

**PART A OF THE CINEMA STUDY
REPLIES TO THE LEGAL QUESTIONNAIRE FOR DENMARK**

Member State:	DENMARK
Re:	Follow Up Reply
Date:	27 November 2007

(...)

However, it was my understanding from your e-mail of 13 October that you only required a reply if the legal terms were not be as described in your e-mail. As the legal terms were as described I did not reply hereto.

In the following please find my outstanding answers all written with bold below under the respective questions.

(...)

1) You indicated at A.2 that the "Filmfond Fyn" and the "Den Vest Danske Filmpulje" have an annual budget below € 1 million in 2005. Is our understanding correct that this was the case during the full reference period from 2001 to 2005?

Filmfond Fyn is established as an experiment in 2003 and runs out in July 2006. In 2005 the annual budget was over Euro 1 million (app. DKK 9.000.000)

Den Vest Danske Filmpulje has an annual budget below Euro 1 million (in 2004 and 2005 DKK 5.5 million)

2) Please provide us an exhaustive list of the co-production agreements Denmark concluded with other countries (question A.3).

Undated Co-production Agreement between Société Général des Industries Culturelles / Quebec and the Danish Film Institute

Co-production Agreement of 15th December 1997 between the Government of Canada and the Government of the Kingdom of Denmark

Co-production Agreement of 27 June 1975 between the Government of France and the Government of the Kingdom of Denmark

3) Is ou understanding correct that the funding schemes NEW DOC NEW DANISH SCREEN have no explicit territorialisation requirements? - If not, please quote and describe these explicit territorialisation requirements.

There are no explicit territorialisation requirements other than the fact that support is given to a Danish producer. Please see answer A4 for the definition of a Danish producer.

4) Do all Danish funding scheme grant State aid on a selective basis? If so, please quote and summarize the selective aid criteria and procedures (this reply is important since one cannot exclude in many jurisdiction that implicit territorialisation is practiced under cover of selective aid criteria such as quality, originality, cultural value

etc. of the film projects).

According to the terms of subsidy for feature films the Danish Film Institute - upon recommendation of a consultant (60/40 scheme: the Head of Development) - may subsidise the production of feature films. Subsidies for the production of feature films are granted in order to promote the production of Danish films and the participation of Danish producers in co-productions. Prior to decision to grant development subsidies the Danish Film Institute may choose to prepare a technical and financial assessment of the project and an assessment of its target group and distribution potential. For projects under 60/40 scheme two dramaturgical assessments and two target group and distribution assessments will also be prepared.

Applications for production subsidies must be in writing and must as a minimum contain the following information and attachments:

- Script**
- Schedule for pre-production, shooting, postproduction and expected release date**
- Production plan**
- Unit and cast list**
- Budget drawn up on an approved DFI form**
- Finance schedule (investment, distributor advances, pre-sales, equipment, own services etc.) and details about any other subsidies for the project received or applied for**
- Cash flow plan**
- A statement on any agreement entered into with other companies (co-production agreements)**
- Recoupment plan including a precise statement of how co-financing parties are to be repaid**
- Distribution agreement or letter of intent for theatrical distribution in Denmark**
- Promotion schedule in accordance with DFIs Terms for promotion subsidies**
- Proof that the applicant is the proprietary owner of all rights required to distribute the completed film, including contracts with writers, director, producer etc.**
- Curriculum vitae for writers, director and producer and anyone else the producer regards as vital to the project**
- Any other contract and agreement entered into regarding the film**

5) With respect to your reply to question B.8 we assume that, in case of a conflict or an inconsistency between the (explicit or implicit) rules on territorialisation contained in your national or internal legislation on State aid to cinema and the rules contained in conventions on co-production agreements to which your country is a party, the latter rules prevail over the former, i.e. international agreements prevail over national or internal law. Should this principle exceptionally not apply in your jurisdiction to the concrete case of territorialization requirements, please let us know via email, and please provide us with a short description of the legal mechanism addressing such conflicts or inconsistencies as applied in your jurisdiction.

