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" THE EUROPEAN FILM INDUSTRY  
UNDER ANALYSIS"

*First Information Report*  
1996

Directorate of  
Culture and  
Audiovisual Policy  
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## INTRODUCTION

This information paper on the situation of cinema in the European Union is a first attempt at preparation of an annual document on the development of the audiovisual sector (cinema, television, new media), which will enable European institutions, national or regional, as well as the professionals in this field to appreciate the major trends and directions of the audiovisual industry in Europe.

This annual document will thus make it possible to sustain, each year, the debate on the nature and the scope of audiovisual policies.

The 1996 edition of this report is by definition incomplete. It reveals the effort that must be made in order to draw up, at European Union level, coherent instruments of measurement and trend analysis for the audiovisual sector. The Commission included in its work programme for 1997 *a proposal for a Council Decision concerning a multiannual statistical programme in the fields of the audiovisual sector and of culture.*

The year 1996, which is a year of commemoration for European cinema, witnessed a continuation of the major transformations which affect the panorama of the audiovisual sector at global and European level. It also saw the launching in Europe of the first numerical clusters. Digital technology will bring about important changes in the economy of the sector and will strengthen the strategic role of the programme industry in general and of cinema in particular.

It is advisable, therefore, to ponder the effects of this new numerical era on the structure of the industry and on the circulation of European works. The future of European film will rest partly on the optimum use of old and new means of distribution.

The principal tendencies within the European film industry, which are underlined in this report, show signs of a certain revival in a situation which remains marked by the predominance of structures and products from outside Europe.

In a market which records higher growth than those in Japan or America, the increase in investments in production as well as the growth of coproductions in Europe, are just such encouraging signs to which must be added the progressive concentration process, albeit still insufficient, occurring within the sector.

The very strong presence of American production in the European market is, nevertheless, the counterpoint to these development prospects. The professionals on the other side of the Atlantic have understood well before others the importance of the image and of communication at a global level, as a vehicle of a culture and source of income. This understanding is at the root of the success of their film industry.

This report confirms the presence, within the European film industry, of four principal paradoxes, which reflect its traditional weaknesses :

- Europe, cradle of the seventh art, is confronted today with the risk of the disappearance of several of its film industries, which have a low production and distribution level in their own national markets, as well as an even lower level of international circulation;
- Europe, endowed with a very rich cultural heritage, sees this heritage increasingly exploited by non-European communication industries;
- While the cinema is an art of communication, European productions are limited, too frequently, only to national markets. The negation of the very concept of a European film market by certain professionals of the EU is in contradiction with the existence of a genuine European market for American films, which, by a comprehensive approach to the European public, have overcome linguistic and cultural barriers. A market of European dimension is, moreover, a reality for other cultural events within the EU, such as literature, plastic arts or music.
- The crisis of creativity in Europe which was spoken of in the 70-80s is no longer relevant, as witnessed by numerous prizes received by European directors at international festivals. Nevertheless, the industrial structure cannot cope with this rebirth of creativity, with dramatic consequences both for the development of projects and for the distribution of films.

The European audiovisual sector will be able to reach the necessary level of competitiveness only by overcoming these paradoxes and by the consolidation of a genuine film industry. In view of the globalization of the market, the circulation of films outside national borders, and a commercial ambition compatible with the cultural identity of these products, are the essential pillars of this consolidation.

# CHAPTER I THE SIZE OF THE EUROPEAN FILM INDUSTRY

## 1. The cinema and the audiovisual market as a whole

### 1.1. Consumption of films and other audiovisual material

If we look at the audiovisual market in terms of final consumption<sup>1</sup>, the combined value of the world's three leading markets, Europe, Japan and the United States, is estimated at ECU 126 billion, of which the United States accounts for 50% (ECU 63 billion) and Europe ECU 40.8 billion. Taken together, these markets grew by 9.7% between 1993 and 1994, with the European market enjoying the highest individual growth rate of 15.8%.<sup>2</sup>

In the United States the final market for films, which accounts for nearly a quarter of the audiovisual market as a whole, is worth an estimated USD 16 billion (ECU 12.8 billion), of which 33% comes from box office takings, 45% from videos and 22% from television<sup>3</sup>.

In Europe, despite competition from other audiovisual services such as television and video, the cinema still claims a substantial share of the audiovisual market (16%).

The full-length feature film has, of course, pride of place in the audiovisual market and undoubtedly forms the mainstay of public entertainment. It is the motor which drives the video-rental market and, to a large extent, video sales. Films make a huge contribution to television, whether it be terrestrial, satellite or cable television, and will play a key role in any future development of video-on-demand.

On average, each European spends around ECU 56 per year - or about ECU 1 per week - on audiovisual outputs (audio and video recordings, pay-per-view television and cinema). In some countries, such as Spain, Italy and Portugal, consumption is more than 50% lower than in the rest of Europe, while consumption in the United States is three times the European level<sup>4</sup>.

Consumption in Europe has been growing regularly over the last five years as a result of the introduction of new services such as pay-TV and the success of others such as video. As a proportion of total consumption on entertainment, consumption of audiovisual services has risen by 24%. With an 8.5% increase in real terms between 1990 and 1994, it is growing at a faster rate than the GNP of nearly all Community countries<sup>5</sup>.

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- <sup>1</sup> - Radio and television advertising - Cinemas
  - Licences - Pay-television
  - Cable - PPV services
  - Video

<sup>2</sup> IDATE (Institut de l'Audiovisuel et des Telecommunications en Europe). Sector analysis, December 1995.

<sup>3</sup> Idem.

<sup>4</sup> Screen Digest, March 1996.

<sup>5</sup> KPMG. Public policy issues arising from telecommunications and audiovisual convergence, Sept.96.

## **1.2. The potential for growth and employment**

As the Commission highlighted in its 1993 White Paper on growth, competitiveness and employment, the industry has remarkable job-creating potential. The expansion in the number of distribution outlets as a result of new technology will double the demand for audiovisual production. The film industry is bound to benefit from these developments.

Given the fact that 2.4 million people are employed in the audiovisual industry in the United States<sup>6</sup> (including nearly 600 000 in the film industry)<sup>7</sup>, compared with 1.8 million in Europe, the prospects for Europe look good, given its larger population and the enormous scope for developing an industry which has yet to fulfil its potential.

## **2. Film production: the companies and the products**

### **2.1. The companies**

#### **2.1.1. *Production - figures, characteristics and trends***

There is no hard and fast distinction between the three categories under which audiovisual producers are generally classified - producers of full-length feature films, independent video and television producers and multimedia producers. Many producers operate in more than one category, particularly the large and medium-sized organizations which act as a group of companies.

However, in Europe, most of what we traditionally call film production or full-length feature-film production is carried out by relatively small companies, of which there were an estimated 600 in operation in 1995, operating either in groups or independently.

Studios producing films in large quantities are a typical feature of the industry in the United States, but are not widespread in Europe at present. In general, small European companies produce no more than one or two films per year and over 80% of them produce only one per year (the figure is 70% in France and Spain).

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<sup>6</sup> US Bureau of Labor Statistics, US Department of Commerce.

<sup>7</sup> 314 000 in production services, 160 100 in film and video distribution and 115 800 in cinemas.

1994	F	UK	I	E	D	Others	EU
Number of active producers	191	66	105	46	70	161	639
production: - <= 1 film	140	55	86	33	61	146	521
- > 1 film	51	11	19	13	9	15	118
% producers > 1 film	27%	17%	18%	28%	13%	9%	18%

Source : OEA

However, despite the real problem of fragmentation, there has recently been a trend in European production towards concentration. The first signs are the increasing number of co-productions and the steady rise in the number of European firms producing more than five films per year since 1993.

