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# **Medienboard Berlin Brandenburg**

## **Funding Guidelines**

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# Funding Guidelines of Medienboard Berlin-Brandenburg GmbH

- effective February 1st, 2021 -

## 1. Objectives and Purpose of Funding

The Medienboard Berlin-Brandenburg GmbH (hereinafter called Medienboard) has been mandated by the federal states of Berlin and Brandenburg to promote the development of the audiovisual sector in the states' joint media region and, in doing so, to strengthen this sector in Germany and Europe. The Medienboard receives budgetary funds within the scope of its mandate from the federal states of Berlin and Brandenburg and acquires additional funding from third parties.

### 1.1. Funding Objectives

The funding objectives are

- to support the qualitative and quantitative development of the Berlin-Brandenburg media industry and culture,
- to facilitate varied and high-quality film, television and media production in Berlin-Brandenburg
- to strengthen a further internationalisation of the regional media industry hub, especially regarding digital productions and the production of international films and series,
- to strengthen diversity, inclusion and equity of members of the film industry and work towards fair working conditions representing socially acceptable standards,
- to support young talents,
- to attend to the sustainable production of audiovisual content and the establishment of effective environmental standards in film production,
- to strengthen the economic competitiveness of the region's media companies – with a particular focus on independent production companies and technical service providers (especially in the digital field) – and their essential infrastructure,
- to showcase the region at home and abroad in its diversity, competence and accessibility.

### 1.2. Purpose of Funding

Funding is provided for audiovisual film and media productions in all stages of production and exploitation, including film exhibition. Funding will also be provided for innovative audiovisual content and other measures to strengthen the media industry.

The Medienboard funds projects in the following categories:

- Funding of script and project development,
- Funding for the production of films,
- Funding for the production of films by young talents,
- Funding for the production of television and VoD films and serial formats,
- Funding of distribution measures for theatrical films,
- Funding for cinemas,
- Funding for innovative audiovisual content
- Funding of other measures

### 1.3. Procedural Stipulations

The procedural stipulations as set out under Section 3 must be observed for all funding categories.

## 2. Funding Categories

### 2.1. Funding of Script and Project Development

The Medienboard can award selective loans for pre-production activities in the form of script development, project development or slate funding.

**Script development funding** may be used to support the preparation of fully developed screenplays for theatrical and television films as well as serial formats.

**Project development funding** may be used to support the development of an overall concept for a film, consisting of the creative elements of the film's production, financing, marketing, distribution, and exploitation. The prerequisite is a fully developed screenplay.

A company may be granted selective **slate funding** loans for script and/or project development funding of up to five projects. The slate's respective projects can be at different stages of development.

**2.1.1** Producers are **eligible to file applications**.

**2.1.2** As a rule, the funding is awarded as a conditionally repayable, interest-free loan and shall be repaid at the beginning of principal photography or when the rights are otherwise exploited. The producer's own financial contributions are not to be given priority. In the case of slate funding, repayment takes place on a pro rata basis for each exploited project.

**2.1.3** The loan must **be repaid**. **Repayment obligations** for script and/or project development usually expire five years after submission of the audit report (confirmation of use).

### 2.2. Funding for the Production of Films

The Medienboard can award selective loans for the production of feature-length films (films with a running time of at least 79 minutes, or 59 minutes for children's films). The projects must demonstrate with plausible reason their suitability for funding based on the criteria of quality and economic potential. Films may be allowed to be below the minimum running time in exceptional cases.

**2.2.1** Producers are **eligible to file applications**.

**2.2.2** As a rule, the funding is awarded as a **conditionally repayable, interest-free loan**.

**2.2.3** A prerequisite for production funding is usually that a **distribution contract** is in place to guarantee the film's commercial exploitation.

**2.2.4** Unless otherwise specified, the provisions of the German Film Law (FFG) and the associated German Federal Film Board (FFA) guidelines apply for the assessing of the eligibility of the production costs. Alternative arrangements may be made in the case of international co-productions.

**2.2.5** As a rule, the applicant should provide 50% of the total German financing as a **producer's own contribution**. Exceptions may be made particularly for projects with a content or build that exposes their economic exploitation to a high degree of risk. This producer's contribution may be provided through private resources

and outside funds, guarantees, licenses, performance-based loans (“Erfolgsdarlehen”), film prize monies and deferred personal or third-party services.

**2.2.6** The loan must **be repaid** from the proceeds of the funded film’s domestic and international exploitation. Distribution/sales commissions are usually considered pursuant to the provisions of the FFG.

