



The European Coordination of  
Independent Producers' contribution to the  
European Commission Consultation on  
the Future of the "Media Programme"

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Introduction

The European Coordination of Independent Producers (CEPI) was founded in 1989, to organise and represent the interests of independent television producers in Europe.

Today the Coordination represents approximately 8000 independent production companies in Europe, equivalent to 95% of the entire European audiovisual production industry. All together, our members supply over 16000 hours of new programming each year to broadcasters in Europe, ranging from single documentaries and special event programming, to game shows, light entertainment and high-cost drama serials.

As the producers form the basic support of the audiovisual industry, it is necessary to articulate the interests of those producers within a unique European organisation.

For more information visit [www.cepi.tv](http://www.cepi.tv)

CEPI is registered in the Interest Representative Register: **59052572261-62**



## CEPI and the Media Programme

CEPI members have been closely involved with the MEDIA Programme since its very inception, maintaining an ongoing dialogue with the EU Commission and helping to fostering a healthy and competitive audiovisual production sector across Europe, with a particular focus on SMEs.

Independents, with their natural focus on creating and developing programme ideas, provide some of the most creative, innovative, popular and challenging programmes on film and television. In the current climate of economic recession, where difficulties in accessing public funding are more and more frequent, it is crucial to ensure the effectiveness of such a significant funding programme and make sure the audiovisual sector can benefit and further develop its main strengths.

CEPI strongly welcomes the Commission consultation on a future of the MEDIA Programme and lists below some relevant points in relation to section 9.

### CEPI Comments: Section 9

#### **What fields of action are totally missing so far?**

##### **New and Innovative Business Models to support the audiovisual sector**

**We strongly recommend** a greater focus on developing new business models in the digital environment through ensuring a competitive market in IP ownership and exploitation. The objective of such a policy should be a well functioning legal offer which both respects rights holders' freedom to negotiate the conditions and limits on the use of their work, and generates remuneration for all right holders accordingly.

In line with this and in order **to improve the visibility and accessibility of the Programme,** it would be interesting to look at successful levels of cooperation between stakeholders in the media sector (i.e. broadcasters and independent production houses) which benefit all the actors in the audiovisual ecosystem.

We would like the Commission to consider that independent production is increasingly dependent on the broadcasting sector for financing. The different methods of financing independent productions are increasingly dominated by a model in which the broadcaster commissions the full-cost of the programme and acquires all the rights for the independent production. This generates a spiral; meaning that the producer will become increasingly dependent upon the broadcaster, since the production company will never be able to retain any assets – i.e. the rights for their productions. The problem is not in the full-commissioning model itself, but in the acquisition of all rights by the broadcaster which impedes any future growth of the independent production company.

**The introduction of more detailed targets for monitoring the success of the MEDIA Funding Programme** would also be welcome. This would also demonstrate the positive



impact of the Programme, on which to reflect on and to improve, if/when underperforming.

### **Simplifying Application Procedures and increasing awareness**

CEPI suggests simplifying the funding applications procedures and facilitating access to the national contact points, made available through MEDIA 2007-13. Furthermore, specialised workshops on the programme actions and funding opportunities, and generally closer support for potential applicants should be made more openly available in the future.

### **Synergy between regional, national, and European levels**

National contact points should facilitate understanding of available **Regional Funds/National production Funds and how to strategically match the MEDIA funding available.** Indeed, the existing funds across Europe are well below the necessary to sustain a healthy and competitive audiovisual production industry that competes in international markets. When compared with some of the most important audiovisual production markets outside the European Union, the MEDIA programmes of the EU appear to fall short of the minimum investment necessary to maintain a competitive industry. National production schemes are therefore a very important source to bring new economic vigour to the national audiovisual industries, but cannot really be effective if the ERDF (European Regional Development Fund), EIB (European Investment Bank) and other sources of funding are not strategically coordinated amongst the regional/national/European levels.

### **What do you think are risks and opportunities for the European audiovisual sector?**

**New technologies** have brought new opportunities for content producers to develop their products, but have also brought with them new incidences of unfair practices employed by broadcasters when acquiring the rights of independently produced works.

Broadcasters have tried to acquire online other new media rights without providing independent producers with a fair compensation for the acquisition of these rights. This practice endangers the future competitiveness of the industry, hence jeopardising the future creation of quality content for TV and other media in Europe. Therefore, in addition to losing control and opportunities, independent producers are not compensated for the exploitation of such rights. This system is not beneficial to the maintenance of a sound content supply market and, ultimately, to consumers.

In order to take advantage of new technologies and distribution platforms, it is vital that Europe has a healthy market for the exploitation of Intellectual Property (IP) rights. Copyright is not an obstacle to innovation, but rather it is a vital incentive for the creative industries. Content providers rely on the enforcement of copyright, as a vital means of recouping investment and reinvesting in the production of content. However, this copyright is now infringed on a widespread and routine basis. CEPI supports cooperation among all stakeholders, and emphasises that any piracy policy cannot be effectively implemented without the cooperation of ISPs, who have the technical



means to block / limit access to illegal content and websites, and must therefore **take responsibility** to address the widespread use of their services for illegal purposes.

Moreover, the **MEDIA Programme** should better support and **fund new technologies** as they are developing at a rapid pace and in very different directions. With many SMEs struggling to keep up to speed in the digital transition, it is vital therefore that the budget of the future Programme be at the very least maintained at present levels.

The Commission should seek wherever possible to empower a competitive range of European companies, including the independent producers, to retain and exploit IP rights. **The multi-territorial licence approach** favoured by the EU Commission so far **does not to address the question of IP** rights because if a competitive range of companies are unable to retain IP rights because of the existence of a dominant owner in their market, the existence of a multi-territorial license is indeed immaterial.

