II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 22 July 1993

on an action plan for the introduction of advanced television services in Europe

(93/424/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas the Community, through Decisions 89/337/EEC (4) and 89/630/EEC (5), recognized the strategic importance of high definition television (HDTV) for the European consumer electronics industry and for the European television and film industries and established the strategy framework for the introduction of European HDTV;

Whereas the objectives of the strategy for the introduction of HDTV in Europe are an integral part of the Community audio-visual policy; whereas they must take into account other objectives of this policy within the perspective of the development of Europe's audio-visual capacity, which comprise structural objectives such as the development of the independent production sector or the development of production in countries or regions with more limited audio-visual capacity;

Whereas the action plan should ensure that the whole territory of the Community is satisfactorily covered by advanced services;

Whereas financial incentives are initially required to ensure the accelerated development of the advanced television service market in conformity with the strategy indicated above, by contributing to the reduction of the additional start-up costs involved;

Whereas the action plan should be solely directed at promoting the 16 : 9 format (625 or 1 250 lines), irrespective of the European television standard used and irrespective of the broadcasting mode (terrestrial, satellite or cable);

Whereas the action plan should facilitate the uptake of all technologies, including fully digital technology;

Whereas it is appropriate to set targets for the impact of Community funding on the early market development of advanced television services;

Whereas a programme lasting four years is called for;

Whereas an amount of ECU 405 million is estimated as necessary to achieve the objective of the action plan;

Whereas the funding of this amount should come from Community funds and from other sources, with the Community contribution amounting to ECU 228 million;

Whereas those economic operators who co-finance the action plan shall be given due recognition under Community R&D and standardization activities, always in accordance with the general rules for participation in these activities;

(1) OJ No C 139, 2. 6. 1992, p. 4.
(2) OJ No C 337, 21. 12. 1992, p. 93.
(3) OJ No C 332, 16. 12. 1992, p. 39.
(4) OJ No L 142, 25. 5. 1989, p. 1.
(5) OJ No L 363, 13. 12. 1989, p. 30.

Whereas, in relation to the Community funding, it is necessary to hold in reserve an amount of ECU 68 million for the markets not being fully served in the early stages of the implementation of the action plan;

Whereas it is appropriate to specify certain basic principles which must underlie the implementation of the action plan, including criteria to be used in the selection of projects;

Whereas the Treaty does not provide, for the action concerned, powers other than those of Article 235,

HAS DECIDED AS FOLLOWS:

Article 1

An action plan to ensure the accelerated development of the market for advanced television services in the 16:9 format and using 625 or 1 250 scanning lines is hereby adopted for a period beginning on the date on which this Decision is adopted and ending on 30 June 1997.

The objectives which the action plan must achieve during the abovementioned period shall be as follows:

(i) a critical mass of advanced television services in the 16:9 format;

(ii) a sufficient and increasing volume of programming in the 16:9 format, with high technical quality both in picture and sound and of such a nature as to facilitate optimum audience ratings, such programming to the broadcast in the abovementioned services.

Community funding, together with funds from other sources, will be directed toward the achievement of these objectives by means of financial incentives covering parts of the additional cost incurred by broadcasters and programme makers in the provision of the abovementioned services.

The implementation procedures for the action plan are set out in the Annex, which forms an integral part of this Decision.

The action plan will contribute to market penetration by receiver equipment in the 16:9 format. However, no funding will be devoted to support manufacturers of receiver equipment for consumers.

Article 2

1. The programme shall cover the period from the date on which this Decision is adopted to 30 June 1997.

2. The funds estimated to be required for the achievement of the objectives of the action plan amount to ECU 405 million.

3. This sum shall be made up of Community funds and of funds from other sources. The Community funding shall amount to ECU 228 million.

4. In relation to the Community funds, the budgetary authority shall determine the appropriations available for each financial year with reference to the principles of sound management referred to in Article 2 of the Financial Regulation applicable to the general budget of the European Communities.

