



European network of independent distributors

## Europa Distribution Platform Assessment and Proposals

We wish to share our thoughts on the current European system, and to call attention to the increasing undermining of the distribution sector and to what this means to cultural diversity. In the short term, increasing media integration threatens the independents, who advocate a certain idea of cinema and of Europe. Yet, without European diversity in film, without the dissemination of European films, this Europe – which is struggling to come into its own – will be difficult to construct. For, beyond economics and politics, Europe cannot be built without culture.

### List of issues addressed:

- Europa Distribution
- the influence of independent distributors in Europe
- increasing integration
- the deterioration of conditions for exhibiting films
- the shift towards digital
- European film on television
- support for European distribution
- our proposals

## **EUROPA DISTRIBUTION**

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**Europa Distribution**, headed by Robert Guédiguian, is a non-profit organisation created in March 2006 that brings together some fifty European independent distributors from 18 European countries.

The aim of the organisation is to better protect and represent independent distribution at the national and European level, and to encourage the creation of a network of independent distributors in order to improve the ties and exchange of information between them as well as the level of protection available to them.

## **The influence of independent distributors in Europe**

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### **1) The distributor's role**

To begin with, we would like to recall the distributor's role in the cinematic chain. The distributor is an intermediary between the producer and the exhibitor who performs three functions: financing the production of films through a guaranteed minimum, financing their release (promotion, manufacturing of prints) and maintaining relationships with cinemas.

Today, film distribution suffers from the following paradox: never has the distributor's role been more important, yet never has his position been more vulnerable.

Indeed, the distributor plays a very important part in financing films. His commitment is increasingly a *sine qua non* for getting television channels involved, which is essential to a film's financial package. It is this role as a regulator that makes the distributor so vital today. Furthermore, distributors are frequently the only ones to bring private money to the financing plan.



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## 2) The influence of independent distributors in Europe

Independent distributors, together with independent producers, promote new talent, gradually introducing them to a wide audience. Most major French and European *auteurs* were brought to the public's attention by independent distributors, including Fatih AKIN, Pedro ALMODOVAR, Theo ANGELOPOULOS, Jacques AUDIARD, Wolfgang BECKER, Roberto BENIGNI, Catherine BREILLAT, Mimmo CALOPRESTI, Laurent CANTET, Peter CATTANEO, Nuri Bilge CEYLAN, Claude CHABROL, Youssef CHAHINE, Patrice CHEREAU, Isabelle COIXET, Luc & Jean-Pierre DARDENNE, Manoel DE OLIVEIRA, Arnaud DESPLECHIN, Andreas DRESEN, Per FLY, Stephen FREARS, Tony GATLIF, Marco Tullio GIORDANA, Paul GREENGRASS, Robert GUEDIGUIAN, Bent HAMER, Michael HANEKE, Otar IOSELLIANI, Benoit JACQUOT, Aki & Mika KAURISMAKI, Krzysztof KIESLOWSKI, Emir KUSTURICA, Mike LEIGH, Ken LOACH, Pavel LOUNGUINE, Nikita MIKHALKOV, Nanni MORETTI, François OZON, Roman POLANSKI, Jacques RIVETTE, Eric ROHMER, Carlos SAURA, Ulrich SEIDL, Lone SCHERFIG, Bohdan SLAMA, Alexandre SOKUROV, Istvan SZABO, Denis TANOVIC, Bertrand TAVERNIER, André TECHINE, Tom TYKWER, Thomas VINTERBERG, Lars VON TRIER, Wim WENDERS and Michael WINTERBOTTOM.

It is these *auteurs* – whose work is shown in all the major festivals – who are indispensable to upholding the values that European culture claims as its own: diversity, quality and an attitude of openness to the world.

Of the **European films included in the Official Selection of the Cannes Film Festival during the past three years, roughly 85% were distributed by independents.**

Of the **films awarded prizes at Cannes, Venice and Berlin during the past 6 years, 80% were distributed by independents.**

As a result, any threat to independent distribution is a threat to cinematic diversity itself: without independent distribution, there is no independent production – and, thus, no cinematic diversity. Consequently, fewer people go to the cinema, since audiences crave diversity. Moreover, independent distributors, faced with this tough market, are increasingly engaging in self-censorship and are no longer willing to take the risk of bringing audiences less mainstream films or ones with difficult themes. The first thing to suffer, of course, is the variety of films shown; in most European countries, **domestic films barely manage to hold 5 to 20% of the market share.**

### **Increasing integration**

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In recent years, vertical and horizontal integration have been on the rise in France and in Europe. This is clear from the fact that in almost all European countries (with the exception of France), **between five and ten distributors control at least 90% of the film market.**

This integration of the market is closely connected to **the dominant position of the subsidiaries of American majors or of groups related to them in all European markets.** The figures from the four principal European countries for 2005 speak for themselves: in France, the majors' subsidiaries held around 50% of the market, in Spain 70%, in Germany 75%, and in the United Kingdom 80%.

