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**Subject: State Aid SA.118346 (2025/N) – Czech Republic  
Audiovisual production incentives scheme**

Excellency,

**1. PROCEDURE**

- (1) Following pre-notification contacts, on 10 November 2025, the Czech authorities notified the Commission of the Audiovisual production incentives scheme ('the Measure'), in accordance with Article 108(3) of the Treaty on the Functioning of the European Union ('TFEU').
- (2) An initial Audiovisual production incentives scheme was originally approved by the Decision of 17 June 2010 (SA.30592) <sup>(1)</sup> with a duration until 31 December 2015, amended and prolonged by Decision of 2 August 2013 (SA.36106) <sup>(2)</sup> with a duration until 31 December 2018. Since then, the Czech authorities have implemented several consecutive similar measures registered as SA.47435 <sup>(3)</sup>, SA.100244 <sup>(4)</sup>, SA.105448 <sup>(5)</sup> and SA.117309 <sup>(6)</sup> pursuant to Commission

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<sup>(1)</sup> Commission Decision of 17 June 2010 in State aid case SA.30592 (2010/N) – Czech Republic Czech film support scheme, OJ C 289, 26.10.2010, p. 2.

<sup>(2)</sup> Commission Decision of 2 August 2013 in State aid case SA.36106 (2013/N) – Czech Republic Czech cinematography support scheme, OJ C 265, 14.9.2013, p. 3.

<sup>(3)</sup> [https://ec.europa.eu/competition/state\\_aid/cases/267983/267983\\_1868660\\_11\\_1.pdf](https://ec.europa.eu/competition/state_aid/cases/267983/267983_1868660_11_1.pdf)

<sup>(4)</sup> [https://ec.europa.eu/competition/state\\_aid/cases1/202141/SA\\_100244\\_90AA5A7C-0400-CCC3-AC0C-5050C03AF22A\\_8\\_1.pdf](https://ec.europa.eu/competition/state_aid/cases1/202141/SA_100244_90AA5A7C-0400-CCC3-AC0C-5050C03AF22A_8_1.pdf)

<sup>(5)</sup> [https://ec.europa.eu/competition/state\\_aid/cases1/202252/SA\\_105448\\_D02D3485-0200-C3C2-9171-97979EC54E72\\_8\\_1.pdf](https://ec.europa.eu/competition/state_aid/cases1/202252/SA_105448_D02D3485-0200-C3C2-9171-97979EC54E72_8_1.pdf)

<sup>(6)</sup> [https://ec.europa.eu/competition/state\\_aid/cases1/20241/SA\\_117309\\_8.pdf](https://ec.europa.eu/competition/state_aid/cases1/20241/SA_117309_8.pdf)

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Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty ('GBER') <sup>(7)</sup>. The Measure as notified replaces the previous measures (the latter expiring on 31 December 2025). It includes several modifications and provides for an increase of the annual budget beyond the threshold provided in Article (4)(1)(aa) of the GBER.

- (3) By letter registered on 29 October 2025, the Czech Republic exceptionally agreed to waive its rights deriving from Article 342 of the TFEU, in conjunction with Article 3 of the Council Regulation 1/58 <sup>(8)</sup> and to have this Decision adopted and notified in English.

## **2. DETAILED DESCRIPTION OF THE MEASURE**

### **2.1. Objective of the Measure**

- (4) The Measure aims to support the development of the film industry in the Czech Republic by fostering all stages of the production of cultural audiovisual works. It seeks to encourage investment in the sector and to create favourable conditions for the development of creative industries.
- (5) The audiovisual production industry is characterised by high production costs, unpredictable commercial success and uncertain cost recovery, making it inherently high-risk. According to the Czech authorities, the Measure will generate significant economic benefits for the State and its regions by attracting investments that will be spent locally on goods and services. Additionally, it is expected to promote job creation and increase employment opportunities in both creative and technical fields.
- (6) By providing targeted support, the Measure aims to contribute to the development of the Czech and European audiovisual industry and the preservation of cultural heritage by safeguarding Czech and European culture.
- (7) The Czech authorities consider necessary to provide support to audiovisual works having cultural content, as it is difficult for such projects to obtain a sufficient level of commercial financing. The Czech Republic is a country with a smaller territory, a low population, and a limited language area. Therefore, it is difficult for producers to obtain sufficient financing for projects to proceed. The high risks associated with their businesses and projects, together with the perceived lack of profitability in the sector, make it dependent on State aid. Without the provision of such support, the Czech authorities consider that the film industry would be entirely non-competitive.
- (8) For these reasons, the Measure is considered necessary to stimulate the production of audiovisual works with cultural content in order to enrich the Czech and European quality and diversity of the works produced.

