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Subject: State aid SA.37526 (2013/N) – Estonia
Support of the audiovisual sector in Estonia

Dear Sir,

1. Summary

(1) The European Commission has assessed the Estonian aid scheme for the support of the audiovisual sector and has decided to consider the aid to be compatible with the Treaty on the Functioning of the EU ("TFEU"). The scheme is approved until 31 December 2018.

2. Procedure

(2) Following a pre-notification phase, the Estonian authorities notified the scheme to the Commission on 16 December 2013. Additional information was submitted by the Estonian authorities on 20 December 2013. Further e-mail exchanges of information took place on 7 and 8 January 2014.

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- (3) The notified aid scheme will replace the existing Estonian film support scheme, which was approved by the European Commission in 2008 (Case N 742/07¹) and which expired on 31 December 2013.

3. Description of the measure

3.1. Objective, legal basis, funding bodies, budget and duration

- (4) The main objective of the aid scheme is to support and promote the development of Estonian film culture.
- (5) The set-up of support activities covering all areas of film culture (production, marketing, distribution, exhibition, education, research and preservation) is considered necessary by the Estonian authorities in order to maintain Estonian film at a minimum level of visibility and to assure that Estonian film culture is available to all citizens. The Estonian film market is characterised by:
- its limited reach (1.3 million inhabitants);
 - the low average film production budgets (currently around EUR 600 000);
 - the low average theatrical admissions (between 20 000 and 30 000);
 - the limited number of market players (there are e.g. only 2-3 independent Estonian distributors, and not more than two art house cinemas);
 - negligible investments in film production by television broadcasters or private investors;
 - a lack of international theatrical distribution.
- (6) The legal bases of the aid scheme are 1) the Cultural Endowment of Estonia Act (RT I 1994, 46, 772); 2) the Draft Regulations for aid support of the Estonian Film Institute; 3) the Law on State Budget 2014 (Administrative area of the Ministry of Culture).
- (7) The measure is financed through the general budget of the state. The aid grantors or funding bodies are:
- The Estonian Film Institute ("EFI")²: Financed from the state budget, the EFI is the main aid grantor for the notified scheme. Specific Regulations (currently in Draft³) govern its allocation of support.

¹ State aid N 742/07 – Estonia – Estonian film support scheme, http://ec.europa.eu/competition/eojade/isef/case_details.cfm?proc_code=3_N742_2007

² The Estonian Film Institute was established in 2013 following the reorganisation of the Estonian Film Foundation by the Estonian Ministry of Culture.

³ The Estonian authorities will finalise this document in 2014 and will subsequently forward it to the European Commission.

- The Estonian Ministry of Culture: Currently, the audiovisual support activities of the Ministry of Culture are not subject to specific regulations, but are set up on a continuous basis, dependent on state budget allocations.
- The Cultural Endowment of Estonia ("Cultural Endowment"): The Cultural Endowment acts on the basis of the Cultural Endowment of Estonia Act and is comprised of eight endowments for the different areas of culture. An endowment is a structural unit, which distributes aid to a specific area of culture on the basis of submitted applications as well as on its own initiative. The support can go to projects, outstanding figures, talented persons and cultural buildings, as well as towards the commemoration of deceased figures. The support under the notified scheme is to be provided by the audiovisual art endowment. The Cultural Endowment is financed with the proceeds pursuant to the Alcohol Excise and the Tobacco Excise Act (on average 40% of its total income), with proceeds from the gambling tax pursuant to the Gambling Tax Act (on average 50% of its total income), with property donations and bequests made in its favour, with income received from the investment of its assets and with income from other activities. The Alcohol Excise, Tobacco Excise and Gambling Tax all derive from the state budget and are allocated to the Cultural Endowment budget via the Ministry of Culture.

(8) The overall budget of the scheme is estimated at EUR 50.4 million. Every year, each of the aid grantors establishes the limits for support in each support and project category. The notification includes an estimation of these yearly budgets for each funding body, as detailed in the table below.

