

**Guide for Commissioning  
Editors and Independent  
Producers**

**SABC Content Hub**

# The Art of Co-production

Two heads, two wallets and two networks are better than one

A Handbook for Commissioning Editors and Independent Producers



Published by the SABC Ltd as a service to the growing independent production sector

# **"A single bracelet does not jingle"**

- Proverb from the DRC<sup>1</sup>

<sup>1</sup> Leslau (1985)

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Howard Thomas has worked in the entertainment industry in South Africa for nearly 40 years. He is an award-winning TV producer, and has worked in radio, theatre, film, magazine and interactive media. He has been writing about the industry for over ten years and training in the industry for over 20 years. He is a SAQA-qualified training designer, assessor and quality assurance manager.

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# The Art of Co-production

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Commissioned by the  
SABC Content Hub  
and written by  
Howard Thomas



# Contents

Preface	1
Introduction	2
About this book	6
1 Co-production and the business of broadcasting	7
2 Benefits of co-productions	11
3 Challenges of co-productions	13
4 Making co-productions work	17
5 Audiences and revenue streams in Africa	20
6 Intellectual property rights	24
7 Partners and financing	27
8 Distribution	30
9 Local co-productions	32
10 International co-productions	34
11 Financing and income	36
12 Regulation	40
13 Targeting audiences	42
14 Calculating rights	46
15 The co-production business plan	50
16 The co-production contract	52
17 The co-production checklist	53
18 Co-production step by step	56
References	58
Co-production resources	59

# Preface

Since South Africa's first democratic election in April 1994, the country has been eager to bring the world to South Africa and to bring South Africa's vision, culture and assets to the world.

Co-productions have a crucial role to play in this respect. Not only can they contribute to the expansion of the film, television and video production and distribution industries of partner countries, but they can develop cultural and economic exchanges and bring financial and economic benefit through the use of local locations, the expansion of markets and the development of skills.

Co-production offers the opportunity to bridge the gap between two worlds: In South Africa, collaborative production can help bridge the gap between rich and poor – the so-called "first and second economy"; globally, co-production can help bridge a similar gap between rich and poor countries, northern and southern realities, and between producers from different cultures.

The really significant ingredient in this mix is the people – the relationship between the co-producers who bring their creativity, skills, experience and perspectives to bear on the production process.

Through co-production ventures, producers have the opportunity to create new stories, to discover new ways of rendering the pain and joy of the human experience. African storytellers have their own narrative which springs from the ethos, cultures and lifestyles of Africa's people. This is not merely a romantic notion. Poverty is the hallmark of many African communities, and is a reality for many of the audiences whom we are seeking to reach with our television programmes. Poverty may well characterise the lives of many of the young independent producers and commissioning editors who are now becoming involved in the television industry.

The African philosophy and value system of ubuntu is captured in the expression *umuntu ngumuntu ngabantu* – "I am because you are; you are because we are". This belief underpins the process of transformation in South Africa as we seek to build a new society that is innovative, caring and world class. I suggest that it should also inform the interaction between international co-production teams – whether or not they are from the same continent (as we are in Africa), or from different regions in the world. What is most important is the ability to see another point of view, to engage with different perspectives, and to reassess one's own beliefs in the light of different approaches to the world.

Through our programmes, we are able to join hands to celebrate our common humanity, our unity in diversity, and our mutual quest for knowledge and learning through creativity, innovation and indigenous expression.

**Yvonne Kgame**  
General Manager: Content Hub  
SABC Ltd, Johannesburg

# Introduction

Co-production is by definition a collaborative experience. It presents opportunities to depict universal, shared humanity, telling stories that depict joy, pain and many other shared experiences.

In the African context, the phenomenon of sharing universal values and emotions is well captured in our Ubuntu philosophy – I am because you are, you are because we are. *Umuntu ngumuntu ngabantu*. Many other proverbs express the same notion. For example, the Setswana saying *Tlhogo ya tsie e kgaogangwa ke bana bamothe* can be translated as “siblings must share a locust’s head” meaning that even the smallest thing must be shared.

The development and promotion of co-production is core to the objectives of the SABC Ltd. From the very start, the SABC’s Content Enterprises Division has seen co-production as a means of producing cutting edge programmes that could break new ground. It has set itself the goal of celebrating the African story, and defines its vision as “radiating and weaving African stories into a universal rhythm”.

Its objective is to generate compelling, distinctive and versatile content that is informed by research, uses world-class technology and is produced according to sound business principles and processes.

In developing programme content, the Content Enterprises Division is guided by the Corporate Goals of the SABC Ltd. These include:

1. Promoting non-racialism, nation-building and empowerment through innovative programming that is informative, entertaining and educative in all official languages.
2. Aligning the SABC Ltd with the broadcasting charter and the corporation’s objectives as set out in the Broadcasting Act and the Editorial Policies.
3. Creating a financially sound corporation built on a sustainable business model within a specified time frame that enables it to fulfil its mandate.
4. Revitalising the corporation, particularly the news department, by making it a place of preferred employment and by attracting, retaining and nurturing the best available talent in the country.
5. Ensuring full statutory and regulatory compliance by all divisions of the broadcaster.
6. Ensuring appropriate employment equity and black economic empowerment policies.

In order to realise these goals, the Content Hub has developed a number of guidelines that shape the content it seeks to broadcast:

- **Reflecting and documenting South African society and cultural diversity in a way that is realistic, inspirational, topical, informative, educative and entertaining.** Co-production brings together the creative passion of people from different backgrounds and viewpoints. In a co-production, these people have joint ownership of the content, and therefore also of the passion. Co-production lends itself to maximising skills, and to informing the audience as a product of the co-producers' learning from each other.
- **Driving the telling of untold African stories that reflect Africa to our audience and to the world.** Stories are often not told because they are unknown to the wider audience. Every person has stories of their own, or over which they have some emotional ownership. Co-production enables the development of anthologies of stories, bringing them together through storytellers of like minds.
- **Create an environment to maximise opportunities for the best ideas, talents and partnerships in an increasingly competitive environment.** The Content Hub was established on the philosophy that "two and two makes five" – in other words, that people can achieve much more by working together than by working on their own. Within the Content Hub, the intellect, experience and passion of many different people is brought together so that the combined knowledge and skills produces wise decision-making. The same things happen in co-production, except that now you are combining the might of the Content Hub with the equal might of partners.
- **Foster relationships, development, capacity building, diversity and empowerment in every aspect of the local production industry.** Co-production is always the fastest way of people working together and learning from each other. For decades, producers have entered into international co-productions so that they can learn from counterparts in other countries, and under conditions they would never otherwise be able to experience.
- **Delivering world class quality content that meets audience needs and client standards informed by research, development and piloting.** Co-production, particularly through international collaboration, has produced some of the world's greatest content since the turn of the century. This has also been the experience of the SABC Ltd which intends pursuing co-production as a key area of development.
- **Ensure the development of the industry in key areas of reversioning, dubbing, subtitling and repurposing to enable the SABC Ltd content business.** The modern era of broadcasting depends on the leverage of all assets, and in making TV accessible to all – this has always been the thrust behind the SABC's breakthroughs in reversioning and repurposing. Co-production is the obvious vehicle for bringing together the assets of other producers both in South Africa and abroad.

## Editorial guidelines

Co-productions supported by the SABC Ltd are shaped by the following editorial guidelines:

- **Children:** Affirming children's identity, culture, language, aspirations, developing the child holistically.
- **Drama:** Content that examines the human experience, reflects the greatness of our continent, affirms ourselves, is probing, and depicts historical and/or contemporary contexts.
- **Entertainment:** Entertainment with a social conscience – trendsetting, innovative, inspirational, inclusive content that is popular, socially uplifting and reflects diversity.
- **Factual programming:** To be a global bastion of creative storytelling that covers the scope and complexity of the South African experience by fully exploring and illuminating the critical issues of our times.
- **Religion:** Content that is contextual, relevant and reflects our African reality.
- **Reversioning and repurposing:** Innovative, cost-effective, exploitable and accessible content.

The SABC's Content Hub uses these editorial guidelines not to confine creativity or new ideas, but to provide the springboard from which to take content production to even greater heights whilst enabling the SABC Ltd to realise its public broadcasting mandate.

## Award-winning co-productions from the SABC Ltd

Over the past decade the SABC Ltd has received widespread recognition as a world class producer of television programming. Among the many awards that it has won are the following co-productions:

- *Africa's Child*, winner of the Erasmus Bridge Award at the Rotterdam Market Contest, a 13-country production. Co-produced by the SABC Ltd and Channel 4 Television Corporation (UK).
- *Animated Tales*, a multi-award winning programme. Co-produced by the SABC Ltd, Arab Radio and Television (Saudi Arabia), BBC Scotland, Catholic Broadcasting Company (the Netherlands), Channel 4 Television Corporation (UK), Danish Broadcasting Corporation, Discovery Latin America (US), Home Box Office (US), La Cinquieme (France), Mongolian Radio and Television, Nauru Media Bureau/NauruTelevision, Pakistan Television Corporation Ltd, Public Television Service Foundation (Taiwan), Radio Telifis Eireann (Ireland), SBS Independent (Australia), S4C (UK), TFO/TVO (Canada), Television Corporation of Singapore Private Ltd, Television Nationale du Burkina (Burkina Faso), TVP SA (Poland).



- KNR (Kids News Room), recipient of a CBA award – UNICEF Award for Highly Commended Children's Programme (2006) in the children's category. Co-produced by the SABC Ltd with Freevoice (Netherlands).
- Soul Buddyz, winner of the 2004 Silver Screen Award in the children's programming category at the 37<sup>th</sup> US International Film and Video Festival. Co-produced by the SABC Ltd, Soul City, BP, the European Union and MTN.
- Takalani Sesame, winner of numerous awards including the prestigious Peabody Award for the best electronic media for 2004 for promoting communication between adults and children on the subject of HIV/AIDS. Co-produced by the SABC Ltd, Sesame Workshop, USAID, Sanlam, and the Department of Education.
- Tsha Tsha, awarded the Silver Screen Award in the Health and Current issues category at the 37<sup>th</sup> US International Film and Video Festival. Co-produced by the SABC Ltd, Curious Pictures, Cadre and Johns Hopkins University.
- Open a Door, awarded the special foundation phase Presidential award at the 2004 Japan Prize. Co-produced by SABC Ltd and Ragdoll Ltd (England) together with the national broadcasters in the following countries: Argentina, Brazil, Chile, China, Colombia, Cuba, Ecuador, India, Iran, Kenya, Mexico, Mongolia, Philippines, Taiwan.
- Magic Cellar, winner of 22 awards and recognitions. Co-produced by the SABC Ltd, Chocolate Moose (Canada) and Morula Pictures (South Africa).
- The Score, a four-part mini series. Co-produced by the SABC Ltd and SVT, the Swedish Broadcast Corporation.

For the SABC Ltd, co-production holds the potential to weave a dream that fuses unique African ways with newer creative forms and influences to enrich human experience world wide.

## About this book

Co-production is the “in” word. Everyone uses it. There are co-production workshops at just about all the markets and festivals. Leaders in the industry say it is the answer to broadcast stagnation, worldwide. Could it also be the way to put African content on the global map?

Broadcasting in Africa faces many problems, and these differ from country to country. However, that is the same for broadcasters the world over – they are all different, probably because every country is different.

Experience over the past fifteen to twenty years shows that much valuable programming has been made through co-productions, and that these programmes would not have come about in any other way. The theory that co-production could work well for African broadcasters has been proved through numerous success stories. But how does it work?

Despite the fact that everyone talks about co-production, there is surprisingly little written about it. Perhaps this is because all co-productions are different, even though they are all based on one concept.

Most newcomers see co-production as being a complex process, and this tends to “fuzz up” the simplicity of the concept. For this reason, the purpose of this book is to guide independent producers and commissioning editors on the business of co-production, and how to approach the process of conceptualising, planning and producing a co-production.

This book is:

- An introduction to the mindset of co-productions. It will help you with the big picture so that you can fill in the details as they suit you. It clears up misconceptions and debunks the myths.
- An overview of the concepts and contexts. It will help you keep your focus on the audience and not get bogged down in the legal and accounting details.
- A framework for the mechanics. It will introduce you to the co-production process and help you chart the right direction.

