

European Film Agency Directors
Contribution to the consultation of the European Commission on the
Draft Regulation declaring certain categories of aid compatible with the internal market
in application of Articles 107 and 108 of the Treaty
February 2014
(Ref.: HT3365 – SAM – GBER review)

1. Introductory remarks

The European Film Agency Directors (EFAD) welcome the opportunity to comment on the public consultation on the revision of the General Block Exemption Regulation on State Aid (GBER II) of 18 December 2013.

Public funding is essential to all parts of the film sector as part of a mixed ecology alongside private investment. It helps to sustain a critical mass of European film production, supports a diversity of films for audiences across Europe, helps European films reach audiences internationally and enables Member States to support cultural diversity in their countries.

The EFAD welcome a block exemption regulation on “Aid for audiovisual works”. In particular, we welcome the general remarks concerning “Culture and heritage conservation”, the emphasis on the importance of Article 167 TFEU and the recognition that “State aid rules should acknowledge the specificities of culture and the economic activities related to it”. Hence the necessity for specific and flexible State aid rules for the cultural and audiovisual sector is more deeply anchored.

However, to facilitate sustainable growth and to avoid a disproportionate administrative burden, we propose the following amendments, clarifications and reconsiderations, and we refer exclusively to “Aid schemes for audiovisual works”.

2. Proposals

1. Increase of the notification threshold

Concerning the notification threshold (Article 4, paragraph 1 (u)) the reference parameter of “scheme” should be clearly defined. Alternatives are the total annual funding budget of a funding institution or the budget of a specific support scheme, i.e. for film production.

Moreover the notification threshold should be increased significantly to be set in relation to the overall category. According to the Draft GBER II the notification threshold for investment aid for “Culture and heritage conservation” will be EUR 100 million per project and for operating aid EUR 50 million per undertaking per year. Therefore EFAD suggest as notification threshold for the subcategory “audiovisual works” EUR 100 million per year.

2. Coherence with the text of the Cinema Communication

We understand that the parameters set out in the Cinema Communication will be incorporated in the GBER. Furthermore we understand that the Cinema Communication is the legal binding basis. For EFAD it is of utmost importance that this component of the text and interpretation of the Cinema Communication is documented and assured. For the coherence with the text of the Communication and a higher legal certainty:

1. Article 48, paragraph 1, should read as follows:

Aid schemes to support the script-writing, development, production, distribution and promotion of films and other audio-visual works

2. Article 48, paragraph 5 (a), should read as follows:

Require that up to 160 % of the aid amount awarded to the production of a given audiovisual work is spent in the territory granting the aid, or

3. Article 48, paragraph 6 should read as follows:

Aid shall not be reserved exclusively for nationals and beneficiaries, shall not be required to have the status of undertaking established under national commercial law but can be required to have a permanent branch or agency in the aid granting Member State.

3. Distinction of terms: Aid for distribution and promotion
In accordance with Article 48 , paragraph 1 the term “distribution aid” should be replaced by “aid for distribution and promotion” in paragraphs 3 c), 7c) and 10) because the support systems can be different.

4. Transparency

The EFAD fully endorse the need for transparency and the need to provide data about public funding. However this need for openness must be balanced with the need to respect commercial sensitivities. We believe that the details for the data to be delivered set out in Annex III of the draft GBER could have undesired effects. Therefore the data requirements for the reasons of transparency should be adapted to these sensitivities and to the specificities of the audiovisual sector and commercial sensitivities.

5. Scope

We understand that transmedia projects, crossmedia projects and similar innovative audiovisual projects are included in the scope of the GBER in line with the Cinema Communication. We understand as well that video games and cinemas are not covered by the scope of the GBER.

A guiding principle for determining the scope and definitions of the block exemption should be the sustainability and flexibility of the State aid rules which do not hinder future developments and which optimize the benefit of the instrument of the block exemption. Block exemptions serve to avoid a disproportionate administrative burden, especially for the EU Commission. Hence EFAD would like to recommend that the EU Commission monitors the definition of the scope of the specific block exemption in view of the funding realities and in view of the expiring date of the GBER II at the end of December 2020.

6. Simplification of procedures

The review of the GBER is at the centre of the EU State Aid Modernisation (SAM). The EFAD expressly welcome the objectives of the SAM, notably the particular focus on simplification of procedures and the acknowledgement of the importance of state aid for sustainable growth. However e.g. the simplification of procedures should be an overall approach for the EU State Aid control, not limited to the context of Block Exemptions. Hence for the approval of audiovisual support schemes under the Cinema Communication or by analogy to the Cinema Communication simplification and avoiding disproportionate

administrative burdens should also be objective. For example the obligation to submit annual reports on the application of an approved aid scheme can represent a disproportionate administrative burden. Therefore EFAD would like to recommend that the EU Commission modernizes the notification procedures of audiovisual schemes in the light of simplification and in the spirit of the reform of the SAM.

Signed by:

Österreichisches Filminstitut (Austria)
Centre du Cinéma et de l'Audiovisuel de la Communauté française (Belgium)
Vlaams Audiovisueel Fonds (Belgium)
National Film Centre (Bulgaria)
Croatian Audiovisual Centre (Croatia)
Cultural Services of the Ministry of Education and Culture (Cyprus)
Czech Film Chamber (Czech Republic)
Danish Film Institute (Denmark)
Estonian Film Foundation (Estonia)
Finnish Film Foundation (Finland)
Centre National de la Cinématographie (France)
Filmförderungsanstalt (Germany)
Greek Film Centre (Greece)
National Film Office (Hungary)
Irish Film Board (Ireland)
Ministero per i Beni e le Attività Culturali - Direzione Generale per il Cinema (Italy)
National Film Centre (Latvia)
Ministry of Culture - Department for Arts (Lithuania)
Film Fund Luxembourg (Luxembourg)
Maltese Film Commission (Malta)
Nederlands Fonds v.d. Film (Netherlands)
Polish Film Institute (Poland)
Instituto do Cinema Audiovisual e Multimedia (Portugal)
Centrul National al Cinematografiei (Romania)
Ministry of Culture - Department for Cinema (Slovakia)
National Film Foundation (Slovenia)
Instituto de la Cinematografía y de las Artes Audiovisuales (Spain)
Swedish Film Institute (Sweden)
British Film Institute (United Kingdom)