More and more alliances are being forged and there is a growing tendency to integrate the operational and commercial links in the production chain. Several groups are expanding their activities to span several stages of the production process and at the same time, groups specializing in distribution are becoming involved in production. A great many initiatives have been launched to establish or rehabilitate major European studios - Babelsberg, Cinecittà, Pinewood, etc. - focused on production, along the lines of those which spawned the growth and success of the European film industry in the 1950s. The United Kingdom recently suggested that one solution to the problems of financing and profitability facing the national film industry could be to follow this "studio" model, focusing on both distribution and production. This would help to minimize, through a film "portfolio", the risks of film financing, and thereby encourage investment.

### 2.1.2. *Independent film-makers in Europe*

The criteria used to define "independent film-makers" are not the same in Europe and in the United States, reflecting wide and fundamental differences in the structure of film-making on the two sides of the Atlantic. In Europe the main guiding principle, the independence of film-makers vis-à-vis broadcasters, cuts across industry boundaries. In the United States, however, independence is defined in relation to the major companies, according to the industry's own criterion, which is leading to a gradual blurring of the distinction between independent film-makers and the major players.

In view of the diversity of the television scene in the European Union and the varying degrees to which national film-making industries are compartmentalized, the European Commission felt it was inappropriate to lay down a strict definition of "independent producer", as this concept needs to be interpreted very flexibly to fit the real situation in each country.

Nevertheless, it has been proposed, for the purposes of applying the "television without frontiers" Directive and with a view to encouraging the production and broadcasting of independent works, that a producer be considered independent of television broadcasting organizations where no such an organization holds more than 25% of the capital of the production company (or 50% in the case of several broadcasting organizations) and where the



producer does not supply more than 90% of his output to the same broadcaster over a three-year period. These criteria would also be applicable in reverse, i.e. where a producer holds a major share in a broadcasting organization.

## 2.2. The products

### 2.2.1. *The supply of European products and public demand*

In 1995, 550 full-length feature films were produced in the European Union, costing a total of around ECU 1.4 billion<sup>8</sup>. Around a third of these films were co-produced. By way of comparison, the United States produced 450 feature films the same year, costing a total amount of ECU 4 billion, while in Japan the figure was around 250.

Production in the Union fell by 14% between 1993 and 1994<sup>9</sup>. Despite the growing number of films produced in the United Kingdom and in several low-production potential countries, the overall trend was greatly influenced by the drop in production in a number of countries with strong film-making potential - France, Italy, Germany and Spain - which fell by an average of 12.25%. Italy's annual output has fallen steadily: around 54 fewer films were made over the period 1991-95<sup>10</sup>. As the production of full-length feature films in Europe has declined, the production of television drama has increased. For example, in Germany alone around 100 series and more than 200 TV films have been produced or are being produced in 1996, costing a total of around DM 2.4 billion (ECU 1.22 billion)<sup>11</sup>.

1994	F	UK*	I	E	D	Others	EU
Number of films	115	63	95	44	60	135	512
of which: -produced nationally	61	35	71	36	46	84	333
-co-productions	54	28	24	8	14	51	179
Production budgets (ECU million)	438	233	212	82	175	270	1409

\* excluding American films made in the UK

Source: OEA

However, there was a noticeable upturn in national production in many EU countries in 1995 (UK 76, D 63, E 59, NL 18). France, with 141 films produced in 1995, remains the only country to produce more than 100 films, accounting for around 25% of total output.

Although the volume of European production is falling, there has been a rise in investment and revenue - both at the box office and in the hire and sale of videos - which has boosted

<sup>8</sup> CERICA (Centre Européen de Recherche et d'Information sur le Cinema et l'Audiovisuel), Belgium.

<sup>9</sup> OEA, *Annuaire statistique 96*.

<sup>10</sup> CERICA, Belgium.

<sup>11</sup> Television Business International, March 1996.

the industry's general economic performance and highlighted the continued growth in European consumer spending on audiovisual products.

If we count all media together, more films are being consumed than ever before. However, the content of the films preferred by European consumers and the media they choose to watch them in are hardly conducive to a revival in the European cinema and video industry. While European producers do occasionally make low-budget films that are successful both at home and abroad, their films are conspicuous by their absence among the ranks of big-budget productions with strong international commercial potential, which, with rare exceptions, are still dominated by the American industry.

### *2.2.2. Cinema-going in Europe*

Over the last five years, cinema-going has increased by an average of 18% in the Union and, despite competition from television and video, the cinema still accounts for 16% of the total consumption of audiovisual products in the Union. However, its market share varies considerably from country to country (10% in the Netherlands, 28% in Italy),<sup>12</sup> because of differences in culture and social habits and in the number of cinema screens per head of population.

The last thirty to forty years have seen a sharp decline in cinema-going. In 1960 box-office sales at European cinemas totalled 3 billion. By 1994 the figure was down to 676 million. The decline deepened between 1981 and 1988, when the average attendance rate in Europe fell from 3 times per person per year to 1.8 times. The apparent upturn which began in 1989 is mainly due to two factors: the drawing-power of American films, which still has a decisive influence on cinema-going trends in Europe, and the modernization of cinemas themselves, with the growing success of multi-screen complexes in a number of countries.

However, there is still considerable room for improvement. The average attendance rate in the Union is 1.8 per person per year. In the United States, where cinema-going is a national pastime, it is 5 times per person a year. The obvious conclusion to be drawn is that we need incentive measures directed at both the general public and at European exhibitors.

In the United States cinema-going is very popular among adults and young people alike, whereas in Europe it is a pursuit reserved largely for younger people. The proportion of cinema-goers aged between 15 and 24 varies from 35% in France to 64% in Portugal. However, the average age of European audiences is changing, partly because of rising admission prices and the growing popularity of multi-screen complexes. Meanwhile, some countries have seen a resurgence in the popularity of home-produced films which have drawn people to the cinema who had not been there for some considerable time.

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<sup>12</sup> Screen Digest, March 1996.  
Dodona Research - Cinema-going in Europe.

### **2.2.3. Average consumption of films in Europe in different distribution outlets (cinema: television)**

Since 1992 the market share of full-length feature films screened in cinemas has remained steady at around 35%, while the share held by pay-TV has grown from 25% in 1992 to over 32% in 1995. In the last ten years the average number of feature films shown on pay-TV in the Union has practically tripled from 30 films a day to 85.

Video sales have also increased their share of overall consumption, from 14% in 1992 to nearly 20% in 1995. However, this rise has not been reflected in video rentals, which lost 10% of their market share over the same period, falling to 14%. This spectacular drop is no doubt partly due to the increase in films shown on pay-TV and the success of video sales.

The unprecedented number of films screened on television has helped boost demand for full-length feature films in the Union. The average European watches more than a hundred films a year on television compared with two a year in the cinema. Thus, television increasingly serves as the main medium for the mass distribution of films. However this power carries with it a risk of encouraging a "run-of-the-mill" tendency in the supply of films.

### **2.2.4. Domination of the European market by American films**

In the United States (the third biggest producer of full-length feature films in the world after India and China), film production is dominated by the eight major companies which are members of the Motion Pictures Association of America. The same companies have a stranglehold on the distribution of films in cinemas and the distribution of videos. Nearly half of the films produced in the United States are not distributed for showing in cinemas<sup>13</sup>. In many cases the only possible alternatives are direct release in video form or for showing on pay-TV, together with public showing in cinemas on the international market.

