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MASS MEDIA

Promotion
of audiovisual production
in Europe

Recommendation No. R (86) 3
adopted by the Committee of Ministers
of the Council of Europe
on 14 February 1986
and
Explanatory memorandum

Strasbourg 1987

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**RECOMMENDATION No. R (86) 3
OF THE COMMITTEE OF MINISTERS TO MEMBER STATES
ON THE PROMOTION OF AUDIOVISUAL PRODUCTION IN EUROPE**

*(Adopted by the Committee of Ministers on 14 February 1986
at the 393rd 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 the achievement of greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage;

Bearing in mind the Convention for the Protection of Human Rights and Fundamental Freedoms, in particular Article 10 thereof;

Recalling its commitment to freedom of expression and the free circulation of information and ideas, to which it gave expression, in particular, in its Declaration of 29 April 1982;

Bearing in mind the European Cultural Convention;

Bearing in mind the interest expressed in Resolution No. I of the 4th Conference of European Ministers responsible for Cultural Affairs (Berlin, May 1984) in increased co-operation between the European partners to encourage the production, co-production and use of programmes and the emergence of programme industries on a European scale;

Taking account of the fact that, in this same resolution, the conference recommended the Committee of Ministers of the Council of Europe to call on the member states to encourage the production of programmes in European countries to supply material for the broadcasting time offered by the new networks;

Recalling its Resolution (85) 6 of 25 April 1985 on European cultural identity;

Conscious that the large-scale emergence in European countries of new channels for the transmission and distribution of television will lead

to intensification of the demand for programmes, increased competition on the programme market and will require as a result new conditions of production;

Anxious therefore to encourage the development in the member states of increased and more competitive audiovisual production;

Considering that such development should both uphold the cultural identity of member states and strengthen the audiovisual industry on the European market, and thereby safeguard a European pluralistic media system;

Desirous therefore, having regard to the importance of these aims, to define appropriate measures bearing in mind the specific situation in the member states;

Considering that the Council of Europe is particularly suited to establish common principles designed to promote audiovisual production;

Recalling its earlier recommendations on the media and particularly Recommendations Nos. R (84) 3 of 23 February 1984 on principles on television advertising, R (84) 22 of 7 December 1984 on the use of satellite capacity for television and sound radio and R (86) 2 of 14 February 1986 on principles relating to copyright law questions in the field of television by satellite and cable,

1. Recommends that the governments of the member states:
 - a. take concrete measures to implement the principles set out below, and
 - b. ensure, by all appropriate means, that these principles are known and respected by the persons and bodies concerned;
2. 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.

Principles

Definition and scope

The promotion of audiovisual production in Europe shall include all measures taken to encourage audiovisual creativity, the production of audiovisual works in the member states and the distribution, marketing and scheduling of such works.

For the purpose of this Recommendation:

— “audiovisual production in Europe” means the creation and manufacture of audiovisual works of all kinds, the production of which is controlled by natural or legal persons of member states, and which are capable of being used in television programmes whatever the mode of transmission or distribution,

— an “audiovisual work of European origin” is the result of the activity described above.

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Nothing in this Recommendation shall prejudice the respective competences of the individual governments nor the independence of the persons and bodies concerned with the production, co-production and distribution of audiovisual works.

1. *Co-ordinated development of production*

1.1. The member states shall encourage European co-operation for audiovisual production. In the framework of such co-operation, they shall take suitable measures to stimulate production, designed in particular:

a. to encourage and facilitate by all available means the development on the European level of systems of co-production and distribution of audiovisual works, as well as other forms of co-operation;

b. to support the promotion and distribution of audiovisual works of European origin outside the member states;

c. to facilitate on their territory the free movement of persons working in the cultural and audiovisual fields and the establishment of audiovisual production undertakings having the nationality of the other member states;

d. to encourage, by all appropriate measures, the training of creative artists and the expression of their talent in the audiovisual field.

