

European Communities

EUROPEAN PARLIAMENT

Working Documents

1983-1984

15 JULY 1983

DOCUMENT 1-504/83

Report

drawn up on behalf of the Committee on Youth, Culture,
Education, Information and Sport

on the promotion of film-making in the Community
countries

Rapporteur: Mrs M.-J. PRUVOT

PE 76.975/fin.

At its sittings of 8 May 1981 and 6 July 1981 respectively, the European Parliament referred the motion for a resolution by Mr TINDEMANS and others on the promotion of European film-making (Doc. 1-217/81) and the motion for a resolution by Mr DILIGENT and others on film-making in the Community countries (Doc. 1-336/81) to the Committee on Youth, Culture, Education, Information and Sport as the committee responsible and to the Committee on Budgets for an opinion.

On 24 September 1981 the Committee on Youth, Culture, Education, Information and Sport appointed Mrs PRUVOT rapporteur.

It considered the draft report at its meetings of 24/25 February 1982, 17/18 May 1982, 18/19 October 1982, 18/19 January 1983, 25/26 April 1983 and 22/23 June 1983. It adopted the motion for a resolution at the latter meeting unanimously with one abstention.

The following took part in the vote: Mr Beumer, chairman; Mr Hahn, vice-chairman; Mrs Pruvot, rapporteur; Mr Beyer de Ryke, Mr Bøgh, Miss Brookes, Mrs Buchan, Mrs Gaiotti de Biase, Mr Gauthier (deputizing for Mr Arfe'), Mr Marck (deputizing for Mr Pedini), Mrs Perry, Mr Simmonds, Mr Turner (deputizing for Mr Cottrell) and Mrs Viehoff.

At its meeting of 16 June 1983, the Committee on Budgets decided not to deliver an opinion.

The report was submitted on 29 June 1983.

CONTENTS

	<u>Page</u>
A - MOTION FOR A RESOLUTION	5
B - EXPLANATORY STATEMENT	11

Annexes

- Motion for a resolution by Mr TINDEMANS and others (Doc. 1-217/81)	46
- Motion for a resolution by Mr DILIGENT and others (Doc. 1-366/81)	48

A.

The Committee on Youth, Culture, Education, Information and Sport hereby submits to the European Parliament the following motion for a resolution together with explanatory statement:

MOTION FOR A RESOLUTION

on the promotion of film-making in the Community countries

The European Parliament,

- having regard to the opinion of the Economic and Social Committee of 20 December 1978 on the communication from the Commission to the Council on Community action in the cultural sector¹ and, in particular paragraph 2.5 thereof²,
- having regard to its resolution of 18 January 1979 embodying its opinion on the above communication and, in particular paragraph 5 thereof (Doc. 325/78),
- having regard to the studies entitled 'The distribution of films produced in the Community countries'³, 'The economic situation of the United States' film industry'⁴, and 'The production and distribution of short films in the Community Member States'⁵ carried out on the instructions of the Commission in response to the wish expressed by the Economic and Social Committee and the European Parliament that the Commission should cease to regard the film industry exclusively in industrial policy and competition policy terms,
- having regard to its resolution on national financial aids to film-makers (Doc. 1-1088/81) adopted on 11 March 1982 pursuant to Rule 48 of the Rules of Procedure,

¹ Bulletin of the European Communities, Supplement 6/77

² ESC 1245/78

³ XII/234/80

⁴ XII/206/80

⁵ SG/Culture - 2/81

- having regard to the resolution by Mr TINDEMANS and others on the promotion of European film-making (Doc. 1-217/81) and the resolution by Mr DILIGENT and others on film-making in the Community countries (Doc. 1-366/81),
- having regard to its resolution on radio and television broadcasting in the European Community (Doc. 1-1013/81) adopted on 13 March 1982,
- having regard to the European Charter of Audio-Visual Producers adopted on 24 February 1983,
- having regard to the report of the Committee on Youth, Culture, Education, Information and Sport (Doc. 1-504/83),

A aware of the feelings aroused in the film industry following the reasoned opinions addressed by the Commission to five Member States concerning nationality clauses for the allocation of aid for film-making,

