



**Distribution Sub-Regulations of the Netherlands Film
Fund**

1 January 2021

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Changes taking effect from 1 January 2021 are marked *

Distribution Sub-Regulations of the Netherlands Film Fund of 1 January 2021

The Stichting Nederlands Fonds voor de Film [Netherlands Film Fund],

In view of the stipulations in the Algemene Wet Bestuursrecht (Dutch General Administrative Law Act),

In view of Article 10, paragraph 4, of the Wet op het specifieke cultuurbeleid (Dutch Cultural Policy (Special-Purpose Funding) Act),

In view of Article 2 of the Algemeen Reglement (General Regulations),

decides as follows:

GENERAL

- Definitions -

Article 1

In these sub-regulations the terms below have the following meaning:

Arthouse film:	a feature film where the emphasis is on the artistic quality and the end result is so idiosyncratic and special that this is recognised and valued nationally and/or internationally;
Board:	the board of the Fund;
Benelux:	the territory of Belgium, the Netherlands and Luxembourg;
Cinema operator:	the legal entity that continuously engages in business activities aimed mainly at the exploitation of one or more cinemas in the Netherlands;
Cinema release:	the national distribution of a film production, which is released with a daily screening for several weeks after the première and in several cinemas and/or film theatres before a paying audience in the Netherlands; *
Cross-media marketing & distribution plan:	a detailed plan of all activities in the field of marketing and distribution, using all possible forms of promotion, advertising and (social) media, for the cinema release and further exploitation of the film production;
DCP:	(digital cinema package) the digitally stored copy of the film production, which can be screened in a cinema; *
Distribution:	the professional release and exploitation of film productions;
Documentary:	a non-fiction film production, at least 70 minutes in length, suitable for cinema screening that throws light upon an aspect of reality where the director's own vision is given shape making creative use of cinematic resources in a personal style;
Encoding costs:	digital conversion of a film production for a digital cinema release;
Estimates:	expectations of the gross and net income from all forms of exploitation in a low, medium and high exploitation model, also including VOD and/or other digital distribution and the viewer forecast and number of units of DVD and Blu-ray sold in the different exploitation models;
Film distributor:	a legal entity that continuously engages in business activities aimed mainly at releasing and exploiting film productions in the Dutch cinema and via other distribution channels. At the time the application for the grant is made, this legal entity has been based and active for at least two years beforehand in the Netherlands, a Member State of the European Union, or in a State that is party to the agreement establishing the European Economic Area, or in Switzerland;
Film production:	a cinematographic work;
Film theatre:	a cinema that is distinguished by a diverse provision in which priority is given to the arthouse film;
Fund:	Netherlands Film Fund;
Children's film and film for young people:	a feature film or documentary for children and/or young people; *

Short film production:	a film production with a maximum length of 10 minutes;
Majority film production:	a national or international film production in which the Dutch producer is a majority (co-)producer and the composition of the artistic team means that the film production can be regarded as Dutch; *
Marketing & promotion:	activities aimed at maximising the audience reach and a clear positioning of the film production in line with the target group and among other things consisting of the drawing up and implementation of a cross-media marketing and distribution plan tailored to the film production, working out the place of release, drawing up and implementation of a media and advertising plan, and the promotion, setting up and implementation of possible merchandising.
Mainstream film:	a feature film where the emphasis lies on the audience potential, that is the size of the audience reach relating to the intended exploitation results;
Minimum guarantee:	an advance on revenues from exploitation that is invested in the realisation or purchase of a film production and is not refundable, but can be offset against any revenues that a film production may generate through screening in cinemas and further exploitation in the widest sense of the word;
Minority co-production:	a(n international) film production to be released in the Dutch cinema and/or film theatres, for which the Dutch producer has limited decision-making powers and responsibility and has also contributed a minority of the funding for the film production;
M&E:	the audio tracks of a film production in which the dialogues are separated from the music and effects;
NFO:	Netherlands Film Theatre Consultative Committee;
Non-theatrical release:	all possible forms of distribution of a film production, except those via cinemas and film theatres, in any case including distribution on DVD and Blu-ray, via television, Video On Demand, pay per view and online distribution channels;
On demand:	digital applications that, for each film title or in the form of a subscription, puts the user in a position to view film productions, at the time when he wants;
Broadcasting:	making known to the public by screening the film production;
Outreach campaign:	a marketing method involving a targeted search for credible influencers (people, organisations, foundations, etc) who have a strong, clear link with the subject of the film and who in their turn can reach a very specific target group and tell them about the film;
Picture lock:	the finally decided montage version of the film production, based on which the further editing is carried out;
Printing costs:	the costs for duplication and/or production of a DCP for screening of the film production;
Prints & advertising (P&A):	the direct costs after the realisation phase relating to the cinema release and promotion of the film production ready for screening and the costs of the release copies (printing costs/DCP);
Producer:	the natural person who legally represents the production company and is ultimately responsible within the organisation of the production company for policy, operations and content;
Production costs:	the costs associated with the realisation of a film production;
Production company:	a legal entity that continuously engages in business activities aimed mainly at the production and exploitation of film productions and other audiovisual media productions. At the time of the application for a grant this legal entity has been based and active for at least two years beforehand in the Netherlands, a Member State of the European Union, or in a State that is party to the agreement establishing the European Economic Area, or in Switzerland;
Feature film:	a film production in the fiction genre with a screening time of at least 60 minutes, which is primarily intended for cinema release;