1.2. The member states shall take appropriate measures so that broadcasting organisations and cable distributors include in their programme services a reasonable proportion of audiovisual works of European origin such as to encourage national production and that of other member states. They shall endeavour to co-ordinate their policies in this respect.

2. *Support of a financial and fiscal nature*

2.1. The member states shall take adequate measures, of a financial and

fiscal nature, to encourage audiovisual creation and the development of their programme industries.

2.2. The member states shall endeavour to establish or, as the case may be, improve national schemes for the financial support of audiovisual production. They shall ensure that the audiovisual production of other member states shall have access to their respective schemes and thereby seek to establish between themselves bilateral or multilateral aid schemes for the production, co-production and distribution of audiovisual works of European origin.

2.3. The member states shall endeavour, in co-operation, to eliminate tax obstacles to the co-production of audiovisual works of European origin.

2.4. The member states shall grant to co-productions of audiovisual works of European origin the same tax and financial advantages as national productions.

2.5. The member states shall take steps with a view to developing aids to facilitate the distribution, broadcasting and exchange of their audiovisual works between themselves, as well as the distribution of such works outside member states. In particular, they shall endeavour to institute aids for the dubbing and subtitling of audiovisual works of European origin.

3. *Copyright and neighbouring rights*

3.1. The member states shall take appropriate steps to ensure that the systems for remunerating authors and other rights holders promote audiovisual creativity. To this end, they shall encourage the pursuit of contractual solutions.

3.2. The member states shall endeavour to co-ordinate the systems for administering rights for works distributed or broadcast on their territory.

EXPLANATORY MEMORANDUM

I. Introduction

1. For several decades, the audiovisual media were characterised by relatively restricted technical capacity; in most countries, for instance, there was only one television channel or a very small number of channels. Furthermore, only small countries and frontier regions could receive foreign programmes.

2. Since the start of the 1980s, however, the European landscape has been changing considerably in this matter, with the large-scale development of new technological devices, especially the use of communications satellites and wide-band cable systems for the transmission of television programmes. Likewise, plans for direct satellite broadcasting services have contributed to this change.

3. The main result of this rapid technological development will be the considerable multiplication of broadcasting channels, which will permit the transition from a period of technical scarcity to one of technical abundance. Moreover, because of the internationalisation of the zone covered by programmes, it will be possible for most of those programmes to be received in a large number of countries.

The adequate supply of material for the new broadcasting channels is therefore of capital importance.

4. The corollary of the development of these new devices will in fact be an intensification of programme demand. If European production is not stepped up, and if it is not competitive, there is a real danger of channels falling back mainly on retransmissions of existing programmes and on extra-European programmes which may have been acquired cheaply.

5. This may be illustrated by some statistical data concerning the situation of audiovisual production in Europe.

6. At present, the broadcasters in the member states of the Council of Europe produce an important proportion of their programmes, while the proportion of non-European importations is still limited. Thus, by way of example, the statistics of the European Broadcasting Union (EBU) (1985) reveal the following figures (which cover, in percentages of broadcasting

time, respectively, own productions transmitted for the first time, re-broadcast own productions and programmes of American origin): Finland, YLE: 47-9-8; France, TF1: 47-10-6; Federal Republic of Germany, ZDF: 43-7-7; Sweden, SVT: 42-11-10; United Kingdom, BBC: 50-27-6. This production is important not only in volume, but also in terms of costs: France, TF1: 1 600 million FF; Federal Republic of Germany, ZDF: 950 million DM; Italy, RAI: 765 thousand million L.; United Kingdom, BBC: £350 million (EBU statistics on the amounts invested in television production, 1985).

7. Notwithstanding this production effort, the circulation of audiovisual works between the member states of the Council of Europe and non-European states is unbalanced. Thus, European imports of American audiovisual works amount to approximately 14 000 annual programme hours (corresponding to 13% of the transmission time in the member states: for fiction films, dramatic works and series, this percentage reaches 20 to 40% and even 50% in some states), whereas American imports of audiovisual works of European origin only amount to 1 000 programme hours per annum (statistics given by the Independent Broadcasting Authority, United Kingdom).