B whereas, unlike the United States' film industry, which is more prosperous than ever, film-making in the Community countries is in the throes of a serious economic crisis; whereas on its internal markets it is exposed to pressure from supranational giants and their subsidiaries, and new large-scale enterprises set up by the media industry are threatening its existence,

C Stressing that this crisis is having a disastrous impact in social terms (on employment and on the incomes of all those working in the film industry) as well as in cultural terms, jeopardizing the future of a medium for the cultural expression of every nation,

D taking the view that the crisis in the film industry in the Community countries is not attributable to any lack of quality at the production stage (the general level of which is as high as ever) but is due on the one hand to the role of television and new forms of leisure in the daily lives of potential cinema-goers and, on the other hand, to the weaknesses in the distribution of European films,

E noting in this connection that the present arrangements for distributing films produced in the Community countries are not stemming the tide of American films on the Community market, far less helping the industry to gain a firm foothold on the world market,

F whereas, as is shown by the fortunes of the American cinema, the film industry's success in turning its artistic, cultural, technical and commercial resources to account depends in part on its ability to respond to the new demands posed by the medium of television,

G concerned at the decline in short films, which, owing to lack of organization on a European scale, are increasingly suffering from the influx of foreign films, even though they offer the major advantage of providing a testing ground for European producers actors and technicians,

H convinced that films are part of the Community's cultural heritage and that they should therefore be passed on to future generations by affording them the same protection as other features of our heritage

I pointing out that the cultural identity of each Member State's films must be preserved,

1. Draws attention to the fact that films from Community countries facing fierce competition from the US film industry must also compete against one another;
2. Contends that national aids and other forms of assistance are essential for the production of films and that their abolition or reduction would lead to the total disappearance of film-making in the Community countries, which would be of enormous benefit to the American film industry;
3. Emphasizes the need to strengthen the provisions aimed at ensuring that the aid is not misused for the benefit of films which are not genuinely European in terms of finance and production;
4. Notes with satisfaction the Commission's decision to seek agreement, in conjunction with the Member States concerned, on a solution which while ensuring compliance with the provisions of the EEC Treaty on the free movement of persons and services, would not prevent the Member States from pursuing their policies of supporting the film industry nor affect the ability of films to express the cultural identity of the country of origin;
5. Points out that the free movement of persons and services is a right of all Community citizens and not an obligation or constraint on them;

6. Points out in particular that, in the case of the film industry, the free movement of persons and services in no way implies the forced internationalization of film-making but is there to be used as a facility and source of cultural enrichment if the employment of non-nationals is justified by the subject matter or by artistic considerations;
7. Calls on the Commission to take the necessary action finally to establish cooperation between the television and film industries on a mutually beneficial basis, in particular through the increased participation of television in the production of films and the establishment of fair rates for film broadcasting rights;
8. Suggests that the Commission finance various pilot experiments, involving all branches of the film industry, on ways of encouraging the trend towards greater cinema-going, now discernible in a number of Community countries.

9. Calls on the Commission to examine the compatibility with the competition rules in the EEC Treaty of the commercial practices (block booking, blind bidding, exclusive rights, priorities, etc.) of distribution companies - notably American - whose abuses have put films out of reach of the public, both financially and geographically; and at the same time, to strengthen the resources of those distribution companies in Community countries which are particularly attentive to the needs of the Community film industry in the different Member States;
10. Hopes that the Commission will take fresh action in 1983, in close collaboration with the film industry, to increase substantially the efficiency of the distribution arrangements for films produced in the Community countries on the national market of each country, on the markets of other Community countries on the national market of each country, on the markets of other Community countries and on the markets of third countries, devoting particular attention to the ACP countries and the US, where our film industry appears to be engendering a certain amount of interest after remaining virtually unknown for a long period;
11. Calls on the Commission to examine the possibility of instituting an annual European film festival to be financed partly from European funds and of providing financial support for the distribution of films which have gained distinction at the festival and thus assure them a wider circulation;