As a rule, 50% of the revenues due to the applicant are to be used for the repayment of the loan after priority has been given to covering the producer's own investment as recognised by the Medienboard in the loan contract. If other funding bodies are involved in the film's financing, agreement is usually made on a pro rata repayment proportional to the respective loans granted.

If a lower priority for the producer's own investment and/or a repayment corridor have been agreed upon with another funding institution for the same project, this will also apply for the repayment of the Medienboard's loan.

**2.2.7 Repayment obligations** for theatrical films usually expire 10 years after the theatrical release. A corresponding repayment deadline can be agreed for projects where one can expect a longer period of commercial exploitation. If a longer repayment period has been agreed with another funding body, this can also apply for the Medienboard loan.

**2.2.8** If the loan has been repaid, the repayments may usually be deployed within three years from the start of repayment as a **performance-based** loan to finance a new project provided that Medienboard agrees and the project meets the conditions of the funding guidelines

**2.2.9** The **premiere** of funded theatrical films should be held in Berlin or Brandenburg.

**2.2.10** Unless otherwise stipulated, the holdback windows as regulated in the FFG shall usually also apply for the exploitation of supported theatrical films. The Medienboard may approve exceptions in justified cases at the request of the producer.

**2.2.11** The applicant shall provide proof that there is an agreement with a public service broadcaster, a private TV **network** or a VoD service in place for a **reversion of rights** to the applicant in accordance with the FFG regulations and the guidelines adopted on the basis of the FFG.

If the applicant grants their TV rights for the German-language licensing area to a distributor in return for an appropriate distribution guarantee, these rights must then revert to the applicant in accordance with FFG regulations and the guidelines adopted on the basis of the FFG.

**2.2.12** The applicant is obliged to provide the Stiftung Deutsche Kinemathek with a technically faultless **copy** of the funded production in an archive-compatible format, free of charge.

### **2.3. Funding for the Production of Films by Young Talents**

The Medienboard supports young talents, especially in the categories of graduation, debut and short film.

**2.3.1** Support may be given exclusively to **graduation films** by students from the film academies located in the Berlin-Brandenburg region, the German Film & Television Academy (dfffb) and the Film University Babelsberg KONRAD WOLF. Graduation films may be funded through grants. A prerequisite for funding is that the project

meets the Medienboard's quality criteria and a recommendation has been provided by the school's administration. Funding may be granted to fiction and non-fiction graduation films without any restrictions on length or format. The producers and/or the respective film academies are eligible to file applications.

**2.3.2** In addition, **debut films** may be funded with conditionally repayable, interest-free loans. As a rule, debut films are first and second films.

**2.3.3** The **short film funding** category also aims to facilitate the realisation of stories outside of established length formats. The funding is usually awarded as a grant.

## 2.4. Funding for Distribution Measures for Theatrical Films

The Medienboard may support distribution and marketing measures in Germany as well as national and international presentations of films if their funding is of particular film cultural or economic interest for Berlin-Brandenburg.

**2.4.1** Distribution companies resident in Germany are eligible to file applications.

**2.4.2** The funding is usually awarded as a **conditionally repayable, interest-free loan**.

**2.4.3** As a rule, funding is provided for **advance distribution costs** of films in accordance with the FFG regulations.

**2.4.4** The funding usually amounts up to 50% of the documented distribution advance costs. The applicant's **own investment** should usually cover at least 50% of the distribution advance costs. Exceptions may be made in particular, for projects whose content and build mean that their commercial exploitation is subject to a high degree of risk.

**2.4.5** The obligation to **repay** the loan is effected from the film's distribution proceeds to which the applicant is entitled after covering the eligible distribution advance costs. **Repayment obligations** for distribution and marketing measures usually expire five years after the film's theatrical release.

**2.4.6** If the loan has been repaid, the repayments may usually be deployed within three years from the start of repayment as a **performance-based loan** to finance a new project provided that the Medienboard agrees and the new project meets the conditions of the funding guidelines.

**2.4.7** As a rule, the FFG's **holdback windows** apply for the exploitation of supported theatrical films.

## 2.5. Funding for the Production of Television and VoD Films

The Medienboard may fund television and VoD films.

**2.5.1** The provisions for the production funding of films (Section 2.2) respectively apply to the funding for television films, insofar as they are factually applicable and do not contradict any of the terms stipulated below.

**2.5.2** As a rule, independent producers are eligible to file applications. Fully financed commissioned productions cannot be supported.

**2.5.3** The accumulated public funding for film productions may not exceed 30% of the German share of the production costs.

**2.5.4** As a rule, the funding is awarded as a **conditionally repayable, interest-free loan**. The repayment obligation usually expires 10 years after the funded work has first been made available to the public.