5. Within the indicated amount of Community funds referred to in paragraph 3, a quantity of ECU 68 million shall be placed in reserve and shall not be allocated before 1 January 1995. This amount should ensure implementation of the provisions of paragraphs 5.2 (ii) and 5.4 of the Annex.

6. No Community funding shall be committed to a project until the level of financing from other sources required in paragraphs 5.1 (i), 5.3 and 5.4 of the Annex has been committed to that project.

7. Funds shall be available to facilitate the uptake of all the technologies mentioned in paragraph 5.1 (iv) of the Annex, including fully digital technology.

Article 3

1. The Commission shall be responsible for implementing the action plan. The Commission shall be assisted by a committee of an advisory nature composed of the representatives of the Member States and chaired by the representative of the Commission.

2. The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft, within a time limit which the chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

3. The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

4. The Commission shall take the utmost account of the opinion delivered by the committee. It shall inform the committee of the manner in which its opinion has been taken into account.

Article 4

1. Notwithstanding Article 3, the following procedure shall apply in implementing those points of the Annex that concern the breakdown of the relevant budgetary expenditure and the assessment of projects and actions provided for in the Annex of a total value of above ECU 1 million, with the exception of those covered under Article 5.

2. The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

3. The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the committee.

4. If the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of a period of three months from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 5

1. Notwithstanding Articles 3 and 4, the following procedure shall apply in implementing the review and possible revision of the figures contained in Tables I and II of paragraph 4 (vi) of the Annex.

2. The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

3. The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the committee.

4. If the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, upon expiry of a period of three months from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission, save where the Council has decided against the said measures by a simple majority.

Article 6

An annual report shall be submitted by the Commission to the European Parliament, the Council and the Economic and Social Committee, on progress in implementing the action plan and the allocation of Community funds.

A final report, in the same terms, will be submitted to the abovementioned institutions at the conclusion of the action plan.

Article 7

As television technologies and markets are developing rapidly, the Commission will keep these developments and related market changes under review and, where required, propose any necessary changes to the Council concerning the implementation of this action plan.

Done at Brussels, 22 July 1993.

For the Council

The President

M. OFFECIERS-VAN DE WIELE

ANNEX

IMPLEMENTATION PROCEDURES FOR THE ACTION PLAN

1. OBJECTIVE

In order to contribute to market penetration by receiver equipment in the 16 : 9 format, the objective of the action plan is to ensure the accelerated development on the market for advanced television services in Europe in the 16 : 9 format using 625 or 1250 scanning lines.

2. APPROACH ADOPTED

Accelerated development of the market for advanced television services requires all the elements necessary to bring those services into consumers' or viewers' homes to be in place. Television is a complicated medium, encompassing and merging many technical and creative functions, with both cultural and commerical outcomes. Its functions are controlled by different sectors within the audio-visual, telecommunications or electronics industries. Their endeavours form a service chain stretching from origination to the receiver in the home.

The approach for accelerating the development of the market for advanced television services must therefore have a service focus.

3. TARGETS TO BE ACHIEVED

In the context of the objective stated in paragraph 1, it is appropriate to set indicative targets for the impact of the Community funding which will be used to accelerate the market development, as follows :

the achievement during the life of the action plan of :

(i) a critical mass of advanced television services in the 16 : 9 format ;

(ii) a sufficient and increasing volume of programming in the 16 : 9 format and with high technical quality both in picture and sound and of such a nature as to facilitate an optimum audience rating, such programming to be broadcast in the abovementioned services.

4. THE FUNDING APPROACH TO BE ADOPTED

(i) The action plan will fund part of the additional costs of introducing wide-screen television services. The necessary financial resources involved will be drawn from Community funds and from other sources including : own funds, national funds, equipment makers, satellite operators and others with an interest in the business.

Before being eligible for Community funds, each project must secure a firm commitment of funds from one or more of the other sources indicated above. This prior commitment of funds will be seen as an essential validation of the value of the project. The combined funding system is intented to ensure a market-oriented approach and the Community dimension simultaneously.