12. Hopes that Community action to help the film industry will induce distributors in a number of Community countries to establish distribution organizations which are sufficiently powerful to guarantee our film industry the wider distribution which it deserves on grounds of equality and which it needs to make it viable, while taking account of the fact that the variety of film production in Community countries must be matched by an equally wide range of distribution opportunities;
13. Hopes that Community action in the film-making field will include short films under conditions appropriate to their specific production, distribution and development requirements;
14. Hopes that the Commission will, by analogy with the practice for consumers' associations, support organizations of cinema-goers, cinemas showing experimental and avant-garde films, film clubs and municipal cinemas, which together form a very large market, in terms of quantity by bringing back to the cinemas a considerable proportion of the general public which television has attracted away from the commercial circuit and, in terms of quality, by developing a cinema culture creating a demand which the production sector will, as a result, meet with a supply of films of a high cultural level;
15. Hopes also that the Commission will provide assistance for film archives, in particular by launching a programme of research into techniques which could improve the conservation of films and reduce the cost;
16. Calls on the Commission to examine the question as to whether the provisions of the EEC Treaty relating to the approximation of laws would not permit the extension to film-makers of the system of payment in proportion to receipts, in conformity with the basic principle of copyright;
17. Calls also on the Commission to conduct a study into the measures to be taken in response to the development of new means of transmitting films (by cable, video recording, satellite etc.) in order to
 - protect original works from any infringement of their cultural value or their significance,
 - guarantee film-makers a share in the financial gain deriving from the secondary exploitation of their work,

- counteract effectively the threat to the showing of films in cinemas represented by the lawful or unlawful use of the various systems of copying and transmission;

18. Instructs its President to forward this resolution to the Council and the Commission of the European Communities.

EXPLANATORY STATEMENT

1. The text below is largely based on the two motions for resolutions on the promotion of film-making in the Community countries which were tabled on 7 May and 6 July 1981: documents 1-217/81 (PE 73.202) and 1-366/80 (PE 74.039).

2. In most of the Member States the year of signature of the Treaty of Rome establishing the European Economic Community coincided with the beginnings of a new era in the history of the film industry; an era which has culminated in the serious crisis facing the industry at present.

The crisis has two main aspects: first, a dramatic decline in cinema audiences - connected with the advent of television; and second, the overwhelming predominance of the American film industry in the European film market.

3. It is generally agreed that the main cause of the decline of the cinema as the favourite form of popular entertainment has been the development of television.

Over the past 25 years the decline in the number of cinema-goers has varied from 57 to 91%, depending on the Member State concerned. Although audience figures have tended to stabilize in the last few years, this underlying decline seems to be irreversible.

4. While television has deprived the film industry of its monopoly of audio-visual expression, it has also provided a new medium for disseminating cinematic works. In fact, it has opened up a new market for the film industry.

For the number of films broadcast by the various television networks is enormous. By way of illustration, in Rome local television channels have broadcast no less than 430 films in two weeks.

This shows that the film has lost none of its prestige in the eyes of the general public. Not only the viewing figures - which suggest the size of a television programme's audience - but also the indices of viewer satisfaction accord a privileged place, if not the highest position, to television broadcasts of films. The audience has never been so large - but when it goes to the cinema, it stays at home.

Moreover, advertising revenue, which in most of the Member States constitutes an important source of television finance, is related to the

size of audience. Thus television has come to regard the film industry not only as the mainstay of programme planning but also as a source of finance.

The rate for one minute's advertising time is generally enough to cover the fee for broadcasting one film.

However, in Europe television is not a market on which the film industry can rely to finance its production costs. The cost of purchasing a film for a television network represents on average no more than 3% of its cost of production. This proportion is between 30 and 35% in the United States, where television makes up 45% of the film industry's revenue on the national market. In the Community, the share of film earnings from television, though it varies from one country to another, remains derisory.

As a rule the television authorities enjoy a national monopoly and hence are not subject to effective competition. This enables them to abuse their dominant position as film 'buyers' to keep prices too low. If television paid more for films there can be no doubt that the excessive number of films broadcast would diminish appreciably.

It should be noted that the broadcasting rights for one film cost television between 9 and 25 times less than a broadcast of equivalent length and prestige whose production costs are directly met by television.

