

Revision of the General Block Exemption Regulation on state aid measures ('GBER II')

Dear Commissioner,

First of all, the European Coalitions for Cultural diversity would like to share their satisfaction with the new Communication on state aids for films and other audiovisual works, as adopted last November. The final version of the text took into account our concerns and the special nature of the audiovisual sector. We know the important role you played in ensuring this balanced outcome, and we would like to thank you for this.

Moreover, in the context of the revision of the General Block Exemption Regulation on state aid measures, the Coalitions welcome the decision of the European Commission to grant an exemption to aids for culture and heritage conservation, and notably to aid schemes for audiovisual works. This decision also contributes to the pacified and renewed relationship, based on trust, that we call for between the European Commission and the cultural and audiovisual sectors.

Yet, we would like to draw your attention on the lack of coherence of the most recent revised draft, subject to consultation in December 2013.

Thus, the provisions of Article 1 make the exemption to aid schemes for audiovisual works, enshrined in Article 48, impossible to grant. Indeed, most aid schemes for audiovisual works include territorial obligations and a permanent branch or agency requirement, which are not allowed by Article 1. Moreover, it goes against the parameters set out in the Cinema Communication of November 2013. In view of better coherence and higher legal certainty, the text should clarify that Article 1 does not apply to aid schemes for audiovisual works, and, in article 48, that beneficiaries of these schemes can be required to have a permanent branch or agency in the aid granting Member State.

Furthermore, although we welcome the decision of the European Commission to delete the “funding gap” criteria for cultural aids in the most recent Draft GBER II, the new mechanism introduced at Article 17 (paragraph 7), relating to net revenues, is as problematic. Not only the paragraph lacks clarity, but this mechanism goes against the incentive effect of state aids and might result in a high degree of uncertainty and administrative burdens. We suggest the last sentence of paragraph 7 of Article 47 and the sentence mentioning the exclusion of overcompensation in recital 68 to be deleted.

Finally, the notification threshold proposed by the revised draft (Article 4.1.(u)) for aid schemes for audiovisual works is EUR 20 million per undertaking per year. This amount is too low, in both absolute and relative terms, when compared with other aid schemes' notification thresholds, and might be detrimental to the objective of reducing the number of notifications for audiovisual works'

aids. The threshold should be increased significantly, to be set in relation to the overall category. According to the Draft GBER II, the notification threshold for investment aid for 'Culture and heritage conservation' will be EUR 100 million per project and for operating aid EUR 50 million per undertaking per year. Therefore, we suggest the threshold for the subcategory "audiovisual works" to be EUR 100 million per year.

Thanking you in advance for the careful consideration you will give to this letter, we believe we can count on you to reach a final satisfactory and coherent text. We remain at your disposal, should you wish to continue this useful discussion.

Beat Santschi

President of the European Coalitions for Cultural Diversity

A handwritten signature in black ink, consisting of a stylized 'B' followed by 'Santschi'.