The audiovisual industry enjoys the second largest foreign trade surplus in the United States. Some 41% of the total revenue of the major American companies comes from exports, while the top ten foreign markets for programmes and full-length feature films by independent US producers include five Union Member States (Italy, Germany, the United Kingdom, France and Spain). In 1994 feature films sold for distribution in cinemas accounted for 27% of the total foreign revenue of the American Film Marketing Association, a grouping of independent US producers, compared with 48% for television sales and 25% for video sales. International sales generated USD 1.37 billion (ECU 1.71 billion) in annual revenue for the Association's members, an increase of 21% on the previous year.

In 1995 the United States produced 450 films, a significantly lower level compared with 550 in the European Union and 630 in Europe as a whole. Yet the number of tickets sold for American films in the Union rose from 397 million to 516 million between 1985 and 1994. Thus, the market share of American films in European cinemas, measured by audience, rose by nearly 50% over ten years from around 56% to around 76%. Meanwhile the market share of home-produced films in the Community as a whole fell from around 25% in 1985 (177 million tickets sold) to 13% in 1994 (89 million tickets), a 50% drop in ten years<sup>14</sup>. Moreover,

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<sup>13</sup> They are essentially films from independent producers.

<sup>14</sup> OEA, *Annuaire Statistique '96*

the internal Community market in European films is still very weak, especially compared with the number of imports from the United States.

Sales of American audiovisual programmes in the Union rose from USD 330 million/ECU 264 million in 1984 to USD 4 373 million/ECU 3 498 million in 1994 (accounting for nearly 60% of American programme exports). Since sales of European programmes in the United States were worth only USD 371.5 million/ECU 297.2 million in 1994, the Union's trade deficit came to USD 4 billion/ECU 3.2 billion. This deficit is more than double the figure of 10 years ago<sup>15</sup>.

Certain recent estimates show different figures as from 1992, indicating a wider deficit of USD 6.3 billion/ECU 5.04 billion in 1995<sup>16</sup>. This increase is judged as essentially due to the increase in American revenue from the television programme market (+22.2% for the MPA and +23.9% for the AFMA) in the context of the arrival of digital clusters in Europe. However, these estimates have still to be clarified, owing to the diversity of sources and the lack of trustworthy data on American major companies' revenues on foreign markets.

As part of the audiovisual sector, the film industry is also affected by this trade deficit in the United States' favour. The share of foreign films on the American market has fallen sharply since the 1960s and amounts to less than 5%. In 1994 the 52 foreign-language films distributed undubbed in the United States generated only 0.75% of total revenue. The 43 non-American films distributed in English fared little better, claiming just over 3% of the market<sup>17</sup>.

#### *2.2.5. The impact of digital technology on the production process. 16/9 format and its role in the convergence of television and film production practices*

The European audiovisual industry is in the process of transferring from analogue to digital technology. Producers themselves are starting to use digital techniques and new technologies - with their high potential - are set to revolutionize not only the practices followed in the audiovisual industry but also the kind of works that are produced.

These new technologies, such as digital video, digital compression and 16/9 format, are transforming audiovisual production. Differences in techniques are narrowing and in the medium term television and cinema production practices are likely to converge. These developments are bound to have a positive impact in future.

In this context, the "Action Plan for the introduction of advanced television services in Europe" or "16/9 Action Plan", launched by the European Commission in 1993, is spearheading the introduction of new technologies in audiovisual production<sup>18</sup>. With the promotion of 16/9, post-production services and studios are developing digital video skills.

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<sup>15</sup> IDATE. France.

<sup>16</sup> OEA. *Estimates (in USD millions) of the deficit between the EU and the United States:*  
- 1988: -1,977.6 - 1990: -3,254.7 - 1992: -4,699.5 - 1994: -5,470.5  
- 1989: -2,624.3 - 1991: -3,921.5 - 1993: -5,347.6 - 1995: -6,263.6

<sup>17</sup> IDATE. Sector analysis. December 1995.

<sup>18</sup> Council Decision 93/424/EEC of 22 July 1993 on an action plan for the introduction of advanced television services in Europe.

As the technological opportunities opening up in the Union become better known, new production practices are emerging at European level and national producers are being encouraged to harness the technological skills available in the various Member States, so that an industrial and technical tissue is being established Europe-wide.

The 16/9 format is a vital link in the transition to digital technology and, as such, opens up great opportunities for the production and creation of high-quality audiovisual works.

### **3. Financing: Sources and Volume**

#### **3.1. European investment in production**

Europe has recently adopted a new approach towards production, with fewer but better-financed films being made. The average budget for a European film was ECU 2.8 million in 1994. In France, where 33.2% of European investment in production is made, film budgets have practically doubled in ten years, from FF 13 million (ECU 2 million) in 1985 to FF 28 million (ECU 4.3 million) in 1995. The highest average European budgets are in Ireland and the United Kingdom, accounting for 31% of total EU investment, mainly as a result of American financing in these countries.

On the other hand, the average cost of an American film (ECU 8.9 million/USD 11.1 million excluding promotion costs) is three times that of a European film, and the budget for a film produced by a major studio is ten times higher (ECU 27 million/USD 33.7 million excluding promotion costs). As in the EU, production costs have trebled in the last ten years, mainly due to promotion costs (copying and marketing). The promotion costs alone for an American film average approximately ECU 800 000/USD 1 million, more than the total cost of an average European film.

It should be noted that, despite better funding, if the volume of production of European films continues to fall, it will certainly hinder the development of new services - increased number of channels, services on demand - for which the cinema can be expected to act as a launch pad.

It is important that the production of feature films in Europe be seen in the context of the United States' financial domination. Of total worldwide investment in feature films of about ECU 5 245 billion in 1994, approximately ECU 3 895 billion, or 74%, was made by American companies. The highest levels of American investment were in Ireland and the United Kingdom<sup>19</sup>.

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<sup>19</sup> While the average cost of a film produced in the UK is ECU 6.7 million/USD 8.3 million, the cost of solely British films is around ECU 2 million/USD 2.5 million. (Source: CERICA)

### 3.2. Main sources of finance

Financing for a film comes from:

- producers', co-producers' and investors' own funds,
- subsidies and repayable loans,
- advance sales to distributors or television companies, the minimum guarantees granted by the distributor included,
- bank advances or loans.

Before the appearance of television, distributors were one of the main sources of finance for European films. This is changing, however, through the effect of investment in films made for the cinema by television channels in the Member States, particularly pay-TV channels which schedule films.

Feature films have always been one of the driving forces behind pay television, and will continue to be so when advanced television services, such as 16/9 format and interactive systems like VOD and NVOD, are introduced. The involvement of television channels tends to lead to a market which develops in two directions - high-budget films for cinema which will then be shown on television and video, and low-budget films made specifically for television.

There are, then, two special characteristics of the way European films are financed:

- the level of subsidies is generally high.
- funding from television channels has become vital; the number of television channels acting as co-producers and acquiring distribution rights has increased sharply in the past ten years.

Banks become involved in the financing of films in two ways:

- they provide short-term loans against advance sales contracts and minimum guarantees or future subsidies to help producers avoid cash-flow problems,
- in some cases, they loan the money required to complete the financing plan, an operation commonly known as "gap financing".

Film financing is a small market in which a few, highly specialized banks operate. The activities of the main banks involved in the audiovisual sector, above all in the United Kingdom and in Germany, are directed mainly at the United States, and most loans - usually more than three quarters - are made to the largest independent American producers. Each year, on average, ten loans of this type (35 or 40 in some cases) are granted, each involving about ECU 7.7 million (USD 10 million).