This book is not:

- A textbook of co-production law. The intricacies of law and business practices are what confuse people. If you have mastered what’s in this book, then you will find the legal side easier to understand. You will then be able to contribute effectively to the work of the lawyers and accountants. Neither does the book cover any of the intricacies of international copyright, shortfall insurance, completion guarantees or film liability insurance. Once you have grasped the overall concepts (as covered by this book) the rest will come easily to the co-production team.
- An easy solution. Co-production is not instant coffee – you can’t just take a spoonful of this book and add hot water. It takes a long time to pull the elements together, but understanding the concept does make things easier.

# 1 Co-production and the business of broadcasting

Like many broadcasters around the world, the SABC Ltd acquires its programmes for broadcast in three main ways.<sup>2</sup>

- **Commissioning:** It commissions programmes, which means that it contracts independent producers and other content providers to make the programmes it knows that audiences want. This satisfies both its commercial needs and public mandate.
- **Co-productions:** It enters into co-productions with producers and possibly other partners. In this case, the SABC Ltd and the independent producers (and other partners) become business partners.
- **Licensing:** It licenses programmes from the independent producers who may retain the ownership and the SABC Ltd merely rents the use of that content for a specific purpose, territory and period. (Similarly, the SABC Ltd can grant licences to other broadcasters or producers to use its content.)

The key to each of these processes is the concept of adding value. It is core to every manufacturing process and, after all, television programmes are only manufactured goods designed for consumers to buy and use.

The diagram on page 8 shows the value chain for television production. This is a process whereby every subsequent step adds value to the previous step.

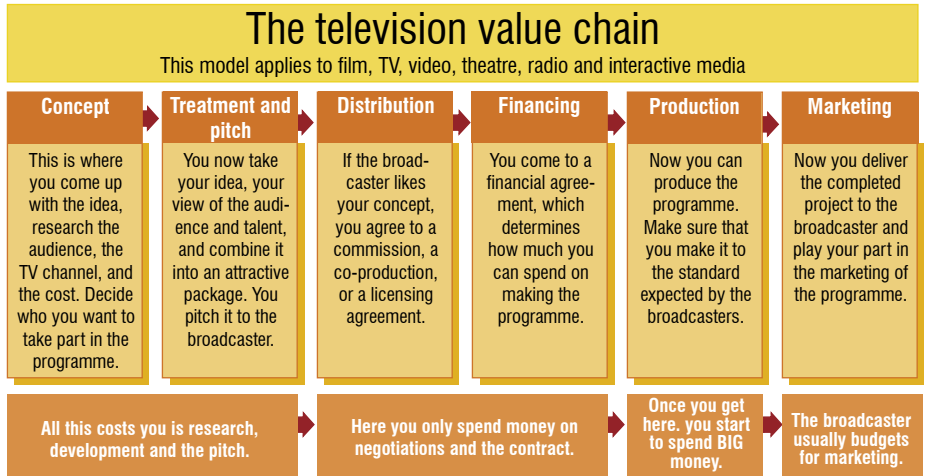
From this you can see that a concept alone has little value. Once it has been committed to broadcast (distribution), only then can it realise its value.

## How co-production helps add value

Film or television production – the work done by a “producer” – involves managing the manufacture of the film or TV programme with a specific purpose in mind, and making sure that the original purpose applies to every stage of manufacture. Simply put, the producer finds a concept that s/he knows a target audience will like. S/he makes sure that, as the production goes through its various stages, the original target audience is always the focus of attention.

A producer is a very skilled, astute business practitioner who knows the film and TV industry. S/he usually works alone and, because he invests all her money and takes all the risk, s/he has the last word and is entitled to all the profits – or as is usually the case, take responsibility for the losses.

<sup>2</sup> Barter is another means whereby broadcasters like the SABC Ltd acquire programmes. This means exchanging whole programmes (item and programme exchange), or exchanging programmes for advertising time sales, sponsorship, services or even products. However, this falls outside the scope of this booklet.



Co-production usually refers to the joint efforts of two or more production companies that combine their resources, talent and skills to make a unique film or television programme. They may work in one country, but are often based in different countries.

Put most simply, co-production involves joint responsibility, joint risk and joint benefits. These may not necessarily be equal, but all the parties need to get something out of the relationship.

It usually involves two or more producers and/or partners. It could be more than just two. You cannot have a co-production with only one participant, but there is nothing to stop you having any number of producers within a co-production.

Why should two or more producers work together? Simply put: producers will work with others if it is worthwhile for all the parties. It becomes worthwhile when:

- They can collaborate and pool goods, rights or services in order to produce a film or TV show that they would not have been able to do on their own.
- They can make more money, or achieve their objectives better, by sharing capital, resources and rights.
- Both make use of the prestige inherent in a film or TV show, and may share more profits than they would have if they had been working on their own.

Of course, there are many co-productions where the motive is not profit. In fact, there are three main motives for any film or TV show: to win as many awards as possible, to show the film or TV programme to as many target people as possible, and to make as much money as possible.<sup>3</sup>

<sup>3</sup> Private conversation with UIP's Roger Le Comber (2000)

You would be surprised just how many films are made for the first motive. The second motive applies to almost all information and educational productions, ranging from HIV awareness, all the way over to political propaganda. The last motive, making lots of money, is the most common motive. It's also the easiest to measure and the easiest in which to be dishonest – but that's another subject all on its own.

If two or more producers find that they can achieve any or all of these objectives more effectively by working together, then you have the basis for a co-production.

## Ways of seeing co-production

There are as many definitions of co-production as there are writers and commentators. What is interesting, however, is that different writers stress different aspects of the co-production process. Here are some examples:

- **Giving the production wide appeal:** "For a co-production deal, the appeal of the principal characters must be universal-or they must at least appeal to audiences in the countries of those who are doing the deal."<sup>4</sup>
- **Financial benefit:** "Co-production arrangements can be defined at two levels of financial involvement. The first level is represented by arrangements designed to open up a market through the circumvention of national quotas. The second level of arrangement involves international financing to develop mutually beneficial characters."<sup>5</sup>
- **Sharing strengths:** "... several production enterprises agree to jointly produce a film or audiovisual work, with each party contributing a substantial share of the means needed for the production and with the intention of becoming the owners."<sup>6</sup>
- **Sharing risk:** "Distributor-financiers often make co-production deals with one or more parties for one or more territories in order that risks may be shared."<sup>7</sup>

## Treaty and non-treaty co-productions

Countries that offer tax breaks, rebates and allowances for film and television productions often enter into treaties between each other. These treaties will stipulate the conditions under which the production may be considered as "local" in both countries. They involve minimum employment of local talent and facilities as well as other requirements.

Treaties make it possible to make a programme in two countries and get allowances and rebates in both.<sup>8</sup> They are also designed to encourage filming in the countries themselves, thereby contributing to the development of local production.

<sup>4</sup> Blumenthal and Goodenough (1998)

<sup>5</sup> Pecora (1998)

<sup>6</sup> Györy (1995)

<sup>7</sup> Vogel (1998)

<sup>8</sup> Contact the National Film and Video Foundation for the status of South Africa's participation in international treaties

## Twinning

Twinning is a production package that pairs two distinct projects, one of which may be domestic and the other foreign. They are usually within the same programme category, and will be of a similar size, duration and budget. The advantage is that each co-producer has control over his own project.<sup>9</sup>

## What a co-production is NOT ...

A commissioned production is not a co-production. Commissioning happens when a producer or broadcaster pays another production company to make the programme on its behalf.

Many foreign films made in South Africa are simply film facilitations, or in our language, the producer has commissioned the production house to make the production exactly to the foreign producer's specifications. The producer retains all copyright and simply pays the local production house to make the film. This is usually called a production service arrangement.

"... not all producers who participate in a production are in fact co-producers – it is only those persons who have specifically agreed to this by means of a contract."<sup>10</sup>

## Co-production formats and genres

There are no specific genres or formats that particularly lend themselves to co-production. Some people comment that there are particular genres such as horror or sci-fi that are perfect for co-production because they are not set in a particular place.<sup>11</sup> But any genre, format, duration or style can be made suitable for co-production.

Africa has had successes with international music concerts and telethons. It also has a proud record of educational co-productions that deal with HIV, agriculture, literacy and small business development. Programmes like this include South Africa's Takalani Sesame, Kenya's Heart and Soul, numerous UNESCO projects and school programmes.

You can co-produce sports, concerts, talk shows, drama, and documentaries. The genre is not important – it's that it works for the audiences, which in turn works for the co-producers.

Co-production is well-suited to countries with weak production industries, or between countries with industries that are greatly different where they can learn from each other.

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<sup>9</sup> Cox (1987)

<sup>10</sup> Enrich (2005)

<sup>11</sup> Cottle (2003)

## 2 Benefits of co-productions

Co-production does not just mean joining together as a production partnership, but also has wider implications. This especially applies when the partners are from different countries.

### Benefits

Co-production is an option well worth considering when these benefits are needed:

#### Financial

You need to pool financial resources. Broadcasters and producers find it increasingly difficult to find the money to produce a "world-class production". Productions that appeal to foreign markets have to compete with big budget films and TV programmes, and this is not easy for developing countries.

#### Foreign subsidies

In many countries, it is possible to get access to subsidies for locally produced content. If there is a treaty between two countries, the treaty stipulates the ways that a project can access subsidies in both countries, and thus be classified as local content in both countries.

#### Partner market

A co-production provides access to the audiences and markets in both countries. This is much easier when the partners are either both distributors (as broadcasters are), or where they have good business relationships with the local distributors.

More and more, there are other means of distribution besides broadcast. There are healthy VHS home markets (as in West Africa), and growing DVD markets all over the continent.

#### Third markets

In many cases, one of the partners may also have experience with markets in countries other than their own. If the markets all share the same language, then these audiences are even more accessible.

#### Partner projects

Sometimes one producer wants to get a "slice of the action" of a really "hot" project. If the project needs what the producer can offer (money, facilities, performers etc.), then a co-production is possible.

#### Cultural

There are reasons other than commercial ones for a project. Media projects are cultural products, and so can be used for cultural exchange, health education and also economic reasons.

#### Desired location

Some projects need to be produced in foreign locations. It is often easier to gain access to these locations, and the facilities needed to produce there, through a co-production of some kind or another.

“South Africa has always been a desired foreign location, with its wide variety of terrain, ideal climates, scenic landscapes to its skyscraper cities to traditional African villages. Under the treaty, Canadians have a greater access to shoot productions in South Africa.”<sup>12</sup>

#### Cheaper inputs

Sometimes facilities and other inputs (such as the use of locations) are cheaper when sourced through another producer or in another country. Access to these cheaper inputs is either available through a co-production or a service agreement.

#### Black economic empowerment

Co-productions offer opportunities for emerging and aspirant South African producers to team up with those of wider experience. Many of the most successful past co-productions have served these purposes.<sup>13</sup>

#### Skills transfer

Every producer, broadcaster and country has expertise that others don't have. Many co-productions are initiated because one partner wants access to the expertise and experience of the other.<sup>14</sup>

These benefits all make co-production a very attractive option for making television programmes. In fact, “When there are two or more people who want to make it work, it will.”<sup>15</sup>

But before you get carried away, read the next chapter.

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<sup>12</sup> Schwinges (1998)

<sup>13</sup> For example, productions such as Molo Fish, Takalani Sesame, the Steps series, Mama Africa, and numerous productions through production houses Videovision Entertainment, DV8 Films, Film Afrika, D0 Productions and many others. Refer also to the list of grants made by the National Film and Video Foundation available at [www.nfvf.co.za](http://www.nfvf.co.za)

<sup>14</sup> Hoskins et al (1997)

<sup>15</sup> Wiese (1991)



## 3 Challenges of co-productions

Co-productions are not easy. The difficulties are not so much legal and commercial – these can be solved through the joint expertise of the partners. The difficulties come with editorial control, working relationships and cultural clashes.

### Communications

When you are producing a project on your own, the producer always ensures that s/he knows what is going on. S/he has direct access to the production accountant, line producer and the director. These people, who are also working closely together, can make sure that the producer has all the information at her fingertips so that she can make quick and wise decisions. This is not always possible with a co-production.

In a co-production, you have two or more producers. While they may know what is going on in their own units, it does not mean that they know what is going on in the units of the partner producers. Often this leads to misunderstandings, time delays and consequently higher costs. All of this can bring unnecessary tension to the production.

Furthermore, communication between countries can often be less than ideal. Often there are time differences where it is night in one country and day in another. There may even be differences in seasons as partners may be working at the same time in two different hemispheres of the earth. In Africa there are often difficulties with telephones, internet and satellite communications. These potential problems must be factored into the risks.