- Scope of regulations -

Article 2

1. These sub-regulations apply to financial contributions that the board makes for the distribution of majority film productions and minority co-productions, and the associated marketing & promotion, and the distribution and associated marketing & promotion of foreign arthouse films which, for the purpose of these sub-regulations, also include foreign children's films and films for young people and foreign documentaries. *
2. The Fund's General Regulations apply alongside and in addition to these sub-regulations.

*- Applicant - **

Article 3

1. An application within the meaning of this regulation is made by a film distributor. If the film distributor is a member of the same group of companies as the production company and/or the producer associated with it, the board may lay down further conditions.
2. Contrary to paragraph 1, subject to further conditions an application for the release of a Dutch majority film production in cinemas in the Netherlands can also be made by a production company, represented by a producer, in the case of a specific national release in film theatres and/or through other distribution channels aimed at a specific target group where
 - a) no film distributor has been found willing to release the film production in this way; and
 - b) the cinema release and non-theatrical release have been demonstrably guaranteed and take place in collaboration with a film marketing or publicity agency.
3. An application for a screening contribution from a film theatre is made by a film theatre located in the Netherlands that is classed as a Large Film Theatre by the Netherlands Cinema and Film Theatre Association and/or is affiliated to Europa Cinemas.
4. The board may lay down further conditions for the applicant and/or application. They will be published on the Fund's website.

*- Application - **

Article 4

1. An application is submitted digitally, with a copy of this digital application, signed by the applicant, being submitted to the Fund.
2. Applications for a financial contribution under Articles 13, 16 and 21 will be considered in submission rounds.
3. The applicant shall in any case submit with the application a declaration in which he guarantees, whether or not by means of a licence, that he has the screening rights to the film production(s) required for awarding the grant.
4. The following must be submitted with grant applications under Articles 8, 13 and 16 in these sub-regulations:
 - a) a cross-media marketing and distribution plan drawn up by the applicant with associated budget and guarantees that must aim to optimise audience reach through a cinema release and non-theatrical release;
 - b) a declaration in which the applicant guarantees that its financial position, in particular the relationship between available funds and obligations entered into before the application, has not deteriorated such that the stability and solvency of the applicant is at risk and also, in the applicant's realistic expectation, that such a deterioration will not occur;
 - c) in the case of a foreign arthouse film or a foreign quality children's film or film for young people: a screening link of the film.
5. Applications for a screening contribution from a film theatre must be submitted at the latest before 31 January in the year following the calendar year in which the results have been achieved.

*- Form of grant - **

Article 5

1. The grant to be awarded under these sub-regulations will be provided in the form of a capital contribution, unless special circumstances justify a grant in the form of a loan. This loan must be repaid out of revenue earned from the exploitation of the film production.
2. The board may attach further conditions to the grant for distribution under these sub-regulations.

- Marketing & promotion, prints & advertising costs eligible for a grant - *

Article 6

1. In these sub-regulations a financial contribution to meet the costs of *marketing & promotion, prints & advertising* means the relevant costs as appear on the list of *Marketing & promotion, prints & advertising costs eligible for a grant* and set out in the Fund's Financial & Production Protocol.
2. A contribution in the form of a *minimum guarantee*, or some other type of contribution by the film distributor to the production costs of the film production, will not be counted as costs of marketing & promotion, prints & advertising eligible for a grant.
3. At least 20% of the budgeted costs of *marketing & promotion, prints & advertising* must be demonstrably financed by the applicant.

