COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 14.11.1995
COM(95) 546 final

95/0281 (CNS)

Proposal for a
COUNCIL DECISION

establishing a European Guarantee Fund to promote cinema and television production

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(presented by the Commission)

# EXPLANATORY MEMORANDUM

## A. INTRODUCTION

1. Chapter 5 of the White Paper on Growth, Competitiveness and Employment adopted by the European Council at its meeting in Brussels in December 1993 emphasizes the **economic importance of the audiovisual sector** for the industrial development of the European Union and its Member States (COM(93) 70 final, 5.12.1993).

In June 1994 the Corfu European Council, on the basis of the Bangemann Group's report on "Europe and the global information society - Recommendations to the European Council", acknowledged the sector's **strategic priority in terms of the production of content** in the context of the information society (CD-84-94-299, 26.5.1994).

The Commission is currently considering financing requirements and possibilities for new services in connection with the information society and will set out its ideas in the Green Paper on new audiovisual services that is being drafted.

In April 1994 the Commission published a Green Paper on strategy options to strengthen the European programme industry, analysing **the prerequisites for boosting the industry's growth and competitiveness**. It identified a number of major structural weaknesses - the main ones being partitioning of the markets, fragmentation and under-capitalization - which have trapped the industry in a spiral of deficit, in contrast to its competitors outside the Community (COM(94) 96 final, 6.4.1994).

There was wide-ranging consultation on the ideas put forward in the Green Paper, in particular at a "European Audiovisual Conference" attended by more than 400 industry representatives in June/July 1994.

The Conference helped to confirm **two priority objectives of Community policy**:

- strengthening existing support measures, especially under the MEDIA programme;
- introducing additional market-based mechanisms to mobilize new resources for the programme industry.

2. As far as support measures are concerned, the Commission has sent the Council two proposed decisions extending the MEDIA programme, aimed at enhancing its impact by increasing the funds available and concentrating on a limited number of priorities. The first proposal, relating to the development and distribution of European cinema and television films, was adopted by the Council on 10 July 1995 (95/0027 (CNS)); the second, which concerns training for professionals in the audiovisual industry and on which the Council has already adopted a common position (95/0026 (SYN)), should be adopted by the end of the year.

- The MEDIA programme serves to complement national support schemes, offering valuable incentives for the Community programme industry. However, it is now clear that this effort needs to be augmented further by raising additional resources directly in the market-place. **Public-sector incentives are no longer sufficient to mobilize the critical mass of investment needed to make the audiovisual industry more competitive**. A truly massive increase in investment, especially with an eye to the emerging information society, calls for financial incentive mechanisms operating on market principles to encourage significant involvement from private-sector finance.

3. At the request of the Council the Commission has **consulted the financial sector** as to what type of mechanism promises to be most effective in stimulating activity by banks and investors in the audiovisual field. The consultation exercise ended with a "Round Table on Audiovisual Financing" held at the beginning of June 1995 in Brussels, which was attended by 70 representatives from financial institutions in nearly all the Member States of the Union.

Its conclusions were incorporated in a **feasibility study** for a Community financial instrument, carried out at the Commission's request by a group of independent consultants. The study confirmed **the interest of the financial sector in such an instrument and the willingness of operators to broaden their activities in the audiovisual sector in response to the incentives it would offer them**.

On 21 June 1995 the Audiovisual/Cultural Affairs Council called on the Commission to draw up a proposal for a decision, and on 26-27 June the Cannes European Council took note that the Commission intended to present its proposal before the end of the year.

## B. TYPE OF INSTRUMENT

1. The consultations and studies carried out showed that **substantial financial resources are potentially available in the market-place** to help develop the audiovisual programme industry in the face of rapidly growing demand. However, it is often seen by financial operators as a high-risk sector and they are wary of large-scale involvement on a regular basis.

