

IES Spring Lecture Series

Rethinking European Media and Communications Policies

Public Service Broadcasting, Film Funding and
State Aids in the New Media Environment

STATE AID FOR FILM

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What can be considered as state aid for film ?

- ◆ State resources
- ◆ Economic advantage
- ◆ Distortion of competition
- ◆ Effect on intra-community trade

State aids for film : the Member States and the European Commission's positions

- ◆ On the member states' side :
 - Cultural reasons
 - Economic reasons
- ◆ On the EU side :
 - Internal market rules vs cultural diversity
 - Distortion of competition

The evolution of EC rule towards state aids for film

- ◆ In the founding treaties : Article 151 EC and article 87 (3) (d) - cultural derogation
- ◆ Before 1998 and the adoption of the 2001 Cinema Communication : a policy in favour of state aid for film
- ◆ 1998 Complaint in relation to the French support system and adoption of the 2001 Cinema Communication :
“Communication on certain legal aspects relating to cinematographic and other audiovisual works”

The current legal framework

- ◆ Article 87 EC and the cultural derogation

“The following may be considered to be compatible with the common market:

(...)

(d) aid to promote culture and heritage conservation where such aid does not affect trading conditions and competition in the Community to an extent that is contrary to the common interest”

The current legal framework (2)

- ◆ The criteria set out in the 2001 Cinema Communication
 - The general legality criterion
 - The specific compatibility criteria :
 - ◆ Aid must benefit a cultural product (verifiable national criteria)
 - ◆ Territorialisation : the producer must be free to spend at least 20 % of the film budget in other member states
 - ◆ Aid intensity : must be limited to 50% of the production budget
 - ◆ Aid supplements : activities such as post-production are not allowed

The review of the 2001 Cinema Communication

- ◆ EU questions about the 80% level of territorialisation

The implementation of the 2001 Cinema Communication by the European Commission: a move towards a more restrictive approach?

- ◆ What is a "verifiable national criteria"? – EU proposal to include a "cultural test"
- ◆ What is the definition of a "difficult and low budget film"?

Conclusion

- ◆ Need to increase the transparency of the assessment procedure of support schemes
- ◆ Need to ensure a coherent interpretation of the 2001 Cinema Communication that satisfies the member States as well as the European Commission
- ◆ Need to improve the coherency of European policies with objectives such as the ones included in the Unesco Convention on cultural diversity?
- ◆ Need to ask ourselves if there is a better way to support European films