8. The new audiovisual devices will also go hand-in-hand with new requirements as to picture and sound quality, and will necessitate the acquisition of new production equipment, which will mean higher production costs and make it more difficult for productions to show a return. Isolated production will in this way become more and more difficult.

If the new channels available are to be exploited in the best possible conditions, then, there must be encouragement for the national production of audiovisual works and for collaboration between states, the organisations and persons involved in the production of those works.

9. If such encouragement is to be given, and if audiovisual production is to pay its way better, however, there must be a more homogeneous European market, which at present is not the case. Co-operation between countries does exist, for instance in the case of co-productions, but, with a few exceptions, such co-operation tends to be limited geographically to two or three countries, mainly for linguistic reasons. The disparity of fiscal regimes and resultant financial difficulties also hamper the development of audiovisual production and the distribution and marketing of audiovisual works at European level.

10. However, the endeavours of certain member states and broadcasting organisations to extend and expand the forms in which co-operation in the matter is possible, by means of both formal and informal arrange-

ments, disclose the need for a better structure for such co-operation, to provide it with more solid financial bases and to avoid duplication. Similarly, several member states have already incorporated certain safeguard clauses in their national regulations so as to create a transition period making it possible to boost their audiovisual production and ensure that it retains a reasonable share of the European market.

11. The Council of Europe, given its wide-ranging European mandate and its recent work in the field of the media¹, is a particularly appropriate forum for determining measures designed to support the efforts currently being made and to facilitate the co-ordination of member states' policies regarding the promotion of audiovisual production.

12. This concern was moreover expressed at the 4th Conference of European Ministers responsible for Cultural Affairs (Berlin, 23–25 May 1984), which called on the Committee of Ministers of the Council of Europe, in its Resolution No. I, to invite the member states to “promote the production of programmes in European countries to supply material for the broadcasting time offered by the new networks” and to step up co-operation among the European partners so as to encourage the “production, exchange and use of programmes” and the “emergence of European programme industries”.

13. The Committee of Ministers, for its part, agreed at its 71st Session (November 1982) to expand co-operation among the Council of Europe member states in the field of satellite television, and called on the Steering Committee on the Mass Media (CDMM) to prepare recommendations on the matter. The present Recommendation has been drafted in accordance with this mandate.

14. This Recommendation also takes account of Recommendation 996 (1984) of the Parliamentary Assembly, of 3 October 1984, on Council of Europe work relating to the media, which lays particular emphasis on the need for action concerning the production and distribution of programmes of European origin.

15. The CDMM called on a working party to prepare the present Recommendation, and the text was agreed after a meeting held in Stockholm in May 1985, chaired by Mr K. G. Lidström (Sweden) and two meetings

1. See, *inter alia*, the following recommendations:
— Recommendation No. R (84) 3 of 23 February 1984 on principles on television advertising (1984) ISBN 92-871-0326-7.
— Recommendation No. R (84) 22 of 7 December 1984 on the use of satellite capacity for television and sound radio (1985) ISBN 92-871-0377-1.
— Recommendation R (86) 2 of 14 February 1986 on principles relating to copyright law questions in the field of television by satellite and cable (1987) ISBN 92-871-0993-1.

held in Strasbourg in October 1985, when Mr A. M. Overste (Netherlands) was in the Chair.

16. The text was finalised and approved by the CDMM at its 10th meeting from 2 to 6 December 1985 (Chairman: Mr Blin, France) and adopted by the Committee of Ministers at the 393rd meeting of the Ministers' Deputies, on 14 February 1986.

Reasons for the Recommendation

17. The main motive behind the present Recommendation is the determination of the Council of Europe member states to work together more closely with regard to the adoption of measures to promote the production, co-production and distribution of audiovisual works in Europe. It accordingly sets out a number of principles which can be given effect in a variety of ways (adjustments to legislation or regulations, bilateral or multilateral arrangements, whether formal or informal...) and should facilitate the establishment of a harmonised policy of the member states on the matter. European co-operation of this kind should aim to eliminate obstacles and adopt positive measures, with the objective of stimulating audiovisual production and transnational circulation of audiovisual works, as well as developing a European cultural identity, not only with regard to its specific national features but also its common values.