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<sup>(7)</sup> Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187, 26.6.2014, pp. 1-78, as amended.

<sup>(8)</sup> Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

## **2.2. Legal basis**

- (9) The legal bases of the Measure are the Act No. 496/2012 Coll. on Audiovision (<sup>9</sup>) ('the Audiovisual Act'), as amended, and the Statutes of the Czech Audiovisual Fund ('the Statute') (<sup>10</sup>).

## **2.3. Duration**

- (10) The Measure will run from 1 January 2026 until 31 December 2031. No aid will be granted under the Measure until the notification of the Commission decision approving the Measure (<sup>11</sup>).

## **2.4. Budget and financing of the Measure**

- (11) The overall budget of the Measure amounts to approximately CZK 12 164 million (EUR 500.95 million) (<sup>12</sup>), with an average annual budget of approximately CZK 2 027 million (EUR 83.48 million) (<sup>13</sup>).
- (12) The Measure is financed by a subsidy allocated from the general budget of the State (<sup>14</sup>). The subsidy will be granted by the Czech Audiovisual Fund ('the Fund').

## **2.5. Form of the aid**

- (13) Aid is provided in the form of direct grants and will be calculated based on expenditures incurred in the Czech Republic for the production of audiovisual works (see recitals (25) to (27)).

## **2.6. Granting authority**

- (14) The Fund, a legal entity under the administrative authority of the Ministry of Culture, is responsible for the implementation and operation of the Measure (<sup>15</sup>).
- (15) The Commission for Production Incentives serves as an advisory body to the Fund and is responsible for evaluating applications (<sup>16</sup>).
- (16) Applications must be submitted to the Fund before the start of production of the audiovisual work in the Czech Republic (<sup>17</sup>). The Fund must pay the aid directly to the applicants within 60 days from the date the decision approving the aid is issued (<sup>18</sup>).

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<sup>9</sup> Act No. 496/2012 Coll., on Audiovisual Works and Support for Cinematography and on the Amendment of Certain Laws, adopted on 26 October 2012, as amended on 11 December 2024.

<sup>10</sup> Statutes of the Czech Audiovisual Fund, adopted on 23 July 2025.

<sup>11</sup> Section 1.6 of the Statute.

<sup>12</sup> European Central Bank exchange rate on the date of notification: EUR 1 = CZK 24.282.

<sup>13</sup> The annual budget of the Measure is estimated at CZK 1 540 million (EUR 63.42 million) for the years 2026 and 2027, and at CZK 2 271 million (EUR 93.53 million) for the years 2028 to 2031. The minimum annual subsidy is determined based on the Fund's income from audiovisual levies, as defined in Section 25 of the Audiovisual Act. This subsidy is calculated in accordance with Section 24a (2) of the Audiovisual Act and Section 30 of the Transitory Provisions.

<sup>14</sup> Section 24 (1) (n) of the Audiovisual Act.

<sup>15</sup> Section 1 of the Statute.

<sup>16</sup> Sections 3.2 b) and 12.11 of the Statute.

<sup>17</sup> Section 51 (2) of the Audiovisual Act.

<sup>18</sup> Section 52e (4) of the Audiovisual Act.