However, there is no standard type of financing structure for European films. Each country has its own arrangements. As an example, the situation in the five countries with the highest production levels is as follows:

\* France has a public subsidy system which takes the form of advances on income and grants from the CNC (*Centre National de la Cinématographie* - National Film Centre) support fund. Television stations are closely involved as they are required by law to apply part of their resources to the production of feature films (9% in the case of Canal Plus and 3% in the

cases of TF1, FR2, FR3 and M6). Television, that is to say, provided 34% of the financing for productions in 1994 - a total of ECU 190 million, in the form of joint investment and advance sales (26% of it from Canal Plus). Canal Plus bought 91 of the 115 films produced in 1994, or 79% of them, in advance<sup>20</sup>. Television's contribution to investment in production reached 36.9% in 1995.

In the last ten years, French television companies have replaced distributors as film backers. In 1985, they financed only 9.4% of films, as compared with 30.4% from the distributors. By 1995 it was the other way round, with 37% being financed by television companies and 4% by distributors<sup>21</sup>.

Most bank loans are given by three specialized financial institutions. When they are awarded to independent producers, they are usually guaranteed by the IFCIC<sup>22</sup> - Institute for the funding of cinema and the cultural industries -, which manages a guarantee fund maintained by the state; such guarantees cover approximately 55% of the loan on average.

\* In Italy, funding is usually provided by BNL (*Banca Nazionale del Lavoro*), which grants interest-rate subsidized loans to producers. It is less usual for television companies to be involved in film production than in the other countries.

\* In Spain, films are usually financed as follows: 30% comes from producers' own funds, 33% from subsidies and 37% from advance sales (of which 15%-17% are to television companies).

Subsidies are only granted after a film has been released and earned a minimum of PTA 30 million (ECU 0.19 million) at the box office. The subsidy is advanced by *Banco Exterior de España* (*Argentaria group*), which adds a 4% interest-rate subsidy paid for by the Ministry of Culture. The Ministry has also set up a guarantee fund which covers 25% of the bank loan from the *Banco Exterior*, for the repayment of capital only.

The television channels RTVE, Antena 3, TV3 (regional television) and Canal Plus España are also involved in the financing of film production (in 34% of cases in 1994). The ICO (*Instituto de Crédito Oficial*) provides loans for three to four years on the basis of sales contracts with RTVE and Antena 3.

\* The United Kingdom. British productions are usually financed by advance sales to national and international distributors. Television companies (Channel 4, BBC and BSkyB) are primarily involved in the production of films with medium-size budgets.

Through National Lottery funding, the British Government has recently introduced a mechanism for providing state subsidies for gap financing. The amount of the subsidy may be between 10% and 50% of a film budget up to a maximum of UKL 1 million (ECU 0.806 million) per film.

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<sup>20</sup> CNC (Centre National de la Cinématographie). France.

<sup>21</sup> CNC (Centre National de la Cinématographie). France.

<sup>22</sup> Institut pour le financement du cinéma et des industries culturelles.

\* Germany. Film production in Germany is heavily subsidized, in particular by two federal and four regional funds, whose main problem is the lack of cooperation and coordination. As a result, each year, more than DM 250 million (ECU 131 million) goes towards national productions. The majority of the films produced are in the "cultural" sector and more than half are never put on general release.

Many films are co-produced by channels such as ARD and ZDF, which also partly fund the national state subsidy system FFA (*Filmförderungsanstalt*). Private broadcasters have withdrawn after having contributed for some time to this support mechanism. The German Government is currently negotiating their return.

### 3.3. National support systems. Latest trends in their adaptation to a changing environment

In the last few years, it has become increasingly clear that some national support systems have had unexpected negative effects: instead of boosting the European cinema industry so that it can put up a better showing in the national and international markets, they have made the industry dependent on such funding to a greater or lesser degree, without overcoming the structural weaknesses.

This is why many Member States have decided to overhaul or modify their support systems.

In the Netherlands, the *Nederlandse Fonds voor de Film* has opted to take greater account of market realities in the granting of funding. It is planning a system of "corrective mechanisms", such as tax relief, in the same way as the Irish "Section 35" arrangements, which the Irish government has just extended for three years, with some modifications. These arrangements allow Irish investors - private investors or companies - to buy shares in Irish production companies for a minimum period of one year, while enjoying an 80% tax exemption on the amount invested.

In Italy, the traditional system of state subsidies is also being replaced by one which encourages private-sector investors to take advantage of tax incentives for investment in the film industry.

The United Kingdom's decision to allocate some National Lottery resources to the "Greenlight Fund" which supports production projects has already been mentioned, and Spain has also recently strengthened its system of automatic aid.

In Germany, the fragmentation of support funding, which is recognized as their major weakness, could be progressively overcome in particular by the setting up of a system based on cooperation agreements.

In France, the increasing number and scale of co-productions has prompted a change in support systems to take account of this factor.



### **3.4. Changes in the economics of film production.** **Main strategic changes under way.**

A commercial approach to production seems to be the favoured means to overcome the weakness of the "European" film. Greater attention to the development stage (script writing, financial planning, marketing plan) may produce films which attract new audiences and encourage more cinema-going, without necessarily causing the takings for films made elsewhere to fall.

The MEDIA II programme (1996-2000)<sup>23</sup> takes account of this important factor, and puts a significant proportion of its resources, in the form of repayable loans, into developing feature film projects and training in the various areas of film-making. Of a total budget of ECU 310 million for the whole period of the programme, support for project development<sup>24</sup> and investment in training account for ECU 60 million and ECU 45 million respectively.

### **3.5. Co-productions**

The number of European co-productions has been rising for the past twenty years. However, determining the number of co-productions is still a problem. In 1994, Eurostat put the number of co-productions in the EU at 183, while the OEA (*Observatoire européen de l'audiovisuel*) estimated it at 179, representing approximately one third of total European production.

This production method has received support at European level from the Community's MEDIA I (from 1990) and MEDIA II (from 1996) programmes, and from the Council of Europe's Eurimages Fund from 1989. These initiatives by the Council of Europe and the European Commission complement each other both in their implementation and their approach to the film industry. While MEDIA operates both upstream and downstream of production, the Eurimages Fund focuses its activity on the production itself.

The co-production approach as a method of funding European cinema has become increasingly common. However, producing in this way entails more coordination of both the parties involved and the production equipment, which can increase the cost of the film (by as much as 15% to 20%, experts estimate), as a result of additional expenditure on communication, exchange-rate fluctuations and the cost of adapting to varying legal requirements.

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<sup>23</sup> . Council Decision 95/563 EC, of 10 July 1995, on the implementation of a programme encouraging the development and distribution of European audiovisual works (MEDIA II - Development and Distribution) (1996-2000).

. Council Decision 95/564 EC, of 22 December 1995, on the implementation of a training programme for professionals in the European audiovisual programme industry (MEDIA II - Training) (1996-2000).

<sup>24</sup> The fixed ceiling for assistance to projects is ECU 35 000, while that for assistance to enterprises is ECU 100 000.

Co-productions are still a good means of breaking down barriers between markets as a means of compensating for the lack of pan-European distribution companies, and of encouraging the establishment of production/distribution groups and networks. In most cases, though, financial necessity rather than an aspiration to screen a film internationally is more likely to be the basis for a co-production project.

Countries with a limited capacity for financing in the audiovisual sector are those who most often have recourse to coproductions: nearly half of their films are the result of transfrontier cooperation. Amongst the rest, France is very active in this area. Germany attains the highest figure of recent years with 41% of coproductions in 1995, representing twice the number in preceding years<sup>25</sup>.

At the same time an increase in international co-productions is noticeable, to the detriment of co-productions between European partners, as in the case of the United Kingdom whose partners are essentially North American. In 1995 for example, more than a third of total investment, i.e. more than ECU 162 million, was invested in just three films, financed with American capital<sup>26</sup>.