Furthermore, **new forms of integration** are emerging: **national companies are forming partnerships with American studios** to reinforce their economic influence, including Gaumont and



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Columbia in France (until July 2007); Warner Sogefilm, Hispano Foxfilm, Lauren Films with BVI in Spain; Columbia Tristar/Egmont in Sweden; and Mediaset with Castle Rock Entertainment in Italy.

**Television networks are investing in traditional forms of film and have created their own distribution companies.** This is happening in France (in 2006, SND, Mars and TFM held a market share of 17%), as well as in Italy (01 Distribution, associated with RAI, and Medusa, associated with Mediaset, together represent 20% of the market share).

These subsidiaries have a significant capital base and TV/ADSL broadcasting at their disposal, which allows them to stock up directly on films. As a result, they have no trouble recuperating investments made for theatrical releases: they can simple re-sell the distributed films to themselves as many times as necessary and for whatever price they desire. Consequently, a film's theatrical release no longer has any relation to the film's profitability.

In addition, **the arrival of major telecommunications groups on the market** also needs to be considered. These telecom giants are looking for content, and they could very well follow the example of the television networks in the near future. In France, France Telecom has already announced the creation of a subsidiary production company.

*Table – Summary of the various national situations*

	Number of active distributors	Market share held by the top ten distributors	Percentage of films distributed by the top ten	Number of new releases
<b>Germany</b>	75	<b>92%</b>	45%	447
<b>Spain</b>	80	<b>90%</b>	35%	569
<b>France</b>	108	<b>79%</b>	39%	550
<b>Italy</b>	44	<b>92%</b>	56%	392
<b>UK</b>	61	<b>97%</b>	41%	461

Market shares are expressed in percentages of distributors' total receipts.

*Source: European Audiovisual Observatory*

## **The deterioration of conditions for exhibiting films**

All independent distributors in Europe are witnessing the same developments:

### **1) Faster turnaround of films**

In Europe, the number of people going to the cinema is stagnating, while there is an unprecedented increase in the number of films and prints. This automatically results in shorter theatrical runs for the most difficult films, a phenomenon further reinforced by the growing market share held by multiplexes.



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Furthermore, **releases are increasingly concentrated**. Every week, some ten films come out on European screens, where they remain for two – sometimes even just one – weeks: there is no longer time for word-of-mouth to develop, and audiences no longer have the opportunity to see films, so rapid is their turnaround. This is even more worrying considering that the second markets represented by television and DVD also tend to be supersaturated: independent distributors are finding it increasingly difficult to sell their films to TV networks (more on which later), and the video market has entered a period of stagnation – even recession.

Consequently, while it is encouraging that 2006 saw an overall increase in the number of people going to the cinema, it is important to bear in mind that this is primarily due to a very small minority of films launched with huge marketing campaigns.

### 2) Inflation in release costs

Finally, increasing concentration has resulted in runaway inflation in the cost of releasing films, which has more than doubled in most European countries over the past 10 years. Above all, **spending associated with investments in publicity in cinemas** has exploded.

This inflation is due:

- on the one hand, to the **increasingly accentuated commercialisation of all promotional means in cinemas** (trailers, posters, etc.);
- on the other, to the fact that groups (networks, majors, subsidiaries of TV channels) launch **strategic campaigns** that saturate the market during the few weeks that their films are out;
- and, finally, to the fact that the subsidiary distribution companies of TV channels – and, soon, of telecommunications groups (who are now investing in content) – have, as we have seen, a significant capital base and TV/ADSL broadcasting at their disposal. **Promotional spending associated with a film's release no longer has any relation to the film's profitability in theatres**. Independent distributors cannot compete with the marketing impact of integrated groups; and yet, the films they champion are the riskiest ones and thus depend all the more on promotional support. Considering this distorted competition and blatant abuse of market dominance, the risks faced by independent distributors have become enormous.