## 2.7. Eligibility criteria

### 2.7.1. Beneficiaries

- (17) The Measure applies to any natural or legal person that is a tax resident of the Czech Republic, as well as to tax non-residents that maintain a permanent establishment within the Czech Republic at the time of payment of the aid and are, under the legislation of the relevant jurisdiction, tax residents of another Member State of the European Union or the European Economic Area ('EEA')<sup>(19)</sup>.
- (18) The beneficiary of the Measure must be either the producer or co-producer of the audiovisual work, or the person responsible, on behalf of the producer and co-producer(s), for managing the production of the audiovisual work or any part thereof<sup>(20)</sup>.
- (19) To qualify for the Measure, entities must meet the conditions set out in Section 39 (1) (a) and (d) to (j) of the Audiovisual Act with respect to integrity, financial standing, and the absence of outstanding debts or penalties<sup>(21)</sup>.
- (20) An application for the filing of an incentivised project must be submitted prior to the commencement of production of the audiovisual work in the Czech Republic<sup>(22)</sup>. After assessing whether the application meets the eligibility conditions, the Fund will issue a decision on the filing of the incentivised project, which must determine the conditions governing the realisation of the incentivised project<sup>(23)</sup>. After this decision has been issued, the applicant may submit an application for production support within three years<sup>(24)</sup>. The Fund shall assess the application and issue a decision determining the amount of the production support, which must not exceed the amount specified in the decision on the filing of the incentivised project<sup>(25)</sup>.

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<sup>(19)</sup> Section 50 (1) (a) of the Audiovisual Act.

<sup>(20)</sup> Section 50 (1) (e) of the Audiovisual Act. Pursuant to Section 50 (1) (b) of the Audiovisual Act, the Measure cannot be granted to any television broadcasting operator, provider of on-demand audiovisual media services, or any capital-related entity affiliated with such television broadcasting operator or on-demand audiovisual media service provider. It cannot be granted to any individual or entity that delivers more than 90% of their total production to a single operator or provider over a period of three years. Moreover, it cannot be granted to any individual or entity holding voting rights or registered capital in the broadcasting operator or on-demand audiovisual media service provider, as well as those in which the operator or provider holds such rights or capital.

<sup>(21)</sup> Section 50 (1) (c) of the Audiovisual Act. Pursuant to Section 39 (1) (a) and (d) to (j) of the Audiovisual Act, the beneficiary of the Measure must not (i) be an individual convicted of property or economic-related crimes; (ii) be an undertaking in difficulty under EU rules, nor be subject to any unpaid recovery order by the Commission; (iii) be in liquidation; (iv) have assets subject to judicial enforcement or execution; (v) have outstanding arrears in public health insurance, social insurance, employment policy contributions, or any records maintained by the Financial Administration and customs authorities of the Czech Republic or corresponding authorities in the applicant's country of registered office, principal place of business, or permanent residence; and (vi) have overdue liabilities payable to the Fund.

<sup>(22)</sup> Section 51 (2) of the Audiovisual Act.

<sup>(23)</sup> Section 52 (3), 52 (5) and 52a (2) of the Audiovisual Act.

<sup>(24)</sup> Section 52d (1) of the Audiovisual Act.

<sup>(25)</sup> Section 52e (3) of the Audiovisual Act.

### 2.7.2. Eligible works

- (21) To be eligible for support, audiovisual works must be at least partly produced in the Czech Republic <sup>(26)</sup>.
- (22) Audiovisual works must belong to one of the following categories <sup>(27)</sup>: a fictional <sup>(28)</sup>, documentary <sup>(29)</sup> or animated audiovisual work <sup>(30)</sup>, or an episode of a fiction <sup>(31)</sup>, documentary <sup>(32)</sup> or animated series <sup>(33)</sup>.
- (23) Audiovisual works must qualify as a cultural product, as assessed by the Commission for Production Incentives (see recital (15)). Fictional, documentary, and animated audiovisual works must satisfy the requirements of the respective points-based tests ('cultural test') applicable to each category. Each cultural test consists of two sections: (i) 'Cultural criteria' <sup>(34)</sup>, with a maximum score of 12 points, and (ii) 'Production criteria' <sup>(35)</sup>, with a maximum score of 15 points. To

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<sup>(26)</sup> Section 43 (1) (a) of the Audiovisual Act.