- Grant ceiling - *

Article 7

The board can set a grant ceiling each year and/or for each application round. It will be published on the Fund's website: www.filmfonds.nl.

SPECIAL PROVISIONS

1. Dutch majority film production and minority co-production

- Activity eligible for a grant -

Article 8

1. Dutch majority film productions and minority co-productions that qualify as feature films and documentaries may be eligible for a financial contribution to meet the costs of marketing & promotion and prints & advertising for *cinema release* in the Netherlands. *
2. Notwithstanding paragraph 1, the board can, in what it feels are special cases, on the basis of a substantiated application, grant the financial contribution for a non-theatrical release. *
3. The board may make a contribution for the *cinema release* of a short film production of a maximum of 10 minutes created with a realisation contribution under the Fund's Realisation Sub-Regulations, which is screened as a supporting film for a main film with a cinema release. This contribution consists exclusively of a payment for the *printing costs* or *encoding costs*.

- Application requirements -

Article 9

1. Applications may be submitted from the time that the Fund awards the grant for realisation based on the Realisation Sub-Regulations to the film production until not later than six weeks before the start of the cinema release or non-theatrical release of the film production for which a financial contribution is sought. *

- Evaluation criterion -

Article 10

For a contribution to be awarded the cross-media marketing and distribution plan with accompanying budget and underlying guarantees in respect of the cinema release or non-theatrical release must be of sufficient quality that, in the opinion of the board, there is a feasible, carefully thought-out and realistic audience approach, based on which the film production will attain optimum reach.

- Obligations -

Article 11

The following obligations may be attached to the granting of a financial contribution:

- a) there should be a demonstrable and thorough distribution in the form of an optimum cinema release or *non-theatrical release*;
- b) a window of at least 6 months for documentaries and 18 months for feature films and long animated films must be taken into account between the cinema release and non-theatrical release on the one hand and television release on the open network on the other.

- Grounds for refusal -

Article 12

In addition to Article 14 of the General Regulations an application for a financial contribution is rejected where a film production is involved:

- a) for which no realisation contribution has been granted under the Realisation Sub-Regulations;
- b) for which no cross-media marketing & distribution plan and associated marketing & distribution budget have been supplied that meet the requirements of the Fund;
- c) for which no guarantees for the cinema release or non-theatrical release have been given;
- d) that has previously, as a minority co-production, received a financial contribution on the basis of Cinema release of foreign arthouse film in the Netherlands (Article 13 or Article 16);
- e) whose cinema release and/or *non-theatrical release* are purely instrumental or primarily serve a promotional purpose. *

2. Foreign arthouse film

2.1 Cinema release of foreign arthouse film or documentary in the Netherlands

- Activity eligible for a grant - *

Article 13

1. An application for a financial contribution towards the costs of *marketing & promotion, prints & advertising* for the Dutch cinema release and non-theatrical release can be made for a foreign arthouse film or foreign documentary that has been selected for at least one film festival appearing on the list of *International Film Festivals*, as set out in the Fund's Financial & Production Protocol.
2. The foreign arthouse film or foreign documentary must be an unquestionably quality and distinctive international film production, with an added value for film culture in the Netherlands.

- Assessment criteria - *

Article 14

1. For an award
 - a. the arthouse film or foreign documentary must, in the opinion of the board, satisfy the provisions of Article 13, paragraph 2;
 - b. the cross-media marketing and distribution plan with associated marketing & distribution budget and underlying guarantees concerning the cinema release and non-theatrical release must be of such *quality* that, in the opinion of the board, there is a feasible, carefully thought-out and realistic public approach on the basis of which the film production will have optimum reach at a national level.
2. Arthouse films or foreign documentaries selected for a main competition of an international A-rated film festival as set out in the Fund's Financial & Production Protocol have no priority under this scheme.

- Grounds for refusal - *

Article 15

In addition to Article 14 of the General Regulations, an application for a financial contribution will be rejected if:

1. a contribution has previously been granted for the arthouse film or foreign documentary under the Distribution Sub-Regulations;
2. the applicant has previously received two financial contributions in the same calendar year under the Cinema release of foreign arthouse film or documentary in the Netherlands (Article 13).

2.2. Cinema release of a foreign quality children's film and film for young people in the Netherlands

- Activity eligible for a grant - *

Article 16

An application for a financial contribution towards the costs of *marketing & promotion, prints & advertising* for the Dutch cinema release and non-theatrical release can be made for a foreign quality children's film and film for young people selected for at least one film festival appearing on the list of *International Film Festivals* set out in the Fund's Financial & Production Protocol.