In the last few months, several agreements designed to increase the number of co-production projects taking place have been concluded or extended between various Member States of the European Union (Italy/France, Spain/France, or Germany/Spain). These agreements illustrate the potential for this form of cooperation within the European film industry.

### **3.6. Guarantee funds and private investment as an alternative**

There has been support for the idea of setting up a Guarantee Fund for audiovisual projects since the European Audiovisual Conference in 1994. Through its function as a risk-sharing mechanism, it should act as an underwriter in dealings with financial institutions which make loans to producers and distributors. A proposal for a decision on this matter adopted by the European Commission in November 1995 is currently being discussed by the EU Council of Ministers. The European Parliament's report, which is favourable to this proposal, was unanimously adopted on 21 October 1996.

Resources of ECU 90 million would be enough to enable financial contributions to be made to some thousand or so cinema and television productions over a period of 10 years, of which more than one third would be European co-productions.

This sort of financial instrument, operating in response to market forces, will release new resources for the industry, complementing the MEDIA II programme. The objective is to step up the number of feature films produced which would be suitable for the European and international markets.

The preferential treatment given to co-productions by the Fund will work to the advantage of countries with limited audiovisual capacities and funding.

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<sup>25</sup> CERICA (Centre Européen de Recherche et d'Information sur le Cinéma). Belgium.

<sup>26</sup> Idem.

In an environment where markets and financing systems are compartmentalized, the Fund will have a significant leverage effect, with a multiplier coefficient of 5. It will have far greater implications for the overall economics of the sector and it will act more effectively as a catalyst than direct subsidies. The Fund will be a real asset to the audiovisual market, and then to the EU film market, in bringing about a better balance between American and European films by encouraging the production of films with a potential for circulation.

#### 4. Film industry revenue: facts and figures

##### 4.1. Changes in traditional sources of revenue

Films have traditionally earned revenue from box office sales, video sales and rental and television rights. The relative importance of these different sources of revenue varies from one European country to the next.

<i>Breakdown of film industry revenue in 1994*</i>	France	UK	Italy	Spain	Germany
Box office sales	46%	21%	35%	45%	25%
Video rental	4%	22%	15%	5%	15%
Video sales	27%	41%	15%	17%	20%
TV rights	24%	16%	50%	33%	40%

\* From all films, including American films.

Source: Bridge Media

Whereas twenty years ago 90% of the revenue for a feature film came from box office sales, over half is now provided by other sources such as video and television rights.

From the producers' point of view the takings generated by cinema showings determine their income flow. Cinemas will therefore continue to be a crucial factor in total revenue because of the "showcase" effect of any box office success, which will also have a considerable knock-on effect on profitability in the various subsequent outlets.

##### 4.2. Cinema attendance in Europe

Revenue from box office sales is divided between the exhibitor and the distributor and depends on levels of attendance and ticket prices.

After a period of declining audiences, we are now seeing an increase in cinema attendance in the EU. In 1994, total attendance figures, which were up 2.3% on the 1993 level, reached 676 million, for the first time returning to the 1986 level. Box office takings reached ECU 3 billion during the same period. Nevertheless, a comparison with the equivalent figures in the United States shows that attendances there, at 1 300 million, are twice as high as in Europe.

As a result, and despite an average ticket price in the EU that is 36% higher than in the United States (ECU 4.43 or USD 5.71 compared with ECU 3.26 or USD 4.20), revenue from ticket sales in the US is nearly ECU 1.2 billion more than in the EU<sup>27</sup>.

These figures are highly revealing, and when viewed in conjunction with the larger number of screens per inhabitant, suggest a possible causal link, in the United States, between the high level of attendance and the policy of low ticket prices.

#### **4.3. The video market and film channels. Digitalization as a key element in current developments**

There is a very close relationship between a substantial part of the video market and the film market, as feature films account for the majority of videos rented and approximately 40% of those sold. In addition, the marketing of feature films will have an important impact both on levels of cinema attendance and on video sales and rental.

A large proportion of households in the EU have video recorders (58,6%), and annual spending on video sales and rental in Europe is worth an estimated ECU 3.2 billion (USD 4 billion).

Films also dominate the programming schedules of thematic cable and satellite channels in Europe, and subscriptions to film channels raise some ECU 1.840 billion (USD 2.3 billion). Competition from thematic television channels, which offer an increasing range of films, as well as the development of new supports, such as cable and satellite, and of new technologies such as digital broadcasting, are likely to produce significant changes in the structure of the video market.

Even if there is the prospect of some stability on the video market over the next few years it will undoubtedly be affected in the long term by various factors like the arrival of Digital Video Disc/DVD, competition from the CD-I as a medium, the possibilities of using the Internet to deliver films and the introduction of video-on-demand.

#### **4.4. The role of television as a source of revenue: TV rights and current trends**

1996 saw the launch of digital television in Europe. Several channels, such as Telepiù, CanalSatellite and DF-1, began to broadcast at the beginning of the year, while others, like TPS (one of whose partners is France Télévision), BSkyB, AB-Sat and several public broadcasting services (RAI, ORF, the BBC and ARD), are about to follow suit. The crucial challenge to all of these channels is to offer attractive material, which means obtaining the rights to broadcast major sporting events and films appealing to a wide audience. The sudden appearance of a major new source of programme demand will have repercussions on the film market and, in the long run, meeting that demand will be a basic source of revenue for the production industry.

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<sup>27</sup> IDATE. Sector Analysis. December 1995.

All communications corporations are now trying to build up film catalogues or to have access to rights. The value of such catalogues is increasing all the time, and a great deal of buying up is taking place. European television corporations are investing heavily in output deals with leading American studios to buy up the rights to films. The German company Kirch, for example, has secured the digital transmission rights to films produced by MCA, Time Warner, Viacom, Disney-ABC and Columbia. In France, Canal+ has just signed an important contract with MCA.

The inadequacy of the catalogues available in Europe, related to the fragmented patterns of production and distribution, means that the revenue from rights purchases is going to the American film industry. The analysts estimate that 20 to 25% of Hollywood's turnover will soon come from pay television markets outside the United States (compared with 10% today). Sales of American television programmes in Europe have already increased by 15% in 1995 in anticipation of digital broadcasting. The changes in European broadcasting currently under way, and the increase in the number of American channels, for example in Eastern Europe, from their current figure of around 40, will only enhance this tendency.

#### **4.5. New technologies: new opportunities for consumers and new sources of revenue for the industry**

One of the main advantages of the new technologies for the film industry will be to create a wider range of opportunities for distribution. To some extent this process may be regarded as an extension of the phenomenon of the video, which generated substantial extra revenue for producers. Digital Video Disc/DVD, with its potential to develop a new market, is likely in the short term to fulfil the same role as that of the video cassette in the 1980s, despite the difficulties experienced to date in marketing its predecessor, the CD-I, which would suggest the need for a cautious approach to this new venture in packaged media.

The prospects of more efficient sales of audiovisual products as a result of video-on-demand and the increase in the number of television channels brought about by digitalization, as well as the new secondary markets in CD-Roms, electronic games and merchandising, are all seen by the industry as a potential source of revenue.

The first interactive films - a cross between feature film and video game - are now being produced in Europe. The traditional full-length feature is likely to become, in many cases, just one of several versions of a product which will be packaged in a variety of forms including interactive formats. Seen in this light, the actual film will become the industrial prototype, a loss leader requiring increasingly large amounts of investment, which will be recouped using a different medium.