### Editorial control

Who makes the final decision? When broadcasters commission programmes they have editorial control, written into the contract. No matter how the commissioned producer sees it, the commissioning editor always has the final say. This usually makes things quite easy since the broadcaster is usually the expert on the audience, and the producer the expert on the concept. So both know where they stand.

But what happens when a producer and a broadcaster are co-production partners? Both have money invested in the project, and both have an interest in making sure that it comes out as they see it. But what if they both see it in different ways?

Some co-productions between a producer and funder have experienced the same problem. Funders also have an agenda and an interest. No funder is ever so free and generous with money that they will give the producer a free hand to do what s/he likes. This means that the agendas, needs and control have to be defined right at the start and written into the contract.

Richard Sydenham, a producer for the UN, had this advice for all would-be co-producers, "There's a problem with creative decisions. One person has to be in charge in the end. If the writer is in Canada, Germans put in the money, and the BBC has the star to be cast – eventually, every one will tamper with the story and it will become a hodge-podge."<sup>16</sup>

## Artistic control

This is an even murkier area. It is quite easy to define "editorial control" in a contract, and almost impossible to define "artistic control". This enters the realms of aesthetics, semiotics and other philosophical concepts. Yet they are an integral part of whether a project will be a success with an audience or not.

Audiences see signs, colours, symbols and expressions in different ways. This is not an editorial matter, but rather an artistic one, and someone has to make the final decision. Who? This must be written into the contract, or you will face many unnecessary and acrimonious delays. All of which cost time and money.

## Cultural dilution

When a producer and distributor target an audience, they have to make sure that the scope of their appeal covers the full range of the target audience.

If you are targeting a small audience, you can produce it exactly as that audience will want it. The larger the audience, the broader the appeal has to be to meet the needs and expectations of the wider audience.

**The more audiences you add to the mix, the more general the appeal will be.** "Cultural dilution" can be described as the difference between really hot curry that is liked by just a few people, and the milder stuff that more people enjoy. Don't lose the uniqueness of the concept in the course of production, but make sure that it will appeal to the audiences it is targeting!

## Languages

Don't ever enter into a co-production between two countries assuming that all will be well because both partner countries speak English. One may have English as a first language, and the other may use English as a second and general interchange language.

People use languages in different ways. You can settle disputes on the basis of international usage of the same language. But that does not mean that misunderstandings will not arise. Very few of us speak English the same way, and have exactly the same terminology for things.

If you think this is difficult, just wait until you are in co-production with a broadcaster or producer who comes from a completely different language background!

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<sup>16</sup> Johnson (1992)

## Working relationships

You cannot assume that once a contract is in place that everything will happen according to the project plan.

Each partner will have people on the staff or will be engaging freelancers with whom they are familiar. People work well in teams, and they work better when they have been working with them for a long time.

When you enter into a co-production, you are throwing your favourite people into a team with the favourite people of the partner producer.

It doesn't matter how well you write the contract, you cannot contract human emotions.

Conflicts and difficulties will occur. These are problems that you will never experience when you are producing on your own.

Cultural clashes refer less to clashes between people from different cultural backgrounds and more to clashes between corporate cultures.

Most people in broadcasting and production have had enough experience working with people from other cultures to know that they must be respectful and understanding of different backgrounds and world views.

The same does not apply to corporate cultures. Corporate culture refers to the way we think and do things in our organisation. The clash may be over something silly like "How do I account for petty cash?" Or it may be something complex like reporting relationships, responsibility and accountability.

You cannot ever hope to cover all these things in a contract, and as long as you anticipate that there will be problems, you are halfway to solving them.

## Currency

You can never predict currency fluctuations. When you are working across borders where there are different currencies, you will always face unexpected developments. Again, if you know the problems will arise, at least you are prepared for them.

## Technology

Different countries have different specifications for power supply, electrical connections and plugs, and use different technical formats and standards in broadcasting. These factors will present compatibility problems, and you must provide for the time and cost that they will take to solve.

## Other international differences

Finally, there are minefields that you have to cross with regard to health regulations, customs, local taxes, by-laws and the many, many things that separate one country from another.

You learn these things through experience. You will never find a manual that is up to date and inclusive enough for you to anticipate everything. The easiest way is to make sure that each partner has a "liaison officer" who is there to smooth the way through local bureaucratic hassles in the respective countries.

## Costs

Co-productions usually entail higher costs in certain areas. If these can be kept under control, then the increased costs may not be greater than the value added by the partnership.

## Co-ordination

These are the costs of negotiating the original deal, co-ordinating production and associated administrative burdens.

## Red tape

Producing programmes in different countries always involves government bureaucracy. This in turn takes up time, and time costs money.

## 4 Making co-productions work

There are only two rules in co-production:

1. There are no rules.
2. You only go into co-production when it suits **you** to do so, not anybody else.

### Co-production is NOT marriage

Marriage is “give and take”, “till death do us part”, and “share and share alike”.

This does not apply in co-production – the contract stipulates what you agree to give and take. This is decided up-front, and the contract states how things will happen.

If you accept that in a single production, the producer owns 100% of the production, and everyone else owns 0%, then a co-production may range all the way from one partner owning 1% (if anything at all) and the other owning 99%, all the way to both partners owning 50%. There are many different permutations.

As we will see later, you don’t have to invest money – you can invest facilities, time, money, locations, equipment, stars and artists, marketing facilities, and even distribution.

### How do co-productions start?

Every co-production begins life as a concept. Starting work without a concept or a script would be like manufacturing a car without a design. Concepts are born in three ways:

1. They come from an idea or an inspiration.
2. They are developed towards a need.
3. Someone commissions a programme based on an idea.

Once you have researched the possibilities and opportunities, you can then decide on how best to make the concept a reality.

### Trust

Trust is an essential component of a successful co-production partnership. Contracts only take working relationships so far. A healthy relationship that looks into the future is a pre-requisite. As a Canadian producer says, “It takes time to build trust, but trust is the key. People like working with partners who listen and deliver what they say.”<sup>17</sup>

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<sup>17</sup> Hoskins et al (1997)

## Local co-productions

These are co-productions where the producers who are partners all come from the same country. It makes it easy, as they are all working within one legal system, one currency, one accounting system, and one set of business conventions. (The next chapter will look at local co-productions more closely.)

## International co-productions

International co-production takes place when the co-producers come from different countries.

Usually the advantage is that the production can exploit unique resources such as locations or artists. The aim is usually also to exploit a wider audience. The disadvantage of this is that the content, style and language must also appeal to a wide audience. This almost always means diluting the culture, cleaning up local accents and allusions, and having to do quite a lot of explaining in the script.

For example, if you set a documentary or drama in the streets of a gang-ridden slum in a city in one of the countries, you can be absolutely sure that the speaking accents and slang will be completely incomprehensible to audiences in the other country.

Co-production also does mean “producing”, not just investing. Co-producers “produce” together. Investors sign a cheque and get nasty when they don’t get the returns they were promised.

Be very careful how you define co-production, when you may only mean “financial participation”. People who invest are not welcome on the set, and they are rarely allowed to interfere.

International co-production has the advantage of the film or TV show being produced by people who are established in the various countries and know that country very well. This reduces the risk of having to find out for yourself and often finding out and believing the wrong thing. When it comes to sharing the knowledge of a country and the local audience, there is nothing quite as authoritative as a “local”.

There are complexities in that you have to deal with different currencies with fluctuating exchange rates, different legal systems, long distances, and different languages and cultures. But let’s leave that until later.

## International co-production agreements

There is an alarming and totally incorrect belief that you cannot have an international co-production unless there is an international co-production agreement (co-production treaty) between the countries. This is NOT true.

You can negotiate and conclude an international co-production contract whether there is no government treaty, whether one is still being negotiated, or whether one is in place.

The main advantage to having a treaty in place, is that it creates a framework for a co-production to be regarded as an “official” co-production in both countries. A co-production treaty states what funding can be applied for, and what tax breaks are available.

Under a co-production treaty, the film or television programme will be considered as a “local production” in both countries, which means they fall within any local content requirements for local broadcasters. This increases distribution opportunities.

In short, co-production treaties can save you lots of money, but they also give you a lot more work to do. When you’re dealing with multi-million dollar films or programmes, this is important because you will have to provide for the services of lawyers, tax consultants and accountants.

Unfortunately, South Africa has had a rather blinkered view of the “global film industry”, and has tended to focus on countries in the West. South Africa has co-production treaties with Canada, Italy, Germany, the UK and there are many more on the way.

At the time of writing, there are no co-production treaties between South Africa and any other African countries, but this is changing. The SABC Ltd has taken the lead in developing the necessary relationships with the African broadcasters. Furthermore, the African Union’s cultural desk has started a range of initiatives to foster cultural exchange co-operation through NEPAD.

We will deal with international co-productions in more detail in a later chapter.

## Working with research

It sometimes happens that broadcasters have audience research that they do not make public, often for very good reasons. Research costs money, and if you are going to invest in it, you want to benefit from it. A public broadcaster does not benefit from costly research if it makes the research available to all its competitors.

The best strategy with co-productions is to include “confidentiality” or “non-disclosure” provisions in the co-production agreement to guard against such disclosure.

## 5 Audiences and revenue streams in Africa

People often stress the need for “audience development” in African countries, but this is often mistakenly interpreted as “developing people to become audiences”.

Africa does not need audience development in this sense. People who have access to electricity and TV sets, batteries and radios, are the people who make up the audiences.

What co-producers need is much better knowledge of the audiences – their needs and their potential for commercial development. For example, what new ways are there in which television programmes can generate revenue?

South Africa’s audiences (viewers, listeners and readers) are measured and researched in ways that match best practice elsewhere in the world. A lot is known about South African audiences and the different media sectors. In other African countries, audience measurement is not as detailed, but is reliable nevertheless. You can get measurement details through the Pan African Media Research Organisation (PAMRO) and its affiliates.

Qualitative research can provide valuable insights into the interests, tastes and needs of audiences (children, adults, women, youth, etc.) in different countries. It also provides rich information about how audiences respond to different films and television programmes.

Unfortunately, there is less qualitative research carried out in Africa than there is in the rest of the world. Consequently, it is possible to misunderstand African audiences if one relies too heavily on Western research.

The rule of thumb is: If there is no research on which to base a complex production decision, then invest in that research. Don’t involve a lot of money, time and resources in decisions that are not well-informed.

### Advertising

There are a number of agencies that sell advertising in the media throughout the African continent. In some countries, the biggest advertiser is the government, in others it is the multinational consumer companies.

The problem is that advertising often relies solely on the readership or viewership **claimed** by the print media and broadcasters. Unfortunately, there is little substantive research into the actual numbers of readers, viewers and listeners and so it is difficult to confirm the data used.



Because low-cost TV sets and radios flood into Africa from the East, no one really knows how many there are. We have estimates, and they vary, so the only way is to average out the estimated number of viewers per TV set and listeners per radio receiver.

Although advertising does provide one source of revenue for a television production, it is difficult to predict how much revenue it will generate. This is because advertising does not involve a contract in the way that sponsorship does. So, advertising is a risky source of revenue for a producer.

Southern Africa has seen two satellite barter TV stations fail and, in retrospect, their estimates of commercial revenue did not take into account this lack of predictability, and also were far too optimistic about sponsorship and advertising revenue.

From the producer's viewpoint, it is better to let individual broadcasters take the risks with advertising because they know their market and they know the advertisers. It is far better to rely on income that you can contract.

## Commercial development through audience interaction

Cell phones have made a large impact on the media, but this is still a new industry. Broadcasters invite people to phone in to programmes, and this has brought in income that was previously not available. It is a field that is growing rapidly, but until we have some stability and research, we do not yet know the full impact of this revenue stream.

For example, a year ago we assumed that one could only be connected to the internet if one could afford a computer and a telephone. Today this is changing with low-cost computers and wireless phones that are giving many more people access to the internet. Still, we have no idea yet of the true potential, and there are few attempts to research this impact.

Below are two tables that draw on a range of sources to provide some information about the audience profile and media penetration in a number of African countries. Producers need to look closely at information like this to get a better idea of the commercial opportunities that may exist among audiences in different African countries.