5. The decline in cinema-going has revealed the overwhelming domination of the American film industry. Its hegemony is due neither to a general superiority in terms of quality - as might be believed - nor to any conviction on the part of the public that only American films are worth seeing, and that any American film should be seen without fail.

The fact remains that the extensive and continuing penetration of the market by the American film industry - owing to a meticulously organized sales policy, backed up by the technical perfection of its films - has certainly had some effect in changing public taste in favour of American film-making, or 'American-style' cinema.

In this respect it is significant that the American film industry takes an overall share of up to 47% on the four main European markets, in Italy, France, the United Kingdom and Germany.

This market share should be compared with the share held in the same markets by:

Italian films	24%
French films	16%
British films'	8%
German films	3%.

This comparison speaks for itself: 47% for a single industry and 51% for four different industries!

The American cultural presence thus takes a share almost equal to the European cultural presence of four countries.

The six other Community countries account only for the remaining 2%.

It is valuable to analyse the American film industry's share of each national market. For while certain markets have managed to resist penetration by the American film industry better than others, this is unfortunately not the case for such countries as the United Kingdom, or indeed Greece - where no linguistic explanation is available.

The market share for American films is as follows:

United Kingdom	92%
Netherlands	80%
Greece	70%
Denmark	60%
Germany	50%
Belgium	45%
France	45%
Italy	30%

It should always be borne in mind that the public has to choose from the films actually on offer.

6. The fact is, that most films produced by the European film industries, though in no way inferior in quality to those produced in the United States, fail to gain access to the market in other Member States, or if they succeed, do not enjoy an equal chance of being seen by potential cinema-goers.

There are two reasons for this.

The first is that, since they are virtually deprived of promotion, our productions fail to attract public attention. Only the major American companies can afford the kind of advertising campaigns likely to affect the choice of potential cinema-goers. According to recent figures, those companies' spending on advertising campaigns has almost equalled the cost of the films themselves. How can a national production, which is forced to cover costs in the internal market of a single country, possibly contemplate investing in advertising on this scale?

The second reason goes to the heart of the film industry's problem.

Film theatre scheduling is controlled by a group of large American distribution companies known as the 'Majors'. These companies took advantage of the separate nature of the national markets before the common market was established to set up a sophisticated and powerful distribution network.

7. The existence of a single network, and their ownership of the exhibition rights in a number of successful films, have enabled the Majors to indulge in a series of anti-competitive practices, the purpose and effect of which has been to strengthen their dominant position and maintain separate national markets.

These practices, which have been officially condemned (though not actually abandoned) in the United States are familiar in all the Community countries and enable a group of companies to determine film industry policy in those countries.

- To dominate a country's film market it is only necessary to control that part of the market which will determine a film's commercial career. This 'test market' is none other than the capital city, which 'defines' artistic taste and new trends throughout the country. Even if the cinema-going public is no less large outside the capital, the latter holds cultural sway and sets the general trend.
- It is not even necessary to control the whole test market. The control of certain film theatres has generally proved to be enough. This means controlling scheduling in 'exclusive/priority' or 'first release' film theatres.

The Majors were the first to create this two-tier system of film theatres, giving some priority or the exclusive right to exhibit a particular film, and thus setting them apart from the rest. Having initially drawn their strength from their strong distribution network, the Majors have, by classifying film theatres in this way, retained the lion's share of profits from the films whose production and/or distribution they have financed.

To demonstrate the importance of this ranking system it should be noted that the main commercial value of a film is realized when it is first released, i.e. when it is shown in 'exclusive' cinemas, and the public impact of advertising is at its height.

The commercial 'life' of a film centres on the first three months after release, during which it captures 75% of its total audience. Almost 40% of cinema-goers see a film in its first months.

Consequently the importance of controlling priority and exclusive film theatres is by no means negligible.

Moreover, the Majors have done their utmost to underline the limited commercial life of a film, at the expense of its artistic merit, although the latter obviously does not evaporate after only a few months' exhibition.

The method used by the Majors is none other than gigantic advertising. Cinema-goers choose from the films which advertising has brought to their notice. Such films can only be seen in the priority/exclusive film theatres. These establishments constantly attract the bulk of cinema-goers, who do not seem to be deterred by higher seat prices when a new film is on offer.