However, the digital revolution will not alter the underlying creative process, which will continue to have a pivotal role in the development of these new forms of media. Despite the shortening of the process of recovering investment by the producer and the consequent increase in the producer's share of the revenue, the markets offered by the new technologies are unlikely to benefit all products and will probably apply to only a limited number of highly successful titles.

## CHAPTER II     DISTRIBUTION AND EXPLOITATION: IS THERE A FUTURE FOR THE EUROPEAN FILM INDUSTRY?

### 1.     Distribution: an essential factor

#### 1.1.     Film distribution in Europe

In 1995 there were around 700 distribution companies in operation in the EU. Distribution in Europe is therefore highly fragmented compared to the United States where, in 1993, eight companies shared 89% of the market. Despite the major structural differences between the two markets in this field, however, distribution is, together with exhibition, the weak link in the film industry chain in both the United States and Europe.

Nevertheless, the trend in Europe is towards concentration, with a limited number of integrated companies becoming increasingly dominant. Although integration helps bring a better return on investment, it raises serious problems for independent distributors, who are sometimes unable to find cinemas to show their films. The European distribution market is dominated by the big American studios, and this important fact is crucial to a proper understanding of the way film distribution works in Europe.

In an effort to secure a foothold in Hollywood and so to gain direct access to the American catalogues some national distribution companies in Europe are trying to increase the number of cooperation agreements with American companies (Gaumont-Disney, UGC-Fox and others).

In most EU countries film production and distribution are becoming increasingly integrated. Distributors are becoming ever more aware of the need to invest upstream of distribution and are increasing their financial involvement in production and investing in film rights.

The gross revenue of the film distribution sector in Europe was estimated at ECU 1.24 billion (USD 1.6 billion) in 1994, or roughly 40% of the box office sales.

#### 1.2.     The market share of non-national European films

The European market is deeply divided, with film distribution confined within national frontiers. European feature films are not often screened outside the national market; distribution is very limited and the results in terms of audience figures are very poor.

In terms of numbers of films distributed in cinemas, the market share of European films not produced in the country concerned in 1994 was 26% in Spain, 19% in Germany, 12% in Italy, 8% in the United Kingdom and 6% in France. In contrast, the number of American films screened represented on average 50% of the total, with France below the average at 38% and the United Kingdom above it at 57%.

In terms of attendance figures, measured by box office sales, non-national European films account for a very small share of the market, at approximately 7%. The situation varies by country, with Spain and Italy achieving better results than France and Germany (12% and

14% compared with 4% and 9% at the box office). With only about 1% of box office sales, the United Kingdom is a negligible market for such films.

The performance of non-national European films is thus even poorer when measured in terms of attendance figures than in terms of distribution. Non-national European films perform poorly compared with national films and *a fortiori* with American films, which account for a percentage of box office sales in Europe (76%) that is significantly higher than their market share in terms of the number of films distributed (50%).

**Origin of the films distributed on the five main European markets**

1994 (1993 for UK)	France	UK	Italy	Spain	Germany
<b>* Number of films distributed</b>					
- national	138	24	95	44	60
- EU4 excluding national	25	19	42	88	40
- US	146	135	173	182	132
- others	78	58	36	31	31
<b>Total</b>	<b>387</b>	<b>236</b>	<b>346</b>	<b>345</b>	<b>263</b>
<b>* Market share in terms of number of films distributed (%)</b>					
- national	36%	10%	27%	13%	26%
- EU4 excluding national	6%	8%	12%	26%	19%
- US	38%	57%	50%	53%	50%
- others	20%	25%	10%	9%	6%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>
<b>* Market share of films (%)</b>					
<i>Basis</i>	<i>audience figures</i>	<i>ticket sales</i>	<i>ticket sales</i>	<i>ticket sales</i>	<i>distrib. revenue</i>
- national	28%	3%	24%	7%	7%
- EU4 excl. national	9%	1%	12%	14%	3%
- US	60%	94%	61%	72%	88%
- others	4%	3%	3%	6%	2%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Source: O.E.A. Bridge Media

*Market share of European films (excluding national films)*

	1990	1990	1991	1992	1993	1994	1995
B*	21.5 %	19.3 %	14.7 %	19.3 %	16.5 %	16.2 %	20.8 %
D	19.3 %	5.6 %	4.0 %	6.2 %	3.4 %	6.5 %	5.1 %
DK	19.4 %	6.1%	4.7%	3.4%	5.2%	6.9%	7.4%
E	17.7 %	16.1 %	20.0 %	13.2 %	10.1 %	16.9 %	14.1 %
I	7.8 %	5.3 %	9.9 %	4.3 %	4.3 %	8.7 %	8.5 %
FIN	ca 24 %	ca 12.5 %	ca 13 %	25 %	20 %	20 %	11.2 %
GR **	5 %	5 %	5 %	6 %	N/A	14 %	N/A
I	12.8 %	19.4 %	12.6 %	14.2 %	12.4 %	11%	11.7 %
IRL	19 %	N/A	N/A	N/A	N/A	N/A	N/A
I	10 %	17.7 %	12 %	21 %	17.5 %	ca 15 %	15.1 %
NL	18.2 %	5.0 %	3.0 %	3.0 %	4.9 %	7.1 %	7.5 %
P	N/A	N/A	14.0 %	N/A	N/A	N/A	N/A
S	N/A	N/A	N/A	5.3 %	N/%	13.2 %	11.4 %
UK	N/A	N/A	1.9 %	0.8 %	1.3 %	N/A	N/A

Source: MEDIA SALLES

\* Brussels only

\*\* including other non-national and non-US films

**1.3. Market share of the national film industries**

A renewed interest in domestic film production in Europe led to an increase in the market share of several national film industries in 1995 and the first months of 1996. For example, Spain, with 11% of the market, experienced a 5 points increase in 1995. France with a market share of 40% recorded an 11 points increase in the first half of 1996, and Germany managed to increase its share from an average of 10% in recent years to 19% in the first half of 1996.

However, the market share of American films in the various Member States remains high. Germany is the EU country in which American films are most successful (87%), followed by the United Kingdom, Spain and Italy. France is still the only country in which this figure remains constant at around 50%.



### Market share of national films

	1989	1990	1991	1992	1993	1994	1995
B*	2.6 %	4.0 %	3.1 %	4.2 %	5.5 %	2.9 %	2.5 %
D	16.7 %	9.7 %	13.6 %	9.5 %	7.2 %	10.1 %	6.3 %
DK	15.0 %	14.7 %	10.8 %	15.3 %	16.0 %	21.5 %	8.4 %
I	7.3 %	14.7 %	10.8 %	9.3 %	8.5 %	7.1 %	11.9 %
F	34.2 %	37.6 %	30.6 %	34.9 %	35.1 %	28.3 %	35.4 %
FIN	5.8 %	7.6 %	7 %	10.0 %	8.0 %	4.0 %	10.3 %
GR	9 %	8 %	7 %	2 %	N/A	4 %	N/A
I	21.7 %	21.0 %	26.8 %	24.4 %	18.0 %	22 %	23.7 %
IRL	2 %	5 %	2 %	N/A	N/A	N/A	N/A
I	2 %	2 %	2 %	-	0.8 %	ca 0.1 %	-
NL	4.6 %	3.0 %	2.3 %	13.0 %	4.1 %	0.6 %	7.6 %
P	1 %	1 %	1 %	N/A	4 %	N/A	N/A
S	20.4 %	8.9 %	25.5 %	28.0 %	14.7 %	15.2 %	20.4 %
UK	10.0 %	7.0 %	13.8 %	6.8 %	2.5 %	N/A	10.2 %

Source: MEDIA SALLES

\* Brussels only

#### 1.4. The video market

In 1994, 58.6% of households in the EU had at least one VCR, and revenue from video sales and rental amounted to ECU 4.786 billion, exceeding box office sales, which were worth only ECU 3 billion. In 1991 revenue from video sales overtook revenue from rentals and in 1993 accounted for 62.8% of total sales and rental revenue, compared with only 34.1% in 1989<sup>28</sup>. The British market is the largest in the Union, accounting for twice the revenue of other national markets.