18. The purpose of the principles set out in the Recommendation is to facilitate the establishment of European co-operation in the field of production development, in fiscal and financial matters and the field of copyright and neighbouring rights.

19. These principles of a general nature will not prevent other more specific measures from being taken by producers, distributors and other persons concerned by audiovisual production regarding particular aspects of the field covered by the Recommendation (studies, seminars, *ad hoc* projects, etc.). Moreover, work in similar fields is being conducted in other international forums.

II. Comments on the provisions of the Recommendation

Preamble

20. Reference is made in the preamble to the factors warranting the adoption of this Recommendation, to wit the increase in the number of broadcasting channels, heightened demand for programmes and keener competition on the programme market.

21. It is emphasised that the purpose behind increased audiovisual

production, essential if this development is to be catered for, should be to strengthen not only the audiovisual industry, but also the cultural identity of the member states. Naturally, the development of European co-operation in production, co-production and distribution must be designed to reinforce the European programme industry, which has to be competitive. At the same time, however, that co-operation must be regarded as the means of preserving national cultural identities and values and a genuine European culture, based on unity in diversity, within the meaning of Resolution (85) 6 on European cultural identity, adopted by the Committee of Ministers on 25 April 1985, to which the preamble makes express reference. Increased production and broadcasting of audiovisual works will be in the interests of creative artists, producers and distributors, but equally in the interests of individuals, who will have a greater choice of programmes and information. As is pointed out in the preamble, these factors will help safeguard a European pluralistic media system, namely a diversity of means of expression and information, furthered by a diversity of the resultant productions and audiovisual works.

22. Freedom of expression and information, guaranteed by Article 10 of the European Convention on Human Rights, is thus an important element which must provide the basis for any action designed to promote audiovisual production. Conversely, the expansion of that production will contribute, through its growth and the broader circulation of programmes, to the development of that freedom. The Declaration on the Freedom of Expression and Information adopted by the Committee of Ministers on 29 April 1982 stresses in this connection that a free flow and wide circulation of information across frontiers are important factors for international understanding, for bringing peoples together and for the mutual enrichment of cultures.

23. In the last recital, the preamble refers to a number of recommendations recently adopted by the Committee of Ministers relating to the media. It is worth noting here that their purpose is to determine, on each occasion in a different sphere, common solutions to the technical, legal and political problems posed by the advent of the new satellite broadcasting and cable services. The present Recommendation belongs to this series of complementary instruments, the implementation of which will facilitate the establishment of a European audiovisual area, based on principles designed to guarantee a smooth transition to the era of the new audiovisual broadcasting and distribution means.

Special reference is made to Recommendation No. R (86) 2 of 14 February 1986 on principles relating to copyright law questions in the field of television by satellite and cable. It contains, among other things,

principles concerning conditions of remuneration for the owners of copyright and neighbouring rights. Section 3 of the present Recommendation, on measures concerning authors and other rights holders, is to be considered in the light of the above-mentioned Recommendation.

24. The operational part of the present Recommendation invites member states to take concrete measures to implement the principles embodied in it, and to ensure, by all appropriate means, that those principles are known and respected by the persons and bodies concerned. It is recognised that there will be differences of policy and treatment in the approach of individual member states to these matters.

Definition and scope

25. The principles in the Recommendation are intended to assist the programme provider in increasing the volume and improving the quality of his products, and not to influence their content. Therefore, nothing in the Recommendation is intended to impinge upon, or call into question, the essential independence of the programme providers in programme matters.

