

# Digital Cinema

2010-2

## LEAD ARTICLE

### Public Aid for Digital Cinema

- Digital Cinema
- State Aid for the Digitisation of Cinemas
- EU Actions

## RELATED REPORTING

### Reality Check for Digital Roll-out

- Aims and Concerns
- Spring Boards
- Stumbling Blocks

## ZOOM

### Market Data



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# Digital Cinema



# Foreword

The European cinema of the near future will be digital. This much seems to be agreed upon by anyone who has a say in the matter. But the road there requires special efforts and may indeed be long and winding.

This IRIS *plus* asks where we stand in the roll-out of digital cinema and it does so with regard to the legal framework as well as the digital cinema market. Do European countries invest enough in the digitisation of their cinemas to make the digital revolution happen? Do their support schemes comply with legal requirements? Are all risks for the cinema market identified and correctly assessed? What will the digital revolution mean for the various players? For example, is there a danger that small cinemas might disappear? What other legal issues need to be considered in order to make digital cinema an economic and legal reality.

The Lead Article takes a look at the legal questions raised by public support mechanisms aimed at facilitating the digitisation of cinemas. It looks at the legal construction and problems of three different variants of national funding schemes and at the EU law with which these constructions eventually need to comply. It also describes two state aid schemes that have already been approved by the EU Commission and a tax incentive scheme currently under investigation. Finally, the Lead Article points the way ahead by explaining ongoing policy and funding activities of the EU.

The Related Reporting supplements the information contained in the Lead Article and compares EU policy with the reality of promoting (or struggling with) digital cinema in various countries. The Zoom section equips the reader with a solid understanding of the market of commercial digital cinema screens and sites by providing concrete figures on their developments in Europe and country by country. The tables include information on screens and/or sites operated by exhibitors and third party operators.

On a more general note, I would like to draw your attention to the fact that not only cinema is going digital but the IRIS *plus*-series is too. In other words, if you would like to order any or all IRIS *plus*-issues as on-line version you may do so by contacting [markus.booms@coe.int](mailto:markus.booms@coe.int) .

Strasbourg, April 2010

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# Public Aid for Digital Cinema

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European Audiovisual Observatory*

When the Lumière brothers first showed their film *La Sortie de l'usine Lumière à Lyon*,<sup>1</sup> they could not have imagined that their groundbreaking invention, the *cinématographe*, would be one day abandoned for a bunch of zeros and ones. Through the years, different technologies and film formats have developed,<sup>2</sup> from silent films to the talkies, from black-and-white to colour and then to Technicolor, but all of them were based on the same physical principle: the fixation of images and sound on film and their projection on a screen by a film projector. These films have to be physically distributed to cinemas, so multiple copies have to be printed. Now, this hundred-year-old system is about to change: the industry is switching over to a different means of projecting movies on the silver screen through digital technology, making film reels obsolete. It may well happen that, in a decade or two, film projection, as we know it, will disappear completely. We will probably still be talking of going to "watch a film" though...

This article provides an introduction to public support measures for the digitisation of cinemas and the EU competition rules applying thereto. Firstly, a short description of the potential advantages provided by the digital distribution and exhibition of films will be presented, with special emphasis on the challenges that the exhibition and distribution sectors will have to meet. Secondly, different models of state support will be presented, together with a summary of the competition rules that these support schemes will have to comply with. Thirdly, two decisions of the European Commission concerning the compatibility of national support schemes with EU law will be discussed, together with the formal investigation of the Italian support scheme opened by the Commission. A presentation of the Commission's plans for EU support measures for the digitisation of European cinemas will bring this article to the end.

## I. Digital Cinema

The concept of "digital cinema" can be used to describe various contexts. In principle, digital technologies can be applied to the entire production chain of a film, from the pre-production phase to the final exhibition in cinemas. These technologies can also be used only in some links of the chain. For example, a film can be shot in 35mm while the post-production can be made digitally. The finished film can be then distributed to cinema theatres in either 35mm or digital formats, or both. But generally speaking, the term "digital cinema" is used to designate the digital projection of films in cinema theatres. This concerns mostly the distribution and exhibition stages in the chain. The process starts with the production of digital copies in a format that complies with the

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1) The film can be watched (digitally) at: <http://www.institut-lumiere.org/francais/films/1seance/1seance01.html>

2) For a list of film formats see: [http://en.wikipedia.org/wiki/List\\_of\\_film\\_formats](http://en.wikipedia.org/wiki/List_of_film_formats)

requirements of digital projection equipment. These copies can then be distributed to cinemas that own such projection equipment.

Digital cinema has a number of potential advantages. In principle, the main beneficiaries of digital exhibition of films are distributors: the reproduction of digital copies is a much cheaper process than that of 35mm copies and their distribution is also much easier because films can be sent to cinemas by satellite, broadband or disc. Digital projection offers as good a quality as a 35mm copy, with the advantage that the digital copy suffers no deterioration after many screenings. It also allows more programming flexibility for exhibitors. Another advantage is the possibility of projecting 3D films. Digital projection can also potentially expand the scope of cinema theatres, allowing for the screening of alternative content such as football games, rock concerts or opera performances.<sup>3</sup>

In principle, digital roll-out presents financial challenges that have to be met (mostly) by exhibitors. They have to invest in costly equipment and refurbishing of screening rooms, while drawing substantially less benefits from digital projection than distributors. Some exhibitors' chains have access to sufficient funding,<sup>4</sup> and exhibitors are also grouping together in order to buy digital equipment. But for many theatres, switching over to digital exhibition is an expensive proposition.

In order to make distributors participate in the financing of this digital switch-over process, a financing model named Virtual Print Fee (VPF) was developed in the US (and has frequently been put in place elsewhere).<sup>5</sup> This model consists in the intervention of a third party, be it a private investor or the state, that convinces both distributors and exhibitors to enter into a contractual agreement. The third-party investor pays for the digital projection equipment in advance and then recoups its investment through payments made by exhibitors and distributors. Payment modalities are regulated in the contractual agreement.

The trouble with commercial models is their limited applicability to all cinemas in Europe. In particular, small cinemas and arthouses often do not dispose of sufficient funds to purchase digital equipment themselves and are not in a position to enter into commercial agreements with distributors and third-party investors. This situation, if not dealt with, could have an enormous impact on the European cinema landscape and cultural diversity in general.

## II. State Aid for the Digitisation of Cinemas

In a recent statement released during the 2009 San Sebastian Film Festival, the European National Film Agency Directors (EFADs) asked for urgent and comprehensive public support for the digitisation of cinemas.<sup>6</sup> According to the EFADs, one third of the 30,000 European cinema screens could disappear due to a system that privileges commercially successful cinemas. Without public intervention, cultural diversity in Europe would be jeopardised and access to culture would be reduced for a large number of European citizens. The distribution of attractive films exclusively in digital format would prevent non-digital cinemas from accessing them, eventually leading to many cinemas closing down. Therefore, public support at EU and national level for the digitisation of cinemas should be put in place in order to ensure that the public has the best possible access to the widest possible range of films, in as good or better quality as offered by 35mm copies. EFADs consider that support for digitisation should be available for all cinemas and should not be restricted *a priori* to only

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3) As an example, New York's Metropolitan Opera broadcasts live opera performances in high definition to cinemas around the world, see: [http://www.metoperafamily.org/metopera/broadcast/hd\\_events\\_current.aspx](http://www.metoperafamily.org/metopera/broadcast/hd_events_current.aspx)

4) Yearbook 2009, Film, Television and Video in Europe. Volume 3 – Film and Home Video. European Audiovisual Observatory, 2009. See p. 35-38.

5) The main third-party investors in Europe are Arts Alliance Media, Ymagis and XDC. For more information on the Virtual Print Fee model see *Virtual Print Fee: Questions and Answers from Arts Alliance Media*, available at: [http://www.edcf.net/edcf\\_docs/vpf\\_q-a\\_200710.pdf](http://www.edcf.net/edcf_docs/vpf_q-a_200710.pdf). See also *Economie > Les systèmes de financement du cinéma numérique > Les frais de copies virtuelles*, available at: [http://www.manice.org/rubrique.php?id\\_rubrique=37#90](http://www.manice.org/rubrique.php?id_rubrique=37#90)

6) European National Film Agencies, San Sebastian Statement, 21 September 2009, available at: <http://www.filminstitut.at/de/menu94/>

certain kinds of cinemas in certain localities and only certain approaches to programming. Every country and region in Europe should be free to set up a support scheme according to the conditions of the relevant national or regional markets. These schemes should not impose a particular technical solution while taking into account the technological solutions available on the market.

In the introductory policy document to its public consultation on digital cinema (see *infra*),<sup>7</sup> the European Commission agrees that public intervention is essential to create a favourable environment for the cinema exhibition of European works. Due to the risk that some types of cinemas may close because of digital transition costs, the Commission acknowledges the right for Member States to provide support for the digitisation of their cinemas.

Indeed, many European countries have already introduced their own public support schemes for the digitisation of cinemas or are in the process of setting up such schemes. They are not, however, entirely free in choosing how to implement such mechanisms and have to abide by certain rules. First of all, the national competition authorities will check whether these public aid schemes distort free competition in their respective national markets. In addition, in the case of EU Member States these support schemes also have to comply with existing EU state aid rules and be notified to the European Commission for authorization.

This chapter provides a brief overview of the interaction between state aid and EU competition law. Firstly, three public support schemes at national level will be presented. The examples of France, Germany and Norway show that the digitisation process is rarely plain sailing and can be hindered by many different obstacles. They also underline the importance of reaching agreements between all stakeholders. Secondly, EU state aid rules will be explained and, thirdly, their impact will be illustrated with the concrete cases of the UK and Finland where the Commission has already taken state aid decisions. Finally, the formal investigation procedure initiated by the Commission against Italy will be presented.<sup>8</sup>

## 1. National Examples

### *France*

The French *Centre national du cinéma et de l'image animée* (National Film Agency – CNC) includes among its objectives the support for the film, broadcast, video, multimedia and technical industries. It is currently developing three ways of financing the digitization of French cinema theatres.

- *Fonds de mutualisation*:<sup>9</sup> this fund, managed by the CNC, will be open for membership to all cinemas and film distributors in France. The Fund will finance 75% of the cinemas' investment in digital projection equipment. The Fund is to be financed via a VPF model, with member distributors paying a fixed sum to the Fund whenever a member cinema screens digitally in the first week of exploitation one of the member distributors' films.
- *Institut pour le Financement du Cinéma et des Industries Culturelles* (IFCIC): the IFCIC is a financial establishment entrusted by the Ministry of Culture and the Ministry of Economy and Finances with the mission to contribute to the development of the cultural industry, by assisting operators in this field to obtain access to bank financing, notably through the provision of guarantees for bank loans. The CNC will reinforce the IFCIC action with specific funds following the set up of the *Fonds de mutualisation*. Banks providing loans to cinemas for the purchase of digital equipment will receive from the IFCIC a guarantee covering 50% of the loan. The IFCIC will also provide banks with expert advice on the cinema exhibition sector and the particularities of the digitisation process.

