



EUROPEAN COMMISSION

Brussels, 25.03.2013  
C(2013) 1815 final

**PUBLIC VERSION**

This document is made available for information purposes only.

**Subject: SA.35563 & SA.35564 – United Kingdom  
High-end Television and Animation tax reliefs**

Dear Foreign Secretary

**1. SUMMARY**

- (1) I am pleased to inform you that the European Commission has assessed the above schemes and decided to consider them to be compatible with the Treaty on the Functioning of the European Union (TFEU). The schemes are approved until 31 March 2018, on the basis that the UK authorities have undertaken to implement any changes to the schemes required if the relevant State aid rules are amended during this period.

**2. PROCEDURE**

- (2) On 10 January 2013 the UK authorities notified the Commission of their intention to introduce high-end television and animation tax relief schemes from 1 April 2013 to 31 March 2018. The Commission wrote to the UK authorities requesting additional information on 6 February 2013 which the UK Authorities provided on 7 February 2013, 12 February 2013 and 18 March 2013.

The Rt Hon William HAGUE  
Secretary of State for Foreign Affairs  
Foreign and Commonwealth Office  
King Charles Street  
London SW1A 2AH  
UNITED KINGDOM

Commission européenne, B-1049 Bruxelles – Belgique  
Europese Commissie, B-1049 Brussel – België  
Telefón: 00-32-(0)2-299.11.11.

### 3. DESCRIPTION

- (3) The objective of the measures is to provide an incentive to television and animation companies to produce culturally British or European programmes.
- (4) Both measures are modelled on the UK film tax incentive approved by the Commission in 2006<sup>1</sup> and extended in 2011<sup>2</sup> until 31 December 2015.
- (5) The budgets of both measures are as follows:

1 GBP = 1.15373 EUR as at 1 March 2013	High-end TV tax relief	Animation tax relief
2013/14	£5m (€5.77m)	£5m (€5.77m)
2014/15	£25m (€28.84m)	£10m (€11.54m)
2015/16	£45m (€51.92m)	£15m (€17.31m)
2016/17	£60m (€69.22m)	£15m (€17.31m)
2017/18	£70m (€80.76m)	£15m (€17.31m)
<b>Total</b>	<b>£205m (€236.51m)</b>	<b>£60m (€69.24m)</b>

- (6) The UK authorities have provided the draft clauses & explanatory notes proposed in the UK Finance Bill 2013 to be introduced in the Corporation Tax Act 2009.
- (7) The beneficiaries of the incentive are television and animation programme production companies which are responsible for producing the content of a qualifying programme and are actively engaged in the decision making process to deliver the programme<sup>3</sup>. They must be liable to the UK Corporation Tax to be able to benefit from the aid. Between 11 and 50 companies are expected to benefit from the schemes each year they are in operation.
- (8) The aid is granted by HM Treasury<sup>4</sup>.
- (9) The aid takes form of an enhanced tax deduction and a payable tax credit. It operates as described in the Commission decision approving the UK film tax incentive<sup>5</sup>. The costs which

<sup>1</sup> Decision N461/2005 UK Film Tax Incentive, 22 November 2006, OJ C/9/2007 13.01.2007.

<sup>2</sup> Decision SA.33234 UK Film Tax Incentive Extension, 27 October 2011, OJ C/142/2012 22.05.2012.

<sup>3</sup> In the case of European co-productions, only the producer liable to UK corporation tax which is nominated as the high-end television or animation company can benefit from the scheme. This in turn means that the costs incurred by the other co-producers may be spent entirely outside the UK without reducing the aid available.

<sup>4</sup> The UK's economics and finance ministry

<sup>5</sup> See footnote 1.

qualify for relief are the pre-production, principal photography and post-production expenditure used or consumed in the UK.

(10) High-end television<sup>6</sup> and animation<sup>7</sup> programmes must meet the following conditions to be eligible for the incentive:

- a. There is a high-end television or animation programme being produced;
- b. The programme is intended for broadcast to the general public;
- c. The programme is certified as a cultural product by satisfying a cultural test;
- d. At least 25 per cent of the core expenditure incurred on the high-end television or animation programme relates to expenditure on goods and services that are used or consumed in the UK or EEA.

(11) High-end television and animation tax reliefs are subject to cultural tests similar to that of the UK film tax incentive. All the tests are divided into four sections (Cultural content, cultural contribution, use of UK cultural hubs, and use of UK/EEA national/resident cultural practitioners) and have a maximum score of 31 points. Productions must have a score of at least 16, subject to the same 'golden points rule' as in the UK film tax incentive<sup>8</sup>.

(12) The points for cultural content and cultural contribution are based on the following criteria:

Criterion	Maximum points
<b>A – Cultural content (Maximum total : 16 points)</b>	
A1 Programme set in the UK or another EEA State <sup>9</sup>	4
A2 Main characters British/EEA citizens or residents <sup>10</sup>	4

<sup>6</sup> High-end television programmes are defined as High quality programmes which cost £ 1 million or more to produce per programme hour. Per programme hour threshold refer to, as commonly considered within the TV industry, per hour slot time including commercial breaks, whereas the monetary threshold of £1 million refers only to direct production costs, i.e. costs that are directly related to the making of a programme (for example raising and servicing of finance, advertising or marketing costs or income received by grants or other public subsidies are excluded).

<sup>7</sup> UK refers to the definition of animation provided in the UK Films Act 1985. Animated programmes produced for advertising, news, weather or games shows purposes are excluded from the aid.

