



EUROPEAN COMMISSION

PUBLIC VERSION

WORKING LANGUAGE

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Brussels, 10/05/2010
D(2010) 3064

Subject: State aid N 35/2010 – Germany – Nordmedia Fonds - Film Funding in Niedersachsen and Bremen - Prolongation of aid N229/2007

Dear Sir,

1. Summary

1. The European Commission has assessed the aid scheme to the support of film production in Niedersachsen and Bremen (hereinafter “Nordmedia Fonds”) and decided to consider the aid to be compatible with the Treaty on the Functioning of the EU (“TFEU”). The subject matter of the present notification is an increase of the annual budget from EUR 8 million to EUR 12,2 million. The scheme is approved until 31 December 2012 on the basis that the German authorities have undertaken to implement any changes that may be required after the expiry of the Commission Communication on cinematographic and other audiovisual works (hereinafter “Cinema Communication”)¹.

¹ Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on certain legal aspects relating to cinematographic and other audiovisual works of 26/09/2001 (OJ C 43 of 16/02/2002); extended by the Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on the follow-up of the Commission communication on certain legal aspects relating to cinematographic and other audiovisual works of 26/09/2001 (OJ C 123 of 30/04/2004); by the Commission Communication on the prolongation of the application of the Communication on the follow-up of the Commission Communication on certain legal aspects relating to cinematographic and other audiovisual works (Cinema Communication) of 26 September 2001 (OJ C 134 of 16/06/2007); and finally by the Commission Communication on the prolongation of the application of the Communication on the follow-up of the Commission Communication on certain legal aspects relating to cinematographic and other audiovisual works (Cinema Communication) of 26 September 2001 (OJ C 31 of 07/02/2009).

Seine Exzellenz Herrn Guido Westerwelle
Bundesminister des Auswärtigen
Werderscher Markt 1
DE -10117 BERLIN

2. Procedure

2. On 22 January 2010 the German authorities notified prolongation of the state aid scheme of the Nordmedia Fonds, using the simplified notification form. Further information was submitted by letters of 23 February 2010, 3 March 2010, 15 March 2010 and 29 March 2010. By the letter of 23 February 2010 an increase of the budget of the Nordmedia Fonds was also notified.
3. By decision of 4 June 2007, K(2007)2429 (N 229/2007)², the Commission had authorised the aid scheme until 31 December 2009. Prior to that, by decision of 11 December 2001, C 2001 3969 fin (N 767/01), the Commission had authorised the aid scheme until 31 December 2004 and by decision of 14 December 2004, C 2004 4762 fin (N 411/2004), the scheme was approved until 30 June 2007.

3. Description of the measure

4. Nordmedia Fonds shall support the development, production, post-production, promotion and distribution of films. The aid intensity in general does not exceed 50%.
5. The notified scheme consists of a prolongation of a previously authorised aid until 31 December 2012. The budget is to be increased from previously EUR 8 million to EUR 12,2 million annually. In total, the budget of the scheme for 2010 to 2012 will be EUR 36,6 million. The aid consists of direct grants and reimbursable grants awarded by the Nordmedia Fonds GmbH.
6. The German authorities have given an assurance that they would treat the support for the digitization of cinemas under *de minimis* Regulation.³ Therefore, this part of the scheme is not covered by this decision.
7. In all other respects, reference is made to the decisions referred to in paragraph 3 above.

4. Assessment of the measure

4.1. Existence of State aid

8. As already set out in the State aid cases referred to in paragraph 3, the measure constitutes State aid within the meaning of Article 107(1) TFEU.

4.2. Compliance with the Treaty on the Functioning of the EU

9. The envisaged measure is a prolongation of a scheme as well as an increase of the budget. Prior to that alteration, the aid has been approved by the Commission under Article 87(3)(d) of the EC Treaty⁴ as compatible with the Common Market.

² http://ec.europa.eu/community_law/state_aids/comp-2007/n229-07.pdf

³ Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to *de minimis* aid:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:379:0005:0010:de:PDF>

⁴ Replaced, in substance, by Article 107(3)(d) TFEU.

10. The preceding decisions of the Commission referred to in paragraph 3 above approving the aid scheme were based on the Cinema Communication. The validity of the compatibility criteria set out in this Communication was extended from 28 January 2009 until 31 December 2012, so that the Commission's statement on the compatibility of the aid scheme remains valid.
11. Concerning the prolongation of the aid scheme as well as the increase of the budget, they are compatible with the Cinema Communication because the conditions for providing grants for the film support have not changed substantially.

4.3. Conclusion

12. The Commission therefore concludes that the aid scheme constitutes State aid within the meaning of Article 107(1) TFEU which is compatible with the Internal Market pursuant to Article 107(3)(d) TFEU.

5. Decision

13. In view of the above, the Commission finds that the aid scheme for the support of film production in Niedersachsen and Bremen is compatible with the Internal Market in accordance with Article 107 (3) (d) of the TFEU and has accordingly decided not to raise any objections.
14. The scheme has been approved until 31 December 2012 on the basis that the Federal Republic of Germany has committed to amend the scheme if required by a change in the relevant State aid rules during the lifetime of the scheme.
15. If this letter contains confidential information, which should not be published, please inform the Commission services within 15 working days after receipt of this letter by providing reasons. If the Commission does not obtain a reasoned request within this delay, it will presume that you agree with the publication towards third parties and with the publication of the entire wording in the authentic language on the following internet website http://ec.europa.eu/community_law/state_aids/state_aids_texts_en.htm. Applications must be sent by encrypted E-mail to: stateaidgreffe@ec.europa.eu or via Fax to the following address:

European Commission
Directorate-General for Competition
State Aid Greffe
Rue Joseph II 70
B-1049 Brussels
Fax No: +32 2 2961242

Sincerely,

For the Commission

Joaquín ALMUNIA
Vice-President of the Commission