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7) Introductory policy document to the Public Consultation on Opportunities and Challenges for European Cinema in the Digital Era, available at:

[http://ec.europa.eu/information\\_society/media/overview/consultations/docs/intro\\_consultation\\_digi\\_cinema\\_en.pdf](http://ec.europa.eu/information_society/media/overview/consultations/docs/intro_consultation_digi_cinema_en.pdf)

8) For more detailed information on national support schemes see the Related Reporting section of this IRIS *plus*.

9) For more information see: <http://www.cnc.fr/Site/Template/T11B.aspx?SELECTID=3674&ID=2614&t=3>

- *Aides selectives du CNC à la modernization des salles* (CNC selective aid for the modernisation of cinema theatres):<sup>10</sup> the already existing aid scheme will be made available for the purchase of digital equipment.

The *fonds de mutualisation* has not been assessed by the European Commission yet, but it has already hit a snag at the national level: the *Autorité de la concurrence* (French Competition Authority) published recently a rather negative (although not binding) opinion on this scheme.<sup>11</sup> The Authority acknowledges that the digitisation of cinemas is an objective of general interest that justifies public intervention. However, in the Authority's view, the CNC's scheme may significantly distort or even eliminate competition in a different market, namely the market for digital cinema financing. Given that the Fund will be available to all cinemas, it will actually cater to the same needs as third-party investors and will be to a large extent in direct competition with them. The Fund will have a competitive advantage, benefitting from its ties with the CNC as the sector regulator and the French state's backing. Also the *fonds* will impose a VPF rate that could be artificially low and therefore foreclose the market to private competitors (third-party investors).

For all these reasons, the Authority proposes to study alternative solutions that would allow the achievement of the said public interest objectives in a more economic way and that would not unduly distort competition.

Such a solution could consist of direct state aid financed by a tax on digital film copies. This mechanism would be neutral from a competition point of view. It would also be neutral for public finances and would allow to best target the market failure commonly addressed by public intervention. The Authority considers that this mechanism would be easier to manage than the *fonds de mutualisation*, would correspond more to the CNC's usual working methods and would better preserve the principle of solidarity.

The CNC took note of this opinion and released a press statement,<sup>12</sup> in which it acknowledges the need to avoid any distortion of competition created by support measures. It also announced that it will re-examine the tax-based solution proposed by the Authority. This solution had already been envisaged by the CNC but was not adopted in the end because it did not seem to cater for all general interest objectives covered by the *fonds de mutualisation*. By supporting the digitisation of cinemas in France, the CNC aims at guaranteeing the programming freedom of French cinemas and fostering diversity and availability of films. According to the CNC, a tax on digital copies would have a negative impact on all distributors and might jeopardise commercial VPF models, thereby affecting third-party private investors.

The Authority's opinion was requested by the French Ministry of Economy, Industry and Employment and it is not binding. Therefore, theoretically, the Fund could stand as currently proposed. However, the opinion could be used in court by private companies wanting to oppose this support scheme and indeed will be read carefully in Brussels.

## Germany

In Germany there is currently no country-wide support scheme for the digitisation of cinemas due to an ongoing legal tussle between the *Filmförderungsanstalt* (Film Support Office – FFA) and the German film industry.

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10) For more information see: <http://www.cnc.fr/Site/Template/T11.aspx?SELECTID=387&ID=199&t=3>

11) *Autorité de la concurrence, Avis n° 10-A-02 du 1<sup>er</sup> février 2010 relatif à l'équipement numérique des salles de cinéma*, available at : <http://www.autoritedelaconcurrence.fr/pdf/avis/10a02.pdf>

12) *Le CNC prend acte de l'avis de l'autorité de la concurrence sur la numérisation des salles de cinéma*, press release of 2 February 2010, available at: [http://www.cnc.fr/CNC\\_GALLERY\\_CONTENT/DOCUMENTS/communiqués\\_de\\_presse/2010/CP\\_020210\\_avisConcurrence.pdf](http://www.cnc.fr/CNC_GALLERY_CONTENT/DOCUMENTS/communiqués_de_presse/2010/CP_020210_avisConcurrence.pdf)

In February 2009, following lawsuits by cinema owners, the *Bundesverwaltungsgericht* (Federal Administrative Court – BVerwG) declared that the *Filmabgabe*, the system of obligatory contributions paid by the film, video and television industries to the *Filmförderungsanstalt* (German Federal Film Board – FFA), is unconstitutional in its current form.<sup>13</sup> According to the BVerwG, this system is in breach of the principle of equality enshrined in the German Basic Law since broadcasters can negotiate the amount of their contribution to the FFA while the other contributors have to pay a flat rate specified in the law. The BVerwG has suspended the proceedings and referred the case to the *Bundesverfassungsgericht* (Federal Constitutional Court – BVerfG) that will have to decide whether the *Filmabgabe* scheme is or not constitutional.

This legal dispute had an effect on the state support for digitisation of cinemas. On 19 June 2009, the FFA Board decided on a support scheme for the digitisation of cinemas in Germany.<sup>14</sup> This decision was taken as a means of compensating cinema owners for the different treatment mentioned above. The support scheme would have provided financial support for cinema operators in the amount of EUR 40 million over a five-year period. On top of that, the State Minister for Culture declared that he would look into the possibility of offering further state aid for the support scheme. In return, the FFA asked cinema operators to withdraw their lawsuits and pay the *Filmabgabe* unconditionally. However, this offer was turned down by the cinema owners, so the negotiations for a country-wide support scheme are blocked, for the time being.<sup>15</sup>

While there is no country-wide support scheme, some *Bundesländer* are already aiding cinemas to switch over to digital projection. For example, the *FilmFernsehFonds Bayern* (Bavaria Film and TV Fund – FFF) has introduced a support programme for the digitisation of cinemas in Bavaria.<sup>16</sup> Support is available for cinemas with up to six screens. In the case of small cities (up to 50,000 inhabitants) cinemas with more than six screens can also benefit from FFF support. This will cover up to 25% of equipment costs with a maximum amount of EUR 18,000 per screen and room.

## Norway

The Norwegian support scheme is interesting in many ways:

- Norway has a unique exhibition structure in which municipally owned and operated cinemas hold 72.6% of the market. All cinemas (both municipally and privately owned) are in close co-operation under the aegis of the Norwegian exhibitors' organisation Film & Kino.
- The 1987 Act relating to Films and Videograms rendered obligatory a "Cinema Fund" levy on all cinema ticket sales (2.5%) and video/DVD sale and rental transactions (NOK 3.50 per transaction). The levy currently brings some EUR 7.5 - 8 million per year into the Fund.<sup>17</sup>
- Film & Kino has negotiated directly with Hollywood studios a VPF financing model. Producers and distributors provide 40% by way of VPFs, and the cinemas will contribute 60%. Film & Kino will use NOK 100 million from the Cinema Fund to subsidise the cinemas' contribution to the system. Producers and distributors pay VPFs over a period of up to six years, while cinemas can choose whether they pay cash, in instalments or they take out a six-year loan.

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13) BVerwG decisions of 25 February 2009, 6 C 47.07 to 50.07 and 6 C 5.08 to 9.08. All decisions can be found at the website of the BVerwG: <http://www.bverwg.de/>

14) Press release of the FFA, 19 June 2009, available at: [http://www.ffa.de/index.php?page=presse\\_detail&news=776](http://www.ffa.de/index.php?page=presse_detail&news=776)

15) Press release of the FFA, 17 November 2009, available at: [http://www.ffa.de/index.php?page=presse\\_detail&news=803](http://www.ffa.de/index.php?page=presse_detail&news=803)

16) *Merkblatt für die Beantragung eines Zuschusses zur Umrüstung auf digitale Kinotechnik im Rahmen der bayerischen Film- und Fernsehförderung*, available at: [http://www.fff-bayern.de/uploads/mit\\_download/Merkblatt\\_Digitalisierung\\_Stand\\_1.4.2010.pdf](http://www.fff-bayern.de/uploads/mit_download/Merkblatt_Digitalisierung_Stand_1.4.2010.pdf)

17) The Cinema Fund was originally a voluntary mutual fund, before the 1987 Act relating to Films and Videograms made the Cinema Fund levy obligatory. The "cinema fund" voluntary levy was applied by all Norwegian cinemas, regardless of ownership, for 15 years before it became enshrined in law.

The EFTA Surveillance Authority<sup>18</sup> declared itself satisfied in a preliminary (unpublished) assessment that no state aid is involved in the funding of the support scheme and did not raise objections to it. This removes any obstacle to the full digital roll-out in Norway, which will be completed by the end of 2011.<sup>19</sup>

## 2. EU Rules on State Aid

As explained *supra*, Member States' support schemes have to comply with existing EU state aid rules and be communicated to the European Commission for authorization. The Commission assesses the compatibility of the support scheme with the provisions of the Treaty on the functioning of the European Union (TFEU) dealing with state aid.<sup>20</sup> Article 107 TFEU (ex Article 87 TEC) declares incompatible with the common market any aid granted by a member state or through state resources, which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods, in so far as it affects trade between member states. However, there are exceptions to this rule, the most relevant with regard to the digitisation of cinemas being Article 107(3)(c) and (d) TFEU. According to these paragraphs, two types of aid may be considered to be compatible with the common market:

- (c) aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest;
- (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.

Small amounts of state aid may be exempted from the above-mentioned rules since they do not have a potential effect on competition and trade between member states. The Commission Regulation on so-called *de minimis* aid<sup>21</sup> provides that state aid measures shall be deemed not to meet all the criteria of Article 107(1) TFEU and shall be exempt from the notification requirement of Article 108(3) TFEU (ex Article 88(3) TEC), if they fulfil a number of conditions:

- The ceiling for the aid covered by the *de minimis* rule is in general EUR 200,000 per undertaking over any three fiscal-year period. In this time of crisis, the Commission has considered it necessary to temporarily increase the *de minimis* threshold to EUR 500,000 (cash grant) per undertaking.<sup>22</sup>
- The ceiling applies to the total of all public assistance considered to be *de minimis* aid. It will not affect the possibility of the recipient obtaining other state aid under schemes approved by the Commission.
- The regulation only applies to "transparent" forms of aid, which means aid for which it is possible to determine in advance the gross grant equivalent.

