European Commission: State Aid Rules for Cinema Extended until 2009

IRIS 2007-7:1/4

Mara Rossini
Institute for Information Law (IViR), University of Amsterdam

The Commission’s 2001 Cinema Communication set out the general and specific conditions for the provision of state aid to the production of cinematographic and other audiovisual works.

In 1997, the Commission received a complaint about the French cinema production aid scheme, which was alleged to have exclusionary effects. These effects were later confirmed by the Commission's assessment of the French scheme. The anti-competitive effects were the result of provisions making the aid conditional on the realisation of certain filmmaking activities in the Member State (so-called "territorialisation”). In its subsequent decision, the Commission set out four specific compatibility criteria to authorise aid to cinema and TV production in accordance with the "culture derogation" contained in Article 87(3)(d) of the EC Treaty. These ciriteria, initially introduced for the French aid scheme, were applied to all other national schemes and incorporated in the Commission’s “Cinema Communication”.

Thus, when looking into national aid schemes the Commission first verifies whether the aid scheme respects the "general legality" principle, i. e. the Commission verifies that the scheme does not contain clauses that would be contrary to provisions of the EC Treaty in fields other than state aid (including its fiscal provisions); it then determines whether the scheme fulfils the specific compatibility criteria for aid, set out in its 1998 decision on the French automatic aid scheme.

The four criteria that state aid must meet in order to qualify as cultural aid are as follows:

- Aid must benefit a cultural product;

- The producer must be free to spend at least 20% of the production budget in other Member States without suffering any reduction in the aid provided for under the scheme;

- The level of aid, in principle, must be limited to 50% of the production budget (except for difficult and low budget films);

© European Audiovisual Observatory (Council of Europe) 2026

- Aid supplements for specific filmmaking activities are not allowed.

The provisions contained in the 2001 Cinema Communication will continue to be applied until 31 December 2009 by the Commission when assessing the EC compatibility of the aid schemes of the Member States. This is the second time that the 2001 provisions have been extended: the Commission's 2004 Communication on the follow-up to the Cinema Communication had already once extended its validity (until 30 June 2007). The second extension was deemed necessary as part of the preparation of the revision of the current rules: such a revision entails a complete review of the existing situation. A study into the effects of the current state aid systems was launched in the summer of 2006 and the Commission considers the results of the study as valuable input for its planned revision of the current rules. It is therefore intent on waiting for the completion of the study and has in the meantime extended the 2001 rules.

Commission communication of 16 June 2007 concerning the prolongation of the application of the Communication on the follow-up to the Commission communication on certain legal aspects relating to cinematographic and other audiovisual works (cinema communication) of 26 September 2001

http://eur-lex.europa.eu/LexUriServ/site/en/oj/2007/c_134/c_13420070616en00050005.pdf

Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on certain legal aspects relating to cinematographic and other audiovisual works of 26 September 2001

http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52001DC0534:EN:HTML

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026