

COUNCIL OF EUROPE

COMMITTEE OF MINISTERS

RECOMMENDATION No. R (87) 7

OF THE COMMITTEE OF MINISTERS TO MEMBER STATES

ON FILM DISTRIBUTION IN EUROPE¹

*(Adopted by the Committee of Ministers on 20 March 1987
at the 405th meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members, and that this aim is pursued notably by common action in cultural matters;

Considering the essential role of distribution in financing the production of films and in making films available to the public;

Considering that most European distribution companies are economically limited and consequently threatened by those foreign or European companies which dominate the market and are liable to take unfair advantage of their position;

Considering that the pluralism needed in film-making and distribution is thereby imperilled and that quality films, in particular, are likely to find it increasingly difficult to establish themselves in all areas of the film industry;

Considering that, as the rapid development and growth of new technologies is generating a variety of types of film distribution, a need has arisen to harmonise these in order to make films as widely available as possible;

Considering that the cinema, while losing none of its own characteristics, is being affected by the problems raised by the growth of the new communication technologies and that careful thought should accordingly be given to the film-making and distribution opportunities inherent in these new technologies, but also to the danger of uniformity of creation which they may involve and the threat to cinemas which they represent;

Having regard to the work of the Council for Cultural Co-operation and to Recommendation 862 (1979) of the Assembly on cinema and the state;

1. When this recommendation was adopted, and in application of Article 10.2.c of the Rules of Procedure for the meetings of the Ministers' Deputies:

— the Representative of the Federal Republic of Germany reserved the right of his Government to comply or not with paragraphs 3 and 4 of the recommendation;

— the Representative of Sweden reserved the right of his Government to comply or not with paragraphs 3 and 5 of the recommendation;

— the Representative of the United Kingdom reserved the right of his Government to comply or not with paragraphs 3, 4 and 5 of the recommendation.

Bearing in mind its Recommendation No. R (86) 3 on the promotion of audiovisual production in Europe ;

Having regard to the work of the European Communities on the institution of a system of multilateral aids to film and television programme industries ;

Wishing to lay down appropriate measures, having regard in particular to the responsibilities and autonomy of broadcasting organisations,

I. Recommends that the governments of member states :

1. Adopt measures designed to support independent distributors and avoid a misuse of power leading to the control over film distribution markets ;

2. Give financial backing to distributors of cinematographic works of European origin in the form of subsidies, advances or guarantees to cover the cost of making copies, in order to facilitate, in particular, the distribution of quality films which do not receive adequate support in the regular commercial market ;

3. Encourage the conclusion of agreements aimed at taking into account the diversification of types of film distribution and ensure, within the limits of their authority, that priority in film distribution is given to cinemas, which alone are capable of exhibiting films to the best advantage, and respect the following general hierarchy of distribution channels :

- cinema,
- videogram,
- television ;

4. Where local conditions permit encourage the conclusion of agreements designed to ensure that broadcasting stations do not schedule cinema films on days and at times when cinemas are most likely to attract large audiences ;

5. Take steps to encourage the various distribution channels to support the production of cinematographic works of European origin by ensuring that they not only pay adequate property rights but also make a fair contribution to state measures to assist film production, such as :

- contributions from television companies to production aid funds,
- contributions from companies producing the new audiovisual systems involved in film diffusion (notably cable networks or videograms) to funds for different sectors of the film industry,
- with due regard to the autonomy of television systems, greater co-operation between television and cinema, not only in the co-production of films, but also in their presentation, as well as by increasing the amount of information (publicity for example) relating to the cinema which is conveyed by television and by associating television in the wider distribution of films by means of subtitling ;

6. Consider the importance of a network of attractive and well-equipped theatres and, for those countries which do not yet have them, the provision, in addition to production aids, of distribution aid schemes designed to promote investments as well as quality programmes ;

7. Reinforce methods of combating audiovisual piracy, including prevention involving the co-operation at national and international level of the relevant administrative authorities and professionals concerned, and punitive action, for example through more severe penalties ;

8. Provide facilities, on the one hand, for training specialists in film distribution and, on the other, for informing spectators and enabling them to choose quality programmes ;

9. Note, in this connection, the important role of specifically cultural distribution (experimental cinemas, film clubs and other forms of non-commercial distribution) and adopt appropriate policies to support them ;

10. Bear in mind the importance of co-production agreements, under which income is shared between the different markets, with a view to a more effective opening up of these markets ;

11. Promote different forms of association or co-distribution agreements;¹
 12. Encourage arrangements, such as those provided for in certain member states, which will enable each country to support another country's films, with or without reciprocity, or to provide assistance for distribution, part of which could be paid, and used for promotion, as soon as the film is produced, in addition to the joint aid given for the co-production of quality films of European origin;
 13. Encourage efforts to rationalise conditions of dissemination and distribution as a means of achieving a fuller knowledge of the different European productions on the part of spectators;
 14. Encourage and assist, by different means (for example box office guarantee), a promotional cinema hall the purpose of which would be to present outstanding films from other European countries;
 15. Produce efforts to penetrate the dominant markets and promote their films on other foreign markets, especially in the Third World, and, if facilities for this purpose have been created, make them available to the other countries' film industries, under terms to be specified;
 16. Adopt measures to encourage dubbing or, preferably, subtitling, so that European films will be accessible to a world audience;
 17. Support all efforts to organise a European film festival at regular intervals, taking care not to compromise the traditional festivals, and consider the possibility of holding the event in the different states party to the European Cultural Convention, either one after the other or simultaneously, endeavouring to define its content with precision;
 18. Take action to ensure that the cinematographic professions are represented on the bodies responsible for organising forms of audiovisual communication;
 19. Take, in addition to measures to promote national film production, steps to ensure that European and particularly national films are given sufficient consideration in the programmes of audiovisual communication networks;
 20. Take action to ensure wider distribution of films from European countries in which film production is less highly developed;
- II. Instructs the Secretary General of the Council of Europe to transmit this recommendation to the governments of those states party to the European Cultural Convention which are not members of the Council of Europe.

1. A system of co-distribution might operate as follows : the film producer could entrust distribution to a consortium of distributors from various countries, each providing a minimum guarantee. Each country's initial revenues would cover the guarantee provided by the relevant distributor and the cost of making copies. If a film earned more than this amount in one country, a proportion (to be defined) of the surplus would be paid into a fund out of which payments would be made to distributors in countries in which the film did not earn enough to repay them. Anything left over would be divided between the producer and distributors on a contract basis to be defined.