

European Commission: Third and Final Public Consultation on State Aid Criteria for Films and other Audiovisual Works

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On 30 April 2013, the European Commission launched a public consultation on the state aid criteria for films and other audiovisual media. The aim of the consultation is to assess the support schemes for films and other audiovisual works of the European Member States. The criteria for state aid were previously set out in the 2001 Cinema Communication, which expired on the 31st of December 2012. These criteria are now set out in a (revised) draft Communication. The final Communication is expected to be adopted by the Commission in July 2013. The public consultation was designed to collect opinions on the draft Communication in the interim period and ran from 30 April 2013 until 28 May 2013.

As noted in the Commission's Communication, the European Union (EU) has in due course become one of the largest players in the global film producing industry. These films represent the cultural diversity of the EU with its different traditions and cultures in each Member State. Besides this cultural importance, the European film industry is also of significant economic importance. In the area of European audiovisual media, state aid has become increasingly important. On average, an estimated €3 billion circulates in film support per year. There is a high demand for state aid in the film industry due to the risks associated with producing a film and the perceived lack of profitability of this sector. However, such support may (threaten to) distort competition and is therefore regulated under Article 107 Treaty on the Functioning of the European Union.

The draft Communication introduces certain amendments to the state aid criteria of 2001. The 2001 criteria only applied to production support whereas the draft rules extend the scope of application of the criteria to other related activities, covering all phases from the original concept of the work to actually putting the work on the market. Also, the new draft rules are designed to ensure the proportionality of territorial obligations with the aid granted (this is the obligation to spend a certain part of the film production budget in a particular territory). It takes into account specific characteristics of tax incentives in order to support the film industry and introduces a higher maximum aid intensity level for cross-border productions.

In short, the main objective of the draft Communication is to create a level playing field for film producers in each Member State and to enhance the possibility of cross-border audiovisual productions. The Commission expects that media pluralism will be ensured by offering a more culturally diverse catalogue of audiovisual works.

Public Consultation on State Aid Criteria for Films and other Audiovisual Works Bodies, 22 March 2013

http://ec.europa.eu/competition/consultations/2013_state_aid_films/index_en.html

Revised Draft Communication from the Commission on State Aid for Films and Other Audiovisual Works

http://ec.europa.eu/competition/consultations/2013_state_aid_films/draft_communication_en.pdf