Year	EFI	Ministry of Culture	Cultural Endowment
2014	EUR 5 million	EUR 350 000	EUR 1.8 million
2015	EUR 7 million	EUR 350 000	EUR 1.9 million
2016	EUR 8 million	EUR 350 000	EUR 2 million
2017	EUR 9 million	EUR 350 000	EUR 2 million
2018	EUR 10 million	EUR 350 000	EUR 2 million
TOTAL	<i>EUR 39 million</i>	<i>EUR 1.75 million</i>	<i>EUR 9.7 million</i>

(9) The scheme will run for a period of 5 years, from 1 January 2014 until 31 December 2018. The Estonian authorities have undertaken not to grant aid under the scheme until they have received the approval from the Commission contained in this Decision.

3.2. Types of support

(10) Under the notified aid scheme, support will be granted for the following activities:

- The development, production, marketing and distribution of Estonian films and internationally co-produced films, as well as the development and production of high-end mini TV series. It is foreseen in particular that this will include the following specific strands:
 - *Script support* for the creation of full-length feature film scripts.
 - *Development support* for the development of domestic and internationally co-produced feature films, animation films, documentaries and high-end mini TV series.
 - *Production support* for the production of domestic and internationally co-produced feature films, short films, animation films, documentaries and high-end mini TV series.
 - *Distribution support* for producing prints, for the domestic and international marketing and distribution of Estonian films and for the distribution of internationally co-produced films in Estonia.
 - *Success support* (granted only by the EFI) allocated to domestic films based on their domestic and international distribution results, or on the international awards won. The support is to be reinvested into the development of a next film project that must obtain the prior approval of EFI.
- The *development and production of transmedia projects and platforms*. Such transmedia projects and platforms are connected to film projects. Support is allocated for intensifying the film project development and the production of stories in new media platforms.
- The development of international relations and activities promoting the Estonian film industry outside Estonia. This encompasses:
 - *International marketing support* towards the marketing of the Estonian film industry as a co-production partner or as the provider of services. It also supports the marketing of Estonia as a possible shooting location.
 - *Film markets and festivals support* goes towards the participation of the sector at film markets and festivals.
- The protection of film heritage and film research work, including:
 - *Film heritage support* is allocated for the collecting, restoring and digitising of film heritage.
 - *Film-related academic research work support* includes support for the preparation and publishing of film-related research articles and publications, the creation of film-related databases, the development of electronic learning materials and textbooks.

- *Vocational training and film education activities.*
- The preservation of European and art house film programmes in cinemas and the development of cinemas, including digital equipment acquisition for cinemas:
 - *Exhibition of art house films:* support is allocated for the exhibition of art house films to strengthen the operative prospects of cinemas, which provide film programmes that form an alternative to the mainstream programmes. An art house cinema is defined as a small cinema that is financially not very attractive, has one or two screens, and offers an alternative film programme.
 - *Funding of the acquisition of digital exhibition equipment:* support is given for the acquisition of digital exhibition equipment by small rural cinemas. Although aid to cover the acquisition of digital exhibition equipment may fall below the *de minimis*⁴ thresholds, the Estonian authorities notified the aid in order to give applicants the possibility to apply for other ad hoc projects under the existing *de minimis* aid programmes.
- Support for miscellaneous activities related to the promotion of film culture development, including *the organisation of events and festivals.*
- During the lifetime of the scheme and depending on the evolving needs of the sector, the Estonian authorities foresee the potential set-up of *support for other audiovisual activities* than those covered by the present Decision. Support for such activities will either be notified by the Estonian authorities as an amendment to the scheme, or will be implemented under the *de minimis* Regulation⁵.

(11) It is foreseen that the three funding bodies may allocate aid to all types of support outlined above. The Cultural Endowment however does not intend to support film distribution and high-end mini TV series, whereas the Ministry of Culture does not intend to support high-end mini TV series. The Estonian authorities have furthermore specified that the schemes for high-end mini TV series and success support are not currently implemented, but could be introduced over the course of the period covered by the notification.

3.3. Beneficiaries and eligibility criteria

(12) The schemes are accessible to private entities and companies that are registered in the Estonian Commercial Register, either as an Estonian trading company or as the Estonian branch of a foreign enterprise. The applicants must commit to satisfying this registration requirement before any payment can be made to them. Alongside private companies, the scheme's beneficiaries may also include non-profit organisations or institutions and self-employed persons. In any case, their activities have to be linked to the film sector.