Their reluctance could be overcome by setting up a **mechanism to spread the risk, in the form of a guarantee instrument specifically tailored for the audiovisual sector**. This instrument, linking public and private finance in partnership, would reduce the risks for both sides through diversification. It would guarantee a portion of the investment by banks and financial institutions that is being sought by audiovisual professionals, making it easier for them to obtain credit and loans to finance production projects and enterprises.

The audiovisual industry, especially film-making, largely involves small and medium-sized firms, and these often have difficulty obtaining outside funding on the financial market. Because their capital is limited and their output is something intangible, they are not always able to offer the securities demanded by banks and investment companies. The guarantee instrument would help to ease these difficulties **by acting as an insurer**. In return for the payment of premiums it would offer financial intermediaries guarantees covering part of the credit and loans they grant to audiovisual producers, undertaking to step in for any defaulting debtors.

By spreading risk in this way, the guarantee instrument would make it much easier to finance **portfolios of projects**, helping firms to attain a critical mass of production that would enable them to offset failures against successes on the market. It would also help lower the costs (currently prohibitive for many firms) of **big budget productions**, which as a rule are what bring the greatest commercial rewards.

**The guarantee instrument would act as a catalyst**, boosting the confidence of private operators by creating an environment favourable to their interests, not only spreading the financial risks but also making this risk-sharing available on attractive terms.

In addition **the mechanism would amplify the financial impact** of the capital contributed by the public and private partners involved, since the resources released by its involvement would amount to several times the size of that capital in terms of the volume of production and investment in the audiovisual sector.

In two Member States of the Union, France and Spain, experience has shown that the existence of this kind of guarantee instrument can do a great deal to encourage the financial sector, which exerts **powerful leverage for investment in the programme industry**. However, these funds are essentially national in scope and promote few audiovisual products with cross-frontier potential.

2. A Community guarantee fund, by contrast, would make it possible to **mobilize resources on a large scale for cinema and television films intended for the European and international markets**. Its leverage could release considerable financial resources for the programme industry.

   In line with the principle of subsidiarity, it would operate in conjunction with existing instruments and in cooperation with other national mechanisms for audiovisual financing such as:

   - in the public sector: the support funds set up by the Member States of the Union;
   - in the private sector: the insurance schemes specifically geared to the audiovisual industry that are operating successfully in some countries.

## C. TASKS OF THE EUROPEAN GUARANTEE FUND TO PROMOTE CINEMA AND TELEVISION PRODUCTION

1. The Community Guarantee Fund would have to **focus primarily on the production** of European cinema and television films, both for television and the cinema. In this sense it would closely complement the MEDIA programme, which does not provide production aid as such.

   By stepping in to assist production schemes and enterprises, the Fund would provide valuable back-up for MEDIA. However, **its task has to be interpreted broadly**: it would assist not only European producers but also other European operators involved in financing cinema and television productions, in particular distributors and broadcasters who invest, buy up rights or offer producers guaranteed minimum revenues.

   As far as production projects are concerned, **priority must be given to European works of fiction**, whether for cinema or television (including animated cartoons), as this is where Europe faces the biggest deficit in terms of original programmes with wide audience potential. It is also an area where production costs are rising fastest, making the risks for investors higher.

2. For producers/distributors to be eligible for assistance from the Fund via intermediary financial institutions, **projects will have to show considerable European and international market potential**. The principle of subsidiarity means that the Fund will not be able to assist productions targeted solely at national markets: its task will be to stimulate production schemes aimed at trans-national audiences so as to enable the audiovisual industry to exploit the dimension of the single market and markets outside the Union.

## D. OPERATING METHODS

1. The Fund **will operate by the rules of the market**. By covering risks through the payment of premiums, it will not distort competition.

2. It will provide support for **European production companies and European distribution/broadcasting companies** which help to finance production.

However, **the Fund will not operate in direct contact with them**. It will work through financial intermediaries, principally banks and insurance companies which propose to share the risks associated with financial operations in the audiovisual field.

In any event, the Fund will not cover **more than 50% of credits and individual loans** (sharing the risk with the financial intermediaries). Spreading the risk in this way will ensure that they come forward to the Fund with high-quality projects that have real potential on the audiovisual market, since they themselves will have a financial stake in them.

