[IT] Tax Credit and Tax Shelter: New Ways of Financing Italian Cinema

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On 22 August 2008, the General Direction for Cinema, according to the provisions of the third paragraph of Article 88 of the EC Treaty, formally notified the European Commission of new measures containing fiscal incentives for film production and distribution companies. The relevant paragraph – which deals with state aid – provides that, "The Commission shall be informed, in sufficient time to enable it to submit its comments, of any plans to grant or alter aid. If it considers that any such plan is not compatible with the common market having regard to Article 87, it shall without delay initiate the procedure provided for in paragraph 2. The Member State concerned shall not put its proposed measures into effect until this procedure has resulted in a final decision".

As a matter of fact, the recent Italian Act of 6 August 2008 n. 133, which comprises an amendment to the Italian Finance Act of 2008, provides a new system of incentives for Italian cinema. The Law proposes to ensure the support policy for the national film industry, so as to promote the production and distribution of national films. To achieve this goal, the act specifically introduces tax breaks for companies, internal and external to the cinema sector, who reinvest their profits in Italian film production and distribution.

Technically, the legal measures provide two intervention channels: tax credit and tax shelter, which, according to the supporters of the reform, aim at strengthening the entire cinematographic chain, avoiding the direct intervention of the government, while also respecting freedom of expression. In fact, the logic behind the new law, more innovative than ever before, is to overcome the direct intervention of the State, which under a system of direct state financing can decide if a project is eligible or not to be financed.

In general terms, tax shelters are a method of reducing taxable income, cutting the revenue receipts. In the new Italian law, in accordance to this tax measure, a maximum default budget is introduced. Moreover, this is proportionate to the cost of production of a funded film with regard to the size of the loan.

The tax credit, on the other hand, provides an incentive for companies with little income or even making a loss. Every company, in fact, owes the treasury debt,

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even if it does not make a profit. In this regard, the tax credit can be an attractive option for everyone.

To analyse in detail how the economic incentive will be working, it is necessary to wait for the ministerial directives. Nevertheless, as anticipated, in accordance with the provisions of European law on state aid, Italy cannot implement the new scheme before it has been approved by the European Commission. Therefore, the Italian Government, in order to enact measures implementing the aforementioned Law, is now obliged to wait for European authorisation.

Finally, in this context of reforms, it is interesting to note the recent proposal of the Italian Minister of Culture, who has announced his intention of extending tax shelters and tax credit to other sectors of cultural business, as well as setting up in Italy a self-financing *Agenzia Nazionale per il Cinema* (National Cinema Agency), similar to the French *Centre National de la Cinématographie* (National Cinematographic Centre).

Legge 6 Agosto 2008, numero 133: "Conversione in legge, con modificazioni, del decreto-legge 25 giugno 2008, n. 112, recante disposizioni urgenti per lo sviluppo economico, la semplificazione, la competitività, la stabilizzazione della finanza pubblica e la perequazione tributaria"

http://www.parlamento.it/leggi/08133l.htm

Act of 6 August 2008 number 133

Legge 24 Dicembre 2007, numero 244: "Legge finanziaria 2008", articolo 1 commi 325 – 343

http://gazzette.comune.jesi.an.it/2007/300/leggefinanziaria2008.pdf

Act of 24 December 2007 number 244 article 1, paragraph 325 – 343

Comunicato Stampa del Ministero per i Beni e le Attività culturali pubblicato il 22 agosto 2008: "Incentivi fiscali per la produzione e la distribuzione delle opere cinematografiche (Tax shelter e Tax credit)"

http://www.beniculturali.it/sala/dettaglio-comunicato.asp?nd=ss,cs&Id=2710

Press Release of Ministry of Culture of 22 August 2008

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