If you are co-producing a drama, it won't matter if the viewers have cell phones or whether they are connected to the internet. However, with reality programmes, factual programmes, documentaries, magazine programmes and talk shows, this information is becoming ever-more important. Audiences have shown that they want to interact with TV shows, and that they want to feel that they can influence broadcasts.

# AUDIENCE PROFILE AND MEDIA PENETRATION IN AFRICAN COUNTRIES

Country	Population	Age 0-14 Total %	Age 15-64 Total %	Radio /1000	TV /1000	Estimated viewers
Angola	11 177 537	45	52	73	18	603 587
Botswana	1 586 119	42	54	160	20	95 167
Burkina Faso	12 272 289	48	49	32	11	404 986
DRC	53 624 718	48	49	336	121	19 465 773
Cote d'Ivoire	16 393 221	47	51	138	66	3 245 858
Egypt	69 536 644	36	61	295	111	23 155 702
Ethiopia	65 891 874	46	51	231	10	1 976 756
Ghana	19 894 014	42	54	628	96	5 729 476
Kenya	30 765 916	43	54	100	24	2 215 146
Lesotho	2 177 062	40	56	30	5	32 656
Malawi	10 548 250	45	52	246	5	158 224
Mauritius	1 189 825	26	68	353	217	774 576
Mozambique	19 371 057	45	53	38	4	232 453
Namibia	1 797 677	44	52	129	35	188 756
Nigeria	126 635 626	45	52	186	54	20 514 971
Rwanda	7 312 756	44	53	86	3	29 251
Senegal	10 284 929	48	49	121	35	1 079 918
South Africa	43 586 097	34	61	390	172	22 490 426
Tanzania	36 232 074	44	53	243	3	326 089
Uganda	23 985 712	51	47	208	21	1 511 100
Zambia	9 770 199	49	49	193	28	820 697
Zimbabwe	11 365 366	43	54	100	33	1 125 171

(Sources: World Bank, ITU, *World Factbook*, individual country data)

Also, don't make assumptions about things like internet usage. Here is a table of internet usage that is fairly up to date, although it changes from month to month.

## INTERNET STATISTICS IN AFRICAN COUNTRIES

Country	(2006 est.)	Dec 00	Latest data	(Penetration)	In Africa	(2000-2006)
Angola	13 115 606	30 000	172 000	1.30%	0.50%	473%
Botswana	1 856 800	15 000	60 000	3.20%	0.20%	300%
DRC	58 731 656	500	140 600	0.20%	0.40%	28.020 %
Egypt	71 236 631	450 000	5 000 000	7.00%	15.30%	1.011%
Ethiopia	72 238 014	10 000	113 000	0.20%	0.30%	1.030%
Ghana	21 355 649	30 000	401 300	1.90%	1.20%	1.237%
Kenya	34 222 866	200 000	1 054 900	3.10%	3.20%	427%
Lesotho	2 453 810	4 000	43 000	1.80%	0.10%	975%
Madagascar	18 475 940	30 000	90 000	0.50%	0.30%	200%
Malawi	11 359 669	15 000	52 500	0.50%	0.20%	250%
Mauritius	1 280 579	87 000	180 000	14.10%	0.50%	106%
Mozambique	19 881 392	30 000	138 000	0.70%	0.40%	360%
Namibia	2 038 791	30 000	75 000	3.70%	0.20%	150%
Nigeria	159 404 137	200 000	5 000 000	3.10%	15.30%	2.400%
South Africa	48 861 805	2 400 000	5 100 000	10.40%	15.60%	112%
Swaziland	1 147 741	10 000	36 000	3.10%	0.10%	260%
Tanzania	37 979 417	115 000	333 000	0.90%	1.00%	189%
Uganda	27 771 997	40 000	500 000	1.80%	1.50%	1.150%
Zambia	11 249 789	20 000	231 000	2.10%	0.70%	1.055%
Zimbabwe	12 247 589	50 000	1 000 000	8.20%	3.10%	1.900%
<b>TOTAL AFRICA</b>	<b>915 210 928</b>	<b>4 514 400</b>	<b>32 765 700</b>	<b>3.60%</b>	<b>100.00%</b>	<b>625%</b>

NOTES: Africa internet statistics were updated on 18 September 2006.

Population numbers are based on the data contained in world-gazetteer.com.

The most recent usage information comes mainly from data published by Nielsen/NetRatings, ITU, and other local sources.

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In the early 1990s when the internet was starting to gain popular appeal, media watchers started questioning whether audiences really wanted interactivity. However, ten years later we have seen that in countries across the world, audiences across the economic spectrum have embraced opportunities to interact, and that they greatly enjoy feelings of participation. TV has certainly changed from being the unseeing eye that dictates to its viewers, into a resource that allows people to communicate with each other.

<sup>18</sup> [www.internetworldstats.com](http://www.internetworldstats.com)

## 6 Intellectual property rights

### What are intellectual property rights?<sup>19</sup>

The principle behind recognition of intellectual property (IP) is that people who create original works are encouraged in their creativity to produce more such works by receiving financial benefit for a limited period of time. After this time, such works fall in the public domain for the benefit of society as a whole. In other words, people should be recognised as the authors of those works and should receive benefit from money generated by the commercial use, or economic exploitation, of those works, but cannot do so forever.

Intellectual property rights are legal rights granted to people who have made an original creative work. They may take the form of including copyright, patents, trademarks, industrial designs, performer's rights, confidential know-how and indigenous knowledge. If you have created a work, you may have rights in that work irrespective of whether you are a famous (or even a good) artist, musician or writer, whether the work is a good one, or even whether it is complete.

Owning intellectual property rights is different from owning objects, both because intellectual rights generally do not last forever, and because these rights often exist in the creativity expressed in something rather than in the object itself.

In order to establish your claim to the intellectual property associated with your creativity, you have to create something material (e.g. a piece of writing or an artwork), but your rights to the intellectual property in that book or artwork are not tied to your possession of the material object.

Intellectual property rights cannot be held over ideas, but only over the way they are expressed in material form: writing, recording, photography, electronic video, painting or sculpture, film, music, designs, inventions, etc.

Another way of looking at this is that the idea, or concept or creative expression, must be committed to a medium that can be detected through the senses. You must be able to see it, touch, feel it, hear it or taste it. For example, you cannot claim intellectual property rights over an idea you once described verbally to someone, or even one that you communicated through sign language. It must be recorded onto a medium through which other people can appreciate it in exactly the same form as when you originally expressed it. For example:

- The written word can only be regarded as intellectual property once it is on paper (or an electronic file).
- Music has to be written or recorded.
- A sculpture has to be in wood or stone, or some physical material.

<sup>19</sup> This section is adapted from a booklet published by the Human Sciences Research Council called *Intellectual Property Streetwise*, and available from its website: [www.hsrb.ac.za](http://www.hsrb.ac.za).

- A painting must be in paint on a canvas or paper, or some physical material.
- A film must be on celluloid or videotape, an electronic file or DVD.
- And so on.

You can sell a sculpture or book, for example, without selling your intellectual property rights over it. IP rights are actually a bundle of different rights that can be transferred to different people by the original creator, usually for payment of some kind. For example, the author of a book owns the moral right to be identified as the author and the copyright over the way words have been used to express his or her ideas in the book. Through negotiations with the author, a publisher may acquire the licence to publish the book the author has written, and a filmmaker may acquire the rights to produce a film of the book (these rights are often limited to specific countries, languages and specific time periods). Rights owners do not have to transfer all their intellectual property rights to one person or company, but in some industry sectors, this may be the norm.

If you have rights, then you probably want to exploit them somehow, usually by getting money from them. They are of no use to you, other than personal pleasure, if you lock the work away.

Some kinds of intellectual property mechanisms such as copyright are automatic and do not require registration. Others need complicated registration processes, as do patents. With so much piracy going on in the world, you need some mechanisms by which you can claim your rights in court.

We can divide rights up in three ways:

1. Rights exist over a medium. For instance a story can be told in the form of a book, a song, a film, a photograph, a voice recording, or even on a website.
2. Rights exist for a period of time. You can sell the rights to distribute a TV programme to one person for one year and to another person for the following year, or any period of time for that matter.
3. Rights exist over a territory. One person may have the right to exploit your work in America, while someone else can have the right to exploit the same work in Australia at the same time.

Rights are transferred from one person to another by way of assignment. When you assign rights, you don't automatically hand over everything. Rights are divisible. Selling rights actually means selling the right to use (and sometimes to allow others to use) the intellectual property. But remember: you cannot continue using that right if you have sold it. The use can be:

- for a specific time, even in "perpetuity" (forever and ever)
- in a specific territory; the territory must be carefully defined (it can even be worldwide or universal)
- through a specific medium, for example, film rights, book rights, poster rights, TV rights, internet rights, CD rights.

In the same way you can licence someone to use those rights.

You can even mix and match these rights. For instance, you could buy the radio rights to a book for two years in Central America.

Calculating what you pay for rights, or a portion of rights, is where the fun comes in. More about that in Chapter 14.

## What are rights in a production?

Say a co-production company makes a TV programme and then sells the rights to that programme. It could sell the public broadcast TV rights in South Africa for two years, at the same time as it sells the cable TV rights to another person in Germany. In each territory, you can sell rights separately to one medium or to various media (such as rights for radio, text, comic books, DVD, merchandising, etc.). Furthermore, each right can be sold for a limited period, within the same territory. It's somewhat like a loaf of bread – you can cut the slices as thick or thin as you like, or rather, as thick or thin as the customer prefers.

## Copyright

Creative products are the result of a person's imagination and her skills to produce a production that is unique. Copyright literally means "the right to copy" that work. Either someone buys that unique product (like an original artwork), or it is copied, and the copies sold.

The general laws of copyright state that the creator is the first owner of a copyrightable work until such time as he or she has sold, ceded or given the work to someone else. That person (depending on the agreement) may or may not have the right to make copies of that work and sell them to a wider public. The agreement by which rights are sold to someone else may involve a once-off payment, or a royalty which is calculated every time a copy is sold.

## 7 Partners and financing

A co-production can have any number and any type of partners. However, what is important with any co-production project is that someone has to start it. Co-productions don't just happen.

As with any TV production, film or multimedia project, it all starts with a dream, an idea or a spark that give rise to a passionate journey.

The concept of co-production begins when someone sees that the concept can come to life when other partners are involved. There has to be a very good reason for investigating a co-production as there are many challenges. (Go over Chapter 3 again to remind yourself of these.)

Here are some of the partners that may get together to do a co-production.

### Broadcasters

Broadcasters join forces to make co-productions, and this makes sense. Firstly, they have the money to invest in new programmes. Secondly, they know their audiences better than anyone else. Thirdly, they have the muscle to distribute programmes in their own country. Combining broadcasters gives you immediate access to all these three very desirable elements.

### Producers

Producers have access to the storytellers, the artists, technicians and services. They also know what they are doing when it comes to making programmes and films. They bring experience to the table. They also have access to facilities and investors.

### Distributors

Distribution is one of the three key rules of business. The three rules are:

- Look for a gap in the market.
- Check that there is a market in the gap.
- Tie up your distribution first.

You will never get funding until you have distribution in place. People who have managed to make a programme or film, and then negotiated successful distribution afterwards are very rare. This stands to reason. If you have made the project, you are probably in debt and desperate to make money. This puts the distributor in the bargaining seat, and you may lose out. By the same token, no funder or sponsor will entertain paying out production funding unless they know the project is going to be distributed. They will need a written commitment to this effect from a distributor.

Distributors not only attract money, they often also bring funding and investors to the table. Distributors (broadcasters are the natural distributors) are always the first port of call.

## Funders

Funders provide money that usually has strings attached. This is because all funders have their own goals, their own agenda. Charitable foundations are governed by their trust deeds and manifestos, and can only operate within their defined parameters. Government funders like the National Film and Video Foundation are governed by Acts of Parliament. The Acts, and subsequent policies, usually define the parameters.

## Advocacy funders

These are bodies that advocate specific aspects of health, education, welfare, development and other agendas. They have very defined parameters within which they can operate. They may be trusts, foundations, government departments or funded NGOs. They have to account for their funding, and will strive to ensure the project reaches its targeted audience and achieves the desired outcomes. They will probably need the budget to include funds to research the effects of the project. A government department is usually an advocacy funder and not a sponsor.

