Community participation in the European Audiovisual Observatory

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PURPOSE: to present a report from the Commission on the implementation of Council Decision 1999/784 /EC (as amended by Decision 2239/2004/EC of the European Parliament and the Council) concerning Community participation in the European Audiovisual Observatory.

CONTENT: this report describes the bilateral relations between the Commission and the Observatory and illustrates the main activities carried out by the latter since end 1999 up until mid-2006.

The main elements of the report are as follows:

Community participation: the Community's decision to participate fully in the Observatory has been instrumental in providing the European audiovisual industry with much needed, detailed, information in areas such as marketing, finance, legal rules and practice. The Observatory has proved highly effective in dealing promptly with information requests and the public dissemination of such data, notably in response to small and medium sized enterprises. Moreover, the Observatory's work represents an important asset for EU industry since it covers a large number of countries, including the candidate countries, as well as EEA and most of the other European states. As of mid 2006 the Observatory had 37 members: 36 countries and the Community.

Implementation of the Council Decision: at the beginning of 2000, the Commission opened negotiations with the Council of Europe and the Observatory in order to implement the Council Decision. The main points under discussion concerned the modalities of Community participation in the Observatory. Two issues needed to be resolved. First, the Community is not a member of Audiovisual Eureka, as was the case for all other members. Second, the membership needed to accommodate certain specific financial requirements of the Commission concerning, notably, the destination of unused funds and obligations in case of withdrawal from the Observatory. In order to accommodate the Commission requirements, the Council of Europe amended the Statute and Financial Regulation of the Observatory in September 2000.

Community financial contributions: the proposal for Decision 1999/784/EC foresaw total commitment and payment appropriations for EUR 1.325 million over a six-year period with a maximum yearly amount of EUR 235 000 in 2004. The Financial Statement of Decision 2239/2004/EC extended the 2004 ceiling for the years 2005 and 2006. Owing to lengthy negotiations, formalisation of Community membership could only take place in November 2000, about a year after the adoption of the Council Decision. Therefore, in order to avoid interrupting co-operation with the Observatory during that period, on 31st January 2000 the Commission concluded a Grant Agreement with the Observatory for a total amount equal to the theoretical statutory contribution and not exceeding the sum indicated for 1999. Application of the financial mechanism of the Grant Agreement entailed the payment of a contribution that was EUR 8 528 short of the maximum amount foreseen. The Observatory requested the Commission to pay the full amount. The Commission always contested this request, arguing that it had fulfilled all its financial obligations under the Grant Agreement. After an analysis carried out by a panel of experts, on November 2002, the Executive Council of the Observatory decided unanimously to waive this claim against the Commission. Thanks to the development of the Observatory's supplementary revenues, in addition to the members' contributions, commitments and payments in the years 1999 to 2006 were consistently lower in both nominal and percentage terms than the amounts foreseen in the Commission proposals for the Decisions of 1999 and 2004.

The Observatory's activity: in order to fulfil its remit, the Observatory has developed its activities along two main axes: publication of yearly statistics concerning audiovisual markets and the publication of periodical legal newsletters. Moreover, a number of ad hoc studies and publications have been released on various occasions. Publications such as the Yearbook, FOCUS and several ad hoc reports have provided a wide range of information with the view of supporting the work of many operators, professional categories and public administrations. Moreover, free on-line services have been launched, providing more detailed useful information, in particular for SMEs: the LUMIERE database on film admissions, the KORDA database on public funding, the PERSKY directory providing systematic lists of links to the websites of thousands of television channels and sources of information on the television national markets.

In order to implement these tasks, the Observatory has worked with various specialised networks of "data providers" including national film agencies, professional organisations, national statistics institutes, trade magazine and market research companies. The topics addressed by the Observatory include the digitisation of the media and electronic communications, convergence and globalisation and how these will affect areas such as human rights and economic freedoms, cultural goals and heritage, copyright law, criminal law, commercial law, advertising, consumer protection, free access to information, state support and EU aid programmes, tax schemes, transparency, education, etc. Since 1999, the Observatory steadily increased the legal information collected, processed and disseminated through different publications branded under the "Iris" name.

In conclusion, the positive assessment of the Community/Observatory relations expressed in the Commission 2002 Interim Report on the Community participation in the Observatory can be surely re-affirmed. The success of publications and databases such as the Yearbook, Iris and Lumière have elevated the Observatory to a position where it is seen as a key source for economic and legal information among market actors in the various segments of the audiovisual industry as well as by public authorities, both at national and Community levels. In addition to the publications released on a regular basis and the on-line databases, the Observatory has been able to release accurate analyses that it would be difficult to procure at such reasonable prices, either for industry or, given the amount of the membership fee, for the participating public bodies. The capacity of the Observatory to establish and maintain effective networks of scientific partners is among the most valuable assets of this institution and has proved essential for continuing provision of the highly diversified inputs for the Observatory's economic and legal analysis over the years. The Observatory, in turn, has provided the audiovisual sector and, in particular, the small and medium operators with comprehensive instruments that provide a clearer view of the markets and of the legal/regulatory framework. In order to continue to support the Observatory's activities, the Commission has proposed that the Community participation in the Observatory will continue up to 2013 within the framework of the new Media 2007 programme.