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**Subject: State Aid SA.52359 (2018/N) – Czech Republic
Support to cinematographic periodical publications (prolongation)**

Sir,

1. PROCEDURE

- (1) On 6 November 2018, the Czech Republic notified the extension of validity of the aid scheme in favour of cinematographic periodical publications (“the Measure”).
- (2) On 20 November 2018, the Czech Republic submitted complementary information.
- (3) The current measure was initially approved as part of the Czech cinematography support scheme by the Commission’s approval decision (“the original Decision”) of 2 August 2013 until 31 December 2018¹. The Czech Republic informed about

¹ SA.36106 (2013/N) – Czech Republic – Czech cinematography support scheme
http://ec.europa.eu/competition/state_aid/cases/247461/247461_1458959_159_2.pdf

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the prolongation of the other elements of that scheme under the General Block Exemption Regulation (GBER)².

2. DESCRIPTION OF THE MEASURE

- (4) The notification solely concerns the prolongation of the Measure after 31 December 2018. Apart from the duration, the Czech Republic confirmed that the Measure as approved by the original Decision remains unchanged.
- (5) **Objective:** The Measure aims to support the production and distribution of periodical publications contributing to the spread of information and expertise in the field of cinema. The publications may be issued in print or online.
- (6) **Legal basis:** The aid scheme rests on Act 496/2012 on Audiovisual Works and Support for Cinematography, the State Budget Rules Act 218/2000 and the State Cinematography Fund's statute.
- (7) **Duration:** The duration of the scheme is from 1 January 2019 (end date of validity of the original Decision) until 31 December 2024.
- (8) **Form of the aid:** Aid will be awarded in the form of direct grants.
- (9) **Granting authority:** The granting authority is the State Cinematography Fund.
- (10) **Beneficiaries:** Beneficiaries are publishers. A beneficiary must be registered in the Czech audiovisual register. Foreign entities can register under the same conditions as Czech entities. They need not to have a permanent residence or seat in the Czech Republic. The requirement of the applicant's registration is limited to having an agency, even on a temporary basis, at the time of payment of the aid.
- (11) **Decision-making body and evaluation criteria:** The decisions to grant aid are taken by the Council of the Fund on the basis of an independent expert analysis. The selection is done on the basis of a scale with maximum 100 points and divided in two sub-categories: one focuses on the content and/or creative quality of the project and the other one focuses on the organisational and/or economic quality of the project³.
- (12) **Budget:** The maximum annual expenditure for the aid scheme to periodical publications is CZK 5 000 000 (approximately EUR 193 000). The maximum overall amount of the Measure is CZK 30 000 000 (approximately EUR 1,2 million).
- (13) **Aid intensity:** The aid intensity must in principle not exceed 50% of the total project costs. However, it may be increased up to 90% of the total project costs for culturally ambitious projects. The maximum amount of aid corresponds to the total support cumulated from different sources.

² Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty.

³ Section 7.6.8 of the Statute of the Film Fund.

- (14) **Eligible costs:** Support will be granted for publishing activities in the field of cinema. In particular, it will support activities directed at the preparation (editorial works, royalties and the like), publishing (print, graphics) and distribution of periodical publications.
- (15) **Financing of the fund:** The Measure is financed by the State Cinematography Fund which benefits from different sources of financing among which are the parafiscal fees charged on entities that use audiovisual works for their business activities (television broadcasters, cinema operators)⁴. The parafiscal fees are levied on cinematographic performance, television rebroadcasting and broadcast advertising.

3. ASSESSMENT OF THE MEASURE

3.1. Existence of aid

- (16) According to Article 107(1) TFEU, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market.
- (17) The Commission considers that the aid scheme constitutes State aid within the meaning of Article 107(1) TFEU for the reasons referred to in recital (33) to (39) of the original Decision. The notification of the extension of the Measure by six years does not alter the assessment and conclusion of the Commission in the original Decision. Indeed:
- (a) the Measure is financed by State resources;
 - (b) the recipients of aid benefit from a financial advantage that they would not receive under normal market conditions;
 - (c) the aid scheme is selective and distorts competition because only a limited number of entities within the periodicals publishing sector will be granted an aid;
 - (d) trade between Member States may be affected because one of the objectives of the Measure is to foster the spread of information and expertise in the field of cinema at national but also international level.

3.2. Compatibility

3.2.1. *The legal basis*

- (18) The Commission acknowledged in the original Decision that the Measure aims at promoting culture and that it is appropriate to assess its compatibility on the basis of Article 107 (3) (d) of the TFEU.⁵

⁴ Recitals 10 to 16 of the original Decision.

⁵ Recital 114 of the original Decision.

3.2.2. *Financing of the scheme through parafiscal fees*

- (19) The original Decision concluded that the fees levied on entities that use audiovisual works for their business activities form an integral part of the notified aid scheme.⁶ Consequently the Commission has to analyse whether the aid scheme and its method of financing are compatible with the common market⁷. If a fee that forms an integral part of the notified aid scheme proves to be contrary to other provisions of the Treaty, the Commission cannot declare the aid and its financing method compatible.⁸
- (20) The Commission concluded in the original Decision that the financing method of the scheme was not contrary to other provisions of the Treaty. The extension of validity of the Measure beyond 31 December 2018 does not alter the Commission's assessment in the original Decision. Consequently, the financing system of the overall aid scheme is compatible with EU law.

3.2.3. *Aid scheme in favour of cinematographic periodical publications*

- (21) The Commission concluded in the original Decision that the Measure is necessary and proportionate to the objective pursued. The Commission also concluded that it does not distort competition to an extent which would be contrary to the common interest.⁹ Furthermore, the Commission acknowledged that the Measure has an incentive effect since in its absence it would not be possible to issue such publications at all. The extension of validity of the Measure beyond 31 December 2018 does not alter the Commission's assessment in the original Decision.
- (22) The Czech Republic confirmed it will comply with the transparency rules regarding the publication of the aid scheme and the aids granted.¹⁰
- (23) In conclusion, the support granted by the Czech Republic in favour of cinematographic periodical publications is compatible with the internal market on the basis of article 107 (3) (d) of the TFEU.

4. CONCLUSION

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

⁶ Recital 45 of the original Decision.

⁷ Judgment of the Court of European Justice, *Société Régie Networks / Direction de contrôle fiscal Rhône-Alpes Bourgogne*, C-333/07, 22 December 2008, recital 94.

⁸ Decision SA.38418 – 2014/C, German Film Fund, 1 September 2016, paragraph 19.

⁹ Recitals (114) to (126).

¹⁰ 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, OJ C 198, 27 June 2014, p.30.

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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

Yours faithfully
For the Commission

Margrethe VESTAGER
Member of the Commission