⁴ Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid, Official Journal of the European Union, 24.12.2013, L 352, pp. 1-8.

⁵ Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid, Official Journal of the European Union, 24.12.2013, L 352, pp. 1-8.

(13) In particular, the following specific eligibility conditions will apply:

- a. *Development, production and distribution support* can be granted to an independent production company. This means that the company cannot be subject to any dominant influence exerted by a broadcasting company, the State or local government. The majority of the company's stocks or shares, or of the associated voting rights, therefore cannot belong to the state, a local government, or a company whose turnover from programmes produced for a broadcaster represents more than 90% of the total turnover.
- b. *Script support* can, in addition to what is outlined under point a. above, also be awarded to self-employed entrepreneurs.
- c. *Film distribution support* can also be awarded to film distribution companies.
- d. *Art house programming, exhibition support and aid for film distribution* can be awarded to a legal body whose main area of activity is film exhibition or distribution, or to an independent cinema of not more than two screens.

3.4. Selection process and cultural criteria

(14) In general terms, the applications are assessed from an artistic, cultural and viability point of view. Yet the rules and conditions of support are set differently according to the funding body.

(15) The activities of each endowment within the Cultural Endowment are organised by an endowment board, consisting of seven persons active in the corresponding area of culture and who are nominated by organisations of this area of culture. As such the audiovisual art endowment is responsible for the distribution of support in the audiovisual era.

(16) The conditions for the application for funds from the Ministry of Culture are set up by Decree. For each programme set up by the Ministry under such a Decree, a project selection committee is set up, which evaluates the projects on their importance for Estonian (film) culture. The Minister takes the final support decisions on the basis of a proposal by this committee.

(17) Both at the Cultural Endowment and the Ministry of Culture, the assessment is done on the basis of the cultural and creative elements of the project as well as the budgetary and financial elements of the project.

(18) The Draft Regulations for Aid Support of the European Film Institute specify how the selection is organised for each of the specific schemes that are currently planned. Depending on the scheme, the applications are evaluated by a) the EFI's Head of Production, b) the EFI's Head of Development and Marketing, or c) the EFI's Head of Film Heritage. Where necessary, the evaluation will also involve independent experts. Different assessment criteria are set out for the different schemes, generally including elements that relate to the project's cultural and artistic characteristics as well as its financial elements and the potential outcome or impact.

(19) In general terms, the Estonian authorities have asserted that, for all types of support envisaged under the scheme, regardless of the funding body granting the subsidy, the following two elements will apply:

- All projects will be evaluated by experts in the field. The selection may be done by one of the Head of Departments within the EFI (who are all sector professionals), but may also involve independent experts, depending on the size of the support scheme and the identified needs.
- A selection of proposals will take place, taking into account the projects' influence on Estonian and world culture.

3.5. Form of the support, aid intensity and eligible costs

(20) The aid will be made available in the form of direct grants.

(21) The eligible costs for the production support are directly related to the creation of a film or other audiovisual work. The general maximum aid intensity under the scheme for film *production* activities is 50%, but higher aid intensities of up to 95% of the production budget are possible. Each of the funding bodies (EFI, Cultural Endowment, Ministry of Culture) can support a difficult or low-budget film project for up to 70% of the budget, or – if it is the only supporter of a project with significant influence on Estonian culture and society - up to 95% of the budget. The Estonian authorities put forward the following definitions in this regard:

- Low-budget films, as defined on the basis of an analysis of the average Estonian feature film budget. Currently the threshold is set at EUR 600 000. This threshold will evolve over the course of the period covered by the scheme. While the Estonian authorities foresee a possible higher threshold in future years, this low-budget threshold will not be set higher than EUR 1 million over the course of the time period covered by this notification.
- Difficult films are Estonian-speaking and/or highly artistic and/or experimental films and/or films that focus on Estonian culture and history and/or children or youth films based on an original screenplay by Estonian authors.

(22) As an exception to paragraph (21), the foreseen EFI aid scheme for the development and production of high-end mini TV series will not be able to exceed 50% of the production budget.