It is my clear understanding that the international agreements prevail over national or internal law.

6) Is our understanding correct that, according to your assessment, there are no implicit territorialisation requirements for the DFI funding scheme (question B.11)?

Again other than the requirement of the producer being Danish there are no other territorialisation requirements.

7) Eventually, please indicate the provisions on cultural objectives and/or justifications, if any, for the DFI and the NFTV funding schemes (question B.12).

There are none.

(...)

Member State:	DENMARK
Re:	Follow Up Question
Date:	26 November 2006

(...)

1) You indicated at A.2 that the "Filmfond Fyn" and the "Den Vest Danske Filmpulje" have an annual budget below € 1 million in 2005. Is our understanding correct that this was the case during the full reference period from 2001 to 2005?

2) Please provide us an exhaustive list of the co-production agreements Denmark concluded with other countries (question A.3).

3) Is our understanding correct that the funding schemes NEW DOC NEW DANISH SCREEN have no explicit territorialisation requirements? - If not, please quote and describe these explicit territorialisation requirements.

4) Do all Danish funding scheme grant State aid on a selective basis? If so, please quote and summarize the selective aid criteria and procedures (this reply is important since one cannot exclude in many jurisdiction that implicit territorialisation is practiced under cover of selective aid criteria such as quality, originality, cultural value etc. of the film projects).

5) With respect to your reply to question B.8 we assume that, in case of a conflict or an inconsistency between the (explicit or implicit) rules on territorialisation contained in your national or internal legislation on State aid to cinema and the rules contained in conventions on co-production agreements to which your country is a party, the latter rules prevail over the former, i.e. international agreements prevail over national or internal law. Should this principle exceptionally not apply in your jurisdiction to the concrete case of territorialization requirements, please let us know via email, and please provide us with a short description of the legal mechanism addressing such conflicts or inconsistencies as applied in your jurisdiction.

6) Is our understanding correct that, according to your assessment, there are no implicit territorialisation requirements for the DFI funding scheme (question B.11)?

7) Eventually, please indicate the provisions on cultural objectives and/or justifications, if any, for the DFI and the NFTV funding schemes (question B.12).

(...)

Member State:	DENMARK
Re:	Follow Up Question
Date:	07 November 2006

(...)

1) At A.2 the "Filmfond Fyn" and the "Den Vest Danske Filmpulje" are indicated to have an annual budget below € 1 million in 2005. Please check the annual budget of this two funding schemes.

2) At A.3 we miss the list of bilateral co-production agreements. Please list co-production agreements

3) Please cover the issue of implicit territorialisation requirement. At B.11 for DFI funding scheme we miss the description of the implicit territorialisation requirements

5) At B.12 for DFI funding schemes we miss the list of cultural clauses

6) Please send us additional information on the relation between territorialisation and co-production

7) At B.12 for NFTV funding scheme we miss the list of cultural clauses

(...)

Member State:	DENMARK
Re:	Follow Up Question
Date:	13 October 2006

(...)

With respect to your reply to question B.8 we assume that, in case of a conflict or an inconsistency between the rules on territorialization contained in your national or internal legislation on State aid to cinema and the rules contained in conventions on co-production agreements to which your country is a party, the latter rules prevail over the former, i.e. international agreements prevail over national or internal law. Should this principle exceptionally not apply in your jurisdiction to the concrete case of territorialization requirements, please let us know via email, and please provide us with a short description of the legal mechanism addressing such conflicts or inconsistencies as applied in your jurisdiction.

(...)

Member State:	DENMARK
Re:	Reply
Date:	29 September 2006

(...)

Enclosed please find my answers to the Questionnaire on State Aid to Cinema and Territorialisation Requirements, including exhibits.

Please be informed that the majority of the requested exhibits, which according to the questionnaire are to be provided in the national language, are available in an English version. Please be so kind as to let me know if I am to forward you the English versions as well.

(...)