(ii) Funding will go to broadcasters providing wide-screen television services who satisfy the criteria set out in paragraph 5.1, and to programme producers who make programmes for such services according to the criteria set out in paragraph 5.3.

(iii) Depending on circumstances, the additional costs incurred by a broadcaster in providing a 16 : 9 service, as against a 4 : 3 service may have a variety of sources, such as : the capital costs associated with upgrading studios from 4 : 3 to 16 : 9 ; the capital costs associated with broadcasting 16 : 9 as against 4 : 3 services ; the current costs of making individual 16 : 9 programmes over those for making 4 : 3 programmes.

(iv) Notwithstanding the origin of additional costs of broadcasters, the mechanism for calculating the contribution from Community funds to broadcasters who provide widescreen services will be based on the number of hours per year the broadcast in the 16 : 9 format.

(v) The Community contribution per hour to such services shall consist of two elements : one relating to the costs of broadcasting and the other to the costs of programme production.

Broadcasters will receive a flat rate payment towards the broadcasting cost of each hour of the 16 : 9625 line or 1250 line HDTV service transmitted, in accordance with Table I in subparagraph (vi). In relation to programme making, the Community will make a further flat rate payment towards programme production costs. This will vary by programme type, as set out in Table II in subparagraph (vi). Both broadcasters and independent producers will qualify for programme production payments, depending upon which is the source of a particular programme.

(vi) The numbers in Tables I and II will be used for the first call for proposals referred to in paragraph 5. They will be reviewed and, if necessary, revised in the light of experience by the Commission according to the procedure provided for under Article 5 of the Decision, including the desirability of funding 16/9 video studio production through support for the capital costs incurred.

TABLE I (*)

Broadcasting costs

	Flat rate (ecus per hour)
First 50 hours	6 000
From the 50 first hours	2 500

(*) The actual amount to be paid will be 50 % or 80 % of the figures given above, depending on whether early starting or later starting markets are involved (see paragraphs 5.1 (i), 5.3 and 5.4).

TABLE II (*)

Programme making costs

Programme type	Flat rate (ecus per hour)
Programmes remastered from existing material, suitable for broadcasting in 16 : 9 and in 625 lines	3 000
Programmes remastered from existing material, suitable for broadcasting in 16 : 9 and in 1 250 lines	5 000
Super 16 mm and 16/9 video production	12 000
35 mm and HD - video (1 250 lines) production	25 000

(*) The actual amount to be paid will be 50 % or 80 % of the figures given above, depending on whether early starting or later starting markets are involved (see paragraphs 5.1 (i), 5.3 and 5.4).

(vii) Programme producers, who are independent of the broadcasters providing the services, but who provide programmes to such a broadcaster for inclusion in a wide-screen service, shall receive Community funds at the level per hour and per category of programme indicated in Table II of subparagraph (vi).

(viii) In relation to programme making in 1 250 lines, the facilities of the EEIG Vision 1250, which in its earlier years has developed substantial experience in assisting broadcasters in 1250/50 production, will be made available for the purposes of implementing the action plan. In addition, other such facilities may be used by broadcasters and producers.

5. PRINCIPLES AND CRITERIA FOR IMPLEMENTATION

The Commission will implement the action plan through annual calls for proposals covering projects for services. These shall be organized on the basis of first a combined call for transmission (in accordance with the criteria set out in paragraphs 5.1 and 5.2) and programme production (in accordance with the criteria set out in paragraphs 5.2 and 5.3) followed by two further calls later within the 12 month period for programme production only. As an indicative figure, at least 50 % of the funds shall be allocated to programme production. These calls for proposals will be organized and evaluated according to the procedure provided for under Article 3 or Article 4 of the Decision as appropriate.

Preference will be given for projects where the matching funds come from the economic actors.