## Sponsors

Sponsors are commercial bodies that often want specific outcomes that work to the benefit of the audiences. At the same time, sponsors want the project to result in money in their pockets. Sponsorship is growing worldwide at a rapid rate, due to the levelling off and predicted decline of traditional advertising. Times change and marketing has to change with them. Sponsorship has become highly sophisticated, and has refined ways to predict and measure its effects. Despite what sponsors may say about “wanting to give back to the community”, they are nevertheless looking for exposure that enhances their brand.<sup>20</sup> There is a prevalent view among aspiring co-producers that “we can easily get sponsorship”. Wrong. Getting sponsorship is not an easy task at all.

## Financiers

Financiers lend you money. They expect to see it repaid at a specific time, and then expect to earn interest on their money. There are many banks and financial institutions who say they are prepared to finance projects. Some have a mandate to do so (such as the Industrial Development Corporation<sup>21</sup>). The IDC also offers

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<sup>20</sup> Koekemoer (2004)

<sup>21</sup> [www.idc.co.za](http://www.idc.co.za)



to mix and match loans, venture funding and various investment options.<sup>22</sup> Others have such strict criteria for getting repayment that you may need more than just a vague letter of intent from a distributor. You can also get finance through insurance deals. You need to speak to the person helping you with your Completion Guarantee Insurance<sup>23</sup> about this.

## Investors

If your project is purely commercial and really shows promise of return and profits, you may be able to attract investors. These are essentially co-producers as they bring money to the table in exchange for equity (part ownership). But you are not going to attract investors unless you have a prospectus. To get to the position where you can design and write a prospectus, you will need a distribution plan and a business plan.

All these people are co-producers in one way or another, as everyone will want some say in some or other aspect of production and distribution. How you formulate shares of finance, responsibility and control are how you structure the deal. This will become clearer later in the book.

## Suppliers

Every production needs certain labour, services and products in order to produce it. Some of these are very costly, such as equipment, performers, locations, transport, music and post-production. There are many creative ways of involving suppliers either on the basis of trade exchanges or as co-production partners.

## Soft money

“Soft money” is a term used to describe all those sources of funding that do not involve hard cash invested in a production or loaned to a producer. This means that it includes tax breaks, allowance and subsidies, funding, facilities discounts, product placement, sponsorship, etc.

However, don’t think that “soft money” comes without strings attached. ALL money has strings attached – it’s just that soft money usually does not have to be repaid.

<sup>22</sup> Investment is not simply a matter of “buying shares in a business”. Sometimes it may suit the person with the capital to lend the money; some people lend money on condition that other people lend money as well. Some allocate investment to each stage of the project, allowing for the conditions and needs of each phase; and generally investors attach a variety of conditions – all of which ensure that the project gets the type of financing it needs at each stage, and so minimises risk.

<sup>23</sup> Completion Guarantee Insurance, or a Completion Bond ensures the completion of the project in the event that the budget is exceeded, or the delivery deadline missed.

## 8 Distribution

The distribution deal always comes first (remember the three rules in Chapter 1).<sup>24</sup> Distributors in television are usually the broadcaster, but could also be an international agent.

For broadcasters, the job of estimating audiences and income is relatively simple. They know slots, what audiences they command, and what income they traditionally bring in by means of advertising sales. They also know what marketing will cost, and what they can leverage in sponsorship and other deals.

Broadcasters will also know the potential in their own countries for sales of the programme on VHS and DVD. However, each partner broadcaster will only bring in their own audience in their own country. Since broadcasters are accustomed to earning all the proceeds of commercial income, they find it difficult to share this income with other partners.

The answer to making more sales, therefore, is to try to sell to broadcasters in other countries. This usually requires the services of an international agent or distributor.

### Realism in foreign sales

People often have unrealistic expectations of foreign sales. To get into the world markets is not easy. There is a lot of competition, especially on price. A product that is better suited to a wide distribution can be sold much cheaper as it makes its money on the basis of sales volumes.

Co-productions don't make money just because they are there, and because they have lavish catalogues. Agents and distributors sell them because the broadcasters want them for their audiences. The needs and desires of the audience always motivate the sale. It is naïve to think that just because you have made a programme that reflects your people and your customs, audiences in other countries are naturally curious and will want to see the product. Audience needs and wants go much deeper than this.

If you want to distribute your programme successfully in other countries, you must have those countries as a target audience right from the start. This is yet another reason why you should "tie up your distribution first". An experienced distributor will help you with features of the project that could add additional appeal. After all the distributor wants to help: the broader the market, the more sales commission he is likely to make.

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<sup>24</sup> Look for a gap in the market. Check that there is a market in the gap. Tie up your distribution first.

Many producers with aspirations for co-production go to “co-production workshops” at markets, and then take everything they hear as gospel. Some people taking part at these events give the impression that product will not make it onto the markets unless it conforms to the most modern technical specifications, and that it follows certain styles. These generalisations are often misleading. First of all, only the products made since new technology came on the market conforms to these specifications. Secondly, if the movie *Casablanca* has been a global sales leader for sixty years, it goes to show that if a programme is good, it will sell. However, *Casablanca* was an exception; it was never expected to be the success it eventually became. If only we could be so lucky!

Don’t make any estimates of global sales without getting qualified input from a reputable distributor. You can use the data you get from global sales figures (see Chapter 14) as a basis for planning a co-production, but you should never enter into a contract without qualified sales estimates.

History over the past ten years has shown that “pre-sales” (sales to foreign broadcasters before production takes place) is a dream. Most producers and broadcasters in South Africa and most other parts of Africa agree that our prime purpose should be to satisfy the needs of our and neighbouring audiences. When audiences on the continent accept and enjoy African co-productions on a large scale, then we will be able to start making an impact on global markets. As the Nigerian proverb goes, “No man can be blessed without the acceptance of his own head.”<sup>25</sup>

In a word: be optimistic and value your product, but don’t make decisions on guesswork. Tie up your distribution first.

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<sup>25</sup> Yoruba proverb quoted on [www.afriprov.org](http://www.afriprov.org).

## 9 Local co-productions

Before we continue, let's revisit the two basic rules of co-production:

1. There are no rules.
2. You only go into co-production when it suits YOU to do so, not anybody else.

Why should you ever want to enter into a co-production agreement, when you can produce a programme or film on your own? On your own, you are your own boss, you make the decisions, no one argues with you, you put your capital (or that of your investors) at risk, and you get the rewards.

If anything goes wrong, you know who to blame – yourself.

In a co-production, you always have to refer to the contract to find what decisions you can take without having to get agreement from others. There are many good reasons for entering into co-productions. Here are just a few.

- Someone else has rights to crucial property and you can't afford to buy them outright.
- You don't have enough capital and you need someone who is going to come to the party with resources.
- There are opportunities to make lots of money, you need capital and resources, and you are prepared to share the profits.
- You need expert input and expertise that you can't afford to pay for, or you need a partner who has expert knowledge and experience of the cultural subtleties of the target audience.
- You need someone else's name attached to various aspects of the production to make it viable or even more profitable.
- You need a partner who will bring additional distribution opportunities to the table.
- A potential sponsor wants more than just exposure or you cannot give them the exposure they want and you need to give them an additional incentive.
- You are a producer responding to a request for a commission from a broadcaster and you want to retain some of the rights, as you see enormous potential in keeping ownership of some of the rights (property).
- You are a broadcaster and you want to commission a programme, but the producer wants to retain some rights and you don't see any value in holding onto the rights the producer wants.
- The project is a feature film which is going to cost millions and you need investment, distribution and resource partners. Almost all feature films are co-productions.

If there are so many good reasons for doing co-productions, then why don't we have more co-productions in the local South African market? Almost every film is a co-production, but there are very few in TV projects, and yet TV is lower risk and has a potentially greater income than films.

TV producers in South Africa don't have the confidence that their products will have foreign or global appeal, and no one is prepared to risk trying a new business model while things are great just as they are. However, "just as they are" is not going to last very long.

The world is changing rapidly. Just look at some of these examples:

- The internet is making its impact felt now. Music sales are growing faster over the web than on CD, movies are being distributed over the web, and advertising on the web is growing alarmingly fast.
- The Personal Video Recorder (PVR) is here. This disk-based video recorder enables you to record broadcast TV programmes (storing tens of hours). You can watch your favourite programmes and skip through the commercials. We have no idea what impact this will have on broadcast advertising as we know it.
- Since the advent of digital satellite and cable TV, there has been an explosion of satellite pay-TV channels. In South Africa there are over 60. They will soon catch up with the 400 on offer in European countries. Now we are facing digital terrestrial TV, which means that for every analogue channel we currently have, we will be able to get between six and eight digital channels.
- South Africa will soon see two more public channels being licensed, and possibly an additional commercial channel. Audiences are spoilt for choice.
- We have no idea what the fastest-growing communications medium, the cell phone, will be able to offer in a year's time. In Finland, South Korea and Japan, cell phone subscribers are watching live TV on their phones.
- Cinema attendance is declining everywhere as people buy DVDs and watch them in the comfort of their own homes.
- The amount of TV hours available has far outgrown the increase in population. People are not watching TV much more than they ever have – after all, there are only so many hours each day for leisure. More choice means smaller and more fragmented audiences. This means less income per TV programme. This in turn means that the cost of production has to come down. Luckily, digital production has helped to reduce costs in a small way.

As a result of these far-reaching changes, the following things have to happen:

- The volume of production has to go up, and costs have to come down.
- TV programmes have to develop more income streams.

This means that producers and broadcasters have to make programmes that include far more resources, expertise, influence, marketing and distribution. It's not easy. The obvious way to bring more expertise to the production is through co-production.

## 10 International co-productions

A major motivation for an international co-production is expanding the potential audience. If you have a potential audience of ten million people in your own country and you can double that by distributing a programme in another country, how do you do it? It's hard work and difficult to distribute in another country where you don't know the likes and dislikes of the audiences, their culture and their habits.

The easiest way is to go into co-production with a broadcaster or producer (or both) in the other country and let them take part in the production. You will then have producers and broadcasters from both countries to ensure that:

- The content, style, storytelling, language and format will be accepted and liked in both countries.
- The broadcasters who distribute in each country know what they are doing in that country.
- The audience is doubled, the costs of production are amortised over double the audience, and you have a far better chance of making a profit. Since co-production means profit share, the parties from both countries will make a profit, and everyone wins.

That's the theory! In practice, things are a little different.

Initiatives have been taken by a range of organisations, including the Union of National Radio & Television Organisations of Africa (URTNA) and the Southern African Broadcasting Association (SABA). SABA chairperson, Advocate Dali Mpofu, strongly supports co-production. "One should commission stories that deliberately have a regional slant," he says, such as stories about the heroes of the liberation struggle in each country. He adds that broadcasters could use new technologies to audio-stream dramas, allowing each country to broadcast them in their own language.<sup>26</sup>

Co-production within the regional organisations like the Southern African Broadcasting Association is also much easier because there are customs mechanisms in place that facilitate cross-border co-operation. There are also mechanisms in place to make access to information easier.

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<sup>26</sup> Southern African News Features (2006)

**Example:** Let's suppose that a producer has a concept where the story takes place in both South Africa and Namibia. It may be a drama about diamond dealing, or it may be a history documentary tracing the interlocking of the two countries' histories. Or it may be a simple travel show that compares and contrasts the two countries as destinations.

The natural thing would be to approach the SABC and the Namibian Broadcasting Corporation (NBC) separately and sound them out as to what they think of the project.

If they both like it, the producer may suggest a co-production between the producer and the two broadcasters. This would be a three-way co-production. This, of course, assumes that the producer is bringing some capital and resources to the party. Next, you have to have a meeting to agree on the terms. It's certainly easier if someone (probably the producer) has already drafted a workable model and contract that can be adapted. There is no co-production treaty between South Africa and Namibia, so the project cannot be regarded as a "national work" in either country and therefore will not qualify for the tax breaks that usually go with the treaty.

But there are other tax breaks, subsidies, funding and grants that each broadcaster can apply for in their own countries. Now the broadcasters are bringing even more money into the co-production.

While all this is going on, the producer may be arranging trade exchanges (such as free air flight in return for a credit), and may even decide to defer the producer's fees and convert them into investment (or equity). This means that instead of getting paid now, the producer will collect his or her money out of the gross income later. We will get onto the contract in a later chapter, but at this stage, you need to make sure that you understand the concept of co-production and the principles involved.

Izidore Codron of the South African Film Finance Corporation says it is very difficult to negotiate the complexities unless you have understood the basics. "It's easy to set off a fireworks rocket and use that concept to understand what it means to get a man to the moon. Getting the man on the moon is a completely different matter," he notes.