- Assessment criteria - *

Article 17

For an award:

- a. the foreign quality children's film and film for young people must be an unquestionably quality and international film production, with a minimum length of 60 minutes (an exception can be made to this for films for toddlers and preschool children).
- b. the cross-media marketing and distribution plan with associated marketing & distribution budget and underlying guarantees concerning the cinema release and non-theatrical release must be of such *quality* that, in the opinion of the board, there is a feasible, carefully thought-out and realistic public approach on the basis of which the film production will have optimum reach.

- Obligations - *

Article 18

1. The date of cinema release of the foreign children's film or film for young people must be submitted to the Fund for approval, with the aim, in part on the advice of the NFO and taking account of the specific target group, of a spread of the children's films and films for young people in the film theatres across the different school holidays;
2. In the first four weeks of the cinema release a minimum of 60% of the theatres in which the film production is released must be a film theatre.

- Grounds for refusal - *

Article 19

In addition to Article 14 of the General Regulations, an application for a financial contribution will be rejected if:

- a. a contribution has previously been granted for the children's film or film for young people under the Distribution Sub-Regulations;
- b. the applicant has previously received two financial contributions in the same calendar year under the Cinema release of a foreign children's film and film for young people in the Netherlands (Article 16).

3. Special distribution

- Activity eligible for a grant -

Article 20

1. A grant may be awarded for special innovative distribution activities to reinforce the marketing & promotion and distribution of Dutch film productions and strengthening of a diverse distribution and screening climate in the Netherlands in general. Activities with a sustainable impact will be prioritised.
2. If the government makes additional funds available to the Fund to combat the consequences of a pandemic, the board can grant a contribution to legal entities to offset the consequences of the pandemic. In this case the board will announce an application round, and the associated conditions, on the Fund's website: www.filmfonds.nl.

4. Screening contribution for film theatres (pilot programme 2019-2021)

- Activity eligible for a grant - *

Article 21

To increase the visibility of Dutch film productions in film theatres, the board can provide a film theatre as referred to in Article 3, paragraph 3, with a contribution the film theatre can use to facilitate the screening of new Dutch majority film productions based on the paying viewers of one or more Dutch majority film productions in the film theatre concerned recorded in the previous calendar year. The board will announce an application round and the associated conditions on the Fund's website: www.filmfonds.nl.

- Requirements - *

Article 22

1. The board will in any event attach the following conditions to a film theatre screening contribution:
 - a. the film theatre must screen Dutch majority film productions on a regular basis;
 - b. the film theatre must be affiliated to the Maccs Box registration system;
 - c. the majority film production on the basis of which an application is submitted must be a Dutch feature film or Dutch documentary.
2. The number of paying viewers recorded will be determined by the board, subject to Article 23, on the basis of the current Maccs Box registration system that Dutch cinemas, film theatres and film distributors use for cinema release.

- Grounds for refusal - *

Article 23

In addition to Article 14 of the General Regulations, no screening contribution of a film theatre will be granted on the basis of the recorded number of paying viewers of:

- a. a film production to which no contribution has been granted under the Realisation Sub-Regulations;
- b. a minority co-production.

FINAL PROVISIONS

Article 24

1. The board shall decide in all cases not provided for by this regulation.
2. The board may for important reasons deviate from this regulation, where such deviations are compatible with the assessment framework for state support to the film sector, as used by the European Commission.
3. This regulation was adopted by the board with the approval of the Board of Trustees on 6 November 2020 and comes into force with effect from 1 January 2021.
4. The Distribution Sub-Regulations, applicable from 16 June 2020, are withdrawn as of 1 January 2021.
5. The Sub-Regulations as applicable up to 1 January 2020 remain applicable to all applications received by the Fund before 1 January 2021.
6. This regulation is cited as Distribution Sub-Regulations of the Netherlands Film Fund.
7. These regulations will be published by an announcement in the Staatscourant (Dutch Government Gazette) and on the website of the Netherlands Film Fund (www.filmfonds.nl).

NOTES

Distribution is understood to mean the professional (cinema) release and exploitation of film productions. The regulation describes in the general part among other things the methods, procedures, requirements and obligations of the applicant that apply for all grants for distribution. The second part lays down the special provisions for each specific film production for which a distribution contribution can be requested. The provisions of the general part apply in full to these film productions.