(23) Aid for trans-media projects is limited to 50% of the trans-media related production costs. For difficult and low-budget films, this aid intensity can go up to 70%.

(24) The aid for film production activities under the notified scheme can be combined with other aid schemes or measures. The cumulated aid intensity may not exceed 50% of the total film production budget, 95% in the case of a difficult or low-budget film. The respect of these percentages will be verified by experts.

(25) The aid activities under the schemes that target *exhibition* (respectively programming and digitisation support) are subject to the following aid intensities:

- Art-house programming support is limited to 70% of the programming budget. Most of the times, the support for cinemas under this scheme will account for 30-40% of the budget, with the maximum aid intensity levels of 70% foreseen for

exceptional cases in the rural area (which focus on art house programming). Costs related to a cinema's commercial activities (e.g. catering costs) are not eligible.

- The digitisation of cinemas is generally supported for up to 70% of the budget, but this aid intensity limit can increase to 95% of the budget for cinemas situated in very small towns. The budget elements used for the calculation of support include only the digital equipment itself, encompassing screen and sound equipment.

(26) For the *film heritage* support scheme, the typical aid intensity level of 70% can increase to 95% in some cases.

(27) The aid intensity levels for *promotion and distribution* activities are generally set at 50%, with higher aid intensity levels up to 70% possible when difficult or low-budget films are concerned.

(28) The aid intensity levels for other miscellaneous support measures, including support for the *organisation of festivals and events*, is varied, but generally set at 50%. The total cumulative aid amount will not exceed 70%.

(29) The table below summarises the cumulative aid intensity levels under the scheme:

Support	Intensity %
Production	Generally 50% but possible up to 95%
High-end mini TV series	Generally 50%
Trans-media	Generally 50%, but possible up to 70%
Digital equipment	Generally 50% but possible up to 95%
Exhibition programming	Generally 50%, but can go up to 70%
Distribution and promotion	Generally 50%, but can go up to 70%
Film heritage	Generally 70% but can go up to 95%
Other types of support (including festivals, events)	Generally 50%, but can go up to 70%

3.6. Territorial conditions

(30) The beneficiary of production support from the EFI is obliged to spend 50% of the aid amount in Estonia. The beneficiary of production support from the Cultural Endowment of Estonia is also obliged to spend 50% of the aid amount in Estonia. In the case of production support for minority co-productions, the recipient of support has to spend

100% of the aid amount in Estonia, up to a limit of 80% of the Estonian part of the co-production budget. There are no other territorial spending obligations.

3.7. Film heritage provisions

- (31) The 2013 Cinema Communication⁶ invites the Member States to encourage and support producers to deposit a copy of the aided film in the film heritage institution designated by the funding body for preservation, as well as for specified non-commercial use agreed with the right holder(s).
- (32) In order to receive script, development and/or production support from the EFI, the production company has to submit the source materials and a screening copy of its previous film to the Film Archives of the National Archives of Estonia.
- (33) For films that have received script, development and/or production support from the EFI, the film production company is obliged to hand over the film's source materials and a screening copy to the Film Archives of the National Archives of Estonia, within twelve months after the film's premiere in Estonia.
- (34) Moreover, the EFI has the right to use a film that has received script, development and/or production support for non-commercial purposes, to introduce Estonian culture in Estonia and abroad. This is done in agreement with the responsible producer of the film and in accordance with its distribution plan and world premiere.
- (35) More generally, the Estonian authorities have indicated that heritage support, in particular the digitisation of films, is an important objective. The EFI is the rights owner for 260 films produced between 1946 and 1998. The EFI is also the main partner of the Estonian Film Database.

4. Assessment of the measure

4.1. Existence of state aid

- (36) According to Article 107 (1) TFEU, *Save as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market.*
- (37) All the funds used to grant aid under this scheme are derived from the State budget or tax revenues. The funding bodies are either public bodies or entirely funded from the State budget. Consequently, State resources are involved in the scheme.
- (38) The scheme is selective in nature and independent audiovisual companies are the main targeted beneficiaries. Accordingly, the State favours certain undertakings and the production of certain goods. Therefore the scheme threatens to distort competition.