**2.5.5** The contractual division of rights between the producer and the exploiter should

be undertaken in a **balanced manner** in accordance with their participation in the project. In this case, support in the form of public funds is regarded as the producer's contribution. As a rule, funding may not be granted to projects where the division of rights falls short of a framework agreement between the producer and the respective co-producer or an association representing this latter party to the detriment of the producer.

## 2.6. Funding for the Production of Serial Formats

The Medienboard may provide funding for the production of serial formats of all genres.

- 2.6.1 As a rule, the funding is awarded as a **conditionally repayable, interest-free loan**.
- 2.6.2 Paragraph 2.5.3 applies respectively for the funding of serial formats.
- 2.6.3 The producer should provide concrete evidence of interest in exploitation.
- 2.6.4 The contractual division of rights between the producer and the exploiter should be undertaken in a **balanced manner** in accordance with their participation in the project. Paragraph 2.5.2 Sentence 1 applies in principle respectively. Support in the form of public funds is regarded in this case as the producer's contribution. As a rule, funding may not be granted to projects where the division of rights falls short of a framework agreement between the producer and the exploiter to the detriment of the producer.
- 2.6.5 The repayment of the loan is to be made from the proceeds derived from the producer's exploitation of the rights to the serial formats. The **repayment obligation** usually expires 10 years after the first time that the funded work has been made available to the public.
- 2.6.6 The applicant must provide the Medienboard with the funded work on two data carriers, e.g. DVD copies, in the original and, if applicable, dubbed version.
- 2.6.7 If the loan has been repaid, the repayments may usually be used within three years from the start of repayment as a **performance-based loan** to finance a new project provided that the Medienboard agrees and the new project meets the conditions of the funding guidelines.

## 2.7. Funding of Innovative Audiovisual Content

The Medienboard may fund innovative and interactive audiovisual content in general for non-linear distribution channels (Internet, mobile, etc.). The prerequisite is that the projects must promise a work that is worthy of funding based on the criteria of quality and economic potential.

- 2.7.1 Funding of **innovative audio-visual content** is provided as development or production funding or as combined development and production funding.
- 2.7.2 Developers and producers are eligible to file applications.
- 2.7.3 As a rule, the applicant should provide an **own investment** of 50% of the German financing share when applying for production funding. Exceptions may be made in particular, for projects whose content and build mean that their commercial exploitation is subject to a high degree of risk.
- 2.7.4 The funding is usually granted as a **conditionally repayable, interest-free loan**. The **loan is repaid** from the revenues derived from exploiting the rights to the innovative audiovisual content. Attention should be paid here to ensuring that a

fair division of rights is in place in the contracts between applicant and exploiter, and that the rights remaining with the applicant are clearly indicated and recoverable. Details are regulated by the funding contract.

- 2.7.5** If the loan has been repaid, the repayments may usually be used within three years from the start of repayment as a **performance-based loan** to finance a new project provided that the Medienboard agrees and the new project meets the conditions of the funding guidelines.

## 2.8. Funding of Cinemas

- 2.8.1** The Medienboard may support cinemas by awarding the CINEMA PROGRAMME PRIZE for particularly successful film programmes. The prize money is allocated in accordance with a funding framework to be determined by the supervisory board and it must be used for the purpose of running the award-winning cinema.
- 2.8.2** Those eligible to file an application in accordance with 2.8.1 are operators of permanent cinemas in Berlin-Brandenburg which have usually existed for at least two years. If the person applying has taken over the running of another cinema, the prize money can also be used on application for the running of this cinema if its programming corresponds with that of the award-winning cinema.
- 2.8.3** With prize money of up to 10,000 Euros, the appropriate use is usually considered to be given if operation of the award-winning cinema has been continued for a period of at least 12 months from the time of the award. A cinema is required to continue operating for the period of 18 months in the case of prize money of 15,000 Euros, and for a period of 24 months in the case of prize money amounting to 20,000 Euros and more. The total amount is the deciding factor if there is an accumulation of several programming awards. If the award-winning cinema is closed prematurely, the premiums must be repaid on a pro rata basis. The appropriate use of the prizes can also be proven by means of individual evidence at the request of the cinema operator.
- 2.8.4** The cinemas may also be supported with **other funding measures**. These include in particular:
- measures for modernisation, improvement and new construction of cinemas if it serves structural improvement,
  - measures for organising special, high quality presentations,
  - measures for creating barrier-free access,
  - extraordinary and/or innovative marketing measures by individual cinemas or based on contractually agreed cooperative ventures between cinemas,
  - measures which, in the context of an overall assessment, appear suitable to strengthen the competitiveness of the cinemas in the region as a whole.
- 2.8.5** In principle, individual cinema operators in Berlin-Brandenburg are **eligible to file applications** pursuant to 2.8.4, while several cinemas working together or their authorised third parties can apply in the case of cooperative ventures.
- 2.8.6** The eligible costs and the aid intensity for these funding measures can be deduced from Article 53 GBER.

