to the preparatory work for the establishment, should this be so decided, of the European Audiovisual Observatory.