<sup>8</sup> According to this rule, if a production scores all 15 of the points available in sections C, D and A4, and it scores less than two points in section A1 and less than two points in section A2, it must additionally obtain the points in section A3 to pass the cultural test. If a production scores two points in section A1 or two points in section A2, it will not require the additional points from section A3 in order to pass the test.

<sup>9</sup> 4/3/2/1 points if at least 75%/66%/50%/25% is set in the UK or another EEA state. For animated programmes only, 3/2/1 points are awarded if there is a connection with UK/European culture and at least 66%/50%/25% is set in a location which cannot be determined..

<sup>10</sup> 4 points if two or more of the three lead characters meet this requirement, or if there are only one or two characters depicted and all meet this requirement. 2 points if one of the two lead characters depicted

Criterion	Maximum points
A3 Programme based on British/EEA subject matter or underlying material	4
A4 Original dialogue/voice-over recorded mainly in English	4
<b>B – Cultural contribution (Maximum total: 4 points)</b>	
• Programme represents/reflects a diverse British culture / British heritage / British creativity	4

(13) The British Film Institute Certification Unit will be responsible for assessing applications for the certification of British programmes, including the cultural test.

(14) The UK authorities have undertaken to implement any changes to the schemes required if the relevant State aid rules are amended during their 5-year duration, between 1 April 2013 and 31 March 2018.

(15) The aid amount will be up to a maximum of 20% of the total production budget.

(16) The UK Government has also undertaken to ensure that State aid limits are not breached and relief is only given once on qualifying expenditure incurred. Where a company claims tax relief under one creative sector relief, it will not be able to claim relief under another creative sector tax relief<sup>11</sup>.

#### 4. ASSESSMENT

##### 4.1. Existence of aid

(17) As the notified measures are financed and operated in a similar way to the UK film incentive, the measures constitute State aid within the meaning of Article 107(1) TFEU, for the reasons set out in paragraphs 24-28 of the Commission's 2006 decision approving the UK film tax incentive.

##### 4.2. Compatibility

(18) The UK film tax incentive was assessed and approved by the Commission on the basis of the criteria of the 2001 Cinema Communication<sup>12</sup>, which expired on 31 December 2012.

---

meet this requirement. 1 point if one of the three lead characters depicted meets this requirement. For animated programmes with a connection with UK/European culture only, these points are also available if the nationality/species of the lead characters cannot be determined.

<sup>11</sup> For instance, animated films intended for theatrical release that meet the qualifying criteria of the UK film tax relief are eligible for support under the film tax relief, but are not able to claim relief under the animation tax relief as well. Similarly, where there is expenditure that could qualify for the UK's SME Research and Development relief, a notified State aid, and the high-end television relief, only one relief is available.

<sup>12</sup> 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

However, the Commission expects to adopt a new Communication shortly on assessing State aid for films and other audiovisual works. In the interim, the Commission considers that the aid should be assessed in line with its established case practice, directly on the basis of Article 107 (3) (d) of the TFEU, applying the assessment criteria set out in the 2001 Communication.

(19) As well as applying the 'general legality' principle, these criteria required that:

- a. the aid is directed towards a cultural product, applying verifiable national criteria;
- b. the producer must be free to spend at least 20% of the film budget in other Member States;
- c. the maximum aid intensity is 50%, except for difficult and low budget films;
- d. the scheme does not provide aid supplements for specific film-making activities.

(20) The only difference between the notified measures and the UK film tax incentive is in the types of productions being supported and in the cultural tests. As regards their general legality, territorial conditions and absence of aid supplements, there is therefore no reason to arrive at a different conclusion from the Commission's previous assessment of the UK film tax incentive.

(21) The cultural content of all productions are assessed according to cultural tests containing the elements set out in paragraph (12). As with the similar cultural test of the UK film tax incentive, the Commission considers that these elements refer to verifiable aspects of the cultural content of the resulting programmes.

(22) Furthermore, the 'golden points rule' excludes the possibility that productions could pass the test purely by being filmed in English and scoring all the points in the cultural tests related to the EEA residence of cast and crew and the use of UK technical services. Consequently, the Commission considers that the British authorities have established verifiable national criteria which ensure that the aid is directed towards a cultural product.

(23) The maximum aid intensity for both schemes is the same as for the UK film tax incentive. The UK authorities have confirmed that the notified measures are for different types of production (for broadcast) than for the UK film tax incentive (primarily for release in cinemas). In addition, the UK authorities have committed to ensure that the 50% aid intensity limit is respected. Consequently, the aid intensity criterion of the Communication is met.

## **5. CONCLUSION**

The Commission has accordingly decided to consider the aid to be compatible with the Treaty on the Functioning of the European Union. The scheme has been approved until 31 March 2018 on the basis that the British authorities have committed to amend the scheme if required by a change in the relevant State aid rules during the lifetime of the scheme.

---

cinematographic and other audiovisual works (COM(2001)534 final, 26/9/01, OJ C 43 pp6-17, 16/2/02); prolonged in 2004 (OJ C 123 pp1-7, 30/4/04), 2007 (OJ C 134 p5, 16/6/07) and 2009 (OJ C 31 p1, 7/2/09) until 31 December 2012.

If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site: <http://ec.europa.eu/competition/elojade/isef/index.cfm>.

Your request should be sent by registered letter or fax to the following address:

European Commission  
Directorate-General for Competition  
State Aid Greffe  
1 Place Madou / Madouplein 1  
MADO 12/59  
B-1210 Brussels  
Fax No: +32 229 61242

Yours faithfully,

For the Commission

Joaquín ALMUNIA  
Vice-President