European Commission: State Aid and Italian Cinema

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On 22 July 2009, the European Commission approved under State aid rules a EUR 82 million Italian tax incentive scheme for film investment and distribution. In the same decision, the Commission also decided to open a formal investigation into a proposal for tax incentives for digital projection in Italian cinemas. The tax incentives aim to support and promote the production and distribution of Italian cultural films.

The approved tax incentives complement the Italian film production tax incentives already approved by the Commission in December 2008 (see IRIS 2008-9: 15, IRIS 2009-3: 14 and IRIS 2009-6: 14). For years the Italian film industry has had a difficult time because of the strong presence of US commercial films. As a result of this, film producers in Italy largely depend on major production companies and television networks, which usually demand a more commercial type of films. This kind of distortion in the Italian film market threatens the cultural identity of Italian cinema. The incentives aim to attract investments from within and outside the film sector. This could lead to more independence for film producers, which would allow them to focus on the quality and cultural nature of the films.

The Commission determined that the incentives for production are compatible with the criteria set out in the 2001 Cinema Communication. The Communication provides specific rules for assessing aid for film and audiovisual production under Article 87(3)(d) of the EC Treaty. Examples of these criteria are the demand that the aid must be directed towards a cultural product and that the maximum level of aid be 50%.

The incentives for the distribution of films also comply with the EC Treaty State aid rules. The Commission agrees with the Italian authorities that State aid is necessary to support the distribution of Italian cultural films. According to the Italian authorities, the incentives will encourage distributors to release Italian cultural films, rather than more commercial alternatives. In conclusion, the Commission finds the incentives necessary and proportionate to the objective pursued and thus compatible with the EC Treaty.

The incentive concerning the tax credit for installing digital projection equipment in Italian cinemas has not yet been approved. The objective of the measure is to extend the use of digital projection to increase the circulation of cultural films,

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both Italian and European. The Commission fears that the incentive will mostly benefit the large multiplexes which need less support than the small art house cinemas. The Commission is concerned that small cinemas probably do not have sufficient tax liabilities to profit from the 30% tax credit. And even if they do, the incentive can only provide 30% of the financing for the digital projection equipment. The Commission wonders whether small cinemas can finance the remaining 70%, especially if they are already struggling financially. The large multiplexes, which can possibly afford to finance the remaining 70%, will probably not show a lot of Italian cultural films, especially not during prime time.

Because the Commission is unsure whether the incentive is compatible with the EC Treaty State aid rules, it has opened a formal investigation into this question.

European Commission, "Film investment & distribution tax incentives: State aid approval Digital cinema tax credit: Opening of formal investigation", Brussels, July 2009

http://ec.europa.eu/competition/state_aid/register/ii/doc/N-673-2008-WLWL-en-22.07.2009.pdf

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