Attachments to e-mail of 29 September 2006

- Document.pdf
- Document.pdf
- Document.pdf
- Document.pdf
- Document.pdf
- nftfenglish.pdf
- CG Legal Questionnaire 290906 answer.doc

**Attachment to e-mail of 29 September 2006:
CG Legal Questionnaire 290906 answer.doc**

**QUESTIONNAIRE ON STATE AID TO CINEMA AND TERRITORIALISATION
REQUIREMENTS
(Version of 15 September 2006)**

PRELIMINARY REMARK

This questionnaire is divided in two parts. Part A concerns general questions and part B specific questions related to State aid for independent film and television production, including State aid based on co-production agreements, in the context of territorialisation requirements.

Some information that could be relevant for this questionnaire is available on-line, e.g.:

- the data from Korda and IRIS Merlin at:

<http://www.obs.coe.int/db/index.html> (in particular the information by Korda on funding schemes at: http://korda.obs.coe.int/web/recherche_fonds.php and the information on co-production agreements by IRIS Merlin at: <http://merlin.obs.coe.int/search.php>)

- the links to regulating, control and funding bodies in the audiovisual sector (cinema and broadcasting) at:

http://ec.europa.eu/comm/avpolicy/info_centre/links/index_en.htm

- the information on co-production agreements on the Council of Europe website and, e.g. for France and the United Kingdom, on the websites of the Centre National de la Cinématographie and the UK Film Council:

http://www.coe.int/T/E/Cultural_Co-operation/Eurimages/

<http://www.cnc.fr/Site/Template/A2.aspx?SELECTID=35&id=36>

http://www.ukfilmcouncil.org.uk/usr/ukfcdDownloads/42/Co_production.pdf

However, please consider that this information may not be exhaustive, fully accurate or up-to-date, and may therefore require to be completed for the purposes of this study.

When filling in this questionnaire, please specify in brackets your sources of information at the end of each of your answers.

Please deliver your replies in word format (font type: times new roman; font size: 12).

PART A
GENERAL QUESTIONS

Please use only one form per Member State.

OVERVIEW

- A.1 Country / region: Denmark
- A.2 Names of funding schemes with an annual budget of State aid dedicated to pre-production, production, post-production, marketing, distribution and promotion of independent cinematographic and audiovisual works¹ of at least €1 million in 2005 (this includes any kind of support, e.g. direct subsidies, fiscal advantages, etc., to pre-production, production, post-production, marketing, distribution and promotion):
- A) The Danish Film Institute has the following schemes (www.dfi.dk):
- 1) Consultant Scheme
 - 2) 60/40 Scheme
 - 3) New Danish Screen
 - 4) Shorts and documentaries: Consultant scheme
 - 5) Talent Doc
- B) Filmfond Fyn / Film Fond Fynen – a regional fond with an annual budget of below EURO 1 million (www.filmfyn.dk)
- C) Den Vest Danske Filmpulje / The regional fond located in Vest Denmark with an annual budget of below EURO 1 million (www.filmpuljen.dk).
- D) Nordisk Film- & TV Fond / Nordic Film and Television Fond (www.nftf.net)

COPRODUCTION AGREEMENTS

- A.3 List the conventions on co-production agreements to which your country is currently a party, indicate the date of the entry into force of each convention, and indicate the name and address of the authority in charge of their administration and supervision:

The European Convention on Cinematographic Co-production – 1 April 1994 –
handled by

Danish Film Institute
Gothersgade 55
1123 Copenhagen K

¹ “Independent” means that the cinematographic and audiovisual works are produced and distributed by entities that are legally independent from broadcasters.

(Please be informed that I am still awaiting more information from the Ministry of Culture as to whether Denmark has entered into other co-production treaties. I will pass this information on as soon as I am in receipt hereof).

NATIONALITY CERTIFICATION PROCEDURES

- A.4 Describe the formal procedure, if any, to assess and certify the nationality of an independent film or television production in your country by indicating the authority in charge of this procedure, the criteria of eligibility, and the scope of this certification procedure in relation to public funding schemes in your jurisdiction:²

The Danish Film Institute is in charge of certifying the nationality of a production. The certification is done on the basis of the Danish Film Act of March 12, 1997, chapter 4, article 17, which states the following:

Chapter 4 - Danish Films and Co-Productions

17. (1) "Danish Film" in this Act shall mean a film of which the producer is Danish. Furthermore, the soundtrack of the film shall be in the Danish language, or the film shall have special artistic or technical features which contribute to the promotion of film art and film culture in Denmark.