The Fund will provide guarantees under contracts with the financial intermediaries, the amount of the premiums being determined according to the type of risk. The level of the premiums will be set so as to enable the Fund to be self-financing.

3. Financial support from the Guarantee Fund may cover individual production projects and the constitution of production catalogues. Support may also be given to promote structural strengthening of production companies and distribution companies that help to finance production.

Assistance will take the following forms:

- **guarantees for short-term credit operations** for production projects;
- **guarantees for medium and long-term loans** for production projects, the constitution of production catalogues and strengthening companies financially.

Guarantees may cover first-rank loans and subordinated loans (quasi own funds).

The Fund will exercise the usual prudence with regard to risk management. Its leverage will gradually increase as it gains experience in the audiovisual sector.

## E. IMPLEMENTATION

1. Implementation of the Guarantee Fund to promote cinema and television production should **draw on the arrangements and practices developed at Community level** in terms of methods and expertise.

To concentrate and thereby optimize the effectiveness of Community initiatives, the Commission proposes that the guarantee instrument should come under the management structures of the European Investment Fund (EIF) under a special mandate.

2. The decision to create the EIF was taken by the Edinburgh European Council in December 1992 as part of Community policy on growth, competitiveness and employment. Set up in 1994 by the European Investment Bank (EIB), the European Community and 58 financial institutions (now 76), the **initial authorized capital of the Fund was ECU 2 billion**, of which 30% was contributed by the Community budget, 40% by the EIB and 30% by the other financial institutions. This capital allows the Fund to cover guarantee operations up to a total of ECU 16 billion.

The task of the EIF is to contribute to the pursuit of Community objectives, in particular by supporting the development of trans-European networks and small and medium-sized firms. Its activities help to ensure the smooth functioning of the internal market and to boost job creation. The EIF is also involved in specific operations of Community interest, especially operations to promote investment aimed at protecting the small business environment.

3. There are a number of reasons for proposing to involve the European Investment Fund in the creation and implementation of the Guarantee Fund to promote cinema and television production:

- the **EIF operates as a guarantee instrument** for credits and loans to finance projects;
- one of the priority areas of EIF activity is **small and medium-sized firms**; the fabric of the audiovisual industry is very largely made up of such firms;
- a number of the financial institutions that are members of the EIF are **already active in the audiovisual field**; with their knowledge of the industry's requirements, they are likely to have a special interest in this area of activity under the Fund;
- the EIF has experience of handling guarantee operations at Community level and could **adapt it to the audiovisual sector** under a special mandate;
- the EIF could act not only as manager of the Fund but also as **co-guarantor of individual operations**, wherever it deems this appropriate and compatible with its operating criteria;
- Article 32 of the EIF's Statutes allow it to accept the **task of administering special resources** entrusted to it by third parties; the authorities of the Fund have indicated their willingness in principle to administer the resources made available for the proposed Guarantee Fund under this Article. The EIF would be remunerated for this activity.

4. **A cooperation agreement between the Commission and the European Investment Fund** would spell out the precise arrangements for administering the Guarantee Fund to promote cinema and television production:

In particular it would cover:

- general guidelines for the Fund and its objectives;
- eligibility rules for projects;
- selection mechanisms (proposed decisions to grant individual guarantees would be taken by the appropriate decision-making bodies of the EIF in accordance with its own management criteria);
- arrangements for financial operations;
- charges applied by the Fund;
- limits on financial commitments;
- remuneration paid to the EIF for its administration of the Fund.

5. To enhance the impact of its operations, **the Fund would have to seek to share with the EIF the risks it guarantees** by concluding joint guarantee agreements (except for operations that do not meet the EIF's eligibility criteria).

It could also make **reinsurance agreements** with other guarantee and/or insurance institutions and seek other forms of cooperation with institutions that share the same objectives (in particular, national funds to support the audiovisual industry).

Finally, it could **subcontract** some of its operations to other guarantee or insurance institutions.