<sup>(27)</sup> Section 43 (1) (b) of the Audiovisual Act.

<sup>(28)</sup> A fictional audiovisual work with a minimum duration of 60 minutes, which is not an episode of a series, and for which the total eligible production costs, excluding value added tax, amount to at least CZK 18 million (EUR 0.741 million).

<sup>(29)</sup> A documentary audiovisual work with a minimum duration of 60 minutes, which is not an episode of a series, and for which the total eligible production costs, excluding value added tax, amount to at least CZK 2.5 million (EUR 0.103 million).

<sup>(30)</sup> An animated audiovisual work with a minimum length of 60 minutes, which is not an episode of a series, and for which the total eligible production costs, excluding value added tax, amount to at least CZK 5 million (EUR 0.206 million). This threshold also applies to digital audiovisual works that are not formally classified as animated works but do not involve filming live actors' performances.

<sup>(31)</sup> An episode of a fiction series with a minimum length of 20 minutes, for which the eligible production costs, excluding value added tax, amount to at least CZK 7.5 million (EUR 0.309 million). Multiple episodes may be produced within a single incentivised project provided that the total eligible costs equal or exceed CZK 7.5 million (EUR 0.309 million) multiplied by the number of episodes.

<sup>(32)</sup> An episode of a documentary series with a minimum length of 20 minutes for which the eligible production costs, excluding value added tax, amount to at least CZK 2.5 million (EUR 0.103 million). Multiple episodes may be produced within a single incentivised project provided that the total eligible costs equal or exceed CZK 2.5 million (EUR 0.103 million) multiplied by the number of episodes.

<sup>(33)</sup> An episode of an animated series with a minimum length of 5 minutes for which the eligible production costs of all episodes of the series, excluding value added tax, amount to at least CZK 5 million (EUR 0.206 million).

<sup>(34)</sup> The cultural criteria are: (i) the story/script/central theme is based on an event that is a part of the Czech or European culture/history/mythology/religion (1 point); (ii) the audiovisual work is based on a character/person belonging to the Czech/European culture/history/society/religion (1 point); (iii) the story takes place in or relates to a European architectural or cultural environment/place/location or a fictional, not real environment/place/location (2 points), (iv) the story/script/central theme is based on, inspired by or has been created upon motives of a literary work or by adaptation of other fields of art (fine arts, music, etc.) having a cultural value (1 point), (v) the story/script/central theme is focused on current cultural/sociological/political topic of the Czech or European society (1 point), (vi) the audiovisual work reflects an important Czech or European value, such as cultural diversity/solidarity/equality/protection of minorities or human rights/tolerance/environmental protection/respecting cultural or family traditions (1 point), (vii) the audiovisual work is focused on Czech/European culture/identity on Czech/European customs and traditions (1 point), (viii) the story/script/central theme is based on current or historical world events with an impact on the European/Czech society (1 point), (ix) the audiovisual work contributes to the development of the relevant genre (1 point), (x) the final version of the audiovisual work is in any EEA language (2 points).

<sup>(35)</sup> The production criteria are: (i) the audiovisual work's creators are Czech citizens or citizens of EEA States (7 points), (ii) at least 51% of the crew members are EEA citizens (2 points), (iii) shooting at locations or in studios in the Czech Republic, or production in specialized studios in the Czech

be deemed eligible, an audiovisual work must achieve a minimum of 13,5 points out of a total of 27, including at least 4 points out of 12 in the ‘Cultural criteria’ section <sup>(36)</sup>.

- (24) Video recordings, video clips or programs derived therefrom, news and public affairs programs, recordings of cultural or sporting events, entertainment programs, and competitions are excluded from the Measure <sup>(37)</sup>.

### 2.7.3. Eligible costs

- (25) Eligible expenditure serving as the basis for determining the aid amount includes all production costs incurred in the Czech Republic, from pre-production <sup>(38)</sup> to post-production <sup>(39)</sup>. The Measure does not include support to scriptwriting, development, distribution, and promotion.