(2) By "Danish producer" is meant

- 1) any person holding Danish citizenship or resident in Denmark,
- 2) any limited liability company or a private company registered in Denmark,
- 3) any central or local government institution,
- 4) any other company with limited liability domiciled in Denmark, including foundations and societies, if the management and the majority of the members of the Board of Directors hold Danish citizenship or are resident in Denmark, or
- 5) any foreign limited liability company or private company which has registered a branch office in Denmark with the Danish Commerce and Companies Agency, or any other foreign company with limited liability in so far as the branch manager holds Danish citizenship or is resident in Denmark.

(3) Any film made in cooperation with one or more foreign producers and at least one Danish producer (a co-production) may be regarded as Danish, provided that the Danish and foreign financial contributions and influence on the production, as well as the artistic or technical contributions by each party, are in reasonable proportion to each other.

(4) The requirements regarding residence, citizenship, registered office, etc., in Denmark according to subsection (2) shall lapse if required under international agreements, including the Treaty on the European Union, the agreement establishing the European Economic Area and the Agreement on a Joint Nordic Labour Market.

² E.g. the French "Procédure d'agrément".

EXPECTED DEVELOPMENTS

- A.5 Indicate whether new co-production agreements are to be expected in your jurisdiction as of 1 January 2007, indicate the contemplated date of the entry into force of each convention, and indicate the name and address of the authority in charge of their administration and supervision – None
- A.6 Indicate whether new funding schemes containing territorialisation requirements entered into force or are to be expected to enter into force in your jurisdiction as of 1 January 2006,³ and indicate the name and address of the administration of these funding schemes:⁴

(Application for the establishing of a new regional scheme called The Copenhagen Film Fund has just been filed. The aim of Copenhagen Film Fund is to attract international co-productions to the region with the aid of Danish talent, both creatively, economically and technically).

REFERENCES TO LOCAL STUDIES

- A.7 Provide the references of studies, reports or other relevant materials on territorialisation requirements, on co-production agreements and on legal aspects of the promotion of film related cultural identities and cultural diversity in your jurisdiction (author, title, place, date of publication, and, if available, internet link):

www.dfi.dk

www.kulturministeriet.dk

Both the Danish Film Institute and the Ministry of Culture has recently issued new studies of the Film Industry in Denmark to be found on the above listed websites, however both studies are only to be found in the Danish language.

³ Any requirement/incentive that some of the development, production or post-production activities must take place in the country or region offering the State aid, either for the audiovisual work to be eligible for State aid or affecting the amount of State aid available to the audiovisual work.

⁴ E.g. in Germany, there will be a new funding scheme on the federal level containing a territorialisation clause as from 2007.

PART B

FUND SPECIFIC QUESTIONS

Please only cover funding schemes, including tax incentive schemes, that were operated at the national, regional (excluding EU schemes, e.g. the Media programme)⁵ or local level in your country during the reference period from 1 January 2001 to 31 December 2005, and that disposed of an annual budget of State aid dedicated to pre-production, production, post-production, marketing, distribution and promotion of independent cinematographic and audiovisual works of at least € 1 million per year.⁶

Please use for each funding scheme a separate form.

IDENTIFICATION OF THE FUNDING SCHEME

B.1 Country/region: Denmark

B.2 Name of the funding scheme:

The Danish Film Institute has the following schemes (www.dfi.dk):

- 1) Consultant Scheme
- 2) 60/40 Scheme
- 3) New Danish Screen
- 4) Shorts and documentaries: Consultant scheme
- 5) New Doc

B.3 Name and address of the funding scheme's administration and supervisory authority:

Danish Film Institute
Gothersgade 55
1123 Copenhagen K
Denmark

Ministry of Culture
Nybrogade 2
1203 Copenhagen K
Denmark

⁵ Regional schemes mean both, schemes operated within your country and schemes to which your country is a party among other countries, e.g. the Nordic Film- and TV Fund (see http://korda.obs.coe.int/web/display_fonds.php?fonds_id=28).