## The shift towards digital

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In the short term, during the intermediary period in which **digital and silver film exist side-by-side**, the situation is likely to be challenging for independent distributors. This is due, on the one hand, to the presence of third parties, who impose their conditions on distributors, and, on the other, to how these simultaneous releases in digital and 35mm film are handled. The per-unit price of silver prints is likely to increase significantly in coming years, since they will be produced in much smaller quantities, thus making it more difficult to offset the cost of the laboratory equipment involved. Furthermore, digital film has eliminated the need for a theoretical limit on the number of prints launched on the market. Strategic market saturation is thus liable to increase.

Particular attention should be paid to **the risks of vertical integration**, represented by third parties that aspire to control the entire chain, from digital post-production to the installation of the material in the projection room. Their goal is to offer packages of 'ready-made' services so that they can accumulate a sufficient number of screening rooms to achieve the critical mass necessary to make them unavoidable. This is leading to the emergence of new, wider networks of technical distribution, which are undermining the interoperability of the materials, as well as the independence and freedom of distributors and exhibitors in their programming and business choices. Vigilance is thus essential, and **national and European authorities** should be called upon to ensure that **digital film does not become a tool for increased integration to the detriment of stakeholders' independence and cultural diversity**.



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## Film on television

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We are very concerned by the gradual disappearance of film slots from national television channels, the drastic fall in acquisition prices and the way films are handled on television. European films are rarely shown, poorly presented, broadcast at the same time as other programmes on other channels that are difficult to compete against (football matches, American series, etc.), and concentrated primarily at night and in the summertime. All of these factors – irrespective of the films themselves – partly explain the current stagnant audience for films on television. This situation is apparent in all European countries, and it has a direct effect on the exportation of European films: because European distributors no longer have any guarantee that these films will be bought by national television stations, they are increasingly reluctant to buy them.

As a result, according to the European Audiovisual Observatory, in 2005, free-to-air channels broadcast less than 10% of non-national European films in Spain, Italy, the United Kingdom, Poland, Denmark, the Netherlands and elsewhere.

It is also worth recalling that **the decrease in European films broadcast by free-to-air channels is gradually upsetting the balance of the entire chain**; by undermining independent distributors and producers, whose opportunities for reinvestment are increasingly limited, it ultimately threatens the emergence of new talent. Furthermore, it affects what viewers watch, as public channels no longer provide audiences with a cinematic 'education' (like film clubs and societies). As a result, viewers who are no longer accustomed to watching certain types of films are losing interest in them, which is in turn causing a decline in the number of people who go to the cinema. Consequently, the entire cinematic chain is effected.

Of course, there are **channels specialised in film**. However, these pay-TV channels are reserved for an elite that can afford the monthly subscription fee, whereas it is our goal to reach all audiences – the widest possible audience – with these works, which are vehicles of cultural diversity.

Moreover, **mergers between multi-channel satellite packages in most European countries** (Sogecable and Via Digital in Spain, Canal + and TPS in France, etc.) have directly caused a decline in sales of recent and back-catalogue European films by independent distributors. In fact, between output deals with American majors and the 'self-supplying' of channels through their catalogue and distribution subsidiaries, there is scarcely any room left for independently distributed European films, for which there are no longer any television outlets. And yet, these sales are crucial to independent distributors, allowing them to achieve the necessary financial and economic stability to distribute new *auteur* films.

Finally, we would like to address **the question of TV channels' contribution to distribution**. It is a film's distributor who creates its image, its reputation; it is the distributor who brings a film to its audience. And it is the life that a distributor gives to a film that subsequently reverberates along the entire chain of rights related to the film. Yet, currently, this work is the sole responsibility of the distributor. **We thus believe that measures should be considered – at the European and national level – that will obligate broadcasters to earmark a portion of their investments for a film's theatrical distribution.**

## Support for distribution in Europe

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### 1) National support

All countries (or almost all) have organisations for promoting film, and most have created various forms of assistance in the sector, including film, programming and organisational assistance. This



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support helps to finance film launches, marketing campaigns, the production of promotional materials, the purchasing of rights (albeit less frequently), as well as the manufacturing of prints. It also covers the subtitling or dubbing of domestic films for their distribution abroad.

Even so, as a result of the aforementioned upheavals in the film market, the various systems of assistance in Europe have failed to adapt sufficiently to the increasing vulnerability of the distribution sector. Currently, on the one hand, financial aid is divided between exhibition, distribution and production: in almost all European countries, national public support for distribution – when it exists – represents less than 10% of the total support given to film. Support from local funds is even rarer, except in Germany. The fact that most public funds go to the production sector tends to overshadow the importance of a strong distribution sector for ensuring that the films produced actually appear in cinemas. A rich and varied European production is a good thing if and only if these films find suitable distribution.

