

Submission to the consultation on a draft Communication from the European Commission on State Aid for Films and other Audiovisual Works

Federation of Screenwriters in Europe

The Federation of Screenwriters in Europe (FSE) is a grouping of twenty five guilds and unions from twenty European states representing some seven thousand screenwriters.

FSE in general welcomes the draft Communication which acknowledges the importance of film and other audiovisual production and the essential nature of state aid in this sector. State aid in the form of grant aid and tax-based support for the production of films and other audiovisual work is necessary to implement the European Union's goals as expressed in Title XIII on Culture, in particular Article 167.4, and Article 107.3(d) of the Treaty on the Functioning of the European Union.

However we would like briefly to express our concern at the likely deleterious impact on film production, and therefore on cultural diversity, of the draft Communication's proposals on the rules concerning the territoriality of existing systems of state aid and the proposed radical change of the rules concerning the origin of goods and services involved in film production.

It is widely agreed among stakeholders that the Commission's proposals will have severe and damaging impact on film production. For a viable film culture and film industry, capable of playing an effective role in cultural diversity, to exist in a particular state or region, a certain critical mass of production and audience engagement is a prerequisite. This requires both a volume and a consistency of production. An infrastructure, mostly consisting of personnel with technical and artistic skills, must be constructed and sustained.

These infrastructures can be fragile and difficult to establish and maintain, especially in the Unions smaller member states and regions. Hence the importance of the territoriality requirements, and the requirements in respect of local goods and services, of much state support for audiovisual culture.

This is explicitly acknowledged in the Draft Communication (Clause 4.3, paragraph 30, page 8).

It is our contention that the Commission proposals in respect of territoriality and the origin of goods and services will make it very difficult "maintain a critical mass of infrastructure for film production" (to quote paragraph 30 of the draft communication).

The Commissions proposals to change the territoriality rule do not seem necessary (the principle of continued territoriality having been accepted by the Commission) but will have a distorting effect when applied to grant aid funding which is less than 50% of the production budget. Where the aid

intensity is significantly lower the territoriality requirement will also be constrained. States or regions providing support at levels below 50% may either withdraw from providing such support or artificially increase aid intensity to achieve desired territoriality effects. It is hard to understand why the Commission would wish to achieve either result. The need to make such changes does not seem evident and the risk seems disproportionate.

Even more significant is the proposal of the Commission for a new limitation preventing schemes for the support of film and other audiovisual production from requiring that goods and services involved in film production are locally sourced. In our view such a draft proposal, were it to be implemented, would undermine the capacity of state aid schemes, particularly tax based support, to sustain the critical mass of technical and artistic skills which can only result from a certain volume and consistency of production.

The Commission's draft Communication moves from the general assertion (paragraph 34, page 9) that it "would seem more appropriate" to exclude requirements for locally sourced goods and services to the proposed condition of territoriality provisions (paragraph 52, page 12) "that Member States do not use criteria based on the origin of goods (or) services" with little by way of justification in between. The statement in Paragraph 34 that such discrimination limits the possibility of companies providing film production services to be freely active within the internal market is not supported by any evidence. It is in any event probably incorrect in that the damage done by the proposed provision to the existing infrastructure will remove much of the possible work that might have been available to those companies.

The basic logic of the European Union's treaty commitments to actively support the diverse cultures of its citizens is the acknowledgement that, in this aspect of the Union's activities, strict application of internal market and competition rules, which may be essential in other aspects of the Union's work, is inappropriate and potentially damaging to the achievement of the Union's policy goals in the area of culture. It is our view that, in its proposals to amend its rules on territoriality and to introduce new regulations on the origin of goods and services used in film production, the Commission appears to be putting ideology before practicality.

We believe that the primary importance of the production and distribution of films and other audiovisual works in the European Union is in their central contribution to the strength and growth of our diverse cultures. The secondary goals of employment creation and economic activity can be most successfully nurtured when the cultural goals are given priority. A strong and popular culture will create employment and generate economic activity. Maintaining national and regional production infrastructure is essential. Territoriality provisions and the active promotion of the local goods and services which are integral to local infrastructure are efficient means of sustaining the diverse, fascinating and essential cultures of the European Union.

28th June 2013