⁶ "Independent" means that the cinematographic and audiovisual works are produced and distributed by entities that are legally independent from broadcasters.

B.4 List the titles of the laws and regulations that govern this funding scheme as of 31 December 2005 (in the original language and in an English working translation), and indicate

- the dates when these laws and regulations entered into force,

- whether these laws and regulations were amended during the period from 2001 to 2005 (if so and if the amendments were significant, indicate their dates of entry in force),

and provide a copy of these laws and regulations in the version as of 31 December 2005 (in the national language only).

1) **Lov om Film nr. 186 af 12 marts 1997** /Film Act no. 186 of March 12, 1997 – attached please find the English language version of said act.

2) **Vilkår for støtte til spillefilm – Konsulentordningen og 60/40 – ordningen af 13 maj 2003** / Terms for Subsidies for Feature Films – Consultant and 60/40 Schemes of 13 May 2003 – attached please find a Danish language version of said schemes (please be informed that an English translation is available). The former version of said terms were valid from 9 June 1999 undtil 12 May 2003.

3) **Vilkår for støtte til kort- og dokumentarfilm af 9 juni 1999** / Terms for subsidy for Shorts and Documentaries of 9 June 1999 – attached please find a Danish language version of said scheme (please be informed that an English translation is available). (Shorts and documentaries were formerly handled by Dansk Novellefilm).

4) **New Danish Screen – Talentudviklingen af 21 december 2004** / New Danish Screen – Development of Talent of 21 December 2004. Attached please find a Danish language version of said scheme. (Please be informed that an English language translation is available).

5) **Talent Dok af 22 november 2004** / Talent Doc of 22 November 2004

TERRITORIAL CONDITIONS⁷

Explicit territorial conditions

B.5 Does the scheme impose any explicit obligation on independent film and audiovisual project proposals that they must spend a minimum proportion of the production budget in the Member State/Region to qualify for State aid or to receive the maximum amount of State aid available (*consider the situation as of 31 December 2005 and,*

⁷ Any requirement/incentive that some of the development, production or post-production activities must take place in the country or region offering the State aid, either for the audiovisual work to be eligible for State aid or affecting the amount of State aid available to the audiovisual work.

only in case of significant changes, the situation before this date during the period from 2001 to 2005)?

Yes / No

No.

If yes,

- B.6 Quote (in the national language and in an English working translation) the provisions requiring territorialisation that are contained in the rules (legislation and internal regulations) listed under Answer B.4 (*provide quotes of the current version of the rules as of 31 December 2005 and, only in case of significant changes, of former versions of territorialisation clauses that were in force before this date during the period from 2001 to 2005*):
- B.7 Describe how these territorialisation requirements are implemented, including the minimum proportion required and the maximum (*provide a description with respect to the current version of the territorialisation requirements as of 31 December 2005 and, only in case of significant changes, with respect to former versions of territorialisation requirements that were in force before this date during the period from 2001 to 2005*).
- B.8 Describe how territorialisation requirements that apply to this scheme are interpreted and implemented in the context of the co-production agreements listed under answer A.3 (*provide a description with respect to the current version of the territorialisation requirements as of 31 December 2005 and, only in case of significant changes, with respect to former versions of territorialisation requirements that were in force before this date during the period from 2001 to 2005*):
- B.9 Quote and summarize judicial and administrative practice (case law and guidelines) and legal commentaries addressing the implementation of territorialisation requirements that you quoted and described under answers B.6 to B.8 (*provide a quote and summary with respect to the current version of the territorialisation requirements as of 31 December 2005 and, only in case of significant changes, with respect to former versions of territorialisation requirements that were in force before this date during the period from 2001 to 2005*):

Implicit or *de facto* territorial conditions

- B.10 Does the scheme provide any scope for territorial conditions to be applied implicitly or *de facto*? - For example, do the selection criteria imply that proposals are more likely to be selected for funding if they would create employment in the region/Member State, use local professionals, or generally promote interest in the region/Member State (*please cover the situation prevailing as of 31 December 2005 and, only in case of significant changes, the situation that prevailed before this date during the period from 2001 to 2005*)?