- (26) Eligible costs include <sup>(40)</sup>:

- (i) the administrative fee paid by the applicant upon submission of the application and, payments for the supply of goods and services directly related to the incentivised project, provided by a supplier registered in the Czech Republic for income tax purposes;
- (ii) remuneration of actors and crew members having their registered office or permanent residence outside the Czech Republic, provided that such remuneration is subject to income tax in the Czech Republic under a special tax rate;
- (iii) revenue paid to the applicant, who is not the producer or co-producer, as remuneration for securing production services for the incentivised project;
- (iv) costs incurred by the applicant within six months prior to the application submission, directly related to the preparation for the realisation of the incentivised project <sup>(41)</sup>.

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Republic (2 points), (iv) pre-production carried out in the Czech Republic for at least 10 or 30% of the total pre-production period (1 or 2 points), (v) post-production/digital production carried out in the Czech Republic for at least 10 or 30% of the total post-production/digital production period (1 or 2 points).

<sup>(36)</sup> Sections 12.12 to 12.14 of the Statute.

<sup>(37)</sup> Section 1 (2) of the Audiovisual Act.

<sup>(38)</sup> Defined by Section 25.1 a) of the Statute as preparatory works, i.e. ‘*activities that form part of the development of an audiovisual work, exploration of possibilities of realizing an incentivised project, selection of actors and of the realisation team, including casting, legal and organizational arrangements of the following phases of production of the audiovisual work, particularly production plans, technological, camera, actor and other tests, search for locations and suppliers of individual services, procurement of rights and licences for use of intellectual property rights, and in the case of an animated audiovisual work also the creation of basic graphic designs, animatics and technological testing, designing, manufacturing, construction, sourcing or renting of stage sets, costumes and other set elements*’.

<sup>(39)</sup> Section 25.1 of the Statute.

<sup>(40)</sup> Section 44 of the Audiovisual Act. All costs are calculated exclusive of value added tax.

<sup>(41)</sup> These costs are directly related to the preparation for the project’s implementation and are necessary for the actual submission of the application. Pursuant to Section 25.2 of the Statute, the costs linked to the preparation for the realisation of the incentivised project include preparatory activities as described in footnote 38, ‘*with the exception of manufacturing, construction, sourcing or renting of stage sets, costumes and other set elements, and where applicable, minor-scale shooting in the territory of the Czech Republic, justified by production circumstances, and the filming of footage for a time-lapse documentary audiovisual work, realized in the territory of the Czech Republic*’.

- (27) Aid will not be reserved for specific parts of the production value chain. Any aid granted for the production of audiovisual works will contribute to the overall budget.

## **2.8. Aid intensity and cumulation**

- (28) Aid may be granted to a maximum value of 35% of the eligible costs (see recitals (25) and (27))<sup>(42)</sup>, which cannot exceed 80% of the total production costs<sup>(43)</sup>.
- (29) The aid intensity may be increased as follows<sup>(44)</sup>:
- (i) up to 60% of the total production costs for cross-border productions financed by more than one Member State and involving producers from multiple Member States;
  - (ii) up to 90% of the total production costs for difficult audiovisual works<sup>(45)</sup> and co-productions involving countries listed in the OECD Development Assistance Committee ('DAC') list.
- (30) In any case, the maximum aid amount per project must not exceed CZK 450 million (EUR 18.53 million)<sup>(46)</sup>.
- (31) The Measure may be cumulated with any other State aid, provided that the total cumulative aid intensity does not exceed 50% of the production budget<sup>(47)</sup>. To ensure compliance with cumulation rules, verification will be carried out based on the documentation attached to the application, such as the total cost budget, financial plan, auditor's verification of resources, as well as co-production and service agreements.