Since the Majors are the only companies whose international scale enables them to invest in advertising on a gigantic scale, they encounter little difficulty in controlling priority film theatres. These - like any cinema - need films whose appeal is heightened by advertising. In other words they need films which have not only artistic value but also a commercial value enhanced by promotion. The demand for such films enables the Majors to perfect their control of the market. The films offered by other distribution companies - films which for the most part are not American - have no effective access to the market.

- The Majors' stranglehold on theatre scheduling is founded on certain anti-competitive practices.

. Cinema managements wishing to show a film that is likely to attract the public into their theatres are required by the Majors to schedule a series of other films, irrespective of their quality or appeal.

. This practice is known as 'block booking', or the 'baker's dozen', as it is revealingly referred to in Greece. It enables the Majors to market all the films for which they hold distribution rights, on the strength of a small number of 'top box-office' films. By maximizing their cinema playing time, the Majors close the market to other distributors and other films. Block booking also enables them to offset the risks arising from inequalities in the product.

- . The 'secondary' anti-competitive practices accompanying block booking deprive other films (and particularly films produced in the Community countries) of practically any opportunity of gaining access to the market, or of doing so on equal terms.

Thanks to the top box-office films, the Majors are able to lay down a minimum number of exhibition weeks for the films under their rental control in such a way that there is no projection time left for other films. By way of example mention may be made of two recent films for which their distribution company demanded no less than eight and sixteen weeks' billing! In other words a single film can take up almost a third of a cinema's annual exhibition time. However, it is not essential to occupy total film scheduling time in order to control the market. Certain periods are considered favourable for the release of a film while other periods are considered to be 'troughs' from the cinema attendance point of view. The trough periods are reputed to spell the death of a film, or cause it to pass unnoticed, which comes to the same thing. Obviously the Majors reserve the favourable periods for themselves.

- . In fact the practice which best illustrates the relationship between the film Majors and cinema management is the practice of advanced booking of films which have not even been completed or, at any rate, have not been seen by the managements concerned. This practice is known as 'blind bidding' and is evidence of the Majors' control of the world cinema market, and hence of the cinema market in the Community.
- . With the help of a score of large-promotion budget films the Majors control film scheduling in priority film theatres which, despite their small number, attract the majority of film-goers. This is harmful to films produced in the Member States of the Community, which have to be content with marginal exhibition in cinemas which are attended only by cinema enthusiasts rather than the general public. As a consequence the barrier between an intellectual élite and the general public continues to grow, provoking increasing distrust on each side of the tastes and demands of the other. The cinema which was once the favourite form of popular entertainment now finds itself in a situation comparable to that contrasting 'classical' music with 'pop' music. Films which do not comply with American standards increasingly meet with public indifference.

8. The absence of a European distribution network powerful enough to take on that of the Majors means that the potential career of any film originating in Europe depends on whether it will be distributed by the major companies' network. These companies, which distribute their own productions and virtually all 'independent' American productions, also commandeer the best productions from Community countries.

This expansion of their film portfolio enables them to provide a sufficiently varied schedule, preventing any other European distribution network from developing.

It should be stressed that the Community is the best foreign market for American films. On the list of the five best foreign markets, which alone provide half of the major companies' world revenue, three Community countries appear year in year out. Two others are close behind.

9. The power of suggestion of the audio-visual medium, and hence the cinema - which is the leading aspect from the prestige point of view - is immense. Herbert Clark Hoover (President of the United States from 1929 - 1933) once said, 'Where the American film penetrates the market, we sell more American automobiles, more baseball caps and more American phonographs'.

The consequences, which are cultural as well as social and economic, are particularly grave.

The place for cultural exchange between the Member States - an exchange which would enable the people of the Community to get to know and understand one another better - is taken by the common cultural denominator which the American cinema has become.

That exchange is therefore subject to the yoke of a single culture, and cultural resignation can only be the result of economic dependence. Consideration could be given to carrying out a Commission inquiry to determine whether the American Majors' commercial practices constitute a violation of Articles 85 and 86 of the Treaty of Rome.

