

**Contribution to the public consultation on the draft Cinema Communication on
“Assessing State aid for films and other audiovisual works”**

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1. The regional dimension of film culture

The European network of regional film funds Cine-Regio¹ welcomes that the Commission recognises the regional dimension of film culture and that public intervention in the audiovisual sector – at regional, national and European level – is necessary and justified.

The 2001 Cinema Communication only referred to national cultural criteria and Member States. We welcome the explicit reference to regional culture in the March 2012 and April 2013 text, and the improvement from the March 2012 text which was only referring to “national language of Member States” without taking into account the rich and unique diversity represented through minority languages and official languages of Member States.

Article 167 TFEU explicitly refer to culture and regional diversity and we therefore call for that the role of regional funds as well as their competences in the field are reflected as much as possible in a new Cinema Communication.

Our vision is to strengthening the identity of the European regions in a global context. For us global development without regional development is not sustainable. In a world that is becoming more and more global and complex, the threat of losing the regional identity to a uniform and grey world is constantly present. Supporting film culture is therefore increasingly important. In order to do this it is necessary to build up a sustainable environment that can “feed” the regional film culture. Such a sustainable environment includes a local industry that has the competences that supply the needs of the industry. The Commission recognise in the draft text that culture is not a commodity and does not work on general economic terms alone, support is needed and since local and regional governments has limited budgets its support needs to be interlinked with an economic output in the form of developing and nurturing the AV sector of the set region.

The regional film fund agencies, members of Cine-Regio, are focussing more and more on developing sector talent, more challenging films, documentaries and children’s film. We are therefore pleased that the Commission has been able to approve these schemes in the past, which illustrate the extent to which those regions take pride in their rich cultural heritage and help to preserve Europe’s cultural diversity.

More and more of the members are also developing new schemes to focus on audience engagement and

¹ More info on www.cineregio.org

participation. We therefore welcome the broader scope of activities eligible in the new Cinema Communication. Indeed we need a new Cinema Communication that will not be a hindrance to develop our future film policies in an online world. We are currently in the most challenging time of cinema history. Digital technologies are changing the way films and audiovisual projects are financed, produced, distributed and watched. We must be able to support and regulate our AV industries including the ability to adapt to the continuous technological changes of tomorrow.

The need for ensuring our freedom to design future film support schemes and our ability to adapt to the continuous technological changes of tomorrow is currently further threatened by the European Commission's decision to include the audiovisual sector in the EU-US free trade agreement negotiations. This represents a total shift in EU policy. For regional film funds, this change threatens not just our commitment to film but to the wider development of a dynamic, forward-thinking and audience-centred audiovisual sector. The Commission's move will put the interests of US-based globalised multinationals before those of a culturally diverse Europe and of European citizens.

2. Clarifications needed in the draft Cinema Communication

Cine-Regio welcomes the constructive dialogue with the Commission during 2012 which cleared up a number of our concerns in the March 2012 draft Communication and in particular as regards the territorial conditions in film support schemes represented by Cine-Regio members. However, the Commission's new draft Cinema Communication released on 30th April has left us surprised. There has been a significant and worrying shift from the previous drafts and dialogue of the last 18 months, particularly on the question of territorialisation.

We would like to welcome the Commission's recognition of the great diversity among the selective schemes, and hence, the Commission's decision to leave it to the European regions to define what are "film production activities" needed to reach the specific objectives of the film funding agency granting the aid. It is also Cine-Regio's understanding after discussions with DG COMP that the Commission has a broad and inclusive understanding of all the steps included in film production. Indeed the right of each regional film agency to choose to implement their cultural policy are guaranteed by article 107.3 (d) TFEU.

Regional film agencies support cultural output financed by the tax-payers of the set region. Hence, the regional film agency need to have right to ensure that aid granted to production companies is used to develop and nurture the audiovisual sector in the region granting the aid.

It is our understanding that with the new territorialisation criteria a selective scheme by a film agency can – as also under the 2001 Cinema Communication - via its selection/eligibility criteria – decide on the project proposal which favours more the objectives of the film funding agency. In the overall guidelines/objectives of a film fund, the fund can state – as also allowed in the 2001 Cinema Communication – that in its overall guidelines/objectives the aim is to for example: "strengthen the audio-visual media in Region X and it is intended that at least 1.5 times the amount of the total funding sum awarded for the current year be spent in Region X"; or/and "it is intended that a majority of projects awarded during the year is by film directors from Region X"; or/and "it is intended that a minimum of 10 days of production activity takes place in Region X".

In a new Cinema Communication it will be relevant to take into consideration and make a reference to Article 167.5 TFEU, which states: "*In order to contribute to the achievement of the objectives referred to in this Article (= Article 167 Culture)....no harmonization of the laws and regulations of the Member States should take place*". To protect cultural diversity co-productions are "a must" and co-productions are not possible if funding rules are harmonised.