## **2.9. Territorial conditions**

- (32) The aid amount is calculated as a percentage of the eligible production costs incurred within the Czech Republic (see recital (13)).
- (33) Since the eligible production costs cannot exceed 80% of the total production costs (see recital (28)), the beneficiary is free to spend at least 20% of the

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<sup>(42)</sup> Section 45 (2) (a), (b) and (c) of the Audiovisual Act. Aid may be granted up to a maximum of 25% of the eligible costs identified in points (i), (iii), and (iv) of recital (26). In cases where the incentivised project involves the production of an animated audiovisual work, an animated audiovisual series or episode, or where the project does not include the filming of live actor performances, aid may be granted up to a maximum of 35% of these eligible costs. Aid may also be granted up to a maximum of 66% of the total income tax revenue collected or withheld in the Czech Republic in connection with eligible costs referred to in point ii) of recital (26). Such income is taxed under Czech tax laws at a special tax rate of 15%. The aid intensity applicable to these costs can therefore amount to up to 9,9% (66% x 15%) of the production costs.

<sup>(43)</sup> Section 45 (2) (d) of the Audiovisual Act.

<sup>(44)</sup> Section 57a (1) of the Audiovisual Act.

<sup>(45)</sup> A difficult, or 'demanding work', is defined in Section 31.3 of the Statute as '*work whose chances of economic success are limited, yet the creation of such a work and the making of its recording or realization of the project is desirable due to its cultural value, even though securing financing from other sources is difficult precisely because of its cultural complexity*'. Pursuant to Section 31.4 of the Statute, audiovisual works that are considered demanding without further assessment include those of an experimental nature, those with a runtime not exceeding 60 minutes ('short-form work'), those created by first-time directors, documentary audiovisual works, and animated audiovisual works. Pursuant to Section 31.5 of the Statute, demanding works also include works of high artistic value or involving complex technical execution and designated as demanding by a decision of the Commission for Production Incentives in accordance with Section 46 (c) of the Audiovisual Act.

<sup>(46)</sup> Section 45 (3) of the Audiovisual Act.

<sup>(47)</sup> Section 57a (1) of the Audiovisual Act.

production budget outside the territory of the Czech Republic without it resulting in a reduction of the aid amount.

- (34) Additionally, the ‘Production criteria’ section of the cultural test includes criteria establishing a territorial link (see recital (23)). However, none of these eligibility criteria incentivise beneficiaries to allocate more than 30% of the production budget within the Czech Republic.

## **2.10. Audiovisual heritage**

- (35) Paragraph 52(6) of the Cinema Communication 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)*’.
- (36) Under the Measure, the beneficiary must provide the Fund a free copy of the supported audiovisual work within two months after its first presentation to the public <sup>(48)</sup>.

## **2.11. Transparency**

- (37) The Czech authorities have committed to publish at least the following information on a single website <sup>(49)</sup>: the full text of the approved aid scheme and its implementing provisions; the identity of the granting authority; the name of the aid beneficiaries, the aid instrument and amount of aid granted to each beneficiary; the objective of the aid, the date of granting, the type of undertaking; the region where the beneficiary is located and the principal economic sector of the beneficiary.
- (38) Such information must be published online after the award decision has been taken, kept for at least 10 years and be available to the general public without restrictions.

## **3. ASSESSMENT OF THE MEASURE**

### **3.1. Existence of aid**

- (39) Pursuant to Article 107(1) TFEU, ‘*[s]ave 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*’.
- (40) The qualification of a measure as aid within the meaning of Article 107(1) TFEU requires that the following cumulative conditions be met: (i) the measure must be imputable to the State and financed through State resources; (ii) it must confer an advantage on its recipient; (iii) that advantage must be selective; and (iv) the measure must distort or threaten to distort competition and affect trade between Member States.

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<sup>(48)</sup> Article 52f (1) (f) of the Audiovisual Act.

<sup>(49)</sup> [www.fondkinematografie.cz](http://www.fondkinematografie.cz)

### *3.1.1. State resources and imputability*

(41) The Measure consists in the provision of direct grants from the State budget (see recital (12)) and is based on the legal acts provided in recital (9). Further, the measure is managed by the Fund (see recitals (12) and (14)), a legal entity under the administrative authority of the Ministry of Culture. Therefore, it involves State resources and is imputable to the State.