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18) The EFTA Surveillance Authority (<http://www.eftasurv.int/>) monitors compliance with European Economic Area rules in Iceland, Liechtenstein and Norway, enabling them to participate in the European internal market.

19) For more information on the Norwegian support scheme see Nils Klevjer Aas, *Briefing note on Digital Roll-out in Norwegian Cinemas*, available at: [http://www.obs.coe.int/oea\\_publ/eurocine/cinerep\\_no\\_2009.pdf](http://www.obs.coe.int/oea_publ/eurocine/cinerep_no_2009.pdf)

20) Treaty on the Functioning of the European Union (consolidated version), available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:115:0047:0199:EN:PDF>

21) Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to *de minimis* aid, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32006R1998:EN:NOT>

22) Communication from the Commission - Temporary framework for State aid measures to support access to finance in the current financial and economic crisis (consolidated version of the Temporary Framework adopted on 17 December 2008, as amended on 25 February 2009), OJ C 83 of 7 April 2009, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:083:0001:0015:EN:PDF>

Furthermore, the General Block Exemption Regulation<sup>23</sup> identifies aid for general training measures, up to an aid intensity of 80%, as state aid that can be considered acceptable. Such training aid, not exceeding EUR 2 million per training project, is exempted from individual notification.

With regard to the assessment of concrete cases, the Commission has to consider the necessity, proportionality and adequacy of the aid measure in order to assess its compatibility with the EC Treaty.

### 3. State Aid Schemes Approved by the Commission

As noted by the EFADs in their San Sebastian statement, the criteria by which the Commission assesses public support for the digitisation of cinemas are continuously being shaped by the decisions in which the Commission applies EU state aid rules to schemes submitted by member states for approval. The Commission has already taken decisions in two cases concerning national aid schemes for the digitisation of cinemas in the EU.

#### *United Kingdom – Digital Screen Network*

In their letter of 20 October 2004, the UK authorities notified two support initiatives to the Commission. These were the “Specialised P&A Fund” (NN 83/04),<sup>24</sup> which was put into effect immediately after the notification, and the “Digital Screen Network” (N 477/04).<sup>25</sup>

The Digital Screen Network<sup>26</sup> was a support measure set up in 2004 by the UK Film Council. It aimed at providing access throughout the UK to the “full range of British and international cinema” through the use of digital facilities. The UK Film Council’s objective was to broaden the choice of films for audiences in the UK by increasing the availability of so-called “specialised films” in cinemas. “Specialised films”, as defined in the UK, are usually characterised by an innovative cinematic style and by an engagement with challenging topics. These films are considered more difficult to market and therefore their theatrical release is restricted to a limited number of prints and a low level of investment in advertising and publicity. Such films receive very little exposure in the UK.

The UK Film Council decides on whether a film can be considered as “specialised”. Such films may be either factual (e.g. documentaries) or fictional and they may be of any national origin. Examples of such films may include:

- Foreign language films;
- Indigenous British films, which are not aimed at the mainstream;
- Films which directly address cultural, social and political issues;
- Re-issues of classic and/or restored archive films.

The Digital Screen Network measures aimed to set up a network of cinemas across the UK providing dedicated screen time for the exhibition of “specialised films” through the use of digital facilities. The UK Film Council provided funding to equip between 180 and 2203 screens with digital projection facilities. The funding covered the purchase of projector and server, its installation, training of staff and ongoing maintenance of equipment. In return, the cinema owners were required to show a specified amount of specialised films. While the UK Film Council did not intend to decide on the cinemas’ actual programming, it nevertheless included on its website a list of forth-

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23) Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation) (Text with EEA relevance), available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32008R0800:EN:NOT>

24) State aid No NN 83/2004 – United Kingdom - UK Film Council Distribution and Exhibition Initiatives - Specialised P&A Fund, available at: [http://ec.europa.eu/community\\_law/state\\_aids/comp-2004/nn083-04.pdf](http://ec.europa.eu/community_law/state_aids/comp-2004/nn083-04.pdf)

25) State aid N 477/04 – United Kingdom, UK Film Council Distribution and Exhibition Initiatives – Digital Screen Network, available at: [http://ec.europa.eu/community\\_law/state\\_aids/comp-2004/n477-04.pdf](http://ec.europa.eu/community_law/state_aids/comp-2004/n477-04.pdf)

26) <http://www.ukfilmcouncil.org.uk/dsn>

coming releases that it deemed to be specialised and therefore eligible for fulfilling programming commitments by the cinemas included in the network. Furthermore, the cinemas had to set aside a very limited amount of screen time, the programming of which could be co-ordinated by the UK Film Council. They were also required to develop a marketing and communication strategy to ensure that local audiences were aware of the wider range of films on offer, and to allocate trailer time and poster space within the cinema for advertising specialised films.

The UK Film Council invited cinema owners to apply for funding through an open application process (conducted according to National Lottery regulations),<sup>27</sup> which was open to all owners of full-time cinemas in the UK. The UK Film Council would select cinemas for the Digital Screen Network on a non-discriminatory basis, choosing cinemas that would ensure the widest possible geographic coverage across the UK or cinemas in areas of high population density but offering little or no current specialised cinema provision. All cinemas in the UK (regardless of the nationality of their owners) were entitled to apply for funding. Cinemas owned by companies based in other member states (and in non-EU countries) were eligible to benefit from the scheme in the same way as were cinemas owned by UK-based undertakings. Hence, the choice was made without discrimination according to the national origin of the candidates.

In its assessment of the UK Film Council's Digital Screen Network, the European Commission came to the conclusion that this support measures may constitute an aid measure within the meaning of Article 107(1) TFEU (ex Article 87(1) TEC) but was compatible with the common market under the cultural derogation in Article 107(3)(d) TFEU (ex Article 87(3)(d) TEC) (see above II.2.). The Commission considered that the conditions for applying Article 107(3)(d) TFEU (ex Article 87(3)(d) TEC) were fulfilled:

- The aid was directed to a cultural product because, in the case at hand, the UK Film Council wished to broaden the choice of films for UK audiences through increasing the availability of "specialized films" in cinemas. These films, including foreign language films, were clearly cultural products, and cinemas wishing to benefit from the initiative had to commit to showing such films. There were no nationality requirements as to how the funding would be spent.
- The aid did not affect trading conditions and competition in the Community to an extent that was contrary to the common interest. Cinema customers are typically local and do not travel between member states in order to see a certain film. It could be argued that the aid would allow international groups, such as UGC and UCI, to exploit this extra funding to build up or expand activities in other member states and therefore to distort competition and affect trade between member states. However, this potentially indirect effect on trade appeared as a rather theoretical possibility, given the size of the aid. According to the Commission, any effect on trade between member states would be to stimulate trade in films, not to reduce it.

As of 2008, the UK Film Council's Digital Screen Network had equipped digitally 239 screens in the UK.<sup>28</sup> Currently, it does not offer further funding for cinemas under this scheme.

### ***Finland – Support for Equipment Procurement and Modernisations of Cinemas***

In a decision dated 26 November 2008, the European Commission gave its approval until 31 December 2013 for the Finnish film support scheme.<sup>29</sup> The aim of this scheme is to promote high quality, diverse and original Finnish film production. It also supports cultural exports, cinemas, distribution and film festivals.

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27) The legal basis for this scheme is the National Lottery Act 2003, as amended. Furthermore the UK Film Council published guidelines on its website.

28) Yearbook 2009, Film, Television and Video in Europe. Volume 3 – Film and Home Video. European Audiovisual Observatory, 2009. See p. 43. For the list of Digital Screen Network cinemas see: <http://www.ukfilmcouncil.org.uk/dsncinemas>

29) State aid NN 70/2006 - Aid scheme to cinema in Finland, available at: [http://ec.europa.eu/competition/state\\_aid/register/ii/doc/NN-70-2006-WLWL-en-26.11.2008.pdf](http://ec.europa.eu/competition/state_aid/register/ii/doc/NN-70-2006-WLWL-en-26.11.2008.pdf)



The part of the scheme relating to support for cinemas aims at facilitating the access of the public to cinematographic productions and is designed to enhance the technical capabilities of cinematographic exhibition activities by small cinemas and arthouses. The *raison d'être* of this support measure is that such cinema theatres cannot cover the necessary investment costs for modernisation and up-to-date equipment without jeopardizing their overall financial situation. That is why multi-screen cinemas and cinema chains located in the capital are not eligible for the support, whereas those located in mid-sized localities are eligible for support under strict requirements as regards the necessity of the aid. Arthouse cinemas and one- to three-screen cinemas are eligible for support in any location.

The Commission based its assessment of the direct aid for film production on the state aid rules included in the 2001 Cinema Communication.<sup>30</sup> For most of the other types of support, the Commission's assessment applied the derogation of Article 107(3)(d) TFEU (ex Article 87(3)(d) TEC). However, the Commission considered that the compatibility of the financial incentives concerning modernisation of exhibition equipment came within the scope of Article 107(3)(c) TFEU, because in this case the aid was aimed at providing financial support to activities, which are related to technical activities in the audiovisual sector. These types of aid are not related to the cultural aspect of audiovisual activities, but to their technical side and, therefore, the cultural derogation cannot be applied.

According to the Commission, the measure had a limited potential to distort competition, taking into account the imposed aid-intensity caps, the relatively low aid amounts involved, as well as the fact that the aid to multi-screen cinemas and cinema chains is very limited. In view of the limited geographical scope of these projects, the Commission concluded that their effect on trade and competition between EU Member States is extremely small.

#### **4. The Commission's Formal Investigation into Italian Tax Incentives Scheme**

As explained *supra*, the Commission has already applied state aid rules to approve support schemes for the digitisation of cinemas showing a high proportion of artistic/cultural films (United Kingdom) and of cinemas in small and medium-sized localities (Finland). However, when it comes to aid measures of a more general nature, notably measures supporting multiplexes and cinema chains, the Commission has not yet determined its policy. Doing so will bring up complex issues and will require common reflection with the Member States as well as national and regional film support bodies in order to develop the appropriate criteria.<sup>31</sup>

A test case for the Commission's future policy may be the current formal investigation into Italy's tax incentives scheme for digital projection.<sup>32</sup> According to the Commission, the Italian tax scheme for digital projection is the first support measure available primarily to commercially successful exhibitors. As a result, there is no obvious precedent the Commission could follow when assessing the scheme. Since the Commission has doubts about its compatibility with the Common Market, it has decided to open a formal investigation of the case. The following is a summary of the Commission's concerns.