Imposing pan-European licensing could therefore have the unintended effect of reducing the availability of less commercially viable content. The acquisition of pan-European rights by companies which do not wish to make the content available in certain markets (because they are not present on all EU markets or due to other economic and cultural realities) could result in content effectively being warehoused.

#### - What new business models for audiovisual media should be supported by MEDIA and how?

Firstly and in line with the Europe 2020 agenda for smart, sustainable and inclusive growth, CEPI is strongly supportive of empowering European creative companies to retain and exploit the Intellectual Property (IP) rights of the content that they create. In the UK, for instance, the clearest example of the benefits of a healthy market for IP rights is the independent television production sector. The 2003 Communication Act enabled independent producers to retain a share of IP rights to the programmes they make, notably overseas export rights and some new media. Instead of being a so-called cottage industry, this made producers "investable" and able to attract private finance, as they were able to retain assets. Since 2003, annual turnover in the UK independent television production sector has grown by 40%, making it the largest in Europe, with the emergence of substantial companies with a global presence, and a surge of 40% in the exports of UK TV content (independent and in-house).

Secondly, the audience needs to be found. It should be kept in mind that success across several territories usually comes as a result of co-production among several countries (as the respective production teams work to ensure the project is suitable to consumer sensitivities in their markets), and commercial success of the programme. Particular national audiences are attracted to content by topic, language, timing and mode of distribution, all factors which a single clearance framework for the whole of Europe will not address.

CEPI maintains that the most effective way of encouraging the multi-territorial distribution and availability of high quality audiovisual content is first and foremost through allowing the development and innovation which the market can provide.



Producers, as entrepreneurs, want to exploit a multi-cultural, multi-national marketplace, and will pursue those opportunities in service of consumer demand. The EU can support this growth through protection of the copyright *acquis*, allowing contractual freedom, and via initiatives and funds such as the MEDIA Programme, which can bolster VOD platforms and multi-territory services while also ensuring cultural diversity and a flourishing market for content production.

Thirdly, the internet currently offers technical means of distributing audiovisual works, keeping in mind that international consumer demand is not created merely by making content available online. Marketing and new distribution models are required to grow consumer demand, and therefore the EU can bolster ecommerce throughout Europe through facilitating access to capital by audiovisual SMEs which invest in building up cross-border demand.

Last but not least, we truly welcome the AVMS Directive's stipulation that ownership of secondary right to be a criteria for defining an independent producer, and the MEDIA programme's rule for TV broadcasting funding that rights should revert to producers after seven years on pre-sales and 10 years on co-productions. We suggest that this be extended to other forms of funding as far as possible, and the length of time after which rights must revert to a producer be reduced further (in the UK, for example, the Terms of Trade between broadcasters and producers provide for a licence of between three and five years before rights revert to the producer).

In addition, if producers were able to apply for funding specifically to buy back previous film rights then that would enable them to further exploit and revive back catalogues.

**- To what extent should new technologies be taken into account by a new MEDIA programme (3D, cross-media and transmedia projects, games, mobile TV)?**

Games are not generally considered a priority by the audiovisual sector, however, they are now worldwide considered as a cultural media. For this reason, the development of specific funding schemes within the MEDIA programme would not undermine the other strands of the Programme giving that the cross media products will be left to the Market to develop.

**- Should support for the TV sector be strengthened? How?**

We note that there is an increasing role in TV for international co-productions and other forms of international multi-party funding as broadcasters are no longer fully funding these programmes. In the UK, for example, the independent production sector raised around £200m in investment for UK content last year, with a large proportion of this coming from the revenues raised from overseas exports and co-production. There may therefore be a need to increase the focus of the MEDIA programme on certain types of TV programming.

**- How can the MEDIA programme help improve film/media literacy. Do you think media literacy is a tool to build up an audience for European works?**

It is crucial for consumers not only to be aware but also to proactively engage with the MEDIA ecosystem they have become part of, both through formal and informal settings. So as part of this education processes which should fulfil “the promise of digital citizenship” (R. Hobbs), CEPI underlines that media literacy should include informing the public about the audiovisual industry and stress particularly the vital role of exploiting Intellectual Property rights. The importance of informing on how European works are funded and created and generally of building awareness is crucial in fostering the reduction of IP theft, helping significantly to support the cultural and social development of the EU.

**- Should support for promotion and distribution of audiovisual works start at an earlier stage (e.g. promotion measures during the development phase) and include producers as beneficiaries?**

Yes, this should definitely be encouraged as it could benefit both promotion and distribution. Promotion measures should begin as early as possible to encourage audience participation or viewing so this would be more than helpful for producers. A grant towards the eventual P&A and marketing costs for instance, could certainly help to secure distribution but also help producers secure funding with sponsors.

**- How could the MEDIA programme be more supportive for strengthening the audiovisual sector of Members of the programme with low production capacity?**

The MEDIA Programme should be an incentive for these Members to increase their capacity, and therefore some extra support should be provided accordingly, with respect to the general fundamental rules of the Programme.

**- Should the scope of the MEDIA programme be wider and include European neighbouring countries like the Western Balkan countries?**

CEPI would welcome the extension of the scope of the MEDIA Programme to new accession countries, providing that the budget and resources of the Programme are increased accordingly. CEPI would also be pleased to facilitate dialogue and support with new members particularly within the network. As there is a strong need for exchange of knowledge, some specific funding schemes should be allowed to foster networking activities between old and new accession countries.