

**Contribution to the public consultation on additional categories for a revised draft General Block Exemption Regulation on state aid measures (GBER II)
Ref.: HT3365 – SAM – GBER review**

Brussels, 09/09/2013
ID 46323662272-17

1. Introduction

The European network of regional film funds Cine-Regio¹ welcomes the decision from the European Commission on excluding the Film and AV sector for the time being in the revised draft GBER II. The Commission's decision reads: *"the Commission finds it more appropriate to propose the draft compatibility criteria for the block exemptions in this area in the light of the final text of the Cinema Communication....."*

We also welcome that the Commission recognise that culture is not a commodity and does not work on general economic terms alone. On the topic of film not being a commodity, allow us to quote Commissioner Androulla Vassiliou: *"Culture is not a commodity. It enjoys a protected status under the EU Treaty and EU law. The European Commission is politically committed to this special status and is also legally obliged to defend it."*²

The 39 regional film funds, members of CineRegio, share a common understanding on the role and contribution of films and audiovisual works to our society. They share a common motivation to support culture and creative industries, enhance talent development and curb brain-drain, promote cultural diversity and contribute to the reinforcement of European regional identities.

It is of utmost importance that the European regions retain the right to support and regulate their film and audiovisual industries including the ability to adapt to the emerging technologies of tomorrow. The still evolving digital era represents the biggest challenge in the history of cinema, changing the way films and audiovisual projects are financed, produced, distributed and watched.

2. Clarifications

The published text on "additional categories for a revised draft GBER" has left us concerned on two aspects.

Despite the above-listed decision from the Commission to exclude the film sector it is included as a category in the first half of the revised draft text (point (7), page 3). The text states: *"Due to the strong competition in the film sector, script-writing, development, production, distribution and promotion of audio-visual works should be assessed under special rules. Since the Cinema Communication is under revision, the Commission's case experience on audio-visual works is based on compatibility conditions that are no longer valid and therefore cannot*

¹ More info on www.cineregio.org

² Speech by Androulla Vassiliou, European Commissioner for Education, Culture, Multilingualism and Youth. "Strengthening the cultural exception in Europe", Cahnes, 20th May 2013

be exempt from the notification requirement at this stage. However, once the new Cinema Communication is adopted, aid to audio-visual works should be block-exempted.”

We are also confused about the first-mentioned line: “*Due to the strong competition in the film sector*”. What competition is the Commission referring to?

The real competitor of national and regional cinematography in Europe is a non-European adversary: the US industry. In 2011 the average market share of US movies in Europe were 61,4%, reaching more than 90% in some Member States. The strong market dominance of the American majors impedes real competition with the European sector mainly formed by SMEs. Geographically-focused film supports in Europe should thus be considered as a remedy to correct market failure and not as its cause.

As stated by the Commission’s Green Paper on the online distribution of audiovisual works in the European Union³: *“the European cinematographic industry is confronted with some unique structural characteristics including the language and cultural specificities and preferences of national markets and the limited availability of financial sources. The European audiovisual sector is deeply fragmented, consisting of a large number of small- and medium-sized enterprises (SME’s). Europe has not been in a position to develop a studio system of the nature developed by the Hollywood majors. It suffers from underinvestment in comparison with other countries and the average film budget is a fraction of that of the major studios. European films often enjoy success in their home territory, but, as the figures above demonstrate, tend to have limited distribution and appeal outside the territory of their production. Given the structural challenges for European cinema, the development of this sector has not been left solely to market forces”.*

3. Reflection points

May we take this opportunity to list some reflection points if a GBER for the film sector is introduced:

- For Cine-Regio a culturally diverse Europe is not a Europe where cultural life is centralised around a handful of major cities and capitals, but is a part of the lives of as many communities as possible. Territories are well suited to foster film creativity and culture. Among others because cultural products such as film are influenced by local customs and language.
- Aid intensity will be addressed in the new Cinema Communication. It currently stands at 50% of the production budget, with higher aid intensities for difficult films and with 60% for international co-productions.
- Co-production has become a necessity these days as regards the majority of European feature films that now need to seek multinational financing in order to actually be made. Co-production projects can be developed with the support of quite small amounts of money from regional film agencies.
- It is our understanding that the different “additional categories” operates with different thresholds as to when investment & operating aid can be exempted from the notification requirements. In some categories the threshold suggested is EUR 7.5 million per undertaking/project and in the culture category it is ei EUR 20 million in operating aid. Should a threshold be introduced it would be important for us to understand how you reached the threshold level(s).
- In a nutshell, the film production schemes made available by members of Cine-Regio today share the following features: selective schemes where respect for artistic integrity is a key element; aid invested per film during the last five years has not exceeded €1m and those few funds which has had such support opportunities is limited to 2-3 times over the last five years; 95% of the films supported by Cine-Regio members are below a total budget of €20m and the majority of the operating schemes have budgets between EUR 1-5 million with a handful reaching 15 million.

³ Green Paper on the online distribution of audiovisual works in the European Union: “Opportunities and challenges towards a digital single market, COM(2011)427/4, in particular section 2.4.

4. Conclusion

For Cine-Regio, the members of Cine-Regio and the citizens in our regions, one of the great strengths of Europe is its investment in films of high artistic value; in the exploration and nurturing of new talent; and in cinematic innovation.

European Cinema is one of the cornerstones of European cultural expression. Its importance has for many years been recognised by the EU's competition rules and by State aid control in particular. Hence, as regards a possible General Block Exemption Regulation for the Film & AV sector, may we ask that the following be recognized:

- Territorialisation is an essential to cultural output (income taxable expenditure)
- The way European regions chose to implement their cultural policy should be decided by themselves – as guaranteed in the Treaty by article 107.3 (d) TFEU. Furthermore, Article 167 TFEU explicitly refer to culture and regional diversity and we therefore call for that the role of regional film funds as well as their competences in the field are recognized.
- The opinion of the Committee of the Regions C218 EU Official Journal, 2013, paragraph 25: *"...underlines the importance of maintaining state aid granted with a view to promoting culture. Urges, therefore, the Commission to reconsider the territorial spending criterion when issuing the new State aid rules for films and other audiovisual works in order not to harm the territorial impact of such works"*.

In conclusion, we:

- agree with Commission's decision to finalize the current review of the Cinema Communication before even considering making the film sector part of GBER.
- expect a public consultation will be launched if the category Film & AV sector is added to the GBER. For now we are not in a position to comment as there is no article/text suggestion available
- need clearance on the sentence: "due to the strong competition in the film sector".

We would like to thank you for this opportunity to communicate our standpoints in writing. If we can be of any assistance in taking matters further, please do not hesitate in contacting us: Cine-Regio, Bischoffsheimlaan 38, 1000 Brussels. Attn.: Charlotte Appelgren, General-Secretary (ca@cineregio.org).

Cine-Regio members:

Apulia Film Fund, Italy
Basque Film Fund, Spain
BLS Südtirol Alto Adige, Italy
CICLIC – Region Centre, France
Cinéforum, Switzerland
ECLA – Region Aquitaine, France
Film Agency for Wales, UK
Film Fund FUZZ, Norway
Film I Skåne, Sweden
Film I Väst, Sweden
Film London, UK
Film3, Norway
FilmCamp, Norway
Filmfonds-Wien, Austria
Filmförderung Baden-Württemberg, Germany
Filmförderung Hamburg Schleswig-Holstein, German
FilmFyn, Denmark
Filmkraft Rogaland, Norway
Filmpool Nord, Sweden
Filmregion Stockholm Mälardalen, Sweden

Flanders Audiovisual Fund, Belgium
Friuli Venezia Giulia Audiovisual Fund, Italy
Ile-de-France Film Fund, France
Institut Català de les Empreses Culturals, Spain
Krakow Regional Film Fund, Poland
Midnorsk Filmfond, Norway
Mitteldeutsche Medienförderung, Germany
PACA - Région Provence-Alpes-Côte d'Azur, France
Pictanovo – Région Nord-Pas de Calais, France
POEM, Finland
Rhône-Alpes Cinéma, France
Riga Film Fund, Latvia
Sardegna Film Foundation, Italy
Screen South, UK
Silesia Film, Poland
Trentino Film Fund, Italy
Wallimage, Belgium
West Danish Film Fund, Denmark
Zürcher Filmstiftung, Switzerland