26. The Recommendation applies to all aspects of the creation of an audiovisual work, from the conception of the first idea up until the time it is viewed by members of the public. It thus applies to, among other things, scripts, the process of filming or live production, the actual screening, as well as the marketing and distribution of the end product. It applies equally to all forms of audiovisual work, whether a fictional, educational or news programme or any other kind of work that can be shown on television.

27. It covers all types of audiovisual works, cinematographic films as well as television programmes, since the film industry is under threat today in all European countries with rising production costs and declining cinema audiences. Furthermore, there is a growing interdependence between the film and television industries, as cinema films are frequently shown on television and, in a more recent development, broadcasters and film producers co-produce audiovisual works both for projection in cinemas and broadcasting on television. Moreover, audiovisual works designed for distribution in the form of videograms accessible to members of the public also fall within the scope of application of this Recommendation.

It is, however, stressed that the principal concern of this Recommendation is the need to promote European production to match the increase in the number of television channels available as a result of developments

mainly in satellite and cable technology. It is therefore primarily concerned with programmes for television.

28. The Recommendation relies upon the concept of the production being under the control of a European professional entity. Control of production includes control over the content of the work, over the process of production and over the end product itself. A majority share of the financing may be a means to the exercise of such production control, but is not an essential prerequisite. Thus audiovisual works of European origin to which the Recommendation applies can be financed in part from outside Europe, so long as production control remains effectively in European hands.

29. The bodies exercising the necessary control over production will be primarily broadcasting or film companies; but it is possible also to envisage productions by individual programme makers, and the definition refers accordingly to both natural and legal persons. Under the definition, such persons are described as being "of member states". This signifies natural and legal persons who are subject to the public or private law of member states; but the production process itself does not have to take place in a member state.

1. *Co-ordinated development of production*

Paragraph 1.1

30. As indicated in paragraph 9 above, an expanding and more competitive European production industry presupposes a more homogeneous European market for production and distribution, as well as the co-ordination of policies in this field. The purpose of this paragraph is therefore to encourage member states to co-operate more closely and adopt co-ordinated measures, particularly in relation to the scheduling of non-European audiovisual works.

Paragraph 1.1.a

31. The pooling of resources for production and distribution is an essential element in the creation of a European audiovisual area. This objective would be fulfilled by making production resources (whether human, technical or financial) available at a European level. The co-ordination of distribution networks, leading to a wider circulation of programmes of European origin, must improve the profitability of such programmes. However, such improvements in the circulation of programmes must not in any way prejudice the interests of the owners of authors' rights and other rights holders, as Section 3 emphasises elsewhere.

“Other forms of co-operation” is intended to refer primarily to multi-lateral co-operative enterprises such as Eurovision, TV5, 3-SAT, Europa television, as well as co-operation in the use of satellite capacity for direct broadcasting in Europe.

Paragraph 1.1.b

32. In parallel with the opening up of the internal market of member states, a co-ordinated appearance of audiovisual works of European origin on foreign markets is equally desirable, primarily for cultural and economic reasons.

This would involve, in the first place, a co-ordinated approach to the marketing of audiovisual works of European origin outside Europe, particularly of co-production. The sales departments (particularly those of the public service broadcasters) should therefore co-ordinate their market research operations and activities of their commercial networks outside Europe.

Other forms of co-ordinated promotion of audiovisual works of European origin are also possible, for example programme channels transmitted by satellite to which several member states contribute. The difficulty of penetrating certain important markets must impel member states to pool their efforts and develop co-ordinated initiatives to promote their audiovisual works in these markets.

Paragraph 1.1.c

33. The purpose of this paragraph is to develop exchanges in this field, by specifying that every member state of the Council of Europe should endeavour to facilitate the entry to its territory and establishment there of audiovisual workers and production companies from other member states.

34. The movement of audiovisual workers between member states may raise problems which are covered by national immigration laws. The member states of the Council of Europe should, therefore, in accordance with this paragraph, strive to overcome these obstacles (for example by facilitating the grant of special concessions to audiovisual workers from other member states).

35. The principle embodied in this paragraph should apply equally, in respect of training, to the development of exchanges between training schools and colleges in the audiovisual field.