⁶ Communication from the Commission on state aid for films and other audiovisual works, Official Journal of the European Union, 15.11.2013, C 332, pp. 1-11.

- (39) Since audiovisual works are traded at an international level, the financial advantage granted to the beneficiaries under the various support programmes within the scheme affects trade between Member States.
- (40) Some of the support strands envisaged under the scheme concern activities that are not directly related to audiovisual creation, i.e. festivals and events organisation, film heritage, research, training and education activities. These types of activities, while regarded by the Estonian authorities as essential for the support of Estonian film culture, are unlikely to be economic activities in the Estonian context⁷. This means that support for these activities would not constitute State aid within the meaning of Article 107(1) of the TFEU. Nevertheless, even if some of them were considered to be economic activities, they can be declared compatible with the internal market, as demonstrated below, in section 3.2.3.
- (41) Therefore, the Commission considers that, with the possible exception of the support for certain activities mentioned in point (40) above, the scheme constitutes State aid within the meaning of Article 107 (1) of the TFEU. The compatibility of the aid therefore has to be assessed.

4.2. Compatibility of the aid

- (42) The Commission's Communication on state aid for films and other audiovisual works⁸ (Cinema Communication) provides for special rules for assessing the compatibility of State aid for films and other audiovisual works under Article 107 (3) (d) of the TFEU. The aid can be justified if the aid scheme complies a) with the general legality principle and b) with the specific compatibility criteria set out in the Cinema Communication.
- (43) Published in November 2013, the Cinema Communication updated the rules for state aid assessment that had been established in the 2001 Cinema Communication⁹. Among other things, it enlarged the scope of activities of the Communication to cover all aspects of film creation, from story concept to delivery to the audience. This notably includes aid for scriptwriting, development, film distribution, film promotion (including film festivals), aid to cinemas and aid to the film production component of trans-media projects.
- (44) The Estonian audiovisual support scheme encompasses a variety of measures that cover the development, production, distribution, promotion and cinema exhibition of audiovisual works. Its evaluation should in other words be done following the criteria set out in the Cinema Communication.

⁷ The Estonian film culture context is described in paragraph (5). See also State aid N 742/07 – Estonia - Estonian film support scheme, paragraphs (19) and (42), http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_N742_2007.

⁸ Communication from the Commission on state aid for films and other audiovisual works, Official Journal of the European Union, 15.11.2013, C 332, pp. 1-11.

⁹ Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on certain legal aspects relating to cinematographic and other audiovisual works of 26/09/2001 (OJ C 43 of 16/02/2002); extended in 2004 (OJ C 123 of 30/04/2004); 2007 (OJ C 134 of 16/06/2007); and 2009 (OJ C 31 of 07/02/2009).

4.2.1. General legality

- (45) Under the principle of "general legality", the eligibility conditions and award criteria may not contain clauses contrary to the TFEU in fields other than state aid. This includes ensuring that the TFEU principles prohibiting discrimination on the grounds of nationality, free movement of goods, free movement of workers, freedom of establishment, freedom to provide services and freedom of movement of capital have been respected (Articles 18, 34, 36, 45, 49, 54, 56 and 63 TFEU).
- (46) In compliance with the above principles, aid schemes must for example not reserve aid exclusively for nationals or require beneficiaries to have the status of national undertaking established under national commercial law. Under the scheme, aid can only be paid to companies that are registered in the Estonian Commercial Register, either as an Estonian trading company or as the Estonian branch of a foreign enterprise. The Estonian authorities have confirmed, in the notification, that no conditions of establishment must be fulfilled by the beneficiaries other than that of being represented by a permanent agency at the moment of payment of the aid.
- (47) The Cinema Communication moreover contains specific provisions with regard to territorial spending conditions, some of which are relevant in the context of the assessment of the notified Estonian scheme. As such, film production support schemes may require that up to 160% of the aid amount awarded is spent in the territory granting the aid. However, not more than 80% of the production budget may be linked to such territorial spending obligations.
- (48) The Estonian aid scheme foresees a spending obligation of 50% of the aid amount awarded. Given that the aid intensity can go up to 95% of the production budget, not more than 47.5% of the production budget is linked to territorial spending. In the case of minority co-production support, 100% of the aid amount awarded has to be spent in Estonia, up to a limit of 80% of the Estonian share of the production budget.
- (49) Consequently, the conditions of the Estonian scheme are in line with the Cinema Communication's provisions in terms of general legality.