Yes/No

No.

If yes,

- B.11 Please describe the implicit or *de facto* territorialisation requirements that are practised by this funding scheme (as of 31 December 2005 and, only in case of significant changes, before this date during the period from 2001 to 2005):

CULTURAL CLAUSES

- B.12 Quote the legal provisions of your jurisdiction (in the national language and in an English working translation) expressing cultural policy goals (e.g. promotion of cultural identity and cultural diversity) that could legitimate the explicit or implicit territorialisation requirements mentioned under answers B.6, B.7 and B.11 and that are currently in force:

-

SELECTIVE SCHEMES

- B.13 If this scheme distributes aid selectively,⁸ please list the qualitative criteria that were applied as of 31 December 2005 and, only in case of significant changes, before this date during the period from 2001 to 2005:

Upon the recommendation of a consultant (60/40 the Head of Development) the Danish Film Institute may subsidise the production of feature films in order to promote the production of Danish films and the participation of Danish producers in co-productions. According to the website of the Danish Film Institute the following criteria apply for the Danish Film Institute co-production subsidies:

The Danish Film Institute states that international coproducing is crucial to financing Danish films. Moreover, coproduction agreements with foreign partners provide access to funds from international subsidy schemes, for example, Eurimages and Nordic Film & TV Fund, while sharing experience and creative input across national borders in general benefits the development of Danish cinema.

Access to coproduction subsidies is defined in Chapter 4, Section 17 (3), of the Danish Film Act.

"Any film made in cooperation with one or more foreign producers and at least one Danish producer (a co-production) may be regarded as Danish, provided that the Danish and foreign financial contributions and influence on the production, as well as the artistic or technical contributions by each party, are in reasonable proportion to each other."

⁸ Selective funding schemes grant State aid based on an evaluation of each project and following qualitative criteria. In contrast, automatic schemes grant State aid if certain quantitative criteria such as box office results of previous works are met.

Co-productions divide into two basic categories:

- Danish majority productions have a Danish executive producer. These films can either be in Danish or in a foreign language.
- Danish minority productions have a foreign executive producer. These films are in a language other than Danish.

According to [Film Policy Accord 2003-2006](#), the DFI may award subsidies to no more than 15-25 foreign-language feature films during this period. The parties to the accord later agreed to raise the limit to 30 films for the full period. For shorts and documentaries, there are no limits on the number of co-productions that can receive subsidies from the DFI.

Applications for co-production subsidies are submitted to the DFI film consultants, who recommend films for subsidies based on an artistic evaluation, provided there is financial and creative/technical involvement in the co-production by a Danish party. An evaluation of the Danish involvement in a film project is performed by the Danish Film Institute's producers.

A final prioritising of films recommended for co-production subsidies is performed in consultation with the head of department for Production and Development.

Film projects applying for co-production subsidies solely based on the film's artistic merit and, in turn, a wish for theatrical distribution in Denmark, are referred to the Danish Film Institute's import subsidy scheme.

As a requirement for receiving a production subsidy, in the case of documentaries, the film's expenditures in the form of expenses to Danish film professionals or other spending in Denmark must at a minimum match the Danish Film Institute's subsidy.

In the case of features, the Danish Film Institute subsidies may constitute no more than 80 percent of the film's Danish expenditures.

In prioritising what films will be awarded subsidies, use of Danish film professionals in creative functions and potential future collaboration between the producers will carry more weight than expenditures for technical facilities and general spending.

As a further requirement for receiving production subsidies, the film shall have secured Danish distribution – either theatrically or on DR (Danish Broadcasting Corporation) or TV 2”.