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30) 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, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52001DC0534:EN:HTML>

31) See Communication from the Commission concerning the State aid assessment criteria of the Commission communication on certain legal aspects relating to cinematographic and other audiovisual works (Cinema Communication) of 26 September 2001 (Text with EEA relevance).

32) On 22 July 2009, the European Commission approved under State aid rules a EUR 82 million Italian tax incentive scheme for film investment and distribution. The scheme comprised a package of fiscal measures for various activities related to the film sector, including a tax credit for exhibitors installing digital projection equipment. See State aid C 25/2009 (ex N 673/2008) – Italy, Film investment & distribution tax incentives: State aid approval - Digital cinema tax credit: Opening of formal investigation, available at: [http://ec.europa.eu/competition/state\\_aid/register/ii/doc/N-673-2008-WLWL-en-22.07.2009.pdf](http://ec.europa.eu/competition/state_aid/register/ii/doc/N-673-2008-WLWL-en-22.07.2009.pdf)

*Objective of the measure*

The Italian tax credit scheme aims at extending the use of digital projection to increase the circulation of Italian and European cultural films. The tax credit is available to exhibitors who invest in installing digital projection equipment. The scheme offers a 30% tax credit for the costs of introducing digital projection equipment in all of the 3,957 screens in Italy. Small cinemas with between one and four screens and multiplex cinemas with between five and ten screens in towns with a population of 50,000 or less do not need to fulfil any programming requirement. Bigger multiplexes (up to 24 screens) will be obliged to show cultural films for 50% of the screenings and to convert at least 50% of the screens to digital projection in order to profit from the tax credit scheme.

*Necessity*

The Commission acknowledges the benefits that digital cinema can provide for the industry and the public. While cinema audiences are generally not able to notice any significant improvement in picture quality between the existing 35mm and digital projection, the programming flexibility allowed by digital projection should have a positive impact in the choice of films and box-office revenues. Once a critical mass of cinemas will have switched to digital projection, films will be distributed only in digital form because of the lower costs of this technology.

The Commission also takes into account that so far the digital conversion of cinemas across the EU has been an extremely slow process, mostly due to the high cost of digital projection equipment. In this perspective, it agrees that public intervention is acceptable.

The Italian authorities have indicated that the cost of installing digital projection equipment would be EUR 100,000 per screen for a 2K DCI<sup>33</sup> installation, which could also show 3D digital films. The Commission doubts whether EUR 100,000 per screen is a fair estimate of the necessary costs of installing digital projection equipment required to release Italian or European cultural films. Moreover, on the basis of data gathered by the Commission, it would appear that the more expensive 2K DCI-compliant projection equipment is not necessary to release Italian or European cultural films. The Commission also notes that the majority of films, particularly Italian and European films, have not been released in 3D versions.

*Proportionality*

According to box-office data, the average turnover per screen of Italian multiplex cinemas is higher than that of single-screen cinemas. Multiplexes also benefit from economies of scale in terms of lower average costs per screen. In the Commission's view, this confirms that multiplexes are more likely to be able to afford digital projection equipment without public support. As a result, under the envisaged scheme state aid would go to undertakings, which can afford the necessary investment or which would be able to obtain digital projection equipment through alternative commercial business models. Therefore, and given the fact that public support could "crowd out" alternative commercial models (e.g. Virtual Print Fee) for the digitisation of cinemas in Italy, the Commission questions the proportionality of the Italian measure.

*Adequacy*

The Commission doubts whether the funding available for this measure is adequate. First of all, its estimated budget (EUR 16.8 million) would only cover the costs of converting 14% of Italian cinema screens. But more importantly, in order to benefit from the tax credit scheme, cinemas must be sufficiently profitable (or at least have sufficient tax liabilities). Data provided by the Italian authorities show that 74% of Italian cinemas are single-screen cinemas and 17% of Italian cinemas are two to four-screen cinemas. Smaller cinemas (one to four screens) are struggling financially in

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33) "2K" stands for a screen resolution of 2048 pixels per line. DCI stands for Digital Cinema Initiative. The DCI was launched in 2002 by the seven US majors to define the technical specifications of digital cinema distribution.

the current crisis, and single-screen cinemas are affected the worst. These cinemas that are most in need of financial aid would not receive it because of the tax-based nature of the Italian scheme.

Furthermore, the main revenue benefits to cinemas from digital projection will be drawn from demand-driven programming rather than from more challenging films. Therefore, the purported objective of extending the use of digital projection to increase the circulation of cultural Italian and European films would not be achieved. On the contrary, the result could be that commercially successful films are screened with the newly-installed digital equipment, while cultural films are shown only in 35mm format and at off-peak times. This would place an additional financial burden on the distributors of such films, particularly during a transition period, since 35mm prints are more expensive than digital copies.

#### *Economic, social and cultural impact*

The Commission also asked the Italian authorities a number of questions on the technological neutrality of the proposed measure. The Commission enquired, among others, whether or not:

- exhibitors would be induced to invest in one digital standard in preference to another.
- exhibitors would have to ensure that films released in any digital format based on open standards, with a lower standard than the digital standard of the supported equipment, could also be screened.

#### *The next steps*

The Commission, acting under the procedure laid down in Article 88(2) of the EC Treaty, has requested Italy to submit its comments and to provide all information relevant for the Commission's assessment. The deadline for the formal submission of the Italian authorities was 31 October 2009. All interested parties were also invited to submit their comments within the same deadline.<sup>34</sup>

### **III. EU Actions**

#### **1. Public Consultation on Opportunities and Challenges for European Cinema in the Digital Era**

Only a few days after EFADs' San Sebastian statement, the European Commission launched a public consultation on digital cinema.<sup>35</sup> This consultation is the result of the discussions of an expert group, which the Commission established in spring 2008 to look at the possible threat that the digitisation process may pose to the diversity of European cinemas and the need for alternative business models. The purpose of this consultation is to gather information and views from all stakeholders on digital cinema. Four different questionnaires are addressed to professionals (exhibitors, distributors, producers/sales agents), film agencies and other public organisations. The consultation also includes an introductory policy document and a background document with a glossary of technical terms. The results of the consultation are meant to help the European Commission prepare a Communication on Opportunities and Challenges for European Cinema in the Digital Era due in early 2010, as well as a new MEDIA support scheme for the digitisation of cinemas offering substantial European programming.

34) See [http://ec.europa.eu/competition/consultations/2009\\_digital\\_cinema/index.html](http://ec.europa.eu/competition/consultations/2009_digital_cinema/index.html)

35) Public Consultation on Opportunities and Challenges for European Cinema in the Digital Era, see [http://ec.europa.eu/information\\_society/media/overview/consultations/index\\_en.htm](http://ec.europa.eu/information_society/media/overview/consultations/index_en.htm)

As a conclusion, the background document to the consultation<sup>36</sup> states that there is a clear need to:

- support the digitisation of audiovisual production for all types of digital distribution channels, in particular for cinema projection;
- ensure the inter-operability of digital projection systems and of databases of equipment certificates/trusted device lists;
- make the digital transition as short as possible to avoid double costs (celluloid and digital) and a dual distribution/exhibition system;
- make sure that cinemas contributing to European cultural diversity (i.e. screening a large share of European films) can also access digital equipment;
- preserve/enhance the diversity of European programming in the digitised cinemas;
- identify the digital equipment of cinemas as a priority area for investment of the European Structural Funds.

The consultation was launched on 16 October 2009 and was open until 16 December 2009. At the time this article was written (February 2010), the results had not yet been published.

## 2. Funding at EU Level

The MEDIA Programme<sup>37</sup> has been supporting the European audiovisual industry since 1991, from development and distribution of thousands of films to training activities, festivals and promotion projects throughout the continent. The current MEDIA 2007 programme will provide EUR 755 million to Europe's audiovisual industry for the period from 2007 to 2013.<sup>38</sup> New technologies have been recently mainstreamed into the programme, from training to exhibition. One of the training projects supported by MEDIA deals with digital technologies. Among other initiatives, a specific support scheme for digital screenings of European films was set up in collaboration with Europa Cinemas.

Europa Cinemas<sup>39</sup> was created in 1992 as the first cinema theatre network focusing on European films. Its objective is to provide operational and financial support to cinemas that commit to screening a significant number of European non-national films, to offering events and initiatives as well as promotional activities targeted at young audiences and to screening digital European films.

With regard to digital projection, Europa Cinemas provides financial support for theatres belonging to the Europa Cinemas/MEDIA network, offering a minimum number of European films screened in digital format.<sup>40</sup> The funding requirements for the year 2009 are the following:

- A cinema theatre may request funding if it offers European programming in digital format to the tune of at least 140 screenings annually with at least 7 different European films. At least 25% of the screenings must involve European non-national films.
- All digitally screened films must be covered by a contract with a distributor or holder of rights.
- Funding will be determined on the basis of the number of digital screenings of European films in the theatre. It may not exceed EUR 15 per screening with a maximum of:
  - EUR 5,000 per year for single-screen theatres using a 2K digital projector;
  - EUR 10,000 per year for theatres equipped with at least two 2K digital projectors.
- Funding is limited to EUR 20,000 within the scope of a single agreement covering several cinemas.

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36) Background Document on Opportunities and Challenges for European Cinema in the Digital Era, available at: [http://ec.europa.eu/information\\_society/media/overview/consultations/docs/background\\_digital\\_cinema\\_en.pdf](http://ec.europa.eu/information_society/media/overview/consultations/docs/background_digital_cinema_en.pdf)

37) [http://ec.europa.eu/information\\_society/media/index\\_en.htm](http://ec.europa.eu/information_society/media/index_en.htm)

38) Decision No 1718/2006/EC of the European Parliament and of the Council of 15 November 2006 concerning the implementation of a programme of support for the European audiovisual sector (MEDIA 2007), available at: [http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/l\\_327/l\\_32720061124en00120029.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/l_327/l_32720061124en00120029.pdf)

39) <http://www.europa-cinemas.org/>

40) Europa Cinemas, Support Measures for Digital Projection 2009, available at: [http://www.europa-cinemas.org/en/programmes/media/documents/LD\\_NUMERIQUES\\_2009\\_EN.pdf](http://www.europa-cinemas.org/en/programmes/media/documents/LD_NUMERIQUES_2009_EN.pdf)

### 3. Plans for the near Future

On the occasion of its public consultation on digital cinema, the European Commission has announced that it will design a financial support scheme (as part of the MEDIA programme) contributing to the digitisation of cinemas screening a substantial share of European (non-national) films. The Commission has analysed different possibilities:

- collaboration with the European Investment Bank;
- the creation of an intermediary structure to handle the digitisation of European cinemas;
- expansion of the Europa Cinemas' digital support scheme described *supra*;
- contribution to associated costs such as costs concerning cabin adaptation, maintenance or financing (to be developed once the final scheme has been defined).

