

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 (Text with EEA relevance)

CHAPTER III

**SPECIFIC PROVISIONS FOR DIFFERENT CATEGORIES OF AID**

*SECTION 11*

*Aid for culture and heritage conservation*

*Article 53*

**Aid for culture and heritage conservation**

1 Aid for culture and heritage conservation shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided the conditions laid down in this Article and in Chapter I are fulfilled.

2 The aid shall be granted for the following cultural purposes and activities:

- a museums, archives, libraries, artistic and cultural centres or spaces, theatres, opera houses, concert halls, other live performance organisations, film heritage institutions and other similar artistic and cultural infrastructures, organisations and institutions;
- b tangible heritage including all forms of movable or immovable cultural heritage and archaeological sites, monuments, historical sites and buildings; natural heritage linked to cultural heritage or if formally recognized as cultural or natural heritage by the competent public authorities of a Member State;
- c intangible heritage in any form, including folklorist customs and crafts;
- d art or cultural events and performances, festivals, exhibitions and other similar cultural activities;
- e cultural and artistic education activities as well as promotion of the understanding of the importance of protection and promotion of the diversity of cultural expressions through educational and greater public awareness programs, including with the use of new technologies;
- f writing, editing, production, distribution, digitisation and publishing of music and literature, including translations.

3 The aid may take the form of:

- a investment aid, including aid for the construction or upgrade of culture infrastructure;
- b operating aid.

4 For investment aid, the eligible costs shall be the investment costs in tangible and intangible assets, including:

- a costs for the construction, upgrade, acquisition, conservation or improvement of infrastructure, if at least 80 % of either the time or the space capacity per year is used for cultural purposes;

- b costs for the acquisition, including leasing, transfer of possession or physical relocation of cultural heritage;
  - c costs for safeguarding, preservation, restoration and rehabilitation of tangible and intangible cultural heritage, including extra costs for storage under appropriate conditions, special tools, materials and costs for documentation, research, digitalisation and publication;
  - d costs for improving the accessibility of cultural heritage to the public, including costs for digitisation and other new technologies, costs to improve accessibility for persons with special needs (in particular, ramps and lifts for disabled persons, braille indications and hands-on exhibits in museums) and for promoting cultural diversity with respect to presentations, programmes and visitors;
  - e costs for cultural projects and activities, cooperation and exchange programmes and grants including costs for selection procedures, costs for promotion and costs incurred directly as a result of the project;
- 5 For operating aid, the eligible costs shall be the following:
- a the cultural institution's or heritage site's costs linked to continuous or periodic activities including exhibitions, performances and events and similar cultural activities that occur in the ordinary course of business;
  - b costs of cultural and artistic education activities as well as promotion of the understanding of the importance of protection and promotion of the diversity of cultural expressions through educational and greater public awareness programs, including with the use of new technologies;
  - c costs of the improvement of public access to the cultural institution or heritage sites and activities including costs of digitisation and of use of new technologies as well as costs of improving accessibility for persons with disabilities;
  - d operating costs directly relating to the cultural project or activity, such as rent or lease of real estate and cultural venues, travel expenses, materials and supplies directly related to the cultural project or activity, architectural structures for exhibitions and stage sets, loan, lease and depreciation of tools, software and equipment, costs for access rights to copyright works and other related intellectual property rights protected contents, costs for promotion and costs incurred directly as a result of the project or activity; depreciation charges and the costs of financing are only eligible if they have not been covered by investment aid;
  - e costs for personnel working for the cultural institution or heritage site or for a project;
  - f costs for advisory and support services provided by outside consultants and service providers, incurred directly as a result of the project.
- 6 For investment aid, the aid amount shall not exceed the difference between the eligible costs and the operating profit of the investment. The operating profit shall be deducted from the eligible costs *ex ante*, on the basis of reasonable projections, or through a claw-back mechanism. The operator of the infrastructure is allowed to keep a reasonable profit over the relevant period.
- 7 For operating aid, the aid amount shall not exceed what is necessary to cover the operating losses and a reasonable profit over the relevant period. This shall be ensured *ex ante*, on the basis of reasonable projections, or through a claw-back mechanism.
- 8 For aid not exceeding EUR 1 million, the maximum amount of aid may be set, alternatively to the method referred to in paragraphs 6 and 7, at 80 % of eligible costs.
- 9 For publishing of music and literature as defined in paragraph 2(f), the maximum aid amount shall not exceed either the difference between the eligible costs and the project's discounted revenues or 70 % of the eligible costs. The revenues shall be deducted from the

eligible costs *ex ante* or through a clawback mechanism. The eligible costs shall be the costs for publishing of music and literature, including the authors' fees (copyright costs), translators' fees, editors' fees, other editorial costs (proofreading, correcting, reviewing), layout and pre-press costs and printing or e-publication costs.

10 Aid to press and magazines, whether they are published in print or electronically, shall not be eligible under this Article.

#### *Article 54*

### **Aid schemes for audiovisual works**

1 Aid schemes to support the script-writing, development, production, distribution and promotion of audiovisual works shall be compatible with the internal market pursuant to Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided the conditions laid down in this Article and in Chapter I are fulfilled.

2 Aid shall support a cultural product. To avoid manifest errors in the qualification of a product as cultural, each Member State shall establish effective processes, such as selection of proposals by one or more persons entrusted with the selection or verification against a predetermined list of cultural criteria.

3 Aid may take the form of:

- a aid to the production of audiovisual works;
- b pre-production aid; and
- c distribution aid.

4 Where a Member States makes the aid subject to territorial spending obligations, aid schemes for the production of audiovisual works may either:

- a require that up to 160 % of the aid granted to the production of a given audiovisual work is spent in the territory of the Member State granting the aid; or
- b calculate the aid granted to the production of a given audiovisual work as a percentage of the expenditure on production activities in the granting Member State, typically in case of aid schemes in the form of tax incentives.

In both cases, if a Member States requires a minimum level of production activity in the territory concerned for projects to be eligible for aid, that level shall not exceed 50 % of the overall production budget. In addition, the maximum expenditure subject to territorial spending obligations shall in no case exceed 80 % of the overall production budget.

5 The eligible costs shall be the following:

- a for production aid: the overall costs of production of audiovisual works including costs to improve accessibility for persons with disabilities.
- b for pre-production aid: the costs of script-writing and the development of audiovisual works.
- c for distribution aid: the costs of distribution and promotion of audiovisual works.

6 The aid intensity for the production of audiovisual works shall not exceed 50 % of the eligible costs.

7 The aid intensity may be increased as follows:

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*Status: This is the original version (as it was originally adopted).*

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- a to 60 % of the eligible costs for cross-border productions funded by more than one Member State and involving producers from more than one Member State;
- b to 100 % of the eligible costs for difficult audiovisual works and co-productions involving countries from the Development Assistance Committee (DAC) List of the OECD.

8 The aid intensity for pre-production shall not exceed 100 % of the eligible costs. If the resulting script or project is made into an audiovisual work such as a film, the pre-production costs shall be incorporated in the overall budget and taken into account when calculating the aid intensity. The aid intensity for distribution shall be the same as the aid intensity for production.

9 Aid shall not be reserved for specific production activities or individual parts of the production value chain. Aid for film studio infrastructures shall not be eligible under this Article.

10 Aid shall not be reserved exclusively for nationals and beneficiaries shall not be required to have the status of undertaking established under national commercial law.