4.2.2. Specific assessment under the Cinema Communication

Scriptwriting, development, production, distribution and promotion support

- (50) The Cinema Communication provides specific assessment criteria to assess schemes that support scriptwriting, development, production, distribution and promotion of audiovisual works under Article 107 (3) (d) TFEU. In the paragraphs below, we assess the relevant sub-schemes of the Estonian audiovisual support scheme on the basis of these provisions.
- (51) Each Member State must ensure that the aid is directed to a **cultural product**, according to its own national criteria and through an effective verification process to avoid manifest error. In line with the subsidiarity principle, the Commission's task is limited to verifying if a Member State has a relevant, effective verification mechanism in place, either through the set-up of a cultural selection process or by conditioning the aid on the basis of a cultural profile to be fulfilled by all applying projects. Under the Estonian scheme, different selection criteria and evaluation procedures will be set up, dependent on the type

of aid and on the funding body. In all cases, however, a selection will take place by experts, taking into account the cultural objectives of the scheme.

(52) The **aid intensity** must in principle be limited to 50% of the production budget, with higher intensity levels possible for cross-border co-productions funded by more than one Member State (up to 60% aid intensity), difficult audiovisual works and co-productions with countries from the DAC list of the OECD.

The Estonian authorities allow for higher intensity levels for difficult and low-budget films as set out in paragraph (21). The Commission considers that the Estonian authorities have established a definition of difficult films in line with the Cinema Communication.

(53) The aid to script writing or development is not subject to limits, but the associated costs should subsequently be included in the production budget and for the calculation of the total aid intensity. As this is the case for the notified scheme, the Commission considers that the scheme is not problematic from this perspective.

(54) The costs for distributing and promoting audiovisual works which are eligible for production support may be supported with the same aid intensity as they were or could have been for their production. This is the case in the Estonian scheme: the aid intensity for distribution and promotion support is generally limited to 50% of the budget, and may rise up to 70% for the distribution and promotion of difficult or low-budget films.

(55) According to the Cinema Communication, apart from script-writing, development, distribution or promotion, aid granted for **specific production activities** is not allowed. The Estonian authorities have confirmed not to earmark aid for specific aspects of the production value chain under the scheme.

(56) The aid should be awarded in a **transparent** manner. The Estonian authorities have assured the Commission that this will be the case. At least the following information will be published on a single website or on a single website retrieving information from several websites: the full text of the approved aid scheme and its implementing provisions, the name of the aid beneficiary, the name and nature of the aided activity or project, the aid amount, and the aid intensity as a proportion of the total budget of the aided activity or project¹⁰.

(57) In conclusion of paragraphs (50)-(56), the Commission therefore considers the aid schemes set up in the areas of scriptwriting, development, production, distribution and promotion to be compatible with Article 107 (3) (d) TFEU.

Cinema support

(58) The Cinema Communication acknowledges that aid to cinemas may be assessed as aid to promote culture in the meaning of Article 107 (3) (d). It also stipulates that aid for the modernisation of cinemas, including their digitisation, can be justified on that basis if such aid is necessary, proportionate and adequate.

(59) The Estonian aid scheme foresees two strands of cinema support: a) aid for the exhibition of art house films and b) funding for the acquisition of digital exhibition equipment. Both

¹⁰ Such information will be published online after the award decision has been taken, kept for at least 10 years and will be available to the general public without restrictions.

sub-schemes are considered **necessary** given the difficult market conditions for small and/or art house cinemas in Estonia. The Estonian authorities have explained that Estonia counts only two art house cinemas, which represent a market share of 5% of the total cinema exhibition market. Alongside these, small rural cinemas are struggling for survival. Up to 70% of the Estonian cinema programmes consists of mainstream and big (US studio) films. Art house film programmes are composed of more ambitious but commercially less attractive films, which attract a more limited or specialised audience. Specifically for the digitisation scheme, the Estonian authorities have identified 32 rural cinema screens that are not yet digitised. This is increasingly problematic given the disappearance of 35 mm distribution prints. The scheme aims to ensure the maintenance of cinemas and the supply of diverse film content, in particular in small towns or villages.