The European video market is dominated by five of the 50 existing distributors, which together account for 57% of revenue. These are Buena Vista (17.4%), Warner Home Video (13.8%), CIC Video (11%), Columbia Tri-Star (8.2%) and Fox Video (6.2%).

Given that 80% of the video market is based on 20% of the available titles, video sales of American blockbusters account for the largest share of the market. In 1994 the total number of videos sold in the EU passed the 200 million mark for the first time.

<sup>28</sup> Eurostat. *Audio-visual statistics report 1995*.

It is only on their respective domestic markets that video sales of European films have any success (good examples of this are *Les Visiteurs* in France, *Belle Epoque* in Spain and *Schtonk!* in Germany). The results on the transnational market are very different. Very few recent European films have been major successes at European level, the exceptions being English-language films which had already done well on the American market (e.g. *The Crying Game*). Videos for children achieve the widest distribution in Europe, largely because they are easy to dub. The sector is thus dominated throughout Europe by American children's classics, sales of which often reach record levels of between 1 and 3 million copies in a single country.

The growing tendency for full-length features made specifically for video offers a new source of revenue for producers.

### **1.5. Media time scales and their importance to the film industry**

It is a unique feature of films that in order to be financially viable they must generate revenue on several markets in succession. It is essential to the economy of the sector that there should be a succession of outlets for a film. The European Commission is convinced that the principle as regards media time-scales must be to give priority to professional agreements and contractual freedom.

### **1.6. Incentives for international distribution and prospects for creating new distribution structures in Europe**

Networking between distributors seems to be the only way of coordinating campaigns to promote films at international level and hence to take advantage of the means of promotion offered by, for example, the new technologies.

No practical scheme for creating a proper European distribution structure has yet been devised. However, improving the European film distribution system is now a cornerstone of the MEDIA II programme.

MEDIA in fact provides for the strengthening of cooperation networks between distributors in different countries. This cooperation has hitherto too often been limited to one-off projects. To this end, increased support is granted to networks of distributors who undertake jointly to distribute several films. The total budget for this measure amounts to about ECU 12 million per year.

## **2. Cinemas and cinema-going**

### **2.1. Cinemas in Europe**

Cinemas are undergoing something of an international revival, thanks in part to the policy of physical renovation. Between 1981 and 1991, the number of screens fell by 25.7% in Europe, though since then the trend has reversed: the three years from 1991 to 1994 saw an increase of 3.1%.

In 1994, there were 19 504 cinemas in the EU<sup>29</sup>, for a population of 370.6 million (i.e. one cinema per 19 000 inhabitants), compared with 27 800 in the US, which has a population of 260 million (fewer than 10 000 inhabitants per cinema).

In Portugal and Ireland there is a high concentration of cinemas, while other Member States such as Italy, Spain, Austria and Germany are not so well endowed.

## **2.2. Cinema attendance: the multiplex phenomenon**

In 1994, cinema attendance in Europe finally regained its 1986 level, with 676 million admissions. Even so, that figure is a long way from the 3 billion admissions recorded in Europe in 1960. In 1994, Germany, France and the United Kingdom together accounted for 57% of total admissions. However, attendance figures for Europe are not even half those for the United States, though Europe's population is 25% larger.

The increase in cinema-going can be put down to a number of factors:

- American blockbusters, designed for big screens;
- the success of the video market, which in certain sections of the public has whetted audiences' appetites for feature films and tempted them back to the cinema;
- from the mid-80s onwards, the rise of the multi-screen complex (minimum 5 screen per complex).

These complexes have played a major role in adding to the appeal of a "trip out to the cinema". At the same time, their success has generated concern and controversy.

To offset the large investment involved in setting the complexes up, their operators want a reduction in the cost of renting films to be shown in them (i.e. a reduction in the percentage of box office takings going to the film-maker and the distributor). This has caused a new rift between cinema-owners and distributors.

Another criticism levelled at multi-screen complexes concerns the programming balance between American and European productions. The more screens a cinema has, the higher the proportion of American films, which account for almost 60% of all screenings in some multi-screen cinemas. In some cases, a single American film is shown in two, three or even more auditoria at the same time<sup>30</sup>, transforming the cinema into a sort of Hollywood aircraft carrier.

The "multiplex phenomenon" began in the 80s in the United Kingdom, where now one screen in two is in a multiplex. It then swept through the continent, passing through Belgium (which is home to the biggest complex in the EU with 28 screens), Germany and France. It still has a bright future before it in the south of Europe. At the end of 1995, within the EU, there were

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<sup>29</sup> Eurostat, *Audio-visual statistics report 1995*.

<sup>30</sup> Observatoire du cinéma français.

328<sup>31</sup> multiplexes adding up to some 2,700 screens. In a few years, two thirds of the admissions in Europe will be realised in multiplex cinemas.

The countries of Eastern Europe also represent an important development potential for this type of installation: in 1996 several projects were launched in Russia, in the Czech Republic and in Hungary.

It is estimated that the number of multiplexes will increase by 25% during 1996, and numerous projects currently exist. Among the most active companies that can be cited are UCI, Warner, Gaumont, UGC, Pathé, Virgin Cinemas and Decatron/Bert, present in several countries, or groups such as Rank Odeon (UK), Ward-Anderson (IRL), SF Bio (S), Flebbe or UFA (D), operating only in national markets. Two American companies, UCI and Warner, play an important role among the operators with an international strategy. At the end of 1995, they had almost 600 screens representing approximately a quarter of the total volume.

### **2.3. Cinema takings: present trends and prospects for the future**

Europe accounts for 34% of all box-office takings worldwide, compared with 50% for the US and Canada and 15% for Japan.

In the fifteen Member States of the EU, cinema box-office takings for all films, including American ones, totalled almost ECU 3 billion in 1994, for 675 million admissions. Cinema attendance increased at an annual rate of only 2.2% from 1989 to 1994 while box office receipts grew, on average, by 5.8% a year over the same period, as a result of the increase in admission charges.

In Europe, a large proportion of receipts is generated by a small number of films. In France, in 1994, the ten most successful films (irrespective of their country of origin) accounted for 2.6% of the 387 films distributed but for over 30% of admissions.

In several countries such as Ireland, Belgium, Germany and the UK, the cinema's fortunes are reviving, probably as a result of modernization of the infrastructure and the popularity and continued growth of the multi-screen complexes. This has favourable implications for the other countries.

### **2.4. Focusing more on the audience**

The European film industry is often accused of neglecting its audience. It is true that in certain countries, film-making has been monopolized by one particular school or style and the only way of remedying this was to wait for the next generation to come along. This is particularly true of Sweden and Germany.

The "renewal" process which the German film-making industry has been undergoing recently is built around comedies of manners and films based on human relationships. These films are the work of a new generation of directors, who make films that "you would want to go to see

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<sup>31</sup> Screen Digest, May 1996.

yourself", in the words of Sönke Wortmann, the director of "Der bewegte Mann" (which had been seen by 6.54 million people at the end of June 1996). Films such as these attract people who have not seen the inside of a cinema for some time. They are aged between 25 and 35, predominantly women, and the American blockbusters do not appeal to them.