6. The overall resources entrusted to the EIF will comprise the contributions made by the Commission and by the financial sector, both public and private. These funds will serve as guarantee capital and should ultimately reach a total of ECU 200 million. **It is proposed that the Union should contribute ECU 90 million.**

To ensure the financial viability and credibility of the Fund, **it will have to be of a certain minimum size in terms of capital. The proposed contribution reflects this requirement**, bearing in mind that there will be further contributions from the financial sector.

With the joint guarantees offered by the EIF and the operations mounted by insurance companies, the volume of guarantees generated in favour of cinema and television production could reach ECU 1 billion.

7. **The Commission will regularly consult professionals in the audiovisual industry** about the general strategy and operating arrangements of the Guarantee Fund and will send their comments to the EIF.

Proposal for a
COUNCIL DECISION

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 130 thereof,

Having regard to the proposal from the Commission[1],

Having regard to the opinion of the European Parliament[2],

Having regard to the opinion of the Economic and Social Committee[3],

Whereas the European Council, meeting in Brussels on 10 and 11 December 1993, adopted the White Paper on Growth, Competitiveness and Employment as the basis for action by the Community and its Member States, supporting an industrial development approach based on global competitiveness as the key to growth and jobs; whereas the White Paper, and in particular Chapter 5-C thereof, highlights the economic importance of the audiovisual industry;

Whereas the European Council, meeting in Corfu on 24 and 25 December 1994, took note of the report by the Bangemann Group entitled "Europe and the Global Information Society - Recommendations to the European Council", in particular acknowledging the strategic importance of the audiovisual programme industry;

Whereas the Council took formal note on 17 June 1994 of the Green Paper on "Strategy options to strengthen the European programme industry in the context of the audiovisual policy of the European Union";

Whereas the Commission consulted industry representatives on the options put forward in the Green Paper, in particular by holding the European Audiovisual Conference in Brussels from 30 June to 2 July 1994;

Whereas the Council, at its joint industry/telecommunications meeting on 28 September 1994, issued a favourable opinion on the Commission communication of 19 July 1994 entitled "Europe's way to the information society: an action plan" and emphasized the need to improve the competitiveness of the European audiovisual industry;

Whereas the Council, at its culture-audiovisual industry meeting on 3 and 4 April 1995 in Luxembourg, requested the Commission to draw up a proposal for the creation of a financial instrument to complement the MEDIA II programme, stating that an instrument of this kind, aimed at stimulating investment in European cinema and television production, should accompany the traditional support mechanisms, operating in accordance with market principles;

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(1) OJ No
(2) OJ No
(3) OJ No

Whereas the Council, at its meeting on 10 July 1995, adopted the first part of the MEDIA II programme, concerning the development and distribution of European audiovisual works; whereas the second part, covering training for cinema and television industry professionals, was adopted by the Council at its meeting of 20 November 1995;

Whereas the Council, at its meeting on 21 June 1995 in Luxembourg, took formal note of the outcome of preparatory work on the new financial instrument;

Whereas the European Council, meeting in Cannes on 26 and 27 June 1995, took note that the Commission intends to present a proposal for a decision on the creation of a financial instrument to provide guarantees for European cinema and television productions, in accordance with the financial outlook;

Whereas the Commission held wide-ranging consultations of representatives of the audiovisual and financial sectors following the European Audiovisual Conference, in particular through a Round Table on Audiovisual Financing in June 1995; whereas those consultations confirmed the need for a financial instrument to reduce the risks associated with financing European works of fiction;

Whereas it is essential to reduce the risks in order to enable European production and distribution companies to obtain the credits and loans they need to finance production projects and business development; whereas additional resources are needed primarily to finance productions aimed at the European and international markets and to support the development of companies capable of producing or helping to produce works aimed at those markets;

Whereas analysis of existing financing mechanisms for the cinema and television programme industry has clearly shown that a Community guarantee instrument covering some of the risks associated with loans will constitute the most appropriate response to the need to mobilize additional resources; whereas creating a European Guarantee Fund aimed at reducing the risks associated with financing the production of fiction will stimulate and support the development of the European programme industry;