On the other hand, the available financial aid is divided among all distributors, including those associated with TV channels and telecommunications groups, even though public assistance represents but a marginal contribution for the latter, while it is essential to independent distributors.

### 2) **MEDIA support**

The aims of the MEDIA Programme are to:

- encourage trans-national distribution;
- encourage investments in the production, acquisition, marketing and promotion of non-national European works;
- encourage coordinated marketing strategies among the sector's various stakeholders;
- improve the dissemination of non-national European films on European and international markets;
- encourage the creation of catalogues of culturally significant works;
- support the digitalisation of European films.

The results of the MEDIA Programme have been largely positive for European distributors: European support for distribution has been and continues to be a veritable "breath of fresh air", a real gain for distributors who take risks with European films, because it allows them to discover and foster the European directors of today and of tomorrow.

Yet the current, delicate state of European distribution demands that new changes in the market be considered. In the current context, promoting non-national European cinema represents a real risk for distributors who support European cultural diversity. If such distributors are not supported in taking this risk, Europe may well witness, in the medium term, a significant decrease in investments by European distributors in minimum guarantees and in the cost of producing prints. Lacking sufficient means, European films will disappear from screens.

## **Our proposals**

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### 1) **Defining 'independent distributor'**

First and foremost, we would like our special status to be recognised through a precise definition of 'independent distributor'.

In our view, an independent distributor is characterised above all by his **economically precarious situation, which is related to the lack of suitable funds and of any guarantee on the sale**



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**of the rights he holds.** This means that the distribution of each new film represents a major risk for the company.

**A distributor is independent when his main activity is related to cinema.** This definition excludes the subsidiaries of television channels and of telecommunications groups. An independent distributor's aim is not to exploit TV and video rights, but to introduce a work by a challenging *auteur* to the largest possible audience, to promote the collective and communal experience of watching a film in a dark theatre, and to uphold the social and human fabric represented by art-house and experimental-film venues in France.

We consider this definition of the independent distributor essential. It allows us to exclude TV channels' subsidiaries from receiving European and national distribution assistance. It also makes it possible to obtain an adequate number of screening rooms and sufficiently long runs, purchasing quotas for our films for encrypted and terrestrial channels, and reserved spaces and special rates for certain promotional outlets. It is worth underscoring that all of these measures provide direct advantages to independent producers and to the stakeholders they champion, as well as to art-house and experimental venues, by helping to reinforce market confidence in risky works rather than focusing exclusively on mainstream films – which can be financially disastrous when they fail to work.

**We thus call for the establishment of a European directive on independent distribution.**

### **2) Digital**

The transition to digital should include:

- a guarantee of interoperability;
- European support for the digitalisation of European content and a financial incentive for digital post-production to ensure that the market is not left to American films;
- a governmental framework that designates a technically independent service provider to operate – on behalf and under the authority of national agencies – a key generation and management system for showing films (see recommendation no. 9 of the Goudineau report commissioned by the French CNC – National Centre of Cinematography).
- greater transparency in the relationship between distributors and exhibitors.

### **3) Relationship between distributors and television**

At a later date, we would like to see the relationship between distributors and television in France and in Europe redefined.

To this end, we propose:

- establishing **broadcasting obligations for television channels** to ensure that European films continue to be broadcast in prime time and late night on national channels. This is vital to the dissemination of European film. In fact, one of the direct effects of the decreased broadcasting of European film on European television is a decline in the exportation of European film: to date, distributors who buy European films count on TV sales to offset the risks of the theatrical release. The gradual disappearance of this second market is causing distributors to turn away from the theatrical distribution of non-national European films that are considered too risky. So, ultimately, European diversity itself is at stake;
- **consolidating existing film slots on TV** in order to make them easily identifiable and to foster audience loyalty;
- improving **how films are presented** in order to whet television viewers' appetite for film;



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#### 4) Proposals made to the MEDIA Programme

We have asked the MEDIA Programme to:

- **limit its distribution support to independent distributors.** In light of current budgetary tensions (with new countries joining the EU), it seems necessary to redirect assistance to those who really need it and who work for cultural diversity on a daily basis;
- introduce a **decreasing scale in the automatic support** currently provided, in order to reduce the risk taken by distributors on initial receipts;
- consider establishing **programming support** to promote the dissemination of films in Europe;
- encourage the **digitalisation of European films** for cinematic distribution.