# 11 Financing and income

The projected income is what the co-production agreement is usually aiming for. It is a major feature of the business plan.

## Public service programmes

Even if the co-production is to be entered into for mandate, information and philanthropic reasons, it still needs to produce an income, and someone has to pay for the cost of the production.

Even if the purpose of a project is to “do good”, the labour, performances, supplies and services needed to make the programme do not come for free.

The minimum income you will need (even if this comes entirely from a funder or funders) must be equal to the production, marketing and distribution costs.

## Funding

Getting money from funders is no easier than getting money from investors. Funders also need to reflect a return on their investments. Putting up the money for a project is like an investment for them. Money doesn’t grow on trees. It is not in unlimited supply. All funders, whether they are government, developmental or charitable organisations, have to account for the money they spend. Their accountability is their mandate. The people who authorise the spending of the funds have to account for it.

All funders want to fund successful projects that will reflect well in their annual reports. If you know the mandate of the funder, and you know the type of information they like to report, then you will know who to apply to for funding, and how to direct the project to meet their needs.

This is a simple exercise if you have just one funder, but this is rarely the case. Usually there are a number of funders. Often the funding is not enough to cover the costs, and you have multiple sources of income.

This is where you have to balance the objectives of the project against the needs of the income. If you think that scriptwriting and directing are creative processes, just look at the creativity involved in this!

## Tax rebates and allowances

Some countries have tax rebates, rebates and allowances. These are usually accessible only to:

- Projects that are locally originated, produced and primarily distributed.
- Projects that fall under an international treaty that allows them to be considered “local” in both countries covered by the treaty.



Tax rebates are not easy to navigate. You are well advised to study them carefully if you want to use them, and to employ the services of a competent tax accountant. You will find that almost all incentive schemes are for feature films, drama and documentary series and these genres involve a lot of money. In other words, projects usually have to involve high budgets.

## Advertising income

Each broadcaster partner (whether they are a co-producer or simply a distributor) is able to produce reliable estimates of the advertising income that a project will earn in each country.

Advertising income usually goes to the broadcaster distributing the programme. If, however, the broadcaster is a co-production partner, then that advertising income may well have been factored in. Most co-producer broadcasters prefer to invest in the co-production, and keep the advertising revenue for themselves.

## Sponsorship

We dealt with sponsorship in Chapter 7. Sponsorship can be either local or international. For example, motor companies are likely to sponsor programmes with international distribution if they sell their cars in all the distribution countries. However, other sponsorships are local, such as sponsorships from companies in the banking, insurance and consumer sectors. It is preferable to negotiate sponsorship for a co-production in each of the partner countries, simply because sponsorship across borders is not easy. Just remember that every sponsor makes the financing and income more complicated.

## Media tie-ins

If you can negotiate a tie-in with local media, then you have the advantage of reducing marketing costs and possibly leveraging other income streams. This is usually only possible if you have designed a format for media tie-in and each country can negotiate a common package.

## Merchandising

This is another area where producers tend to get over-optimistic. For example, they may imagine that they can get someone to create a line of clothing based on the characters' costumes. It's never as easy as that. Merchandising deals are usually connected with children's programming. Toys and games involve complex international trademarking and manufacturing, and may not even sell.

It is worthwhile to point out that the toy and game business is historically one of the riskiest in the world. It is seasonal, seldom long-living and very speculative.<sup>27</sup>

<sup>27</sup> Caves (2000)

It is wise to be even more wary of new types of media such as video games where there is very little experience to go on. Video games often cost more to develop and produce than a film.

## Product placement/integration

Product placement is the new film financing fad. Simply put, a marketer allows a product to be used as part of the action, and the product thus gets exposure on the screen. The marketer pays for this space and time accordingly.

Product placement has formed the basis for many successful co-productions (for example, Jurassic Park II happily saw T-Rex chewing up Mercedes-Benz 4x4s. James Bond always drives an expensive car and wears luxury wrist watches.)

However, producers need to guard against their carefully produced and directed work of art suddenly becoming an infomercial. The co-production partners must agree that featuring certain products and brands will not detract from the artistic integrity of the production, and then negotiate appropriate deals.

Nowadays product placement value is measured precisely, in terms of complex formulae that involve duration, area of screen, context, luminance and prominence. Product placement will never pay for a project, but it is one of a parcel of income streams that can be very useful.

## Cell phones

As described in Chapter 5 television is now using cellular phones for interactivity. There are reports of programmes making a lot of money through cell phone income. They are especially useful for game shows, but remember that game shows are rarely (if ever) international.

Cell phones are used differently in different countries. There are cultural reasons for this. In South Africa they are used because of the chronic shortage of landlines, and because regulation makes them affordable if they are used in certain ways. In other African countries, cell phones are concentrated in particular sectors of the population. In wealthier countries they are used less for television interactivity, as these countries have far greater access to email and broadband internet connectivity, as well as other types of hand-held and mobile devices.

## DVD rights

DVD and VHS rights are often called “home viewing”, “sell through” or “retail”. They differ from country to country. For instance, they are far livelier in West Africa than they are in East Africa. Each country has a different penetration of VHS players in the home as opposed to DVD. Also, in some countries, DVD players and large TV sets become lucrative cinemas that combine taverns and restaurants. Your distribution partner or distributor will know the environment in each country and be able to advise you accordingly.

## Other rights

There are always other ways of getting funding and making money. The opportunities differ from country to country; some are tried and tested, and others are waiting to be tried.

Here are just a few tie-ins that are possible, depending on the content of your programme:

- radio programmes and stations
- music shops and outlets
- historical and heritage sights
- tourism and travelling
- food and restaurants
- educational publications and materials
- international news agencies
- newspapers and magazines
- ...and many others that are emerging day by day.

Remember, we live and work in a volatile media environment where technology is advancing month by month. A co-production is usually released about two years after it was conceived, and in a period of two years, the world can change significantly from the way it is now.

The message here is to make sure that your co-production contract allows the partners to be flexible and inventive so that they are allowed to propose new ideas and opportunities.

At the same time, make sure that any new ventures must be agreed to by all partners, otherwise you could have a co-production of "loose cannons".

Remember also to keep your focus on the audience. Dighton Spooner of Granada Television says, "Budgets are statements of creative intent. Move backwards from the creative to the budget. The goal is to create programmes that might not have been produced otherwise – that have larger scope and vision."<sup>28</sup>

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<sup>28</sup> Johnston (1992)

## 12 Regulation

All co-productions involve regulation of one kind or another. If more than one country is involved, then you are likely to be faced with as many different sets of regulations.

### Business

Business and contracts are regulated in each country under its own legal system, contract law and tax legislation. There may even be differences in the way accounting is handled.

Co-productions deal with such differences in various ways. With treaty co-productions, it is customary to manage the production under the laws of the country in which the majority co-producer is based. In some cases, the co-production business is established in just one of the countries involved, and in other cases it is easier to domicile the co-production business in a third, separate country. There are no trends and no rules; you need to do what suits the co-production partnership best.

In any business, there can only be one boss who makes the final business decisions. This is usually the co-producer with the largest interest or the majority share in the production.

### Broadcasting

Some public broadcasters fall directly under the government, some are quasi-independent agencies and others are statutory-independent bodies. Those broadcasters that fall directly under government are regulated and administered differently to those that are independent.

In some countries, the broadcast regulator only controls the spectrum allocation, and in others, the regulator also regulates content. South Africa's Independent Communications Authority of South Africa (ICASA) regulates local content, making sure that quotas are applied in all the different genres. Furthermore, ICASA also has jurisdiction over commercial and subscription broadcasters operating in the country.

In some countries, regulation may not be as strict as it is in South Africa and in such cases, commercial broadcasters may have very little of their business regulated. In other countries, regulation may be very strict, and regulators may have the power to ban programmes that fail to meet certain conditions (such as moral prescriptions, etc.).

This means that any co-production agreement must take into account the broadcast regulations in the partner countries. Each partner must ensure that regulatory compliance is adhered to in that partner's country. If the co-production partnership intends to use a third country that is not a partner, then you should employ an experienced facilitator in that country. Your international distributor will also cover regulatory compliance in all the countries targeted for distribution.

## Treaties

As we pointed out in Chapter 4, treaties make it possible to make a programme in two countries and get the benefit of allowances and tax rebates in both. International film and TV co-production treaties differ, stipulating the conditions under which a co-production can be classified as a local programme in each country. Treaties also differ from party to party, as tax breaks and allowances are different in each country. As we said before, there are "treaty" and "non-treaty" co-productions.

## Customs

Moving people across borders for the purposes of production is complicated. It may involve having to apply for business or tourist visas, and in some cases, visas may not be required at all. Within Africa, there are extremely strict health regulations and the inoculations required before a person can travel into a country differ. A person who tries to enter a country with an incomplete health certificate is usually sent back home.

Moving equipment can also present major difficulties. Every single item has to be included in an inventory, according to import and export tariffs and rules.

It is often easier to rent the equipment needed in the country in which the co-production is being shot. But if that country doesn't have the specific equipment you need for hire, then you will have to bring it in, and take it out again. However, if the proper and exact requirements are not followed, you will end up paying import duties and may not be allowed to take your equipment out again. This is where co-production partners need to bring the knowledge of their own countries' regulations to the partnership.

## 13 Targeting audiences

Remember, broadcasting starts with the audience and ends with the audience. In fact, we may even go so far as to say that everything in broadcasting is directed towards the audience. There are three factors that are important when it comes to studying our audience:

1. How many people are there in the audience?
2. What is their social outlook?
3. What do they feel about specific stories and themes?

We find out this information by doing research.

### Quantitative research

Quantitative research tells us how many people from a specific target audience there are, and how many of them watched our programme. In this research, people are just numbers. We do this type of research because we usually use numbers to evaluate the success of commercial programming. When evaluating public service (mandate) programmes, we often have to count how many of the target audience watched a programme and how many people did what we hoped they would do or what we expected them to do.

### Qualitative research

Qualitative research tries to find out why and how much people like a programme. This type of research uncovers the usefulness of a programme, its relevance to viewers' emotions, and how it fits in with the audience's cultural values. Qualitative research tells us what a group of people feels about a theme, a story, a genre or a particular medium. People rely on stories to make sense of the world they live in, and to provide them with strategies to deal with change. If a story resonates with them or strikes an emotional chord, then they will like it, or they will be affected by it because it provides the emotional stimulation that they are looking for.

However, if the story does not appeal to them, then they will flick to another channel.

### Research must measure a variable

Research is useless unless it measures something. It either counts (for example, the number of people), or it measures value on a scale.

## How do we do research?

### Counting people

We count people (quantitative research) using data that comes from market research, censuses and other sources. For example, we may want to find out how many people there are in the following groups:

## Gender groups

Male and female.

## Age groups

We divide the population up into the following age groups: 3-6; 7-11; 12-13; 14-15; 16-24; 25-34; 35-49; 50+. We even have nicknames for these different age groups, such as toddlers, tykes, tweens, teens, youth, family, mature, grey-power.

## Income groups

South Africa uses a term called Living Standards Measurements (LSMs) to understand what types of things people in different income groups buy, and how they live. Other countries simply use levels of income. In South Africa, we have ten LSMs. LSM 1 indicates very simple, poor and traditional living, whereas LSM 10 indicates a very large house with a number of cars and costly facilities. Other countries simply categorise people into A, B, C, D etc. income groups. There are numerous other ways of measuring income, and the bodies that gather income statistics in each country will explain why they use the methods they do.

## Language groups

Language groups are very important in defining one's audience, especially in Africa. Because so much English is spoken in South Africa, we assume that it is the dominant language. Yet only 8.2% of South Africans claim English to be their home language. In reality, English is the second or third language for most of the population. The same applies to much of Africa. Even in the Francophone (French-speaking) and Lusophone (Portuguese-speaking) countries, French and Portuguese are most often the second language of the majority of the population, who speak indigenous home languages.

Most people think and reason in their first language or mother tongue, and then mentally translate that information into the language they are speaking or writing. This has enormous importance for the choice of language in a project, the prospective target audiences, and the potential use of dubbing and subtitling.

## Religious groups

Religion plays an important part in many people's lives and is one of the most important influences on culture. Religion informs a person's beliefs and values, and these are often very difficult to change.

## Interest groups

Here we look at the chosen lifestyle of people and their different interests. Research shows that people within lifestyle groups have similar interests.

