

**BFI response to the:**

**European Commission consultation on additional categories for a revised General Block Exemption on state aid measures**

**10 September 2013**

## 1. Executive summary

The British Film Institute welcomes the opportunity to comment on this draft in particular on Article (6), the draft Regulation for Aid for culture and heritage conservation as it relates to film and the forthcoming revisions to the Cinema Communication.

Films and audiovisual works play an important role in contributing to the promotion, development and enhancement of culture in the UK, in Europe and internationally. European cinema has the power to “open our eyes” to our history, to our culture and to our identity. Film moves and inspires us, it excites our emotions as well as our intellect. At the same time, film is a powerful driver of Europe’s economy, cultural diversity and supports audience engagement.

Public funding is essential to all parts of the film sector; from helping to sustain a critical mass of European film production to supporting a diversity of films for audiences across Europe, to helping European films reach audiences internationally and enabling Member States to support cultural diversity in their countries.

The importance of these objectives was recognised by the European Commission when it recently agreed to exclude audiovisual from the negotiating mandate for the Transatlantic Trade and Investment Partnership (TTIP) with the United States.

The BFI welcomes the draft Regulation for the following reasons:

- Through this Regulation, the Commission clearly recognises a broad range of activities that support the cultural sector, including film and audio-visual works and the necessity of aid to support these activities.
- Articles 4 and 5 of the Regulation are positive signals of the Commission’s recognition that innovation clusters and the collaboration of small and large enterprises will further the economic and cultural goals of the European Union and lead to a greater cultural diversity.
- The Regulation will allow support schemes that abide by these clear, transparent, guidelines to be implemented without delay and with legal certainty.

However we remain concerned that:

- Some important cultural activities within the film sector remain outside of these guidelines and we would urge the scope of this block exemption to be extended to incorporate community venues that screen specialised and cultural films and to magazines which address a market failure and support cultural objectives.

Until the revised Cinema Communication is published we cannot be sure about the absolute scope of the activities that will be covered by it or the detail of how the rules will apply. It is therefore not possible at this point to assess whether there are any gaps that should be covered by the regulation. We would urge the Commission to allow further time for consultation responses on this particular issue after the Cinema Communication has been published in its final form. In addition, it is unclear as to whether the Commission will apply a notification threshold to the Cinema Communication. The BFI would be glad to participate in any discussions around this issue.

## **2. About the BFI**

The British Film Institute (BFI) is the lead organisation for film in the UK. Since 2011, it has combined a creative, cultural and industrial role as a Government arm's length body and distributor of National Lottery funds. Its key priorities are to support a vibrant UK film culture by investing in film education, audience access, filmmaking and film heritage.

In October 2012, the BFI published 'Film Forever, Supporting UK Film 2012-2017', which set out its strategy for the next five years, following an extensive industry consultation. It described the activities underpinning the BFI's three strategic priorities:

- Expanding education and learning opportunities and boosting audience choice across the UK;
- Supporting the future success of British film; and
- Unlocking film heritage for everyone in the UK to enjoy.

To that end, the BFI helps ensure public policy supports film, especially British film. It follows that we support the Commission's recognition that state aid is important to sustain audiovisual production, distribution, exhibition, and archiving as well as education and audience development, skills, SMEs, innovation and research and development (R&D).

There are four key areas where we would like to offer feedback:

- Culture and heritage conservation
- Cinema Communication
- Press and magazines
- Innovation clusters, SMEs, Broadband

In putting together this response, we have consulted with the industry, screen agencies in England, Scotland, Wales, and Northern Ireland, as well as the UK Government and several European Film Agencies.

## **3. Culture and heritage conservation**

The BFI strongly supports the inclusion of 'cultural spaces', 'archives', 'cinematheques' and 'festivals' among the list of eligible activities under this regulation. We also welcome the provision that aid can take the form of both support for infrastructure as well as operating aid for these activities.

We believe that venues that screen specialised or cultural films should be included in the definition of cinematheques as we are working to increase the breadth and reach of audiences to cultural film (including European film) across the UK and would like to be able to support small community organisations to achieve this.

## **4. Cinema Communication**

In principle, we strongly agree with the Commission's suggestion that once the new Cinema Communication is adopted, aid to audio-visual works allowed through it should be block-exempted. This appears to be a sensible measure that would allow schemes to set up and operate without delay, simply and with legal certainty. As we have demonstrated through our submissions concerning the draft Cinema Communication, the variety of support schemes across Europe have led to the creation of a wide and varied range of films for audiences and a strong and vibrant audio-visual sector and any measures that allow Member States to support this work should be supported.

However, in the absence of a final draft of the new Cinema Communication we cannot be sure about the absolute scope of the activities that will be covered by it or the detail of how the rules will apply. It is therefore not possible at this point to assess whether there are any gaps that should be covered by this regulation. We would urge the Commission to allow further time for consultation responses on this particular issue after the Cinema Communication has been published in its final form.

In addition, it is unclear as to whether a notification threshold will be applied and we would like to contribute to any conversations around this.

## **5. Press and magazines**

The draft Regulation says that *'In general, press and magazines (written or electronic) should not be supported through aid to culture because of proximity to the market and higher potential for competition distortions. In order to clarify the scope of application of this Regulation in the area of culture, a list of cultural projects and activities that may be covered should be established and eligible costs should be specified. Both investment and operating aid up to an established threshold can be exempted from the notification requirement, provided that overcompensation is excluded'*.

We agree that a list of cultural projects and activities that may be covered should be established and eligible costs specified, but we argue strongly for the inclusion of certain magazines (written or electronic), where there is clearly a market failure and cultural benefit in promoting sectors of the arts (particularly around heritage or 'difficult works') or in providing information in an educative context.

## **6. Summary**

The BFI welcomes this draft Regulation as a welcome step in making the state aid processes more streamlined and effective. We agree with the broad intentions of this regulation and with the majority of the content, but have a few areas where the scope could be broadened or clarified to ensure that genuine activities to support the cultural goals of the European Commission are achieved.