### *3.1.2. Economic advantage*

(42) The direct grants obtained by eligible entities under the Measure constitute a payment that they would not receive under normal market conditions. Therefore, the Measure provides an economic advantage to the beneficiaries.

### *3.1.3. Selectivity*

(43) The Measure is selective since aid will be awarded only to certain undertakings, specifically to entities active in the audiovisual sector that meet the requirements set out in Sections 2.7.1 and (20), while other undertakings in a comparable legal and factual situation within that sector or other sectors (considering that all economic operators should in principle cover their own costs), are not eligible for aid and thus will not receive the same advantage.

### *3.1.4. Distortion of competition and impact on trade*

(44) The beneficiaries compete with other undertakings involved in the production of audiovisual works which do not necessarily benefit from the Measure. Consequently, the Measure distorts or threatens to distort competition.

(45) Since audiovisual works are traded at an international level and may attract audiences internationally, the financial advantage granted to the aid beneficiaries affects trade between Member States.

### *3.1.5. Conclusion on the existence of aid*

(46) In light of the above, the Measure constitutes State aid within the meaning of Article 107(1) TFEU.

## **3.2. Lawfulness of the Measure**

(47) By notifying the Measure before putting it into effect (see recital (10)), the Czech authorities respected their obligations under Article 108(3) TFEU.

## **3.3. Compatibility**

(48) Aid for audiovisual productions is assessed under Article 107(3)(d) TFEU as aid for the promotion of culture and for that purpose in light of the Cinema Communication <sup>(50)</sup>.

(49) The Cinema Communication provides for special rules on assessing aid for films and other audiovisual works under Article 107(3)(d) TFEU. The aid can be justified if the aid scheme respects the general legality principle and fulfils all relevant specific compatibility criteria for aid as set out in paragraph 52 of the Cinema Communication.

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<sup>(50)</sup> Communication from the Commission on State aid for films and other audiovisual works, OJ C 332, 15.11.2013, pp. 1-11.

### 3.3.1. General legality principle

- (50) As stated in paragraph 48 of the Cinema Communication, *‘the Commission must first verify that the aid respects the “general legality” principle and that the eligibility conditions and award criteria do not contain clauses contrary to the TFEU in fields other than State aid’*.
- (51) The Measure does not contain any provisions or clauses contrary to the TFEU. It does not reserve the aid exclusively to Czech nationals, nor does it require beneficiaries to have the status of national undertakings under national commercial law. Any natural or legal person established within the EU or EEA may benefit from the Measure, provided they have a permanent establishment in the Czech Republic at the time of payment of the aid (see recital (17)). The Measure therefore does not discriminate on the basis of the place of establishment.
- (52) Pursuant to paragraph 50 of the Cinema Communication, *‘Member States may require a minimum level of production activity in their territory for projects to be eligible for any aid. This level cannot, however, exceed 50% of the overall production budget. In addition, the territorial linking shall in no case exceed 80% of the overall production budget’*.
- (53) Aid under the Measure is calculated as a percentage of the eligible production costs incurred in the Czech Republic (see recital (25)). The territorial linking is limited to 80% of the total production costs, as the eligible production costs used to determine the exact aid amount (i.e. the expenditure on production in the Czech Republic) cannot exceed 80% of the total production costs (see recital (28)).
- (54) Furthermore, the Measure does not require that more than 50% of the production costs be spent in the Czech Republic. While the ‘Production criteria’ section of the cultural test contains a set of criteria that entail a territorial linking (see recital (23)), none of these eligibility criteria however incentivise beneficiaries to spend more than 30% of the production budget in the Czech Republic (see recital (34)).
- (55) The Commission therefore considers that the Measure complies with Cinema Communication’s provisions in terms of general legality.