MEDIA's primary aim is to support the digital roll-out for cinemas screening European non-national films. The basic criterion for awarding financial support will therefore be linked to the percentage of European films screened by the potential recipients of financial aid. This new support scheme will not be limited to the existing Europa Cinemas network, even though it is clear that Europa Cinemas will be at the heart of the digitisation strategy of the Commission.

The digitisation scheme will take into account the following elements:

- national characteristics of the exhibition market,
- number of screens per 10,000 inhabitants,
- number of admissions per screen and per inhabitant,
- European non-national film market share,
- ticket price.

Cinemas in the new Member States will receive particular attention. European support can be cumulated with national support. However, priority will be given to cinemas that cannot benefit from national/regional support schemes for digitisation.

European Structural Funds could also play a role for co-financing digitisation projects and training initiatives. For creative industries structural funding can be provided under several headings: cohesion policy, research and innovation, promotion of small and medium-sized enterprises, information society and human capital.

## IV. Conclusion

At the time of writing this article, the European Commission has not yet reached a final conclusion on its future policy with regards to digital cinema. The ongoing public consultation should provide the Commission with enough food for thought to prepare a Communication on this matter, which touches upon complex public policy issues that go beyond state aid.

This article seeks in no way to second-guess the future policy of the Commission on the application of state aid rules to public support for the digitization of cinemas. First and foremost, this is due to the fact that the decisions already taken by the Commission in the UK and Finnish cases are so specific that they offer little guidance for the assessment of other cases. This is even more true in a situation where the support scheme at stake provides financial aid to the whole exhibition sector in a given Member state. Moreover, it does not seem that definitive lines of reasoning can be extrapolated from the doubts expressed by the Commission in the Italian case. However, one cannot avoid observing with interest the meeting of minds between the Commission and the French *Autorité de la concurrence* when it comes to third-party investors. Both the Commission and the French authority are concerned by the fact that improperly-targeted public support would distort or even foreclose the market for digital cinema financing. But even trying to extract conclusions from this obvious parallel way of thinking would go beyond the scope of this article...

There is just one thing that does seem clear: the future of cinema exhibition in Europe looks digital. We can only hope that embracing that bunch of zeros and ones will not turn cinema from an artistic form into a simple matter of arithmetic. Without the variety of cinema theatres (large and small) throughout Europe the multiplicity of visions offered by European cinema can no longer be safeguarded. And, for our cherished cultural diversity, that would be **THE END**.

# Reality Check for Digital Roll-out

The roll-out of digital cinema is keeping policy makers on their toes as we can conclude from the European Commission's Consultation on Digital Cinema, on which the first article reports. The Consultation is based on four different questionnaires addressed to (1) exhibitors, (2) distributors, (3) producers/sales agents and (4) film agencies/public organisations/other stakeholders. It underlines the Commission's effort to cover all potentially relevant aspects of a complex issue which requires consolidation of culture with competition.

The inbuilt challenges of making cinema go digital also reflect in national funding solutions, which were partly discussed as examples in the lead article and are treated in more detail in a second cluster of this related reporting section. While many countries use a traditional system of state fuelled funds to boost roll-out of digital cinema it is not the only option as the Norwegian example shows.

The final block of articles discusses some issues that can potentially get in the way of the digitisation process, be it the lack of consensus between the stakeholders or national or indeed European competition law.

## I. Aims and Concerns

### European Commission: Consultation on Digital Cinema

*Kim de Beer*

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On 16 October 2009, the European Commission launched a public consultation of all stakeholders from the European Union's audiovisual industry on the opportunities and challenges for European cinema in the digital era. The feedback from the professionals from the sector will contribute to setting out the Commission's policy on digital cinema.

The use of digital technologies by filmmakers has increased in recent years. First sound was digitised, then post-production turned digital, while now production is also increasingly using digital technologies. Digital technologies create a lot of possibilities for both the production and the distribution phase. For example, in the production phase, digital technologies make it possible to create special effects and 3D films. With digitisation, the distribution stage becomes both easier and cheaper. Digital distribution can be ten times cheaper than distribution using traditional prints. This makes the flexibility and diversity of programming easier and enables more European films to travel across borders.

However, in Europe the digital revolution has been slower than foreseen. The cost for digital screening equipment is high. The transition to digital cinema raises two major issues. Firstly, the investment in digital equipment has to be borne by exhibitors, while the savings are made by distributors. Exhibitors do not directly benefit from their investments. Secondly, the investment in digital equipment is financially supportable for large cinema chains, but mostly not for smaller independent (art house) cinemas. These cinemas could be threatened with closure because of the high cost of digital equipment. The closure of these kinds of cinemas could potentially threaten cultural diversity in the European audiovisual sector.

In order to solve the first issue, the United States film industry came up with the Virtual Print Fee (VPF) model. The model is based on involving a third party, who collects part of the distributors' savings and uses it in contributions towards the digital equipment of participating screens. The consultation could help establish whether a similar model could be effective in Europe.

Member States share the concern that not all cinemas can afford to make the digital transition. A wide range of exhibitors must be maintained to ensure the diversity of European cinema. Therefore, several national governments are considering subsidising the transition to digital cinema. For example, Italy has already notified a State aid scheme for which a public consultation was launched on 22 July 2009 (see IRIS 2009-9: 6). Public support schemes by Member States must be assessed in the context of European Union State aid rules. Therefore, they must be compatible with Article 87 of the EC Treaty.

The purpose of the public consultation is to gather information from stakeholders on digital cinema and the aforementioned opportunities and challenges it brings with it. The consultation is open to all stakeholders in digital cinema, such as exhibitors, distributors and producers agents. The information gathered from the consultation will enable the Commission to finalise a Communication in 2010 on "Opportunities and challenges for European Cinema in the digital era". The public consultation is open until 16 December 2009.

- European Commission seeks views on the opportunities and challenges for digital cinema, Brussels, 16 October 2009, IP/09/1534  
<http://merlin.obs.coe.int/redirect.php?id=12109>



- Public Consultation on Opportunities and Challenges for European Cinema in the Digital Era  
<http://merlin.obs.coe.int/redirect.php?id=12110>

IRIS 2010-1:4

## II. Spring Boards

### Germany: Bavaria Provides Digitisation Support

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Since there is no federal model for funding the conversion of cinemas to digital screening (see IRIS 2009-8: 10 and IRIS 2010-1: 1), a number of German *Länder* have set up their own support schemes. One example is Bavaria, where in August 2009 the *FilmFernsehFonds Bayern* (Bavarian Film and Television Fund - FFF) launched a special scheme for the comprehensive conversion to digital projection.

To this end, cinema owners are to be given grants to help them invest in the necessary technical equipment and in its installation. A grant may be up to 25 % of the costs but no more than EUR 18,000 per screen.

Arthouse and repertory cinemas with up to six screens per establishment as well as cinemas with more screens in localities with up to 50,000 inhabitants are entitled to apply. Annual grants can be made for the conversion of two screens per cinema. Funding is provided for 2K digital projection systems.

The Free State of Bavaria is making subsidies totalling EUR 1 million per year available. These can be combined with other public funding, such as FFA grants.

- *Merkblatt der FFF zur Beantragung eines Zuschusses zur Umrüstung auf digitale Kinotechnik* (FFF fact sheet on applying for a grant for conversion to digital screening)  
<http://merlin.obs.coe.int/redirect.php?id=12287>

IRIS 2009-9:102

### Ireland: Digital Cinema

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According to the Arts Council, Ireland has the largest per capita cinema-going population in the EU. However, the choice of film in Ireland has been largely confined to mainstream commercial cinema. In 2007 there were only 15 digital screens in Ireland. In April 2008 a report entitled "Digital Cinema in Ireland - A Review of Current Possibilities" was published. It was commissioned by the Cultural Cinema Consortium, which is a joint initiative of the Arts Council of Ireland and the Irish Film Board. Since then, the Consortium has embarked on a project to roll out digital cinema equipment in arthouse cinemas.

The term 'digital cinema' in the Report refers to projection systems which can be used to screen new releases and specialised films to public audiences at a standard comparable to or better than that achievable with conventional 35mm film. The Report sets out the technical and financial advantages of digital cinema and considers the options for Ireland. It states that, even if the private company Digital Cinema Ltd (Ireland) achieve their target of equipping 500 screens in Ireland with DCI standard digital projection systems, there will remain a group of cinemas, including cultural cinemas, arts centres and smaller, probably geographically remote venues, which will not suit the DCL business model. The Consortium, therefore, the Report said, might consider developing methods of ensuring that these cinemas are not "digitally abandoned" and potentially denied access to a range of films, especially specialist titles distributed by independent film distributors.

At the time of the publication of the Report it was not clear whether all the cinemas in Ireland were willing or able to participate in the scheme. Additionally, there were concerns from distributors and exhibitors about a single company dominating the entire Irish cinema sector. The Report considered it appropriate therefore to investigate the opportunities for partnerships with other suppliers. The Consortium might consider developing a support programme which would encourage key providers of cultural cinema to keep pace with developments in this area. Also, to assist the digital distribution of Irish films, it might consider requiring producers and distributors who receive public funding to deliver an appropriately formatted digital master as an integral part of the funding contract.

Digital Cinema Ltd (Ireland) aimed to convert most cinemas in Ireland during 2008. In common with its counterparts in the UK, Europe and the USA, it adopted a 'virtual print fee' model to fund the digital roll-out. These fees are paid to the equipment suppliers or integrators by film distributors each time a digitally equipped cinema screens a digital film. Over several years, these fees will recoup the capital costs of providing digital projection equipment.

The Film Board's Strategy Goals for 2008 to 2009 included references to the roll-out of digital cinema and also to exploring with the Irish Film Institute the digitising of the Film Board catalogue in the archive.

The recipients of the Cultural Cinema Consortium's Cinema Digitisation Scheme grants, which totalled EUR 750,000, were announced in January 2009. The grants were for the purchase and installation of digital projection equipment to cinemas that offer a cultural cinema programme on a year-round basis. Since then a number of cinemas have been refurbished to become digital or all-digital multi-screen and the first custom designed digital cinema in Ireland opened in Dublin in December 2009. The roll-out is not complete yet but it is progressing and an evaluation will be carried out shortly.

Other interesting developments with regard to film include the Virtual Cinema scheme for high-quality short films that are suited to new forms of digital video consumption and the intended launch of an Irish Film Television channel provided for in the Broadcasting Act 2009 (IRIS 2009-10: 18).