Paragraph 1.1.d

36. The promotion of talent, the encouragement of creativity and training in audiovisual expression are essential to the development of a European audiovisual production industry of quality. In this respect, a special effort must be made in relation to young creative artists and other professionals in the audiovisual field so that their talent is recognised and employed throughout the member states.

Paragraph 1.2

37. This paragraph refers to measures designed to achieve a reasonable proportion of audiovisual works of European origin in traditional broadcasting services and also in cable services. With the recent liberalisation of laws in some member states to enable direct reception by individual households of programmes transmitted by fixed-satellite services, there is the possibility that, in the future, programme services may be developed intended purely for direct reception from such satellites. Under the international radio regulations, such services are not technically broadcasting services but this paragraph should apply to them as well as to broadcasting and cable services. Therefore, for the purposes of this paragraph, services for direct individual reception from fixed-satellite services should be treated as broadcasting services.

38. The notion of a "reasonable proportion" of audiovisual works of European origin in this paragraph covers the programme services, taken as a whole, which are offered by a given broadcaster or cable distributor. Wherever practicable, this proportion should be the greater part of the programme service offered.

Furthermore, such a "reasonable proportion" comprises both national programmes (including local and regional programmes) and programmes originating in other member states.

39. It is not the intention of this paragraph to impinge upon the independence of service providers in programme matters, particularly as regards the scheduling of audiovisual works from non-member states, for example, audiovisual works from developing countries or, in a more general manner, quality works from non-member states.

40. This paragraph also invites member states to co-ordinate their policies in this field.

41. Finally, it is important to emphasise, in line with the general tenor of this Recommendation, that in order to respond to the increasing demand for audiovisual works in Europe, the service providers should, so far as

possible, give priority to programme-making activities, whether through their own production, by taking part in European co-productions, or by developing their links with independent production companies based in member states.

2. Support of a financial and fiscal nature

42. Section 2 of the Recommendation presents a broad range of positive measures of a financial and fiscal nature intended to aid the development of audiovisual production in Europe.

Paragraph 2.1

43. This paragraph formulates, in very general terms intended to cover the widest possible range of measures, the invitation to member states to develop positive policies using financial and fiscal incentives designed, either directly to encourage audiovisual production by the injection of public funds, or to encourage the channelling of private investment towards the film and programme industries, or, again, to make it easier to secure a proper return on public and private investment in this field.

As regards the specific field of fiscal incentives to stimulate the production of audiovisual works of European origin, several courses are open to member states, for example: the establishment of "tax shelters" for investments, reduction of the VAT rate, reduction of local taxes on audiovisual industries, concerted measures to avoid the dual taxation of copyright and neighbouring rights royalties transferred from one member state to another, etc.

Paragraph 2.2

44. This paragraph refers in particular to schemes for direct aid to production and encourages member states to establish such schemes or improve existing ones. Several Council of Europe member states have already established financial support schemes for national audiovisual productions, in particular cinematographic films. Co-productions between member states and the production of audiovisual works of other member states should be able to benefit as far as possible from such assistance funds. This measure could be of particular interest for productions reflecting cultures whose international influence is less widespread. Further, this opening-up of aid schemes to the audiovisual production of other member states should be co-ordinated and aim at the establishment of bilateral and multilateral schemes.

Should some member states establish an international support fund

for production, it should not exclude co-productions in which other member states participate.

45. As already indicated in paragraphs 31 and 32, it is essential, in order to secure a suitable return on the production of audiovisual works, that such works are widely distributed in member states and the rest of the world; hence this paragraph provides that the bilateral and multilateral aid schemes should also benefit distribution.

Paragraph 2.3

46. Whilst paragraph 2.2 refers to financial measures, the purpose of paragraph 2.3 is to improve the fiscal situation of co-productions of audiovisual works of European origin (paragraph 2.1 already containing a reference to fiscal incentives in general).