Article 1 (Definitions)

For an *arthouse film* the emphasis lies on the artistic potential of the film production, which is understood to mean that the end result will be of such a special quality that the film production will be well received nationally and/or internationally on this basis and there is a credible chance that the film production will be selected for international festivals and/or prizes and for international sale.

A *cross-media marketing and distribution plan* is understood to mean a plan drawn up by the film distributor and producer together which describes how the film production will be marketed, and how different forms of marketing & promotion, advertising, communication, social media and distribution are used for this to reach the public. The requirement to submit a cross-media plan with an application as referred to in Article 4, paragraph 4, is in line with the obligation associated with this award that the film distributor achieves the optimum possible release in cinemas and/or film theatres as well as the optimum possible non-theatrical release. The film distributor must include in the cross-media marketing and distribution plan not only a distribution in the cinema or the film theatre (cinema release), but also other forms of screening and exploitation in the plan (non-theatrical release, such as a classic DVD release, exploitation via digital platforms, closed circuits (in-flight entertainment, hotel networks, etc), Pay TV and the various 'on demand' applications) form part of the non-theatrical release.

The Fund understands by the definition of *cinema release* a thorough and national distribution of a film production through cinemas and film theatres. The definition elaborates on this by saying that the film production is released for a significant number of weeks and in a significant number of cinemas and/or film theatres after the première before a paying audience. In the case where a contribution for a film production is granted under the Realisation Sub-Regulations, the extent of the release must be in line with the approved exploitation objective in the application.

An instrumental or promotional release whose primary aim is not a cinema release but for example a release on television or through a streaming service does not qualify as a cinema release. *

The first broadcast is the first public screening of the film production.

Article 3 (Applicant)

In principle the film distributor is the applicant, in any event for feature films and documentaries aiming at a national public reach and a regular cinema release. The film distributor must involve specialist staff who have demonstrable film distribution experience in the release of the film production. *

Agreements on a different division of tasks can in theory be made between distribution company and production company, such as the producer has first line responsibility for marketing and promotion. A different division of tasks must be discussed with the Fund. The condition is that in this case the producer has his own specialist staff available and engages a film marketing agency for the marketing and promotion.

If the applicant is a member of the same group of companies as the producer or the production company or they are associated with each other in any other way, then the natural person responsible for the day-to-day management and performance of the marketing and distribution activities must have independent authority to sign.

Where a film production requires a very specific release aimed at a smaller target group and the producer has demonstrably not found a film distributor willing to release the film production in a different way, the board decides on a case-by-case basis whether non-standard agreements are possible. If a producer wishes to release the film production through his own production company, this must be discussed with the Fund in advance and a good substantiation regarding the cinema release and non-theatrical release must be submitted and the film production must be released in collaboration with an experienced film marketing or publicity agency.

Article 4 (Application)

Contributions made by public funds or institutions in or outside the Netherlands, similar to the Fund, are not regarded as an investment by the film distributor.

Article 5 (Form of grant)

The board attaches further conditions to the grant for distribution. In the order among other things it will be laid down whether, and if so, when, the applicant must pay back (part of) the contribution from the Fund. If no repayment is required, the grant contribution will lower the cost price in relation to the total costs that are part of any agreements on the distribution of revenue from exploitation.

Article 8 (Dutch majority film production and minority co-production/activity eligible for a grant)

If the distribution strategy for a specific film production deviates from a (regular) cinema release, as may be the case with a sensitive artistic film or documentary with limited commercial potential, this must be substantiated in the application. A non-standard distribution strategy may include an event release with an outreach campaign or a tour release in film theatres across the country. The non-standard distribution strategy must convince the Fund that the envisaged target group can be reached and the national visibility comes about in a similar fashion. The board will decide whether non-standard agreements are possible and to what extent a contribution will be made to this on a case-by-case basis. *

Article 11 (Obligations)

If the applicant wishes to deviate from the window, this will be substantiated in the application. Such a deviation will be honoured in special cases, at the Fund's discretion.

Article 21 (Screening contribution film theatres – pilot programme 2019-2021)

Film theatres located in the Netherlands can apply for a contribution they can use to facilitate the screening of new selectively supported Dutch majority film productions on the basis of paying viewers of Dutch feature films or documentaries in the film theatre concerned recorded in the previous calendar year. The Fund uses Maccs Box to determine the viewer numbers of the films concerned of the previous calendar year. This is a time-limited pilot. The Fund will evaluate whether and under what conditions this form of grant will continue before this time comes to an end.