European Commission: State aid for video games compatible with EU rules

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The United Kingdom's plan to grant tax relief to producers of video games is in line with the state aid rules of the European Union. In the UK there is a group of four corporation tax reliefs aimed at the creative industries. These reliefs increase the amount of allowable expenditure for a company, with the aim of stimulating cultural production. Film tax relief was introduced in April 2007 and two additional reliefs were introduced in April 2013, for animation and high-end television programmes. On 27 March 2014 the European Commission approved the introduction of aid for producers of video games.

Aid granted by member states that distorts or may distort competition by favouring the production of certain goods is incompatible with the internal market in so far as it affects cross-border trade. State aid is monetary advantage in any form whatsoever, for example a grant or tax relief. As an exception to the general prohibition on state aid, Article 107(3)(d) of the Treaty on the function of the European Union (TFEU) provides that aid to promote culture may be considered to be compatible with the internal market where such aid does not affect trading conditions and competition in the Union to an extent that is contrary to the common interest. The Commission has the authority to review aid plans and demand abolishment if the aid does not meet the criteria of Art. 107 TFEU.

In this case, the Commission opened an investigation due to concerns that the aid instrument proposed by the UK government was incompatible with the Single Market. There appeared to be no market failure in the games sector to produce British games and such games were already being produced without state aid. In that sense, the introduction of state aid would not be necessary. As well as this, the tax relief would only be available in relation to development expenditure used or consumed in the UK. Limiting the expenditure qualifying for the tax relief to goods or services used or consumed in the UK is discriminatory and incompatible with the internal market. Lastly, the tax relief plan included a cultural test to ensure that the aid would only support games with cultural content. The Commission was worried that this test was not sufficiently restrictive.

After the Commission opened the investigation, the UK removed the territorial spending obligation. Moreover, the UK was able to demonstrate that the proposed cultural test ensures that the aid supports only culturally relevant games, and

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that without this support the number of these British or European games would decline. The Commission therefore concluded that the measure promotes culture without unduly distorting competition in the internal market.

The UK government estimates that the tax relief will provide around £35 million of support a year to the sector. It will come into effect from 1 April 2014.

European Commission, State aid: Commission approves UK video games tax relief plan Brussels, Press release, IP/14/33, 27 March 2014

http://europa.eu/rapid/press-release_IP-14-331_en.htm

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