Whereas the establishment of a European Guarantee Fund to promote cinema and television production will exert substantial leverage, since the volume of finance released would greatly exceed the capital of the Fund; whereas the Fund's activities will cover loan operations;

Whereas the Fund will operate in such a way as to abide by and complement market rules and principles and will not distort competition in the audiovisual sector, in accordance with Article 130(3) of the Treaty; whereas it will stimulate and facilitate the financing of cinema and television fiction but will not provide that finance itself;

Whereas the Fund will participate in individual financial operations only in collaboration with other private and public financial operators (banks, insurance companies, financial institutions and others) involved in the audiovisual sector; whereas the Fund must avoid duplicating the work or taking the place of existing institutions or bodies;

Whereas a number of public and private financial and other bodies share the same objectives and interests as the Community with regard to financing European cinema and television productions; whereas the European Guarantee Fund to promote cinema and television production will have to develop partnerships or other forms of cooperation with those institutions to reinforce the impact of the Fund's activities;

Whereas the European Investment Fund (EIF) was set up in June 1994 to contribute to the pursuit of Community objectives by stimulating investment in trans-European networks and small and medium-sized enterprises, particularly by granting guarantees for loans; whereas the Community became a member of the Fund by virtue of Council Decision 94/375/EC[4];

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(4) OJ No L 173, 7.7.1994, p. 12.

Whereas Article 32 of the Statutes of the EIF states that the Fund may accept the task of administering special resources entrusted to it by third parties; whereas the EIF has indicated that it is willing to administer a guarantee fund specifically aimed at the audiovisual industry;

Whereas the Fund's operations serve the same objectives as other Community programmes, in particular the MEDIA II programme;

Whereas the emergence of a European audiovisual market requires the development of European works as defined in Article 6 of Council Directive 89/552/EEC[5], that is to say, works originating in the Member States of the Community;

Whereas Article 128(4) of the Treaty requires the Community to take cultural aspects into account in its action under other provisions of the Treaty;

Whereas, without prejudice to any agreements or conventions to which the Community is a party, the firms receiving support through the Fund should be owned, either directly or through a majority shareholding, by Member States and/or nationals of Member States and must remain in their ownership;

Whereas the Fund should be open to cooperation with non-member countries that have concluded agreements containing clauses on the audiovisual sector; whereas the detailed arrangements for such cooperation should be settled between the parties when the time comes;

Whereas, in accordance with the principle of subsidiarity, action by the Community must support and complement measures taken by the Member States;

Whereas the Community contribution is intended to ensure the financial credibility of the Fund; whereas the amount allocated will also have to take account of the financial outlook and the funds available annually under the budget;

Whereas the Fund's profit-and-loss account and balance sheet will be attached to the profit-and-loss account and balance sheet of the Communities; whereas the Fund's accounts will be examined by the Commission and the Court of Auditors in accordance with Article 188c of the Treaty and with the provisions of the Financial Regulation of 21 December 1977[6], as last amended by Regulation (EC, Euratom, ECSC) No 2335/95[7],

HAS DECIDED AS FOLLOWS:

<u>Article 1</u>
Establishment of the Fund

A European Guarantee Fund to promote cinema and television production (hereinafter "the Fund") is hereby established.

<u>Article 2</u>
Objectives

1. The Fund's task shall be to facilitate and encourage financing for the production of European audiovisual works of fiction by providing guarantees in any form permitted by law.

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(5) OJ No L 298, 17.10.1989, p. 23.
(6) OJ No L 356, 31.12.1977, p. 1.
(7) OJ No L 240, 7.10.1995, p. 12.

2. The Fund's activities shall serve the following objectives:

- promoting the production of European works of fiction for cinema or television that are aimed at the European and international markets;

- promoting European production companies creating such works, and European distribution companies that contribute towards financing the production of such works; it shall be a requirement that these companies are owned, either directly or through a majority shareholding, by Member States and/or nationals of Member States, and remain in their ownership;

3. The Fund shall be open to cooperation with non-member countries that have concluded agreements with the Community containing clauses on the audiovisual sector.