## Geographical groups

People who live in specific areas also have interests and culture that differs.

#### Education

A person's educational level plays an important role in deciding his or her interests, likes and dislikes.

#### Viewers with TV

We call the number of people with access to TV the "universe". For a broadcaster, the total population of the country is less important than the total number of people who have access to radio and TV receivers.

The next information that is important to a broadcaster is what programmes people with access to TVs and radios are actually watching. It is extremely difficult to get someone to go home to watch TV. People don't always have control of their time – they are often tied to working hours and to the time of available public transport. Until we get effective mobile viewing devices (they are on the way), we have to rely on the number of people who can get home to watch TV.

People involved in broadcasting tend to assume that everyone with a TV set is tuned in at prime time. Do you know that in South Africa at peak prime time, only 45% of the people with access to TV are actually watching?

Statistics gathered by the South African Advertising Research Federation (SAARF) show that if you take an average of television viewing over a year, that there is a distinct pattern of viewing that peaks at prime time – between 6am and 9am and between 6pm and 9pm in the evening. Research has shown that these trends have hardly changed at all over the past five years. People are creatures of habit.

#### How does TV interact with radio?

Research shows that people listen to the radio, or watch TV, according to the times they have access to a TV set or a radio receiver. While radios are quite portable, people generally have to be at home in order to watch TV. This means there is a larger radio listenership than TV audience at certain times of the day (when people do not have access to a TV). The same pattern applies in similar ways to most African countries. Of course, all this is about to change as people will soon be able to watch TV on the move, through their cell phones and on other mobile devices.

#### Regional and cultural specificity

Some viewers are narrow-minded and don't see beyond what is happening in their own community. At the other end of the spectrum are the viewers who have a global outlook, and want to know what's going on in the world. In between these two extreme types of audiences, are a billion different combinations that allow a lot of freedom when it comes to branding a channel. The Germans call this "Weltanshaung", or the way we see the world.



## Branding

The term "branding" has as many definitions as there are marketers. Basically "branding" refers to the "personality"<sup>29</sup> of the product. Others even use the term "look and feel". Some people understand the concept better if one puts it this way: "Branding is those things about a product (or in our case a TV channel) that make you feel that it is your friend."

Some say that "look and feel" are the most abused words in film and TV. They refer to the brand or identity of the programme channel, which is made of a combination of the following parts, all of which align with the culture of the viewer:

- colours
- rhythm
- musical style
- graphic style
- pace
- appearance of key presenters
- fashions
- décor and architecture.

Deciding on a look and feel for your programme or channel is not guess work. It is made up of elements and each of these elements has to align to the corresponding element in the culture of the target consumer.

## Informational density

"We expect the audience to be intelligent and curious, but not necessarily informed. We expect to equip the viewer with the basic details of the subject. Everything in a light, accessible and stimulating way." This is the way Discovery Channel defines the degree to which information plays a part in telling stories. In this information age, we must never forget that there are many people who seem to live happily without information, often going under the credo, "What you don't know won't hurt you". TV content does not have to be full of information to appeal to people.

## Tone of voice

Another quote from Discovery Channel: "We try to be objective, impartial and unbiased because we have an international audience. This is compounded by the fact that we broadcast in English in Europe, where two thirds of the audience have English as a second language. Consequently, local references get taken out of the commentary. This may make programmes seem facile, but we look upon it as elegant clarity, rather than condescending superficiality. For instance, if the script for South Africa reads, "... going down to Durban", then the version for foreign audiences would have to read, "... going down to Durban, a city on the east coast of South Africa".

<sup>29</sup> See Schiffman et al (2004:137)

## 14 Calculating rights

In this chapter, we explore the matter of what rights are worth.

### What are all these different rights worth?

The basic concept of calculating rights is simple. To calculate the value of rights you have to guess them first. To do this, you will have to look at the selling prices for programmes around the world. These estimates are freely available at MIPCOM and the other international TV markets. More precise estimates will be available from the distributor who eventually takes on your programme.

At the time of writing, these estimates of the going rates of programmes looked something like this:<sup>30</sup>

#### AVERAGE GLOBAL PRICES FOR TV PROGRAMMES <sup>31</sup>

AUSTRALIA		INDIA	
Feature films	up to \$775 000	Feature films	up to \$50 000
TV movies	\$53 000	TV movies	\$20 000
Dramas	\$19 000	Dramas	\$25 000
Sitcoms	\$8 800	Sitcoms	\$10 000
Docs	\$8 000	Docs	\$1 500
Children's (animation)	\$4 800	Children's	\$1 000
Music/arts	—	Music/arts	\$1 000
BRAZIL		SCANDINAVIA	
Feature films	up to \$100 000	Feature films	up to \$100 000
TV movies	\$25 000	TV movies	\$10 000
Dramas	\$13 500	Dramas	\$7 000
Sitcoms	\$4 000	Sitcoms	\$2 250
Docs	\$5 000	Docs	\$2 500
Children's	\$4 500	Children's	\$1 800
Music/arts	\$11 000	Music/arts	\$2 500

<sup>30</sup> Extracted from and based on data available in *Variety*.

<sup>31</sup> The figures in this chart are the average prices paid by terrestrial broadcasters in key territories for selected genres of US programming. Drama prices are per hour; sitcoms, documentaries, children's and music/arts programme prices are per half-hour. Sums paid for feature films fluctuate dramatically according to their theatrical gross in the US and/or relevant territories. Amounts are in US dollars and were compiled by *Variety's* global network of correspondents.

CANADA		SOUTH AFRICA	
Feature films	up to \$125 000	Feature films	up to \$20 000
TV movies	\$100 000	TV movies	\$15 000
Dramas	\$50 000	Dramas	\$6 000
Sitcoms	\$35 000	Sitcoms	\$5 000
Docs	\$5 000	Docs	\$2 500
Children's	\$25 000	Children's	\$2 500
Music/arts	\$7 500	Music/arts	\$4 000
FRANCE		UNITED KINGDOM	
Feature films	up to \$2 million	Feature films	up to \$20 000
TV movies	\$95 000	TV movies	\$15 000
Dramas	\$28 000	Dramas	\$6 000
Sitcoms	\$35 000	Sitcoms	\$5 000
Docs	\$15 000	Docs	\$2 500
Children's	\$13 000	Children's	\$2 500
Music/arts	\$12 000	Music/arts	\$4 000

### How do we use these figures?

First of all, remember that these prices are for US programming, which may have more "production value" (lavish sets, helicopters, cars blowing up, digital effects etc.). These programmes are not of a higher quality, they are simply of a different quality than, say, programmes from Africa, which will have their own quality norms.

We judge the programme quality by taking one type of programming as the norm and compare all other programmes against that norm.

There is a tendency in South Africa to take US television (with all its costly "production values" and its own style of acting) as the norm. That is why you so often hear bigoted and prejudicial opinions such as, "Nigeria may make lots of films, but they are of very poor quality". The Nigerians don't think so, so does this make you a better person than the Nigerians?

The best perspective on "quality" actually comes from America, says retired Professor of Telecommunications at Indiana University, Susan Tyler Eastman:

"Whenever the word quality is attached to programming, viewers think they know what that means. Do they? Quality often connotes strong production values (lavish sets, famous performers, riveting scriptwriting, technical achievement) and critical acclaim. Those who fight to save quality programmes often see some substantial social value in such shows. So why is quality lacking in most television shows? Is

it money, or could it be that the masses want circuses instead of high culture? Perhaps quality signifies only that a group of viewers finds some subjective value that is independent of objective criteria. If we cannot agree on what constitutes quality, does it really exist? Maybe those who use the phrase “quality television” really mean to say “programmes that we like”. Programmers are well advised to be careful with the word quality as long as so little consensus exists about what it is. It might be better to strive toward shows that are popular by external standards, rather than programmes that have intrinsic quality.”<sup>32</sup>

#### How do these prices affect the estimates?

If the international estimates are for US programming, then to be safe, we had better discount that estimate for local South African or African co-production programmes. To be safe, take a higher estimate of 80% of the US price and a lower estimate of 50% of the US price. So, let’s do some sums.

In our previous example, all three partners (SABC, NBC and the producer) have invested equal amounts in the production, and they have put in value to the tune of  $33\frac{1}{3}\%$  each.

They are therefore aiming to take in about the same each, which will (hopefully) yield a handsome profit that they will divide three ways. The cost of the production is \$2-million. It would be great if we could take in \$6-m. Then \$2-million will cover the costs, and we could split the balance of \$4-million three ways between the three of us.

We’ll sell broadcast rights all over the world. Some of our partners may be the buyers of these rights. Our business is to sell rights. If the buyers of those rights happen coincidentally to be partners as well, then that is a separate issue.

So these “separate people” buy rights. They may buy the cable, satellite, free-to-air commercial and public broadcast rights for the UK for a period of, say, five years. They may also sell the rights in Canada and some countries in the Far East.

Another person may buy the USA, Australia and South America rights. Another may take Africa, Middle East and Europe. Will they make any money? If you look at the table, and you halve the rates just to be safe, but sell them for three different media in each country, you can see that there is a lot of money to be made. You will do even better if you manage to sell your programmes through one or more of the worldwide satellite channels. That’s just one sale, and you have a lot less trouble.

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<sup>32</sup> Eastman and Ferguson (2006)

## What are the risks in co-production?

The risks in co-production are the same as for all television. You run a very high risk if you make single programmes. First of all, you never know if the production is going to go as planned and, secondly, you never ever know if the programme is going to be a success.<sup>33</sup>

In feature films, about six out of ten lose money, three may break even, and just one makes enough money to pay off all the debts of the other nine. If you make thirty films, then you will have a better chance of making money. Television is not very different. However, it is different if you can fill large block of time on a satellite channel. For instance, if you try to sell a one-hour documentary to the National Geographic Channel, they will have to do a full negotiation, contract and verification process just for one hour. If you sold them 26 one-hour programmes, it would require the same amount of negotiation and legal work, and they would have filled a whole weekly slot for six months. The price of the longer series is bound to be higher.

## How do I start in co-production?

If you've never done a co-production before, you are far better off working with two or more broadcasters, make a programme that is considered to be "in the public interest", and get it funded. This will give you a feel for the business. When you have managed to do that one, make another five programmes, and after that, you may be ready to test the shark-infested waters of global commercial distribution.

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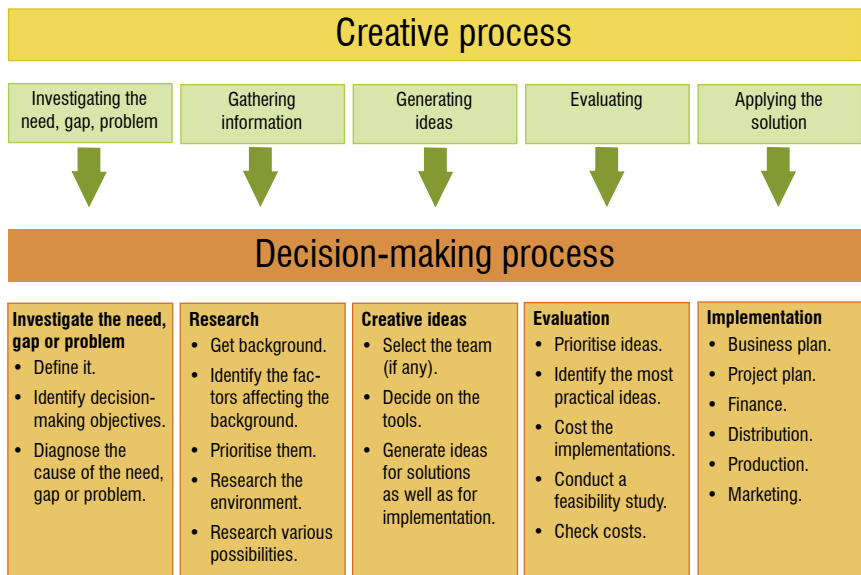
<sup>33</sup> See Caves (2000:1-18)

# 15 The co-production business plan

On one side of a business plan are the costs, and on the other are the projected sources of income. A business plan for a co-production is almost the same format as if you are writing a business plan for a local production.

However there is one principle that you should never compromise on: Making sure that you follow the business process. (See the diagram below.)

## THE BUSINESS PROCESS



Broadcasters, producers, banks, distributors, private investors and anybody else wanting to enter into a co-production, usually reach agreement in principle. They often record this agreement in the form of an MoU (Memorandum of Understanding) or a letter of intent.