(60) Under either scheme, the cinemas must screen a minimum of 50% art house and European films. The cinema aid schemes can moreover be considered **proportionate** for the following reasons:

- The programming support for the exhibition of art house films is aimed to promote film programmes that offer an alternative to the mainstream. Decisions to allocate support will take into account the content of the programmes as well as the presence of activities targeting children and young audiences. The aid intensity under this scheme will not go above 70% of the total programming budget (in exceptional cases only). Costs related to commercial activities are not considered eligible.
- The aid foreseen under the art house exhibition scheme is intended to provide partial funding for the acquisition of digital equipment by art house cinemas and by small regional cinemas. Cinemas that are part of a large cinema chain and show a predominantly mainstream film programme are excluded from the scheme. The support amounts given to cover digital exhibition equipment will be relatively small, and may fall below de minimis thresholds. The support rate will depend on the location of the cinema, the number of inhabitants reached and the repertoire of the venue. Even if aid intensity levels can go up to 95%, only the procurement of digital equipment (including screen up-grades and sound equipment) can be funded.

(61) Given the small size of the Estonian market, and in particular the limited number of art house cinemas active in the territory, both types of support given to cinemas in view of cultural objectives can be considered **adequate**. The Estonian authorities have pointed out that, in the absence of support, these cinemas would not survive. In turn, the disappearance of rural cinemas would endanger the distribution of culture across the country.

(62) In conclusion of paragraphs (59)-(61), the Commission therefore considers the aid schemes set up for cinemas to be compatible with Article 107 (3) (d) TFEU.

4.2.3. Support for the organisation of festivals and events, film heritage, research, training and education activities

- (63) As noted (paragraph (40)), the types of activities benefitting from support for the organisation of festivals and events, film heritage, research, training and education are unlikely to be economic activities in the Estonian context described in paragraph (5).
- (64) However, even if any of them were considered to be economic activities, these types of support have as their objective to support and promote the development of Estonian film culture (cultural objective). As an integral part of the Estonian audiovisual support scheme, state aid for the organisation of festivals and events, film heritage, research, training, and education activities is considered as essential for achieving the scheme's objective of supporting and promoting the development of Estonian film culture (necessity criterion). Maximum aid intensities for festivals and events, film heritage, research, training and education activities are generally up to 70%, occasionally up to 95%. These are in line with the aid intensities for the other support activities under the scheme and can be considered proportional to the stated objectives. The Estonian authorities have indicated that the typical average support amounts are currently between €500 and €50 000 per project or company. Moreover, the particular context of the Estonian film market (paragraph (5)) is such that the Commission considers that these types of aid will not cause undue distortion of competition in Estonian or European markets.
- (65) Therefore the Commission considers that if any of the funding under these types of support were State aid, it would be compatible with Article 107 (3) (d) TFEU.

5. Conclusion

- (66) The Commission therefore concludes that the aid scheme constitutes State aid within the meaning of Article 107 (1) TFEU, but that it can be considered compatible with the internal market pursuant to Article 107 (3) (d) TFEU.

6. Decision

- (67) The scheme for the support of the audiovisual sector as notified by the Estonian authorities is considered compatible with the Internal Market according to Article 107 (3) (d) of the TFEU. The Commission does not raise objections in this respect. The amended scheme has been approved until 31 December 2018.
- (68) The Commission reminds the Estonian authorities to submit annual reports on the implementation of the aid scheme.
- (69) The Commission moreover reminds the Estonian authorities to inform the Commission according to Article 108 paragraph 3 of the TFEU on all plans to modify the scheme or to introduce a new scheme.

If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site: <http://ec.europa.eu/competition/elojade/isef/index.cfm>.

Your request should be sent by encrypted e-mail to stateaidgreffe@ec.europa.eu, by registered letter or by fax to:

European Commission
Directorate-General for Competition
State Aid Greffe
B-1049 Brussels
Belgium
Fax No: +32 2 296 12 42

Yours faithfully,
For the Commission

Joaquín ALMUNIA
Vice-President