It is, after all, the Community's advantage to possess a variety of national cultural expression instead of the American monoculture. The different aspects of this cultural expression could combine and co-exist without threatening one another and would put forward a 'European way of life' - just as American films propose the 'American way of life'.

The national character of our film industries should not be overshadowed by what claims to be an international style, but should be safeguarded.

Film co-productions, which are hybrid creations prompted solely by commercial interests and by definition aimed at an international public, often turn out, simply because they are removed from a national context, to be of interest to no-one. On the other hand national films intended for their own public are the ones which, because of their quality, arouse the interest of foreign audiences. But these national films, which compose and reflect the culture from which they spring and are produced in distinct societies whose change they also influence, are prevented by American dominance both from finding their proper place in the Community and from taking the rich cultural benefits of Europe beyond its frontiers.

What our films need is a commercial structure on which they can rely. They need adequate promotion. They need the Community's interest.

10. If the purpose of the European Economic Community is more than the mere creation of a common market, action is required.

Practical incentives for the distribution of the cinema of the Member States, both within and outside the Community, are needed now. The creative cinema is beginning to disappear.

11. Aid granted to the cinema industry by the Member States should not be stopped but increased to a level at which it becomes more effective. The Treaty of Rome only prohibits aid which distorts competition. It is clear from the figures quoted above that the European film industries do not compete with one another but are all faced by competition from the American industry.

In the present situation national aid offers only meagre compensation for the anti-competitive practices of the major companies.

The competition from television is an additional justification for the Member States to grant aid to the film industry.

12. The rules on competition laid down by the Treaty would find applicable material in many of the anti-competitive practices of the major companies and in the malpractices of the television authorities (see Articles 85, 86 and 90 of the EEC Treaty).

The fact is that national aid to the film industry forms part of 'aid to promote the execution of an important project of common European interest' as defined in Article 92(3)(b) of the EEC Treaty.

The safeguarding of one of Europe's forms of cultural expression ought surely to count as 'an important project of common European interest'.

13. Your rapporteur recommends the vigorous and speedy involvement of the Community to safeguard the film industry of its Member States.

First of all the particular characteristics of the film medium should be duly recognized, so that it ceases to be treated without due regard for its true nature - which is essentially cultural.

Next a long-term strategy should be drawn up to enable appropriate industrial and commercial support to be made available to film production.

This strategy will not only meet cultural needs but will also fulfil needs of a social nature. For at the public hearing held by the Committee on Culture on 24 November 1981 and attended by cultural workers, representatives of producers, actors and technicians in the film industry stressed the

continued deterioration of employment in their industry. The kind of action they expect from the Community is strictly in line with the economic and social responsibilities conferred upon it by the Treaty. It cannot be denied that unemployment calls for direct Community action, in any circumstances and whatever occupations are involved. A preferential loan could be granted by the European Investment Bank (EIB) (under Article 130(c) of the EEC Treaty) for groups of film distributors in the Member States which would be established to facilitate the free movement of cinematographic products.

14. It should be borne in mind that the present level of aid to film production will not be really effective unless it is backed up by aid to the distribution industry.

Distribution in turn begins with promotion.

The Commission has already taken steps towards promoting our film industry. Together with the national television authorities it is preparing a series of television programmes to present the cinema of each of our countries to the public in the others. Its aim is to increase Europeans' knowledge of the cinema which is part of their culture.

Clearly, further action is needed.

The first step should be the organization of a European Film Festival on the Community's initiative and with its support.

It is an extraordinary fact that, of the many specialist festivals taking place throughout the Community, not one is intended to promote the European film as such.

The new Festival would fill a gap.

On its own it would provide some of our films with joint publicity, helping them to make up some of the ground lost to the major companies whose individual advertising benefits each of their big productions.

But besides promotion, the European Film Festival should include aid for the distribution industry itself.

To assist the distribution of films obtaining distinction in the European Film Festival it will not be enough to present them with honorary awards (which would scarcely influence the public during the years needed for the festival to acquire a sound reputation) or even cash prizes - since there would be no guarantee that they would be spent entirely on distribution.

The European Film Festival should therefore follow a formula which is at once original and more effective.