## 2.9. Funding of Other Measures

- 2.9.1** The Medienboard may fund measures aimed at strengthening the film and

audiovisual media industry in Berlin-Brandenburg. These include measures to improve the film and media culture and the film and media economy, in particular, measures focusing on education and professionalisation, events as well as marketing measures, including the presentation of the region's film and media industry hub.

- 2.9.2** The eligible costs and the aid intensity for these funding measures is derived from Article 53 GBER.

## 3. General Conditions for Funding

### 3.1. General Requirements

**3.1.1.** Funding is only granted to projects which correspond with the Medienboard's funding objectives. No funds will be granted to any project which might promise a work that contravenes the Constitution or any laws, offends personal rights or moral or religious feelings, or whose content is pornographic, exalts violence or is unsuitable to minors, according to §§ 131, 184 of the Criminal Code.

**3.1.2.** The allocation of public funds by the Medienboard may only be **effected** within the scope of the fund made available for the funding programme and managed by the Medienboard on a trust basis. There is no statutory right to funding by the Medienboard.

The **codes of practice** devised by the Medienboard and accessible at [www.medienboard.de](http://www.medienboard.de) are of particular relevance for applications in tandem with the funding guidelines since they provide detailed information about the general and specific requirements of the funding procedure and the particular funding categories.

**3.1.3.** Funding from the Medienboard may be combined with funding from other funding institutions, according to Article 8 GBER. Insofar as upper limits apply to the accumulation of state aid funding under German or European law, these limits will also apply to any funding granted under the terms of these guidelines. If the script or project is filmed or realised, the costs of preparing the production are included in the total budget and are taken into account when calculating the aid intensity for the audiovisual work concerned. This does not apply where the funding from the preparatory phase has already been repaid in full by the beginning of principal photography.

**3.1.4.** The aid intensity of support for the production of audiovisual works (Paragraphs 2.2., 2.3., 2.4, 2.5., 2.6., 2.7.) may not exceed 50% of the eligible costs. The aid intensity may be increased as follows: to 60% of the eligible costs in the case of cross-border productions which are financed by more than one Member State and involve producers from more than one Member State; to 100% of the eligible costs in the case of difficult audiovisual works, i.e. short films, first and second films by directors, documentaries, films for children and young people, experimental films, low-budget productions as well as other commercially difficult works.

**3.1.5.** The level of support is assessed on the basis of the German share of the financing. The amounts before tax and other charges will be considered when calculating the funding and the eligible costs. The costs must be verified by documentation made in writing.

**3.1.6.** Public service broadcasters, private networks and platform operators are in

principle not eligible to file applications.

- 3.1.7. Projects funded should aim to realise a balanced ratio of women and men participating, fair working conditions should be achieved through the adoption of industry-level collective agreements or comparable social standards. Matters regarding vocational training and education should be adequately considered.
- 3.1.8. Furthermore, effective measures to promote environmental sustainability („Green Shooting“) should be deployed in film production so as to achieve a more significant reduction in CO2 emissions and other environmentally harmful emissions.

## 3.2. Application

3.2.1. The Medienboard may fund measures aimed at strengthening the film and audiovisual media industry in Berlin-Brandenburg. These include measures to improve the film and media culture and the film and media economy, in particular, measures focusing on education and professionalisation, events as well as marketing measures, including the presentation of the film and media industry hub.

Funding should be granted to businesses who have a registered location, branch office, or at least a permanent establishment in Berlin-Brandenburg at the point in time when the funding is being disbursed. In derogation of this, a project may also be supported if funding would be of particular media cultural or economic interest for Berlin-Brandenburg.

- 3.2.2. The funding of a project by the Medienboard requires an application to be submitted within the deadlines set by the Medienboard. Applications must be submitted in digital form using the online application portal. The necessary enclosures to accompany the application are indicated in the portal and must be uploaded. Incomplete applications are deemed as not having been filed if the applicant fails to supply the missing information within a set time period despite being requested to do so.
- 3.2.3. Work on the project **may not have commenced at the time of the application.** After the application has been submitted, approval for the early start to the measure may be granted following a specific request by the applicant. The approval of an exception to the prohibition of an early start to the measure does not constitute an entitlement to funding. The risk that the funding application will not be granted in whole or in part lies with the applicant.
- 3.2.4. The project's costs must be calculated according to industry norms and the principle of budgetary rigour.
- 3.2.5. A prerequisite for the funding of a project is that the applicant contributes to the financing of the project with their own investment.