- Report: "Digital Cinema in Ireland - A Review of Current Possibilities"  
<http://merlin.obs.coe.int/redirect.php?id=12284>

IRIS 2010-1:100

## Norway: Cinemas Go Digital with Levy Funds

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Norwegian Film Institute*

Following pre-notification contacts between the European Surveillance Authority, the EFTA watchdog body, and the Norwegian exhibitors' organisation Film & Kino, full digital roll-out to all 440 cinema screens in 220 locations across Norway will commence this autumn, to be completed by 2011. Implementation of the ambitious scheme follows the publication by the ESA in May of a preliminary assessment, in which it declared itself satisfied that no State aid is involved in the funding of the digitalisation programme.

Norway's exhibition structure is dominated by municipally owned and operated cinemas, which hold 72.6 per cent of the market (calculated on the basis of admissions). Publicly and privately owned cinemas, however, have co-operated closely in developing the exhibition sector since the early 1970s, using the so-called "Cinema Fund" to bankroll projects of common interest and benefit. Since the late 1980s, video retailers have also participated. The fund, originally a voluntary mutual fund, was enshrined in the 1987 Act relating to Films and Videograms, which made obligatory the Cinema Fund levy on all cinema ticket sales (2.5 per cent) and video/DVD sale and rental transactions (NOK 3.50 per transaction). Regulations delivered under the 1987 Act provide general aims for the use of the Fund's resources, while also establishing a legal base for Film & Kino to determine concrete operations and lines of action, under the supervision of the Ministry for Culture. The levy currently brings some EUR 7.5 - 8 million per year into the Fund.

Total costs of digital roll-out in Norway are estimated at NOK 400 million (EUR 45 million). Film & Kino has negotiated the roll-out directly with Hollywood studios and agreed on the Digital Cinema Initiative (DCI) specifications as the applicable technical standard, with a minimum 2K projection. Funding will be split between distributors, who will pay a 40 per cent Virtual Print Fee (VPF) over a period of up to six years, while cinemas can choose between paying by cash or in instalments and taking out a six-year loan. To bankroll the programme, Film & Kino will use NOK 100 million from the Cinema Fund to leverage a NOK 400 million (EUR 45 million) financial package and will launch a tender to financial institutions in the European Economic Area (which includes the EU, as well as Iceland, Liechtenstein and Norway) to manage the package.

Technical implementation will be handled by "system integrators". To avoid monopolisation, Film & Kino has divided the country into ten zones; potential suppliers of technical services may place bids to service one or more zone(s) for a minimum period of ten years. Tenders will be issued to potential system integrators in the EEA area.

- *Lov om film og videogram av 15. mai 1987 nr. 21* (Act relating to Films and Videograms of 15 May 1987 no. 21) <http://merlin.obs.coe.int/redirect.php?id=12068>
- Unofficial translation into English of Act relating to Films and Videograms <http://merlin.obs.coe.int/redirect.php?id=11878>
- *Forskrift om film og videogram av 20. desember 1999* (Regulations relating to Films and Videograms of 19 December 1999) <http://merlin.obs.coe.int/redirect.php?id=11879>
- For a more comprehensive description of the Norwegian digital roll-out, see European Audiovisual Observatory, "Digital Roll-Out in Norwegian Cinemas" <http://merlin.obs.coe.int/redirect.php?id=11880>

IRIS 2009-9:25

## Slovakia: Public Aid for the Digitalisation of Cinemas

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As of 2010 there are approximately 200 cinemas in Slovakia but only 11 have been digitised, mostly from private sources. Only 7 % of the cinemas are run by private companies, the rest is under the management of cities.

In line with the Slovak Act No. 516/2008 Coll. a new fund has been created to gather finances which shall contribute to the purchase of projecting equipment. According to section 2 of the Act, among other tasks the new Audiovisual Fund ("Fund") shall:

- create material conditions for the development of audiovisual culture and industry by granting financial resources for the renovation and development of the technological basis used for production and distribution of audiovisual works and for the realisation of public performances in the area of audiovisual culture;
- govern the administration of specific types of contributions.

On 15 December 2009 the Fund published a statement regarding the "Public Consultation on Opportunities and Challenges for European Cinema in the Digital Era" of the European Commission. The Fund declares that it is aware of the fact that certain types of cinemas in Slovakia are endangered due to the costs for the transition to the digital format. It acknowledges the right to granting aid for the digitalisation of cinemas from public sources within the framework of the existing rules for State aid and the Commission's announcement. The Fund sees one of its tasks in creating basic conditions in accordance with the Commission's announcement. At this time public consultations are taking place in Slovakia. They concern a.o. a survey on the present state of Slovak cinemas, the potential effects and the actual options for their digitalisation according to the criteria agreed by the Fund.

The programme No. 4 of the Fund's Support Structure for the year 2010 concerns the support of technological development projects. The deadline for applications in this programme is presumed to be 1 September 2010. The primary aim of the programme is the modernisation of cinemas and the digitalisation is an implicit part of this modernisation. A precondition for the realisation of such projects is the participation of the local self-government authorities because cinemas are part of the local culture.

- *Stanovisko Audiovizuálneho fondu k verejnej konzultácii otvorenej Európskou komisiou „Konzultácia o príležitostiach a výzvach pre európske kiná v digitálnej ére“* (Statement of Audiovisual Fund from December 15, 2009 regarding the Public Consultation Opened by the European Commission "Public Consultation on Opportunities and Challenges for European Cinema in the Digital Era" approved by a decree of the Audiovisual Fund) <http://merlin.obs.coe.int/redirect.php?id=12275>

IRIS 2010-1:101

## United Kingdom: Digital Screen Network and Rural Cinema Pilot Scheme

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*deeJgee Research/Consultancy*

In the United Kingdom, the film exhibition sector is, according to the recently released House of Lord's Communications Committee's "Report on The British Film and Television Industries", dominated by a few large companies... In 2008, there were 3,610 screens (96 more than in 2007) in 726 cinemas in the UK. In 2008, 61 per cent of screens were controlled by three companies: Odeon, Cineworld and Vue. The two largest of these are owned by private equity firms, Terra Firma (Odeon) and the Blackstone Group (Cineworld). Exhibitor revenues, which are made up of box office receipts, concessions and advertising, were just over GBP 1bn in 2008 (3% higher than 2007). Although most films are still shown using the standard film print, in 2008, the UK had 310 high-end digital screens, the highest number in Europe.

Of the 310 high-end digital screens, 240 form the UK Film Council's Digital Screen Network. The Digital Screen Network was announced on 16 August 2004 by the UK Film Council. Applications were accepted until March 2005.

The legal basis for the scheme is the National Lottery Act (2003), per the "the National Lottery Distribution Fund". Thus, the DSN involved the use of "state resources". Accordingly, this was notified to the European Commission. The Commission decided that the UK Film Council Digital Screen Network, which might constitute an aid measure within the meaning of Article 87(1) EC, is compatible with the common market pursuant to Article 87(3)(d) of the EC Treaty for a period of approximately four years, until 31 March 2009.

The DSN Guidelines provided that applications were eligible from all types of full-time licensed cinemas from all parts of the country - for the purposes of this application, a full-time cinema is defined as one that shows at least one evening show per day, at least 300 days per year.

By the end of the scheme, 240 screens at 212 cinemas had been equipped via DSN in the UK. 79% of the cinemas are outside of London. By the end of the scheme GBP 11,933,364 had been awarded to enable successful applicants to equip their exhibition sites with "state-of-the-art" digital projection equipment (2k projectors, capable of showing films at resolutions of 2048x1080 pixels) and computer servers.

In return for funding, cinemas would be expected to show more "specialised" films (e.g. independent films, restored classics, documentaries and foreign language films). In 2005, around GBP 300 million was spent on distributing and marketing all cinema releases in the UK, but only GBP 18 million, or 6%, was spent on specialised films. The introduction of digital distribution will mean that films such as these will reach around 30 million people throughout the UK.

The contract to establish the screens was awarded to Arts Alliance Digital Cinema (AADC). AADC was selected in a competitive bid governed by the EU supplies directive. The agreement with AADC runs for the period of the installation/rollout plus 4 years. It covers installation, training, servicing, warranties and upgrades for the lifetime of the contract. In addition, under the terms of the contract, AADC will, if and when required, create digital cinema masters for specialised film content and when requested load onto disks, deliver to the cinema and supply the security keys for the cinema to play out the film all at a pre-agreed price.

Finally, it might be of interest to note that the UK Cinema Exhibitors' Association has established the Digital Funding Partnership (UK) to help secure finance to allow small and medium-sized UK cinema operators to purchase digital cinema equipment.

A relevant initiative is that Rural Cinema Pilot Scheme. The aim of the RCPS is to "...introduce a rollout of...new digital technologies into the three pilot areas to significantly improve quality

of presentation and the supply and range of content screened." Rural cinema is defined as "...film screenings in rural areas, normally in non-traditional venues such as village and town halls, arts centres and other community spaces. It encompasses film societies, film clubs, mobile cinemas and community cinemas."

GBP 1.2 million of Lottery Funding (see above) has been allocated to the Pilot Scheme. The equipment is a combination of a touring version of the Digital Cinema Initiative specification projector and "Blu-Ray-based digital projection equipment which will represent a significant step-up in quality to DVD-based systems currently used." The scheme is to run for three years, starting from 2009.

- House of Lords, "Communications Committee - First Report. The British Film and Television Industries" <http://merlin.obs.coe.int/redirect.php?id=12279>
- European Commission, "State aid N 477/04 - United Kingdom: UK Film Council Distribution and Exhibition Initiatives,- Digital Screen Network", Brussels, 19.I.2005, C (2005)45 fin <http://merlin.obs.coe.int/redirect.php?id=12280>
- UK Film Council, "Bringing Cinema to Rural Communities: the UK Film Council's Rural Cinema Pilot Scheme" <http://merlin.obs.coe.int/redirect.php?id=12281>

IRIS 2008-10:106

### III. Stumbling Blocks

#### Germany: Cinema Industry Rejects Full Digitisation Proposal

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Representatives of the cinema industry have rejected the offer made by the *Filmförderungsanstalt* (Film Support Office - FFA) on the initiative of the Federal Commissioner for Culture and Media concerning support for the full digitisation of cinemas in Germany (see IRIS 2009-8: 10).

Under the proposal, the FFA would provide start-up funds of up to EUR 40 million for digitisation. In return, the FFA demanded that the cinema industry drop its complaints about the obligation to pay film contributions on the grounds that it infringed the principle of fair contributions, and that it pay the contributions unconditionally (see IRIS 2009-4: 7).

However, cinema industry representatives have refused to withdraw their complaints and reservations. As a result, the FFA considers that there is no longer a basis for the proposed agreement.