As regards the reference to the Laboratoires Fournier case, we suggest that it is either removed or as a minimum a sentence is added that the case example is based on a commodity, namely the pharmaceutical industry. Alternatively, it could be explained why the Lab Fournier decision is applicable to regional culture. On the topic of film not being a commodity, allow us to quote Commissioner Androulla Vassiliou: "*Culture is not a commodity. It enjoys a protected status under the EU Treaty and EU law. The European Commission is politically committed to this special status and is also legally obliged to defend it.*"²

² Speech by Androulla Vassiliou, European Commissioner for Education, Culture, Multilingualism and Youth. "Strengthening the cultural exception in Europe", Cannes, 20th May 2013

3. Territorialisation assists in creating a cultural output

May we take this opportunity to highlight why territorialisation in the eyes of regional funding schemes, being funded by the tax-payers in the European regions and not by Member States, is needed and justified.

In our experience territorialisation helps to preserve cultural identity and territorialisation requirements help regional audiovisual support agencies to ensure that a critical mass of audiovisual activity takes place in the region. A critical mass of audiovisual activity provides a guarantee that the region retains the skills and infrastructure necessary to produce audiovisual works that reflect its unique cultural identity. The guarantee of a certain level of effect on culture, creativity, social cohesion and economic growth are at the forefront of many regional film bodies' minds. However, if a foreign agency can just set up a company in a region with one employee and buy audiovisual services and workforce outside the territory granting the aid, how can we then guarantee that a region retains the skills and infrastructure necessary to produce audiovisual works that reflects its unique cultural identity?

There are no indications neither from the EC Film Study on territorialisation, the Commission nor other stakeholders that territorialisation causes a distortion of competition. Cine-Regio firmly believes that territorialisation have positive effects, particularly as regards the preservation of cultural identities, the creation of a critical mass of audiovisual activities and the solidarity between regions, mainly through the facilitation of co-production projects.

In our experience territorialisation is not a hindrance for co-productions, on the contrary.

In a new Cinema Communication we find that it might be worth including a text stating that diverse support schemes play a very important role in European co-productions. Co-productions exist only because of the great diversity of support schemes. Without territorialisation many of the schemes would be lost. In short, territorialisation is an essential to cultural output. Co-production projects can be developed with the support of quite small amounts of money from regional film agencies. By encouraging co-productions across regional borders, Cine-Regio and its members contribute significantly to EU audiovisual policy goals. In fact, many European films would not have been made had it not been for the existence of regional support. If all selective schemes were focused only on supporting film directors from the territory granting the aid, the unique European co-production system would not exist.

Certainly, it cannot be in the interest of the European citizens if the content focus shift from diversity to more conformity.

4. Cine-Regio members' motivation for investing in cinema

The 39 regional film funds share a common understanding on the role and contribution of films and audiovisual works to our society. They share a common motivation to support culture and creative industries, enhance talent development and curb brain-drain, promote cultural diversity and contribute to the reinforcement of European regional identities, foster social inclusion, ensure the viability, sustainability and competitiveness of the European film sector, preserve diversity in a globalised world and encourage circulation of European films. As for members of Cine-Regio the objectives of public funding for films and audiovisual works are as listed below.

- Support culture and creative industries. Investment in cinema is primarily motivated by the political will to support cinema and filmmaking in the region: to support the development of quality films and art-house cinema, to provide local talents (film directors, actors, technicians) an opportunity to use their skills, to give local broadcasters access to facilities capable of producing original content and to nurture locally based creative production companies and technical industries.
- Promote cultural diversity and contribute to the reinforcement of European regional identities. The expression of local identities or minority languages through films is a strong catalyst of regional identity. Regional film funds are at the forefront of the implementation of the principles enshrined in the European Treaties as well as the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions ratified by the European Union. Regional investment in culture is highly relevant to this ambition of nurturing diversity, enabling its expression (including so-called minority languages) whilst at the same time stimulating cultural exchanges and collaborative projects across borders. Films reflecting the

culture of European regions such as Andalusia, Wallonia, Hamburg-Schleswig Holstein, Südtirol, etc. would most probably not be sufficiently commercial to be made or distributed without public support.