Article 3
Methods of operation

1. To attain the objectives set out in Article 2 the Fund shall provide guarantees for short-term credit operations as well as medium-term and long-term loans. Both first-rank loans and subordinated loans shall be eligible for guarantees.

2. The Fund's activities may include any other operations connected with its task that tend to further the attainment of its objectives. Whenever appropriate:

- proposals may be put to other guarantee institutions, in particular the European Investment Fund (EIF), to offer joint guarantees for both individual operations and portfolios of projects;

- reinsurance agreements may be concluded with other guarantee and/or insurance institutions, in particular the EIF, to reduce and diversify the Fund's exposure to risk;

- some of the operations may be subcontracted to other guarantee or insurance institutions and the appropriate fees and premiums paid;

- other forms of cooperation and risk-sharing with financial institutions may be arranged.

3. Partnership agreements and other forms of cooperation may be arranged with institutions that share the aims set out in Article 2.

Article 4
General operating principles

1. To reinforce the overall impact of the Fund's operations, the risks which it has guaranteed shall be shared with the EIF wherever possible, unless those operations do not meet the EIF's criteria.

2. As a rule, guarantees given by the Fund may not exceed half the amount of the loans and individual credits covered. In the case of joint guarantees with the EIF, the Fund's exposure shall be reduced proportionately.

3. Absolute ceilings shall be set as regards the Fund's exposure in individual operations.

## Article 5
## Capital and income

1. The Community shall contribute to the Fund's capital, subject to the availability of budget appropriations. A special account shall be opened with the EIF to receive these contributions and any contributions made by third parties.

2. The interest accruing on the special account for capital payments, all income from premiums, fees and commissions, and all other forms of income shall be added to the capital.

3. The premiums and commissions charged to those granted guarantees shall be set at a level ensuring that revenue and expenditure are in balance.

## Article 6
## Mandate

1. The administration of the Fund shall be entrusted to the EIF. The detailed arrangements shall be laid down in a cooperation agreement to be concluded between the Commission and the EIF. The terms of that agreement shall be approved in accordance with the procedure laid down in Article 7(2).

2. The EIF shall exercise the same diligence in performing this task as in conducting operations which involve its own resources. Individual guarantee operations shall be approved in accordance with the procedures applicable to the EIF's own operations.

3. The EIF shall conclude with third parties, at the Fund's own risk, any contracts that are necessary for the task of administration assigned to it in paragraph 1.

4. The cooperation agreement shall cover the following aspects in particular:

   - broad guidelines regarding the Fund and its objectives;
   - the eligibility rules for individual projects;
   - the financial and operational provisions governing the Fund's activities;
   - the charges to be applied by the Fund according to the risk involved in individual projects;
   - the maximum ceiling on commitments and prudential limits;
   - periodic review of the Fund's size;
   - the remuneration to be paid to the EIF for administering the Fund;
   - arrangements for the periodic revision of the agreement.

5. The EIF shall refer all proposals to grant guarantees to the Commission for its opinion. If the Commission notifies the EIF of its approval, the EIF may grant the guarantee.

## Article 7
## Committee

The Commission shall be assisted by a committee of an advisory nature, composed of the representatives of the Member States and chaired by the representative of the Commission.

The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

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

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

Article 8
Evaluation

After the Fund has been in operation for three years, and every five years thereafter, the Commission shall send the European Parliament, the Council and the Economic and Social Committee an independent evaluation report on the Fund's performance, together with appropriate proposals if necessary.

Article 9
Financial report

No later than 30 April of each year an annual report drawn up by the Financial Committee of the EIF shall be submitted to the Supervisory Board of the EIF for approval. In particular it shall contain the accounts closed at the end of the preceding year and a list of the operations carried out by the Fund. The Commission shall forward the approved report to the European Parliament and the Council.