## 3.3. Regional Spend

The regional spend corresponds to the eligible production costs which are spent in Berlin and Brandenburg. If the regional effect is lower than that specified in the funding application, this will require the approval of the Medienboard; however, the funding sum granted should at least be spent in the region. The regional effect may be waived in whole or in part by the Medienboard if the region has a particular interest in the project. This is without prejudice to the fact that at least 20% of the production costs may be spent in another Member State of the European Union.

### 3.4. Allocation of Funds

- 3.4.1. After examining the applications, the Medienboard usually makes its decision on set dates about the allocation of funding.
- 3.4.2. In the event of a positive decision, a funding commitment by the Medienboard is made in writing.
- 3.4.3. The commitment expires if overall financing for the project has not been documented within a maximum of six months from the decision having been made. This period may be extended upon request.

### 3.5. Disbursement

- 3.5.1. As a rule, the funding is disbursed in several instalments and requires proof of the project's overall financing and the conclusion of a funding contract.
- 3.5.2. Details are governed by the funding contract.
- 3.5.3. Audit reporting (**Confirmation of use**) of the disbursed funding must be supplied to the agent of the Medienboard. In the case of multiple funding, the Medienboard may agree with other funding institutions to have a joint audit.

### 3.6. Obligation to give Credit and Assignment of Rights

- 3.6.1. The front and end credits of supported works as well as all advertising materials must **make reference to the funding** in an appropriate form and after consultation with the Medienboard. All other funded projects refer to Medienboard's support in the appropriate place.
- 3.6.2. The loan recipient must grant the Medienboard a free, temporally and geographically unrestricted, non-exclusive right to make non-commercial use of the project as well as photos, stills, posters, material about the project's production history (making of, behind the scenes material) or trailers, for its own promotional purposes. Details are governed by the funding contract.

### 3.7. Provisions of European Law

- 3.7.1. The funding granted according to these guidelines are recognised as aid pursuant to Article 107 Paragraph 1 of the „Treaty on the Functioning of the European Union“, which, in accordance with Article 53 („Aid for culture and heritage conservation“) and Article 54 („Aid schemes for audiovisual works“) of the Commission's General Block Exemption Regulation (GBER) No. 651/2014, issued 17. June, 2014 (ABI L.187, 26.06.2014, p. 1), are compatible with the internal market and exempt from notification requirement of Article 108 Paragraph 3.
- 3.7.2. Funding granted according to sections 2.1. to 2.7 fall under Article 54 GBER. The funding granted according to sections 2.8 and 2.9 fall under Article 53 GBER.
- 3.7.3. Individual funding of a project on the basis of these funding guidelines is limited to a maximum of 3 million Euros of eligible expenditure. Funding according to these guidelines is provided in the form of grants or performance-based loans. Please note that information about every individual aid over € 500,000 will be published on the European Commission's detailed state aid website.
- 3.7.4. The eligible costs shall be calculated on the basis of the amounts before deduction of taxes and other charges. Eligible costs must be supported by written documentation that is clear, specific and up-to-date. The grant may not exceed the maximum amount of aid permissible under the European Union's state aid rules if

various aids are combined. Reference is made here to the cumulation regulation of Article 8 GBER.

**3.7.5.** Grants within the scope of Article 1 II to V GBER are excluded from funding. In addition, companies are excluded from support that have not complied with a recovery order based on a previous Commission decision declaring an aid granted by the same Member State as being illegal and incompatible with the internal market. This also applies to companies experiencing difficulties according to Article 2 No. 18 GBER. However, those companies that were not companies in difficulties on 31 December, 2019, but became companies in difficulties in the period between 1 January, 2020 and 30 June, 2021, are not considered to be companies in difficulties.

### **3.8. Other information**

**3.8.1.** In addition, the specific rules for the individual funding categories as specified in section 2 must be observed. Insofar as these funding guidelines do not contain any separate provisions, the currently valid versions of the FFG and the FFA guidelines issued in accordance with the FFG shall apply respectively, insofar as they are factually relevant.

**3.8.2.** The Medienboard awards **state aid** (subsidies). Subsidy fraud is a punishable offence under § 264 of the Criminal Code (StGB). The statements made in the application as well as in the additional documents submitted are relevant to the subsidy pursuant to § 264 StGB.

## **4. Entry into Force**

These funding guidelines come into effect on 01 January 2021. They shall apply until 31 December, 2023.

This translation into English is a service. Only the German text of this guideline is binding.
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