5.1. Criteria relating to the quality of the project

Each project must satisfy the following criteria :

(i) before being eligible for Community funds, it must have received a firm commitment of funds from other sources for 50 % of the costs falling within the scope of the action plan. At least 50 % of the non-Community funding must come from the economic operators. Having met these requirements, the project would then become eligible for Community funding in respect of the remainder of such costs ;

(ii) it must be submitted by a recognized service provider having a proven track record in the field of television service provision and having the necessary financial strength required for the new venture or by a group of organizations led by such a service provider ;

(iii) it must propose to provide a service involving at least 50 hours of broadcasting per year in the 16 : 9 format and using 625 or 1 250 scanning lines ;

(iv) it must be based on transmission systems of high quality featuring the 16 : 9 format including, *inter alia,* MAC/HDMAC, further developments of existing European TV standards such as PALPLUS and fully digital technology standardized by the appropriate European standards bodies ;

(v) it must propose to provide a service targeted towards a sufficiently large market in order to contribute to the development of the broader market for advanced television services ;

(vi) it must comply with Community competition rules.

In addition to the above, the following criteria, while not essential, would be an advantage :

(vii) the project proposes to provide a transfrontier and/or multilingual service ;

(viii) it facilitates optimal audience ratings.

5.2. Criteria relating to spread and balance

The set of projects funded under this action plan must satisfy the following criteria :

(i) it must show a fair spread of projects between the entities to avoid undue concentration or the creation of monopolies or cartels ;

(ii) it must have a wide distribution across Member States' markets in order to ensure the Community dimension taking account of the specific situation of Member States with a low production capacity or whose language covers a limited area ;

(iii) it must involve, to a reasonable degree, programme producers independent of the broadcasters participating in the projects.

5.3. Criteria for programme support

Criteria for selection of projects under this procedure will be reviewed on an annual basis according to the procedure provided for under Article 4 of the Decision.

The Commission will inform the committee of the projects selected under this procedure.

Both in-house production by broadcasters and external production are within the scope of the action plan.

Community support for programme production and conversion will be closely linked to the 16 : 9 services, but will be able to benefit the whole sector.

To qualify for Community support on a programme-by-programme basis, producers of new programmes, and rights holders of certain existing programmes exploitable in 16 : 9 but requiring re-mastering, must have an agreement to broadcast from at least one of the broadcasters based in the Community who undertakes to broadcast the programme in 16 : 9. The technical quality of these programmes must be such as to allow their exploitation in 16 : 9 format in standard also in the medium term.

Before being eligible for Community funding, the project must have received a firm commitment of the funds from other sources for 50 % of the costs falling within the scope of the action plan. At least 50 % of non-Community funding must come from the economic operators. Having met these requirements, the project would then become eligible for Community funding in respect of the remainder of such costs.

Support will be based on the ceilings identified in Table II in paragraph 4 (vi).

(i) Criteria for supporting the technical upgrading of new long-life ('stock') programmes

New programmes supported must be of sufficient technical quality and have an order for their effective transmission in 16 : 9 from at least one of the broadcasters based in the Community. They must be of European origin.

Priority will be awarded for programmes produced by producers independent of the broadcasters.

(ii) Criteria for supporting the re-mastering of existing programmes

The basic condition is that the first transmission is in 16 : 9 in the framework of a service support under the action plan. Priority will be awarded to programmes of European origin.

(iii) The Commission may present proposals to the committee, which shall act according to the procedure provided for under Article 3 or Article 4 of the Decision as appropriate, for a common multilingual re-mastering scheme.

5.4. **Timing considerations**

Sufficient Community funding will be held in reserve in order to ensure that Member States' markets that are not fully served in the early stages of the implementation of the action plan can be served towards the end of the period.

In order to serve these markets, a quantity of ECU 68 million is held in reserve for allocation after 1 January 1995. In this category, before being eligible for Community funds, the broadcaster and programme producer must have received a firm commitment of funds from other sources for 20 % of the support falling within the scope of the action plan. The criteria set out in paragraphs 5.1 and 5.3, relating to the 50 % of the non-Community funding having to come from the economic operators, shall not apply in this case.