Done at Brussels,

For the Council
The President

## FINANCIAL STATEMENT

### 1. TITLE OF OPERATION

European Guarantee Fund to promote cinema and television production

### 2. BUDGET HEADING INVOLVED

Section III (Commission), Part B (operating appropriations)

B 3 - 2015

### 3. LEGAL BASIS

To be constituted by the proposed Decision, based on Article 130 of the EC Treaty

### 4. DESCRIPTION OF OPERATION

4.1 General objective

This initiative is in response to the call by the European Council and the Commission for action to accompany measures to boost the European cinema and television industry. Besides the effort under way through the Media II programme (mainly geared towards training, project development and distribution), the need has become apparent for an instrument to make it easier for production companies to obtain funding from the banks.

4.2 Period covered and arrangements for renewal or extension

The gradual build-up of the Guarantee Fund to promote cinema and television production will allow the Community contributions to the Fund's capital to be spread over at least four years (1997-2000). Once it has reached its planned size, the Fund will be self-financing. The Fund's capital will also be open to non-Community contributions (public and private investors with an interest in the industry's development). What forms these take will have to be defined by the parties involved.

### 5. CLASSIFICATION OF EXPENDITURE OR REVENUE

5.1 Non-compulsory expenditure

5.2 Differentiated appropriations

5.3 Type of revenue involved: N/A

### 6. TYPE OF EXPENDITURE OR REVENUE

The Community contribution will take the form of a subscription to the capital of the Guarantee Fund, an instrument that will not have legal personality and which will be administered under mandate by the European Investment Fund.

The operation will not generate any revenue for the Community budget since the premiums received and any financial proceeds (investment of capital) will be added to the Fund's capital.

## 7. FINANCIAL IMPACT

7.1 Method of calculating cost of operation (link between unit costs and total cost)

- This proposal to establish a Guarantee Fund to promote cinema and television production is compatible with the financial programming for the audiovisual sector (MEDIA II), for which the Commission proposed an overall allocation of ECU 400 million (1996-2000). The proposed contribution to the Guarantee Fund's capital would be deducted from the programmed amount. To ensure the Fund's viability and financial credibility, the Commission takes the view that it must attain a certain minimum size in terms of capital. The proposed contribution (ECU 90 million between 1996 and 2000) will meet this requirement.

- The Community contribution of ECU 90 million will be made in at least four annual payments, in line with the schedule below. The payments will be made to the EIF, which will administer the Fund.

7.2 Itemized breakdown

commitment appropriations (ecu million)

| | 1996 budget | 1997 | 1998 | 1999 | 2000 | TOTAL |
|---|---|---|---|---|---|---|
| Capital subscription | p.m. | 10 | 25 | 25 | 30 | 90 |

7.3 Schedule

commitment appropriations (ecu million)

| | 1996 budget | 1997 | 1998 | 1999 | 2000 | TOTAL |
|---|---|---|---|---|---|---|
| Commitments | p.m. | 10 | 25 | 25 | 30 | 90 |
| Payments | p.m. | 10 | 25 | 25 | 30 | 90 |

## 8. FRAUD PREVENTION MEASURES; RESULTS OF MEASURES TAKEN

The EIF, having the appropriate expertise, will administer the guarantees and monitor and evaluate the mechanism. In particular the EIF will be responsible for assessing projects, ensuring compliance with the eligibility criteria and the financial soundness of the set-up. In the event of losses, it will carry out all necessary investigations. Any fraud or false declaration discovered will constitute a breach of contract.

The cooperation agreement to be concluded between the Community and the EIF will spell out the detailed arrangements for controls and will specify the information that has to be supplied regularly to the Commission.

The EIF's activities under the mandate will also be subject to the same internal and external controls as its own activities.

An annual report drawn up by the EIF Financial Committee will be submitted to the Supervisory Board of the EIF for approval by 30 April of each year. In particular the report will contain the accounts closed at the end of the preceding year, as certified by outside auditors, and a list of the operations carried out by the Fund. The Commission will forward the approved report to Parliament and the Council.