- Enhance talent development and curb brain-drain. A majority of regional film funds fulfil an important role in enhancing regional film production and talent development. As for talent, we must continue to support the extensive talent base that we have in Europe – both when it comes to live action film and animation - including new graduates, many of whom – especially in respect of animation - are migrating to North America. Regional funds contribute to retain European talent and to foster creative ecosystems, to form the creative clash - creative people that, once gathered in a specific place, create synergies and fruitful collaborations, thereby fostering further creativity.
- Foster social inclusion. Films make a substantial contribution to social cohesion by promoting regional identity, but also through the sense of pride and increased self-esteem that result from the link between a region and a film. Films also help the social integration of marginalised groups such as individuals and communities of different ethnic and national origins and at-risk youths. Regional film support fosters local identities, media literacy and democratic empowerment.
- Ensure the viability, sustainability and competitiveness of the European film sector. Investment in the audiovisual sector is a way to improve the innovation capabilities of the European regional film and related industries, to build a regional audiovisual infrastructure, to develop creative clusters, to stimulate entrepreneurship amongst young people, to attract private investment as well as to encourage tourism and branding in Europe.
- Preserve diversity in a globalised world. Local and regional territories increasingly play a crucial role in sustaining Europe's culture. In a world that is becoming more and more global and complex, the threat of losing the regional identity to a uniform and grey world is constantly present. Supporting film culture is therefore increasingly important and it contributes to preserving a heterogeneous society.
- Encourage circulation of European films. Films catering to a highly localised, niche audience, and/or in a lesser known language have very limited options for commercial theatrical distribution. Distributors often concentrate on films with a wide audience appeal. Alternative screening opportunities are necessary to give niche films a chance to reach an audience. Almost 60% of the regional funds have dedicated funding streams for supporting distribution and exhibition of material, helping smaller films make it to festivals and offering support for screening films for various audiences. Overall this contributes to cultural goals of increasing on-screen diversity.

5. Conclusion

For Cine-Regio a culturally diverse Europe is not a Europe where cultural life is centralised around a handful of major cities and capitals, but is a part of the lives of as many communities as possible. Territories are well suited to foster film creativity and culture. Among others because cultural products such as film are influenced by local customs and language. As for members of Cine-Regio the objectives of public funding for films and audiovisual works are as listed in section 4 above.

In conclusion, European Cinema is one of the cornerstones of European cultural expression. Its importance has for many years been recognised by the EU's competition rules and by State aid control in particular. Hence, as regards the new Cinema Communication may we ask that the following be recognized:

1. Territorialisation is an essential to cultural output
2. The way European regions chose to implement their cultural policy should be decided by themselves – as guaranteed in the Treaty by article 107.3 (d) TFEU
3. Article 167 TFEU explicitly refer to culture and regional diversity and we therefore call for that the role of regional funds as well as their competences in the field are reflected as much as possible in a new Cinema Communication

The UNESCO convention on cultural diversity both reaffirms Member States' sovereignty to implement support policies for culture as they see fit "to protect and promote the diversity of cultural expressions" (article 1) and it also seeks to promote culture as a factor in socio-economic development. It notes that "parties shall endeavour to strengthen their bilateral, regional and international cooperation for the creation of conditions conducive to the promotion of the diversity of cultural expressions." UNESCO therefore explicitly recognises the role of the regions in creating and promoting cultural diversity. The Convention also notably recognises both the economic and cultural dimensions of the creative industries in the preamble, stating that UNESCO is "convinced that cultural activities, goods and services have both an economic and a cultural nature."

We would like to thank you for this opportunity to communicate our standpoints in writing. If we can be of any assistance in taking matters further, please do not hesitate in contacting us: Cine-Regio, Bischoffsheimlaan 38, 1000 Brussels. Attn.: Charlotte Appelgren, General-Secretary (ca@cineregio.org).

Cine-Regio members:

Apulia Film Fund, Italy	Flanders Audiovisual Fund, Belgium
Basque Film Fund, Spain	Friuli Venezia Giulia Audiovisual Fund, Italy
BLS Südtirol Alto Adige, Italy	Ile-de-France Film Fund, France
CICLIC – Region Centre, France	Institut Català de les Empreses Culturals, Spain
Cinéforum, Switzerland	Krakow Regional Film Fund, Poland
ECLA – Region Aquitaine, France	Midtnorsk Filmfond, Norway
Film Agency for Wales, UK	Mitteldeutsche Medienförderung, Germany
Film Fund FUZZ, Norway	PACA - Région Provence-Alpes-Côte d'Azur, France
Film I Skåne, Sweden	Pictanovo – Région Nord-Pas de Calais, France
Film I Väst, Sweden	POEM, Finland
Film London, UK	Rhône-Alpes Cinéma, France
Film3, Norway	Riga Film Fund, Latvia
FilmCamp, Norway	Sardegna Film Foundation, Italy
Filmfonds-Wien, Austria	Screen South, UK
Filmförderung Baden-Württemberg, Germany	Silesia Film, Poland
Filmförderung Hamburg Schleswig-Holstein, Germany	Trentino Film Fund, Italy
FilmFyn, Denmark	Wallimage, Belgium
Filmkraft Rogaland, Norway	West Danish Film Fund, Denmark
Filmpool Nord, Sweden	Zürcher Filmstiftung, Switzerland
Filmregion Stockholm Mälardalen, Sweden	