Major modernization projects and investment in new cinema concepts such as multi-screen cinemas have considerably enhanced standards of comfort, and have paid off. The UK, where large amounts have been invested, is a good example in this respect: audience figures have increased by 30 million in five years.

## **2.5. European festivals: another way of going forward**

Film festivals are an excellent way of promoting the European film industry, discovering new directors and developing a taste for the big screen in young people. There has been a significant expansion in Europe in the last few years, both in terms of the number of festivals – over 600 in the European Union – and in terms of the audiences they attract: figures have risen from 4 million in 1992 to 8 million now. Festivals pull in audiences three to four times bigger than the average commercial cinema's annual audience.

Year after year, festivals provide the European film industry with a major commercial outlet: through the 73 festivals supported by the European Commission in 1995, distributors were found for 660 films originating in the EU. This is their contribution to the rebirth of the European film industry. The same 73 festivals attracted a total audience of 2 million people.

The European industry's share of the commercial market in the EU's cinemas is small and has been steadily shrinking since the 1970s. The film festivals supported by the Commission, at which over 80% of the 7 500 features and short films shown in 1995 were European, provide a good solution to the problems associated with promoting and distributing European films. The proportion of European films shown at EU festivals has grown by almost 30% between 1993 (the first year of the Festivals project) and now.

## **2.6. Community initiatives to encourage the screening of European films**

One of the primary objectives of the Community's initiatives concerning the audiovisual industry is to increase intra-Community trade in films and audiovisual programmes and ensure that they reach the widest audience possible. Thus, as part of Media I (1990-95), eight initiatives were set up to develop Europe's infrastructures for distributing, showing and promoting its audiovisual output. The most important initiatives regarding cinema distribution were support for the EFDO (European Film Distribution Office), Europa Cinemas and MEDIA Salles.

An analysis of the results of the various distribution initiatives shows what the MEDIA I Programme was able to achieve: 1 322 distribution campaigns, coordinated by 307 European distributors were launched, involving a total of 204 films; and 177 cinemas (with 410 screens) joined a network distributing mainly European films.

The MEDIA II Programme, following in its predecessor's footsteps, is concentrating on three key areas, with distribution once again foremost. Three measures aimed at promoting the screening of European works are currently being planned or implemented. These are:

- a system of repayable funding for distributors, aimed at helping them to network and encouraging them to invest sufficient amounts in promotion and distribution and support multilingualism in European works;
- a system of funding for European distributors, the amount being determined by the film's box office success outside the home market;
- support aimed at encouraging commercial cinemas to screen a significant proportion of European films.

# CHAPTER III COPYRIGHT ARRANGEMENTS IN EUROPE: A CRUCIAL ISSUE FOR THE FILM INDUSTRY – CURRENT TRENDS AND DEVELOPMENTS

## 1. Copyright and what it means for the film industry

### 1.1. Copyright: a central economic issue for the film industry

Since the purpose of the film industry is to create and distribute "content", issues concerning copyright and neighbouring rights are very relevant to it. In fact they are central to its economic interests. Films are protected under copyright by virtue of the fact that they are "original"<sup>32</sup> creative works, combining sound and images and requiring the input of a number of people. Translated into copyright terms, there are special rules (those relating to joint works), which take account of the following:

- the combination of industry and art;
- the number of people protected who hold supplementary rights (writers, composers, image-creators, actors, who are the "performers" of the work etc.);
- the need to reconcile protection with commercial interests;
- the importance of the producer as the person responsible for finances.

In view of the number of rights-holders for any given work and the need to maximize its commercial viability, national laws confer on the producer the status of "author" (e.g. the UK) or "presumed assignee of copyright" (e.g. France). He is responsible for devising the commercial strategy, on which the profitability of the film will depend. He sells the rights, dividing them up by transmission medium (cinemas, video, conventional television, subscription television), geographical area or linguistic area. He also takes care of the other aspects of marketing such as merchandising and publicity. All arrangements are laid down by contract because of the various obligations arising from co-funding arrangements with other partners (e.g. deals with state-run television channels or subsidies for the arts).

### 1.2. The challenges arising from new technologies

These challenges are both artistic and commercial.

- *artistic challenges*: the main question centres on new rights-holders and new rights. Computer images used in films (trick and special effects, virtual sets and virtual actors etc.) have to be generated by a creator or performer, whose rights must be determined;
- *commercial challenges*: the same digital technology that opens up new possibilities for storing, transporting and combining sound and images for use in films is also available to the producer, who can use it to market the film, offer different versions

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<sup>32</sup> "Originality", a concept defined primarily by case law, is the key to the film industry's claim to protection of intellectual property: a succession of images relying solely on technical know-how is not necessarily seen as an original work.

and target specific audiences. For example, films could be available on line from the networks and viewers could order specific films whenever they chose. Furthermore, the broadcasts would be interactive.

### **1.3. Main issues for the industry**

The problem for the film industry is that the business of making a film looks set to become more complex and more costly as the number of rights-holders and the number of rights increases.

This is a major economic issue; the producer must retain as much control as possible over the exploitation of the film, as this is the only way of ensuring that film-makers will be able to make a profit from what is a costly product to make. This raises the prospect of:

- an international identification and marking system for films;
- international arrangements to combat pirating, i.e. the act of broadcasting and selling material without permission, upheld by penalties under criminal and civil law;
- steps to develop technology to prevent unlimited private copying and so protect revenue;
- control mechanisms and administrative and sales techniques.

## **2. Community measures regarding intellectual property**

### **2.1 Objectives and instruments**

The EU's approach to intellectual property has been governed by the desire to ensure a high level of protection for holders of copyright and neighbouring rights as part of the completion of the internal market. In view of the particular cultural sensitivities regarding intellectual property, the Commission has held regular consultations with members of the relevant professions before proposing harmonization directives. These led to the adoption of a Green Paper in 1988 and a working programme in 1991.<sup>33</sup>

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- Green Paper on copyright and the challenge of technology. Copyright issues requiring immediate action. COM(88)72 final, 7 June 1988.  
- Follow-up to the Green Paper. Working Programme of the Commission in the field of copyright and neighbouring rights. COM(90) 584 final, 17 January 1991.



The Community has adopted a certain number of directives containing quite strong harmonization provisions. These establish a legal framework which encourages the development of artistic activities in the single market.<sup>34</sup>

## 2.2 Intellectual property and the Information Society

The situation arising from the growth in information services led the Commission to launch discussions on intellectual property in the future through its Green Paper on "Copyright and related rights in the information society", adopted on 19 January 1995 following across-the-board consultations.

The purpose is to establish whether, in the information society, the existing level of harmonization on protection of intellectual property at Community level is sufficient or whether new legislation is required. The Green Paper examines the possible implications of the new technology for copyright and neighbouring rights.

A Communication to be adopted by the Commission in the near future, summarizes the points emerging from the consultations and puts forward an initial working programme. The priority areas for Community harmonization measures have been identified as:

- reproduction rights (covering digitalization);
- the right of communication with the public (covering digital broadcasting);
- distribution rights (applicable only to the medium of communication);
- legal protection for technical identification and protection systems.

It has become apparent that further consultations are required on broadcasting rights (aimed at performers and record producers), applicable law, management of rights and moral rights.

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- Council Directive of 14 May 1991 on the legal protection of computer programs (91/250/EEC)
- Directive on rental right and lending right and on certain rights related to copyright (92/100/EEC)
- Directive on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission (93/83/EEC)
- Directive harmonizing the term of protection of copyright and certain related rights (93/98/EEC)
- Directive on the legal protection of databases (96/9/EC)
- Proposal for a Directive on harmonization of national laws on surviving rights (adopted by the Commission at the end of 1995)