CONTACT DETAILS

B.14 Name, function and contact information (postal address, phone and email) of the liaison person at the funding scheme:

Jørgen Ramskov
Head of Production and Development for feature films and shorts and documentaries
Danish Film Institute

Gothersgade 55
1123 Copenhagen K
Denmark
Phone: + 45 33 73 34 33
jorgen@dfi.dk

Vinca Wiedemann
Head of New Danish Screen
Danish Film Insitute
Gothersgade 55
1123 Copenhagen K
Denmark
Phone: + 45 33 74 36 75
vincaw@dfi.dk

Name of the lawyer and law firm in charge of the data collection:

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Date of the data collection and processing:

The 29th September 2006

PART B

FUND SPECIFIC QUESTIONS

Please only cover funding schemes, including tax incentive schemes, that were operated at the national, regional (excluding EU schemes, e.g. the Media programme)⁹ or local level in your country during the reference period from 1 January 2001 to 31 December 2005, and that disposed of an annual budget of State aid dedicated to pre-production, production, post-production, marketing, distribution and promotion of independent cinematographic and audiovisual works of at least € 1 million per year.¹⁰

Please use for each funding scheme a separate form.

IDENTIFICATION OF THE FUNDING SCHEME

B.1 Country/region: Nordic Countries

B.2 Name of the funding scheme: Nordic Film- & TV Fund (www.nftv.net)

B.3 Name and address of the funding scheme's administration and supervisory authority:

Nordic Film- & TV Fund
PO Box 275
1319 Bekkastua
Norway
Att. Svend Abrahamsen, Chief executive

Partners of the Fund are:

The Nordic Council of Ministers
The Finnish Film Foundation
Finnish Broadcasting Company (YLE)
The Swedish Film Institute
Swedish Broadcasting (SVT)
TV 4
The Norwegian Film Institute
Norwegian Broadcasting Corporation (NRK)
TV 2 Norway

⁹ Regional schemes mean both, schemes operated within your country and schemes to which your country is a party among other countries, e.g. the Nordic Film- and TV Fund (see http://korda.obs.coe.int/web/display_fonds.php?fonds_id=28).

¹⁰ "Independent" means that the cinematographic and audiovisual works are produced and distributed by entities that are legally independent from broadcasters.

The Danish Filminstitute
Danish Broadcasting Corporation (DR)
TV 2 Denmark
Iceland's Film Fund
National Broadcasting Service Television (RUV)
The Icelandic Broadcasting Corporation (Stød 2)

B.4 List the titles of the laws and regulations that govern this funding scheme as of 31 December 2005 (in the original language and in an English working translation), and indicate

- the dates when these laws and regulations entered into force,

- whether these laws and regulations were amended during the period from 2001 to 2005 (if so and if the amendments were significant, indicate their dates of entry in force),

and provide a copy of these laws and regulations in the version as of 31 December 2005 (in the national language only).

1) **Guidelines for The Nordic Film-& TV Fund** – attached please find the English language version of said guidelines.

TERRITORIAL CONDITIONS¹¹

Explicit territorial conditions

B.5 Does the scheme impose any explicit obligation on independent film and audiovisual project proposals that they must spend a minimum proportion of the production budget in the Member State/Region to qualify for State aid or to receive the maximum amount of State aid available (*consider the situation as of 31 December 2005 and, only in case of significant changes, the situation before this date during the period from 2001 to 2005*)?

Yes / No

No.