Such co-productions encounter major problems from the fiscal viewpoint, as has frequently been stressed by the professional organisations of the cinema and television. These problems arise in particular from the fact that the legal status assigned to co-productions by the tax authorities varies from one member state to another. In some member states, co-productions are regarded simply as sales of rights, while in others they are treated as temporary associations for the production of a programme. Furthermore, the fiscal status of the producer organisations, and in particular the broadcasters, differs widely from state to state.

This fiscal complexity is such that it sometimes causes co-production schemes to be abandoned.

47. Accordingly, the member states are invited, in co-operation, to consider the most appropriate means of removing these tax obstacles, for example by seeking ways of defining audiovisual co-productions in the same manner in each state.

Paragraph 2.4

48. This paragraph emphasises that productions of audiovisual works made in association with other European partners shall benefit from the same measures of a financial and fiscal nature as national productions. Such measures include those measures which states have already taken or will take in application of the present Recommendation.

Paragraph 2.5

49. This paragraph highlights the importance of aids for the transnational circulation of audiovisual works of European origin.

50. As indicated in paragraph 43 above, it is essential, not only to encourage investment in audiovisual productions, but also to permit a proper return on these investments. In other words, investments should not be wasted but, by maximum exploitation of productions, they should generate sufficient income to reinvest in production once again.

51. The best means of rendering an audiovisual work financially viable is to ensure its large-scale distribution. The member states should therefore also provide aids to facilitate the distribution of European audiovisual works in Europe and elsewhere.

Since such distribution is largely hampered by language differences, member states are particularly invited to develop aids for dubbing or subtitling in order to promote wider use of audiovisual works of European origin by the media of member states, as well as of other states, and thereby facilitate their amortisation.

3. Copyright and neighbouring rights

52. Without authors, performers, producers or broadcasters there would be no European audiovisual production. It is essential that all these programme contributors be encouraged to create, work and produce in Europe and for Europe. With this in view, the new audiovisual media (cable, direct broadcasting satellites, satellite-to-cable systems, video-grams) should be used in the respect of the rights of authors, performers, broadcasters and producers, who should be equitably remunerated in this regard.

Section 3 stresses this fundamental exigency for the promotion of creativity.

53. This section does not seek to enter into detail on questions of copyright and neighbouring rights since this is the precise object of Recommendation No. R (86) 2 on principles relating to copyright law questions in the field of television by satellite and cable. Section 3 should therefore be read in the light of that Recommendation, which lays down principles concerning the remuneration of holders of copyright and neighbouring rights, and which are such as to be applied in the field covered by the present Recommendation.

Paragraph 3.1

54. Among the principles set forth in Recommendation No. R (86) 2, this paragraph recalls, in particular, that efforts towards contractual solutions should be encouraged, such as those already achieved or contemplated in certain member states for the cable distribution of foreign programmes.

Paragraph 3.2

55. The implementation of contractual solutions protective of the rights of creators or producers may require the establishment of modern and functional systems for the administration of rights. Too wide national divergencies between these systems should be avoided; member states are therefore invited under this paragraph to co-ordinate these systems to the greatest extent possible. Account should be taken in this respect of the different degrees of autonomy which societies for the administration of rights enjoy from one member state to another.

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56. On a more general level, it is indispensable that the international conventions in the field of copyright and neighbouring rights should be taken into account in the light of the principles set out in Recommendation No. R (86) 2 on principles relating to copyright law questions in the field of television by satellite and cable.

These instruments are, in particular:

- the Berne Convention on the Protection of Literary and Artistic Works, of 9 September 1886 (Paris Act, 24 July 1971);
- the Rome Convention on the Protection of Performers, Producers of Phonograms and Broadcasting Organisations, of 26 October 1961;
- the European Agreement on the Protection of Television Broadcasts, of 22 June 1960 (Council of Europe, European Treaty Series No. 34, ISBN 92-871-0087-X);
- the Brussels Convention relating to the Distribution of Programme-carrying Signals Transmitted by Satellite, of 21 May 1974.

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