These agreements may consist of mere proposals, or they may be binding contracts. Whatever form they take, they will bind each party to some form of non-disclosure (confidentiality) and offer each other protection against infringement of each party's intellectual property.

### Remember to tie up your distribution first

Don't ever even start producing the programme until you have sold enough rights to pay for production. This derives from the basic rule of all business – tie up your distribution first. If you go ahead and make the programme before finalising the distribution, then you will have to borrow money to pay for production, which will put you in debt. You are unlikely to get investments, participation, funding or loans, until you have received a commitment to distribute the programme.

## Insurance

If you are going to sell rights, you will need a Completion Bond and Fidelity Insurance. They could take up as much as 5% of your budget, but they also enable you to insure for shortfalls in capital and for other things. This is a complicated business and you are advised to speak to an insurance agent about it.

# 16 The co-production contract

A co-production contract needs to be drawn up by an entertainment lawyer with experience in international commercial contract work.

The headings to any contract will look something like the following:

## CO-PRODUCTION AGREEMENT

Date: .....

BETWEEN: .....

Referred to as "X" .....

AND: .....

Referred to as "Y" .....

WHEREAS the above mentioned Producer(s)/Broadcaster/s intend to co-produce within the framework of the framework of this agreement or any other treaty framework, a [describe the Production] tentatively entitled " ....." (hereinafter called the "Production").

- |  |  |
|--|--|
| 1. OBJECT                                    | 12. MATERIAL   |
| 2. PRODUCTION ELEMENTS                       | 13. PUBLICITY  |
| a. DIRECTOR(S)                               | 14. ORIGINAL NEGATIVE AND/OR MASTER VIDEOTAPE(S) OF THE PRODUCTION |
| b. PRODUCTION FINANCING                      | 15. DEFAULT  |
| c. SCRIPT AND LANGUAGE FOR SHOOTING          | 16. ASSIGNMENT   |
| d. JOINT RESPONSIBILITY                      | 17. FURTHER ASSURANCE  |
| 3. COPYRIGHT AND OWNERSHIP OF THE PRODUCTION | 18. WAIVER   |
| 4. ACCOUNTING                                | 19. AMEND  |
| 5. BANK ACCOUNTS                             | 20. MUTUAL INDEMNITY   |
| 6. BUDGET AND FINANCING                      | 21. VALIDITY   |
| 7. COMPLETION GUARANTEE                      | 22. ARBITRATION AND JUDICIAL PROCEEDINGS                           |
| 8. TERRITORIES AND REVENUES                  | 23. CENSORSHIP   |
| 9. DISTRIBUTION AND EXPLOITATION             | 24. PROCEDURE  |
| 10. INSURANCE                                | 25. GOVERNING LAW  |
| 11. PRODUCTION SCHEDULE                      |  |



# 17 The co-production checklist

Here is a checklist of all the things you need to do in order to proceed with a co-production.

## Parties

- Have you defined the parties to the co-production? They could be broadcasters, producers, TV channels, funders, banks, investors, distributors, even suppliers of facilities and private individuals.
- Have you listed all their details?
- Are they creditworthy and solvent?

## Underlying works

- Who are the actual or proposed authors of the script?
- Is the script written, and if not at what stage is it?
- If the script is based on any other work, has copyright been negotiated and cleared?
- What other rights have been acquired, and under what agreements?
- What are the benefits of these rights, and should they be extended to include any further rights such as merchandising, interactive media, cell phone or technology still to be invented?
- If any parties have acquired options, what are the terms of these options?
- How is ownership of the underlying rights to be shared between the co-producers?
- Which co-producer or persons will be responsible for arranging copyright, and in which countries and for what terms and media?

## Treaty co-production

- Is the co-production based on one or more co-production treaties? If so which ones?
- What criteria apply to this agreement?

## Budget

- What budgets do the co-producers all agree on?
- What financing and financing costs does it include?

## Control

- Which of the co-producers will have financial control, and which ones will have editorial and creative control?
- Will there be consultation with other co-producers, and under what circumstances?

- Are some matters to be decided by consensus? If there is deadlock, does any one co-producer have right to break the deadlock?
- Do these provisions of control and consensus apply to all stages of the co-production – development, treatment, distribution negotiation, financing, production, post-production, marketing and distribution?
- Can any parties get out of the co-production? If so, how?

#### Over budget

- In the event of the prospect of the production running over budget, who bears the responsibility for securing extra finance?
- Will there be a completion guarantor?

#### Completion guarantee

- Which co-producer is responsible for the completion guarantee? Is this decision approved by all parties?
- Who are the beneficiaries of the guarantee?
- What other conditions have to be attached to the completion guarantee?

#### Under budget

- Who benefits from under spending, and under what conditions?
- Can money that had not been spent be allocated to other budget items?

#### Financing plan

- What are the financial commitments of the co-producers?
- Are the co-producers providing their contributions:
  - In cash from their own resources?
  - In any special purpose financial mechanism?
  - In cash from a third party financier?
  - In kind, services, trade exchanges or any other form?
- What time commitments are attached to co-producer financial commitments?

#### Funding

- Which co-producer is responsible for applying for funding, and from which funder/s?
- Is consensus required to obtain funding?
- What happens if the funding becomes conditional in any way?

#### Cash flow

- In which currency/ies will finance and accounting work?
- Where is the accounting set up, and under whose control is it?

- What is the accountability for accounting?
- What happens in the event of exchange rate fluctuations?
- How is the money in production accounts owned by co-producers?

### Script (screenplay)

- Who approves the final script and how?

### Responsibilities

- Who is responsible for technical, creative, editorial and other elements? How, and under what consensus?
- How are specifications of format, style, technical standards decided?
- What details have to be pre-approved, and how?

### Third-party contracts

- What conditions are applied to the co-producers with regard to talent, crew, supplier and rental agreements?
- What conditions apply to intellectual property rights agreements?
- What is the position of union involvements?
- Are there any conditions attached to buy-outs?

### Insurances

- Are any special insurances required, and which ones are included in the agreement?
- Will Errors and Omissions (E&O) Insurance be required, and under whose responsibility and under what terms?
- How will insurance claims and payments be applied?

### Production schedule

- What is the schedule? Whose responsibility is it to produce the schedule? What happens in the event of delays?
- What is the original language of the programme and what provisions have been made for alternative languages, IT tracks, subtitling and dubbing?
- Are all co-producers allowed on the set?
- Who is in charge of publicity?
- What is the delivery date?
- What allowances and provisions have been made for unavoidable delays at any stage of production or delivery?

## 18 Co-production step by step

### The situation

I have a concept. It needs some development, but I can see it could work well as a co-production between two countries in Africa. I know the countries I would like to involve. *So what do I do next?*

#### Step 1

Do a proper treatment that targets the audience and defines the production needs.<sup>34</sup> Make sure that you list all your requirements and calculate a rough budget.

#### Step 2

Make a list of all the things you have defined in Step 1, and check off those that you personally can access. Then make a list of the things (performers, finance, funding, production management, creative staff, crew, facilities, locations, wardrobe, props and digital effects) that you cannot access.

#### Step 3

Make a list of the producers, bodies or suppliers who could supply you with what you need.

#### Step 4

Define your distribution. Who will you need to distribute the work for you? Broadcasters? Agents? Who?

#### Step 5

Contact the broadcaster. Use personal contacts if possible. Do not go to the reception desk or the director-general. If you do not know the name of the commissioning editor, channel head or programme director, then contact a body like the Southern African Broadcasting Association (SABA) and ask for their help. For broadcasters in other parts of the world, use personal recommendations if possible. If you don't have any, do your homework and search the web.

#### Step 6

Go to see the distributor. You will never sell a project by fax or e-mail. If you don't have the money to travel, then get a local partner on board who can help you.

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<sup>34</sup> Refer to *The Art of Pitching* (pp 36-40). Available from the SABC Content Hub.

## Step 7

Once you have tied up the distribution, look for finance and funding. This may take you a year, or two or even three. Pull together a finance deal working with your production partners and your distributors. You can get the names of funding organisations by searching the web, or reading the trade magazines, and taking note of who are customary funders.

In South Africa, you can apply for funding from the National Film and Video Foundation (NFVF), the Industrial Development Corporation (IDC), or check what rebates and allowances are available through the Department of Trade and Industry. You are well advised to work through an experienced finance organisation.<sup>35</sup> **Do not** go into production until **all** the money is in place.

## Step 8

Go for it. Co-production is a sacrifice of independence, but necessary in order to do things that are out of the ordinary. Doing exceptional things in TV today is absolutely necessary. Never before have we had so much TV accessible to so many people. With over 100 channels available, you would think people are sick of it. They are, but only of mediocre TV.

In this environment, TV has to be exceptional. And to be exceptional, you need exceptional business practices.

After all, projects cannot have exceptional budgets – there is just not enough money to go around. Co-production seems to be the answer to the information revolution. While South and Southern Africa is looking for a major change in status after 2010, we still do not know how viewers will watch the Soccer World Cup. On cellular phones, hand-held devices, on the face of their wrist-watches? Or will we be watching it on the inside of our sunglasses?

Changing times call for people who are up to date with the latest changes, and for people who are able and willing to react fast. The basic emotions of the audiences do not change, but their ways of feeding those emotions do. If you want to stay in business, then you must change with the times. **And**, you have to anticipate where audiences will be by the time you get your co-production delivered to them, in two or three years' time.

<sup>35</sup> See co-production resources listed at the end of the book.

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# Co-production resources

## Audience research

### South Africa

South African Advertising Research Foundation	<a href="http://www.saarf.co.za">www.saarf.co.za</a>
Bureau for Media Research	<a href="http://www.unisa.ac.za">www.unisa.ac.za</a>
The Marketing Site	<a href="http://www.themarketingsite.com">www.themarketingsite.com</a>
Media Tool Box	<a href="http://www.mediatoolbox.co.za">www.mediatoolbox.co.za</a>

### Africa

Pan African Media Research Organisation	<a href="http://www.pamro.org">www.pamro.org</a>
Steadman Group	<a href="http://www.steadman-group.com">www.steadman-group.com</a>
African Extension	<a href="http://www.africanextension.com">www.africanextension.com</a>

## World audience data

World Bank	<a href="http://www.worldbank.org">www.worldbank.org</a>
UNESCO	<a href="http://www.unesco.org">www.unesco.org</a>
Internet World Stats	<a href="http://www.internetworldstats.com">www.internetworldstats.com</a>
Screen Digest	<a href="http://www.screendigest.com">www.screendigest.com</a>
Plunkett Research	<a href="http://www.plunkettresearch.com">www.plunkettresearch.com</a>

## Co-production advice

National Film and Video Foundation	<a href="http://www.nfvf.co.za">www.nfvf.co.za</a>
Industrial Development Corporation	<a href="http://www.idc.co.za">www.idc.co.za</a>
Department of Trade and Industry	<a href="http://www.thedti.gov.za/publications/publications.htm">www.thedti.gov.za/publications/publications.htm</a>
South African Film Finance Corp.	<a href="mailto:saffco@netactive.co.za">saffco@netactive.co.za</a>
Sithengi	<a href="http://www.sithengi.co.za">www.sithengi.co.za</a>
Co-production International	<a href="http://www.co-production.net">www.co-production.net</a>
South African Revenue Services	<a href="http://www.sars.gov.za">www.sars.gov.za</a>
Department of Home Affairs	<a href="http://www.home-affairs.gov.za">www.home-affairs.gov.za</a>
Cape Film Commission	<a href="http://www.capefilmcommission.co.za">www.capefilmcommission.co.za</a>
Durban Film Office	<a href="http://www.durbanfilmoffice.com">www.durbanfilmoffice.com</a>
Gauteng Film Office	<a href="http://www.gfo.co.za">www.gfo.co.za</a>
Southern African Broadcasting Association	<a href="http://www.saba.co.za">www.saba.co.za</a>

Broadcasting is an industry that requires collaboration in order to ensure profitability, best practice and public service. This document represents a landmark in the SABC's efforts to create workable partnerships that balance the revenue imperative of the SABC Ltd with its national mandate and social responsibility.

It redefines the manner in which the SABC Ltd enters into a trade relationship with its content suppliers and other producing entities, and we believe it sets a new benchmark for production in the African television industry.

**Solly Mokoetle**

Group Chief Operating Officer  
South African Broadcasting Corporation Limited