If yes,

B.6 Quote (in the national language and in an English working translation) the provisions requiring territorialisation that are contained in the rules (legislation and internal regulations) listed under Answer B.4 (*provide quotes of the current version of the rules as of 31 December 2005 and, only in case of significant changes, of former*

¹¹ Any requirement/incentive that some of the development, production or post-production activities must take place in the country or region offering the State aid, either for the audiovisual work to be eligible for State aid or affecting the amount of State aid available to the audiovisual work.

versions of territorialisation clauses that were in force before this date during the period from 2001 to 2005):

- B.7 Describe how these territorialisation requirements are implemented, including the minimum proportion required and the maximum (*provide a description with respect to the current version of the territorialisation requirements as of 31 December 2005 and, only in case of significant changes, with respect to former versions of territorialisation requirements that were in force before this date during the period from 2001 to 2005*).
- B.8 Describe how territorialisation requirements that apply to this scheme are interpreted and implemented in the context of the co-production agreements listed under answer A.3 (*provide a description with respect to the current version of the territorialisation requirements as of 31 December 2005 and, only in case of significant changes, with respect to former versions of territorialisation requirements that were in force before this date during the period from 2001 to 2005*):
- B.9 Quote and summarize judicial and administrative practice (case law and guidelines) and legal commentaries addressing the implementation of territorialisation requirements that you quoted and described under answers B.6 to B.8 (*provide a quote and summary with respect to the current version of the territorialisation requirements as of 31 December 2005 and, only in case of significant changes, with respect to former versions of territorialisation requirements that were in force before this date during the period from 2001 to 2005*):

Implicit or *de facto* territorial conditions

- B.10 Does the scheme provide any scope for territorial conditions to be applied implicitly or *de facto*? - For example, do the selection criteria imply that proposals are more likely to be selected for funding if they would create employment in the region/Member State, use local professionals, or generally promote interest in the region/Member State (*please cover the situation prevailing as of 31 December 2005 and, only in case of significant changes, the situation that prevailed before this date during the period from 2001 to 2005*)?

Yes/No

No.

If yes,

- B.11 Please describe the implicit or *de facto* territorialisation requirements that are practised by this funding scheme (*as of 31 December 2005 and, only in case of significant changes, before this date during the period from 2001 to 2005*):

CULTURAL CLAUSES

- B.12 Quote the legal provisions of your jurisdiction (in the national language and in an English working translation) expressing cultural policy goals (e.g. promotion of

cultural identity and cultural diversity) that could legitimate the explicit or implicit territorialisation requirements mentioned under answers B.6, B.7 and B.11 and that are currently in force:

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SELECTIVE SCHEMES

B.13 If this scheme distributes aid selectively,¹² please list the qualitative criteria that were applied as of 31 December 2005 and, only in case of significant changes, before this date during the period from 2001 to 2005:

According to the website of The Nordic Film- & Fund the purpose of the Fund is to promote the production of audio-visual projects in the Nordic countries by participating in the top-up financing of feature films, TV-fiction, TV-series, short films and creative documentaries.

In order to obtain support from the Fund, the film has to be suitable for theatrical release, television broadcasting or other forms of distribution.

The project has to have a satisfactory marketing/audience potential within the Nordic countries.

In certain cases, the Fund may participate in financing productions that might have a limited profitability, but which lie within the Fund's jurisdiction and which otherwise fulfil the Fund's other criteria.

The Fund will also promote audio-visual productions by supporting project development, distribution and promotion, and Nordic language versions.

According to the website of the Fund, Nordic production companies are eligible for support.

In order to obtain production support for feature films the production company has to document that theatrical distribution agreements has been entered into in a minimum of two specified Nordic countries. Furthermore, the production company must document that a broadcast agreement has been entered into with at least one of the Fund's TV partners.

For TV-Fiction and series the production company must present broadcast agreements for TV with at least two of the Fund's TV partners (only one additional if the application originates from a TV-company).

For short films the production company must present broadcast agreements for TV with at least two of the Funds TV partners.

¹² Selective funding schemes grant State aid based on an evaluation of each project and following qualitative criteria. In contrast, automatic schemes grant State aid if certain quantitative criteria such as box office results of previous works are met.

For documentaries the production company must present either broadcast agreements for TV with at least two of the Fund's TV partners, or theatrical distribution agreements in at least two specified Nordic countries, and a broadcast agreement for TV with at least one of the Fund's TV partners.

CONTACT DETAILS

B.14 Name, function and contact information (postal address, phone and email) of the liaison person at the funding scheme:

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Date of the data collection and processing:

The 29th September 2006