In order to counter the pending procedure on the constitutionality of the film contributions, the FFA and the Federal Commissioner for Culture and Media have promised to amend the *Filmförderungsgesetz* (Film Support Act - FFG).

- *Pressemitteilung der FFA vom 17. November 2009* (FFA press release of 17 November 2009) <http://merlin.obs.coe.int/redirect.php?id=12121>

IRIS 2010-1:17

## France: CNC Called on to Review its System for Financing Digitisation of Cinema Theatres

Amélie Blocman  
Légipresse

On 1 February 2010, the competition authority (*Autorité de la concurrence*) delivered its opinion on the support arrangements being proposed by the national centre for cinematography (*Centre national de la cinématographie* - CNC) for financing the digitalisation of cinema theatres. Until now, this cost has been shared between operators, who bear the cost of the investments, and distributors, who mainly reap the benefits of digitisation. They then pass on to the operators part of the savings they have achieved, through private "third-party investors", thereby enabling them to finance some of their investments in digital projection. Almost 1000 cinemas still need to switch to digital in France, but not all of them are in a position to finance the necessary work, or to call on third-party investors, mainly because of the nature and volume of their programming. This is why the CNC is proposing the setting up of a mutualisation fund using third-party investors, which it would manage directly. Its mission would be to collect a contribution from the distributors. This would be a virtual copy fee ("*frais de copie virtuelle*" - VPF), and it would be used to finance 75% of cinema theatre operators' investments. Thus each operator would be able to choose between the CNC offer and the third-party investor offer.

The competition authority, asked for its opinion by the Minister for the Economy on the basis of Article L. 462-1 of the Commercial Code, felt that the project was indeed of "general interest" and that having the digital cinema financed by third-party investors did not seem to be a satisfactory response to this objective. However, the authority felt that the direct intervention of the CNC, as the sector's regulator (which has regulatory powers, collects taxes, and distributes the aid from the support fund that is essential to financing any cinema industry) was likely to seriously distort - or even totally eliminate - competition in the market for financing the digital cinema. By creating such a fund, the CNC would in fact be in direct competition with the third-party investors for a large part of its activity. Whatever precautions might be taken, such a mutualisation fund would have a decisive advantage over its competitors because of its links with the sector's regulator and the corresponding State guarantee.

In light of this, the authority is inviting the CNC to consider alternative solutions that would make it possible to achieve the same objective more economically and with less restriction of competition. It has even suggested considering a solution that would involve direct aid, partly allocated by applying a mechanism of calling for tenders financed by a tax on digital copies. The authority believes that this mechanism "appears to be neutral in terms of competition, and neutral for public finances, and would make it easier to target the shortcomings in the market that public intervention wishes to remedy. It appears to be easier to set up than a mutualisation fund, would correspond better to the CNC's usual method of intervention, and would make it possible to retain the principle of solidarity to which the CNC is legitimately attached". It is now up to not only the CNC and the public powers, but also the European Commission, which has also been notified of the plan for this arrangement for support in the form of State aid.

- *Autorité de la concurrence, avis n° 10-A-02 du 1<sup>er</sup> février 2010 relatif à l'équipement numérique des salles de cinéma* (Competition Authority, Opinion No. 10-A-02 of 1 February 2010 on the digitisation of cinema theatres)  
<http://merlin.obs.coe.int/redirect.php?id=12252>

IRIS 2010-3:23

## Italy: Tax Shelter Schemes for the Digitisation of Cinema Theatres

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On 22 July 2009 the European Commission approved under state aid rules most aspects of a EUR 82 million Italian tax incentive scheme for film investment and distribution (see IRIS 2009-9: 5). The approved tax incentives complement the Italian film production tax already approved by the Commission in December 2008 (see IRIS 2008-9: 24; IRIS 2009-3: 23; and IRIS 2009-6: 23).

The Italian notification had included a number of fiscal measures for various activities related to the film sector. a) a tax credit for businesses outside the film sector investing in the production of Italian cultural films; b) a tax relief for businesses outside the film sector reinvesting profits in Italian cultural films; c) a tax credit for film distributors and exhibitors investing in the production of films of special cultural interest; d) a tax credit for film distributors investing in the distribution of Italian cultural films; e) a tax relief for film distributors reinvesting profits in the distribution of Italian cultural films; and f) a tax credit for exhibitors installing digital projection equipment. This package of tax incentives is intended by the Italian authorities to stimulate the market dynamics to support Italian cultural films in an environment conducive to competition and to promote such films in Italy and Europe. The same verifiable national criteria examined by the Commission in its December 2008 approval of the Italian film production tax incentives are applied to define "Italian" cultural films and films of special cultural interest. The Italian authorities consider that incentives (a)-(b) will help increase the independence of small producers from television networks by attracting private investment from outside the film sector. They aim to relieve film producers from the commercial needs of such networks and to allow them to focus on the quality and cultural nature of the film. The Italian authorities believe that incentives (c)-(f) will help to support Italian cultural films, both in their promotion and in their release in cinemas, even when these films are not produced by international or national majors. These incentives aim to stimulate the creation of a "project network/partnership" between producers, distributors and exhibitors.

The estimated budget of the scheme was EUR 48 million for 2009 and EUR 50.5 million for 2010. The overall budget of the scheme is therefore EUR 98.5 million.

The Commission determined that the incentives for the production and distribution of films and for businesses outside the film sector are compatible with the criteria set out in the 2001 Cinema Communication. The Communication has provided specific rules for assessing aid for film and audiovisual production under Article 87 (3) (d) of the EC Treaty.

The incentive concerning the tax credit for installing digital projection equipment in Italian cinemas, by contrast, has not yet been approved. The objective of the measure is to encourage the use of digital projection equipment with a view to increasing the circulation of cultural films, both Italian and European. The tax credit is available to exhibitors who invest in installing digital projection equipment. The tax credit available amounts to 30% of the amount invested in installing such equipment. The maximum annual tax credit amounts to EUR 50,000 per screen. The notified scheme offers a 30% tax credit for the costs of introducing digital projection equipment in all of the 3,957 screens in Italy. The support would be unconditional for cinemas with a number of screens ranging from 1 to 4 and for multiplex cinemas with a number of screens ranging from 5 to 10 in towns with a population of 50,000 or less. For other multiplexes with up to 24 screens there would be an obligation to show cultural films for 50% of the screenings and to convert at least 50% of the screens to digital projection as a condition for the aid.

The issue of state aid for digital projection is one for which the Commission does not yet have a defined policy. As the Italian tax incentive for digital projection is the first such scheme to be available primarily to commercially successful exhibitors, there is no obvious precedent the Commission could follow to assess the scheme. On a wider level, the issue of state aid for digital projection is quite a complex topic, potentially requiring major public intervention, while there has so far been no public consultation at the EU level.



The Commission would need to assess the compatibility of the Italian tax credits for digital cinema under either Article 87 para. 3(c) of the EC Treaty or under the cultural derogation of Article 87 para. 3(d). Both require the Commission to consider the necessity, proportionality and adequacy of the aid. Because the Commission has doubts about the necessity, proportionality and adequacy of the proposed Italian digital cinema tax credit, it has opened a formal investigation into this question.

- *Legge 6 Agosto 2008, numero 133: "Conversione in legge, con modificazioni, del decreto-legge 25 giugno 2008, n. 112, recante disposizioni urgenti per lo sviluppo economico, la semplificazione, la competitività, la stabilizzazione della finanza pubblica e la perequazione tributaria"* (Law of 6 August 2008, number 133)  
<http://merlin.obs.coe.int/redirect.php?id=12276>
- *Legge 24 Dicembre 2007, numero 244: "Legge finanziaria 2008" articolo 1 commi 325 - 343* (Law of December 2007, number 244)  
<http://merlin.obs.coe.int/redirect.php?id=12277>
- Decision of the European Commission, "Film Investment & Distribution Tax Incentives: State Aid Approval Digital Cinema tax credit: Opening of formal investigation", Brussels, July 2009  
<http://merlin.obs.coe.int/redirect.php?id=12278>

IRIS 2009-8:105



# Market Data

*André Lange*

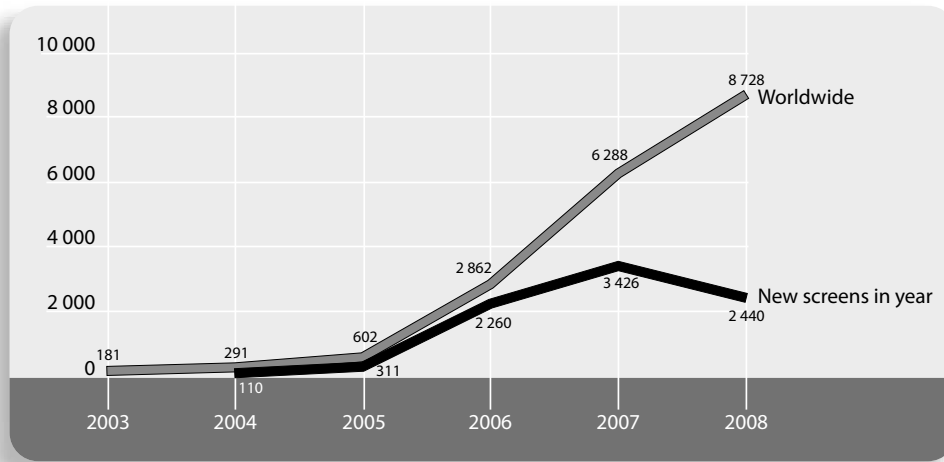
*Department for Information on Markets and Financing  
European Audiovisual Observatory*

The issue of public funding for the transition to digital cinema once again puts the focus on the question of the economic transparency of the cinema sector, especially the film exhibition industry. In order to be relevant, systems of public funding must be based on an in-depth knowledge of the economic aspects of the activities eligible for assistance, and the same naturally applies to the assessment of these funding systems by the competition authorities – an *ex ante* assessment that should ideally also be based on an in-depth knowledge of the market structures.

According to information available to the European Audiovisual Observatory, especially as a result of its collaboration with the European Film Agency Researchers Network (EFARN), there is still too little known in most European countries about the economic situation in the film exhibition sector. The majority of national agencies no doubt possess basic information on the number of film exhibition companies, the number of screens and the total number of admissions, but more detailed information on screen concentration and the financial situation and investment capability of companies is not available. Data on the state of progress on cinema digitisation is collected by private bodies (Media Salles, Screen Digest) but not by agencies. Where it takes place, which is far from being the case in most countries, the monitoring of cinema ticketing does not yet include data on whether a digital projection system was used – information that is indispensable for assessing the impact of digitisation on attendances, the success of a particular film genre, the market shares of national European films, etc.