### 3.3.2. Cultural content

- (56) Pursuant to paragraph 52(1) of the Cinema Communication, the aid must be directed to a cultural product. *‘Each Member State ensures that the content of the aided production is cultural according to its own criteria through an effective verification process to avoid a manifest error: either through the selection of film proposals, for example by a panel or a person entrusted with the selection, or, in the absence of such a selection process, by establishing a list of cultural criteria against which each audiovisual work will be verified’*.
- (57) Aid under the Measure is granted after verification by the Commission for Production Incentives that the audiovisual work meets the eligibility criteria set out in the Statute. Aid will only be granted if the audiovisual work achieves the required minimum score in the cultural test. As described in recital (23), the cultural test contains two sections: (i) ‘Cultural criteria’, and (ii) ‘Production criteria’.
- (58) The cultural test ensures that only projects with cultural character will benefit from the Measure. To be eligible, works must obtain a significant portion of the total maximum score (i.e. 13,5 points out of a total of 27). Additionally, the requirement that a production scores at least 4 points out of 12 in the ‘Cultural

criteria' section guarantees the cultural Czech and European content of the supported production.

- (59) The Commission therefore considers that the Czech authorities have designed verifiable national criteria to ensure that the aid is directed towards a cultural product within the meaning of paragraph 52(1) of the Cinema Communication.

### 3.3.3. *Aid intensity*

- (60) Pursuant to paragraph 52(2) of the Cinema Communication, *'the aid intensity must in principle be limited to 50% of the production budget, with a view to stimulating normal commercial initiatives. The aid intensity for cross-border productions funded by more than one Member State and involving producers from more than one Member State may be up to 60% of the production budget. Difficult audiovisual works and co-productions involving countries from the DAC List of the OECD are excluded from these limits.'*

- (61) The maximum amount of aid granted under the Measure is limited to 35% of the eligible costs representing 80% of the overall production costs (see recital (28)). The maximum aid intensity is thus below the threshold of 50% of the production budget.

- (62) As allowed by paragraph 52(2) of the Cinema Communication, the aid intensity may be increased up to 60% of the production budget for cross-border productions funded by more than one Member State and involving producers from more than one Member State (see recital (29)(i)). For difficult audiovisual works and co-productions involving countries from the DAC list of the OECD, the aid intensity may be increased to 90% of the production budget (see recital (29)(ii)).

- (63) Moreover, the cumulative aid intensity of the Measure is limited to 50% of the production budget (see recital (31)).

- (64) The Commission therefore considers that the Measure complies with the aid intensity rules of the Cinema Communication.

### 3.3.4. *No aid granted for specific production activities*

- (65) Pursuant to paragraph 52(5) of the Cinema Communication, *'apart from scriptwriting, development, distribution or promotion, aid granted for specific production activities is not allowed. Consequently, the aid must not be reserved for individual parts of the production value chain'*.

- (66) The Measure is not restricted to certain stages of production and does not involve any aid supplements for specific film-making activities (see recitals (25) and (27)). Therefore, the measure complies with the neutral incentive effect requirement.

- (67) The Commission therefore considers that the Measure does not grant aid for specific production activities and complies with the Cinema Communication in this regard.

- (68) Furthermore, the Czech Republic complies with paragraph 52(6) of the Cinema Communication by encouraging producers to deposit a copy of any audiovisual work receiving aid to the Fund (see recital (36)).

3.3.5. *The aid is awarded in a transparent manner*

- (69) Pursuant to paragraph 52(7) of the Cinema Communication, ‘*aid is awarded in a transparent manner*’.
- (70) As described in recitals (37) and (38), the Czech authorities have committed to publish the necessary information on the award decision and to keep it publicly available for at least 10 years.

**4. CONCLUSION**

The Commission has accordingly decided not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3)(d) of the Treaty on the Functioning of the European Union.

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: <https://competition-cases.ec.europa.eu/search?caseInstrument=SA>.

Your request should be sent electronically to the following address:

European Commission,  
Directorate-General Competition  
State Aid Greffe  
B-1049 Brussels  
[Stateaidgreffe@ec.europa.eu](mailto:Stateaidgreffe@ec.europa.eu)

Yours faithfully,

*For the Commission*

Teresa RIBERA  
*Executive Vice-President*

