

12 December 2008

Cecilio Madero Villarejo, Director  
Directorate C "Markets and cases II:  
Information, communication and Media"  
DG Competition  
European Commission  
B- 1049 Brussels

Dear Mr. Madero Villarejo

The UK Film Council, the Government-backed lead agency for film in the United Kingdom, in response to the proposed Communication from the Commission concerning the Cinema Communication 2001, welcomes the proposal that the Commission continue to apply the current criteria until 31 December 2012 at the latest.

The UK Film Council looks forward to continuing a constructive dialogue with the European Commission. We wish particularly to ensure that the Commission's position on film takes into account the full range of interventions made by member states to advance the objectives of their policies towards the audiovisual sector and the cultural/creative industries generally.

However, the UK Film Council is concerned that momentum and opportunities to advance these objectives may be lost if issues relating to the interpretation and implementation of the current Cinema Communication are not urgently addressed. Moreover, in order to provide legal certainty and confidence to plan, we would welcome a clear agenda with priorities and milestones which sets out how the different policy objectives for cinema are to be addressed.

Whilst we appreciate the overriding need to comply with the Treaty and to respect competition law, we think that the interpretation of the cultural derogation in relation to film activities needs fully to reflect the objectives to promote cultural diversity, and to advance the European agenda for culture while leaving Member States free to design and implement appropriate cultural policies in order to strengthen their cultural industries.

We are concerned that the Commission's current standpoint on film within the cultural derogation does not appear to recognise the diversity of the different member states and assumes that European film has a greater commercial potential than is in fact the case. In particular, the emerging practice applied to the definition of difficult and low budget fails to recognise that the vast majority of subsidised European films are difficult and low budget. We are sure that the Commission recognises that state aid is being used to address market failure; by "market failure" we refer to the tendency of the market, to under-supply films reflecting the diversity of European cultures, and to fail to ensure that there is an infrastructure, in terms of resources and skills, to make possible the creation and distribution of those films.

Two points on which we would particularly welcome clarification are why the question of territorialisation remains open and what the Commission's specific concerns are relating to regional funds. We understand that the justification for the extension is to be found in the need for the Commission to analyse further the ways in which the market is evolving. We agree that this further analysis is necessary. However, since the study on territorialisation carried out for the Commission did not find conclusive evidence of the negative effect of territorialisation clauses but did find reasons for maintaining the level of territorialisation, we do not understand why territorialisation criteria are in question. In addition, we note that concerns relating to regional funds have been raised. These concerns had not been expressed before, notably when Commissioners Kroes and Reding made their announcement in May 2008 of their intention to extend the life of the Cinema Communication.

I remain at your disposal for any questions.

Yours sincerely



John Woodward  
Chief Executive, UK Film Council