



## EUROPEAN COMMISSION

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**PUBLIC VERSION**

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**Subject: State aid SA.41396 (2015/N) - United Kingdom  
Film Tax Relief Modification**

Sir,

### **1. PROCEDURE**

- (1) By letter dated 23 June 2015, following pre-notification discussions, the authorities of the United Kingdom (hereafter: "UK") notified the modification and prolongation of the film tax relief to the Commission. The UK authorities submitted additional information on 2 July 2015 and 9 July 2015.
- (2) The UK film tax relief was approved most recently by joint decision<sup>1</sup> in cases SA.37176 and SA.38306 until 31 March 2019. It was originally approved by Commission decision of 22 November 2006 in case N 461/2005<sup>2</sup>.

### **2. DETAILED DESCRIPTION OF THE MEASURE**

- (3) The UK film tax relief was set up to encourage the production of British cultural films. It provides film production companies with tax incentives for expenditure

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<sup>1</sup> State aid SA.37176 (2014/N) and SA.38306 (2014/N) – United Kingdom, Modifications to the UK film tax relief, [http://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_37176](http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_37176).

<sup>2</sup> State aid N 461/2005 – United Kingdom, UK film tax incentive, [http://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_19919](http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_19919).

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incurred in the UK on pre-production, principal photography, and post-production (so-called "core expenditure") of a film which is intended for release in cinemas.

- (4) The aid is granted by Her Majesty's Revenue and Customs, the UK national tax authority.
- (5) The legal bases of the modified scheme are the Corporation Tax Act 2009 and the Finance Act 2015.
- (6) Those film production companies that are entitled to the tax relief can claim an additional deduction in computing their taxable profits: up to 80% of the total qualifying UK expenditure can be deducted again from the taxable profits of the beneficiary, by applying a rate of enhancement. Thus the beneficiary can reduce its UK tax liability. If this additional deduction results in a trading loss, these losses can be surrendered for a payable tax credit, to be calculated up to a maximum of 80% of the total qualifying expenditure. The original decision in case N461/2005 (see footnote 2) explains the functioning of the tax relief with an example in its paragraph (12).
- (7) Under the existing UK film tax relief scheme, the additional deduction works on the basis of a rate of enhancement that is set at 100% for limited budget films and 80% for large budget films. For the payable tax credit, there are two rates of relief as well:
  - 25% on the first GBP 20 million of a production's qualifying core expenditure.
  - 20% beyond that threshold.
- (8) The UK authorities propose to simplify the film tax relief and to remove any distortions between films of different budgets. In this way, the UK authorities wish to ensure that there is sufficient incentive to produce cultural films with medium-sized budgets and to make the scheme easier to use. The modified measure would apply a single rate of enhancement, set at 100%. There would also be a single rate of payable tax credit, set at 25% for all qualifying expenditure.
- (9) The film tax relief is only applicable up to a maximum of 80% of a film's budget. The maximum aid intensity under the scheme is achieved when the payable tax credit rate is applicable in full, and amounts to  $(25\% * 0.8 =) 20\%$ . The aid can be cumulated, but the UK authorities have committed to ensure that the cumulative aid intensity will not exceed the limits set in Article 52.2. of the 2013 Cinema Communication<sup>3</sup>.
- (10) The proposed modifications have an impact on the budget of the scheme. The value of this impact amounts to GBP 200 million for the period 2015-2020. Taking the modifications into account, the latest estimates of the UK authorities forecast that the overall budget of the scheme for the same period will amount to GBP 1 530 million (see details in table 1 below).

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<sup>3</sup> Communication from the Commission on state aid for films and other audiovisual works, Official Journal of the European Union, 15.11.2013, C 332, pp. 1-11.

Estimated budget in GBP million	2015-16	2016-17	2017-18	2018-19	2019-20	TOTAL
Original budget	260	260	265	270	275	1330
Estimated costs of proposed changes	5	30	50	55	60	200
Total cost of proposed scheme	265	290	315	325	335	1530

**Table 1: Budget of the modified scheme**

- (11) With regard to transparency, on 21 May 2014 the Commission adopted a Communication, aligning the transparency requirements across a number of revised state aid rules<sup>4</sup>, which modifies the transparency requirements included in point (52) 7 of the Cinema Communication. The UK authorities have committed to implement these modified transparency mechanisms.
- (12) All other aspects and conditions of the scheme remain unchanged.
- (13) The modified scheme will run until 31 March 2020. The UK authorities will not put the modified scheme into effect before the Commission has given its approval.

### **3. ASSESSMENT OF THE MEASURE**

#### **3.1. Existence of aid**

- (14) The changes introduced to the existing measure do not alter the previous conclusion of the Commission that the measure constitutes State aid within the meaning of Article 107(1) TFEU<sup>5</sup>.

#### **3.2. Compatibility of the aid**

- (15) The notified measure concerns the modification and prolongation of an aid scheme which has previously been approved by the Commission as compatible with the internal market based on Article 107(3) (d) TFEU and the 2013 Cinema Communication.
- (16) The modifications to the UK film tax relief do not affect the assessment done with regard to the general legality of the scheme, the cultural character of the measure

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<sup>4</sup> Communication from the Commission amending the Communications from the Commission on EU Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks, on Guidelines on regional State aid for 2014-2020, on State aid for films and other audiovisual works, on Guidelines on State aid to promote risk finance investments and on Guidelines on State aid to airports and airlines (C(2014) 3349/2), [http://ec.europa.eu/competition/state\\_aid/modernisation/state\\_aid\\_transparency\\_en.pdf](http://ec.europa.eu/competition/state_aid/modernisation/state_aid_transparency_en.pdf).

<sup>5</sup> See paragraphs 23 to 29 of the decision N 461/2005.

and aid granted for specific production activities in the joint decision in State aid cases SA.37176 and SA.38306 (see footnote 1).

- (17) With regard to transparency, the Commission notes that the UK authorities committed that they will put in place the transparency mechanisms of the Cinema Communication, as modified by the Communication of 21 May 2014 (see paragraph (11)).
- (18) According to the 2013 Cinema Communication, the cumulative aid intensity levels are in principle limited to 50% of the production budget. The updated aid intensity levels under the film tax relief remain far below this level and the UK authorities will ensure that the aid, when cumulated, remains below the limits set by the Cinema Communication.
- (19) On the basis of the foregoing assessment, the Commission's analysis confirms that the criteria set out in the 2013 Cinema Communication are met, hence the aid involved in the notified measure is compatible with Article 107 (3) (d) of the TFEU.

#### **4. CONCLUSION**

The Commission has accordingly decided not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107 (3) (d) of the Treaty on the Functioning of the European Union.

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Your request should be sent electronically to the following address:

European Commission,  
Directorate-General Competition  
State Aid Greffe  
B-1049 Brussels  
[Stateaidgreffe@ec.europa.eu](mailto:Stateaidgreffe@ec.europa.eu)

Yours faithfully  
For the Commission

Margrethe VESTAGER  
Member of the Commission