

European Commission: Renewal of UIP Authorisation for Five Years

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The European Commission has decided to renew the exemption under Article 81(3) of the EC Treaty of the agreements establishing United International Pictures BV (UIP). Paramount Pictures Corporation, Universal Studios Inc., and Metro-Goldwyn-Mayer Inc. (the Partners) established the joint UIP film distribution company in 1982. UIP distributes and licenses feature films produced mainly by the Partners for screening in cinemas within the European Union. Before the establishment of UIP, the Partners distributed their films within the European Community through their own separate organisations. In order to increase efficiency, the Partners decided to pool their distribution activities in the EU and to grant UIP exclusive rights to their respective products. The Commission first exempted UIP for five years in 1989 subsequent to changes designed to ensure that the agreements preserved the highest possible degree of autonomy for the Partners in the conduct of their business. To better achieve this aim, the Commission has now requested that the Partner's autonomy be extended further.

The main changes affect the following two areas: (1) UIP will have the right of first refusal to distribute a Partner film in the EU. This, however, applies on a Member State by Member State basis, whereby Belgium/Luxembourg and the UK/Republic of Ireland are treated as one territory, instead of treating the EU as a single territory, and (2) the Partners have abolished the requirement for UIP to undertake its best efforts to maximise profits for all Partner films.

The Partners have also given a series of undertakings, which essentially concern: (a) the efforts which UIP and the Partners will undertake in respect of local film industries; (b) the highest possible degree of autonomy for Partners in the conduct of their business; and (c) UIP's dealings with exhibitors on a fair and equitable basis. The changes in the original agreements and undertakings substantially improve competition in the film distribution markets. Moreover, the Commission has found that the fact that the Partners joined forces within UIP has not enabled the Partners to 'rule Europe' as certain third parties feared. The Commission concludes that on balance the UIP agreements meet the requirements for an exemption set out in Article 81(3) of the EC Treaty. The Commission has therefore informed UIP that it may continue its operation. The Commission does, however, reserve the right to re-examine the case if new developments occur, and will do so in any event five years after notification of the renewal of the exemption.

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Undertakings of Paramount and UIP.