## 9. ELEMENTS OF COST-EFFECTIVENESS ANALYSIS

### 9.1 Specific and quantifiable objectives; target population

The specific objective is to make it easier for production companies to obtain bank funding. These companies have always had difficulty obtaining access to sources of outside finance, especially to tie up the financing plan for their films. Being poorly capitalized and producing only intangibles, the industry is usually unable to offer the securities demanded by financial institutions.

The Guarantee Fund will cover up to 50% of loans and individual credits (sharing the risk equally with other financial institutions), so helping to ease the difficulties encountered by professionals in the industry. The EIF will also be asked to share the risk associated with individual projects, provided they meet the EIF's criteria.

The target population, in other words the direct beneficiaries of the Fund's operations, will be European production companies and distribution companies (in respect of activities in direct support of production, such as the minimum guarantees they give to producers). For every guarantee granted there will always be a guarantee and risk-sharing contract between the financial institution concerned and the Guarantee Fund.

### 9.2 Grounds for the operation

The Community's aim is to help strengthen the European audiovisual industry. This follows on from the ideas put forward in the White Paper on Growth, Competitiveness and Employment, the report by the Bangemann Group and the Green Paper on strategy options to strengthen the European cinema and television programme industry.

On 3-4 April 1994 the Council requested the Commission to draw up a proposal for the creation of a specific financial instrument to complement the MEDIA II programme and stimulate investment in cinema and television production in Europe. The two successive MEDIA programmes did not involve any measures aimed at production companies. However, it has become apparent that production companies are faced with numerous obstacles when seeking bank funding and that national mechanisms offer only a partial answer. Community action appears especially appropriate since the Fund's selection criteria will make it possible to promote the financing of works with major (European and international) audience potential.

The mechanism chosen has the advantage that it will not distort competition, since it will operate by the rules of the market (reducing risks and payment of premiums). Once the capital of the Fund is constituted, its operation will not require recurrent contributions from the Community budget. In addition, sharing the risks with financial institutions will make it possible to streamline the procedure for examining applications considerably and will ensure that the institutions refer commercially viable projects to the Fund. The mechanism also makes it possible to take full advantage of the existence and expertise of the European Investment Fund.

The proposed mechanism will substantially amplify the financial impact of the Community contribution, as the guarantee given by the Fund will give production companies access to resources several times greater than the Fund's own capital (initially constituted by the Community's contributions).

The main area of uncertainty liable to affect the specific performance of the Fund is the level of the premiums which it charges (which will depend on the risk). The Fund will therefore be authorized to vary its premiums, subject to the general principle that it should be financially self-sufficient.

9.3 Monitoring and evaluation of the operation

When the Fund has been in operation for three years, and every five years after that, the Commission will send Parliament, the Council and the Economic and Social Committee an independent evaluation report on the Fund's performance, together with appropriate proposals if necessary.

The effectiveness of the operation will be measured by a range of indicators such as:

- the Fund's profit and loss account and its general financial situation;
- number of productions made with the Fund's assistance, distinguishing between assistance given to production companies and assistance given to distribution companies that contribute towards financing production;
- number of production companies, distribution companies and financial institutions that have made use of the instrument;
- number and volume of investments generated and the breakdown between works for the cinema and television;
- the impact of the Fund's activities on European production as a whole (in particular the proportion of European production that has received assistance from the Fund).
- etc.

## 10. ADMINISTRATIVE EXPENDITURE (part A of the budget)

The proposed scheme does not involve any increase in Commission staff or administrative expenditure. The Guarantee Fund to promote cinema and television production will be administered by the European Investment Fund, which will be paid a commission on the outstanding amount of guarantees granted as defined in the cooperation agreement.

ISSN 0254-1475

COM(95) 546 final

# DOCUMENTS

EN **16 10**

Catalogue number : CB-CO-95-604-EN-C

ISBN 92-77-96225-9

Office for Official Publications of the European Communities

L-2985 Luxembourg