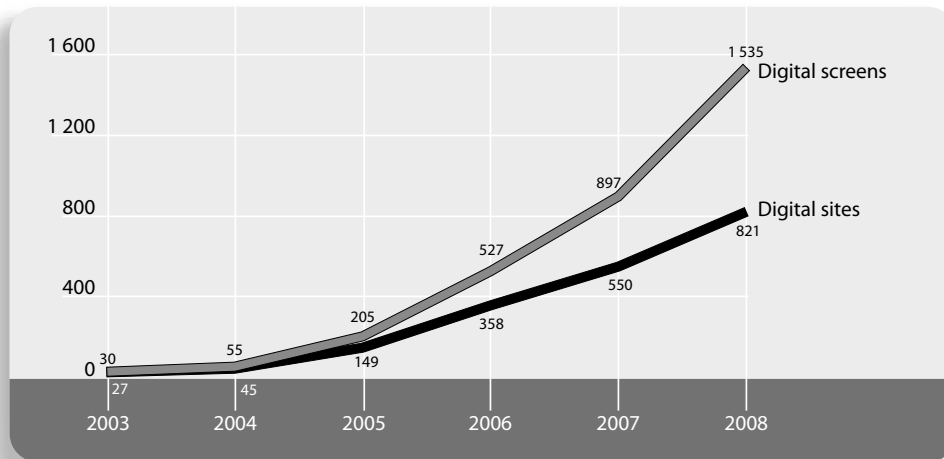
As far as it is able, the European Audiovisual Observatory, in collaboration with EFARN and Media Salles, intends to contribute to this improved awareness of the film exhibition market, and the data presented here is a first step in this direction. More information will be provided in the months to come both at our website and in our various publications.

**Worldwide commercial digital cinema screen development (2003-2008)**



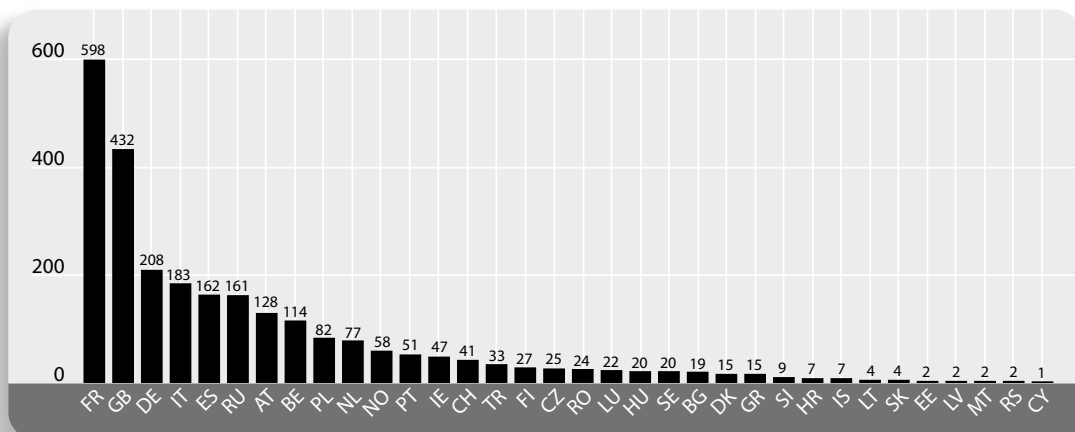
Source: Media Salles / European Audiovisual Observatory

**Development of commercial digital cinema screens and sites in Europe (2003-2008)**



Source: Media Salles

**European commercial digital cinema screens by country (June 2009)**



Source: Media Salles

### European commercial digital cinema screens by country (2004-June 2009) *In units.*

Country	2004	2005	2006	2007	2008	June 2009
AT	1	16	18	35	84	128
BE	14	20	35	76	98	114
BG	0	0	4	4	17	19
CH	0	12	14	16	28	41
CY	0	0	0	0	0	1
CZ	1	1	1	1	2	25
DE	2	31	96	151	162	208
DK	4	5	5	6	10	15
EE	0	0	0	0	2	2
ES	1	7	21	33	50	162
FI	0	0	1	1	12	27
FR	6	21	34	66	253	598
GB	10	33	159	284	303	432
GR	0	0	0	2	8	15
HR	0	0	0	0	7	7
HU	1	1	1	2	7	20
IE	0	1	23	36	38	47
IS	0	0	3	3	7	7
IT	4	25	31	38	80	183
LT	0	0	0	0	0	4
LU	3	3	13	13	21	22
LV	0	0	0	0	2	2
MT	0	0	0	0	2	2
NL	3	18	30	34	56	77
NO	2	3	23	35	48	58
PL	0	0	0	8	53	82
PT	1	1	5	14	44	51
RO	0	0	0	0	14	24
RS	0	0	0	0	0	2
RU	1	1	3	31	90	161
SE	1	6	5	5	8	20
SI	0	0	2	2	9	9
SK	0	0	0	0	0	4
TR	0	0	0	1	20	33
<b>Total</b>	<b>55</b>	<b>205</b>	<b>527</b>	<b>897</b>	<b>1 535</b>	<b>2 602</b>

Source: Media Salles

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**European commercial digital cinema screens by third party operator (2004-2008)** *In units. As at December.*

<b>Third Party Operator</b>	<b>Country</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>
XDC <sup>(1)</sup>	EUR	-	76	202	272	315
DSN (Digital Screen Network)	GB	-	19	132	234	239
DCL (Digital Cinema Limited)	IE	-	-	11	32	34
NORDIC	NO	-	-	11	18	19
NDA (Nordic Digital Alliance)	NO	-	-	10	16	16
MEDIA BROADCAST (former T-System)	EUR	-	-	6	9	14
AAM (Arts Alliance Media)	ES, FR, NL	-	-	-	8	156
<b>Total screens operated by a third party service provider</b>		<b>0</b>	<b>95</b>	<b>372</b>	<b>589</b>	<b>793</b>
Total number of screens not operated by a third party service provider		15	110	155	308	742
<b>Total digital screens</b>		<b>15</b>	<b>205</b>	<b>527</b>	<b>897</b>	<b>1 535</b>

(1) Until 2007 XDC figures include screens equipped with DLP standard technology.

Source: MEDIA Salles / OBS

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**Commercial digital cinema sites and screens in Europe by resolution (2008)**

Country	Digital sites <sup>(1)</sup>			Digital screens		
	1.3K	2K	4K	1.3K	2K	4K
AT		26	1		83	1
BE		17			98	
BG		6	2		15	2
CH		19			28	
CZ	1	1		1	1	
DE		71			162	
DK		8			10	
EE		1			2	
ES		29			50	
FI		8			12	
FR		72			253	
GB		229	1		302	1
GR		8			8	
HR		6			7	
HU	1	3		1	6	
IE		9			38	
IS		4			7	
IT		46			80	
LU		4			21	
LV		1			2	
MT		1			2	
NL		33	1		55	1
NO		25	3		45	3
PL		42	1		52	1
PT		36			44	
RO		3			14	
RU		71			90	
SE		8			8	
SI		9			9	
TR		19	1		19	1
<b>Total Europe</b>	<b>2</b>	<b>815</b>	<b>10</b>	<b>2</b>	<b>1 523</b>	<b>10</b>

(1) In six cases, the same site has both 2K and 4K projectors, so each of these sites has been counted twice.

Source: MEDIA Salles / OBS

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**European commercial digital cinema screens and sites by exhibitor  
(June 2009) *In units.***

Rank	Exhibitor	Digital Sites	Digital Screens	Country
1	CGR	30	338	FR
2	Kinepolis	20	175	BE/ES/FR
3	Cineworld Group	66	144	IE/GB
4	Cineplexx	18	89	AT/IT
5	Europalaces	41	78	CH/FR/NL
6	Vue	57	76	IE/GB
7	ODEON and UCI Cinemas Group	94	124	
	ODEON Cinemas	25	48	GB
	UCI	37	40	AT/DE/IT/PT
	Cinesa	32	36	ES
8	Cinema City	26	44	BG/CZ/HU/PL
9	Yelmo	24	38	ES
10	Utopia Group	8	30	BE/FR/LU/NL
11	Cinema Park	14	29	RU
12	Lusomundo	22	26	PT
13	City Screen	16	26	GB
14	Ward Anderson	9	25	IE/GB
15	Multikino	20	22	PL
16	Finnkino	12	21	
	Finnkino	7	13	FI
	Finnkino-Forum Cinemas	5	8	EE/LT/LV
17	Wolfram Weber - Cinecitta	1	20	DE
18	Giometti Cinema	10	20	IT
19	HELIOS	17	19	
	Helios	13	14	PL
	Helios-Kinoplex	4	5	PL
20	Mars	19	19	TR
21	Gruppo Furlan Cinecity	6	17	IT
22	Empire Cinemas	9	17	GB
23	Acec	16	16	ES
24	Cinestar	14	16	
	Cinestar	10	11	CH/CZ/DE/NL
	Blitz-Cinestar	2	3	HR
	Blitz-Cinestar Adria	2	2	HR
25	SF Group	12	15	
	SF Bio	7	10	SE
	SF Kino	5	5	NO



Rank	Exhibitor	Digital Sites	Digital Screens	Country
26	Palace Cinemas	12	15	CZ/HU/SK
27	Star Movie	3	14	AT
28	Medusa	11	12	IT
29	Rising Star Media	6	12	RU
30	Oslo Kinematografer	3	11	NO
31	Max-Film	8	11	PL
32	Hollywood Megaplex	4	10	AT
33	Kino Arena	3	10	BG
34	Cinemagnum	3	10	DE
35	Movies @	2	10	IE
36	AFM	9	10	TR
37	National Amusements	6	10	GB
38	Nordisk Film Cinemas	7	9	DK
39	NLC New Lineo Cinemas	4	9	PT
40	FH&P	9	9	SE
41	Einz Lochmann Filmtheaterbetriebe	3	8	DE
42	Cinéville	2	8	FR
43	Odeon Cineplex	5	8	GR
44	Arcadia	3	8	IT
45	IMC	2	8	IE
46	Caramba	2	8	LU
47	Cinemec	1	8	NL
48	Movieplex	1	8	RO
49	Karo Film	7	8	RU
50	Lyuksor	7	8	RU
51	Curzon	5	8	GB
52	Marketing Diesel	6	7	AT
53	Kitag	5	7	CH
54	Cinecap	3	7	FR
55	MK2	4	7	FR
56	Ariston	4	7	IT
57	Cinelandia	7	7	IT
58	Bergen Kino	2	7	NO
59	Minerva	3	7	NL
60	Light Cinemas	1	7	RO
61	Kolosej	6	7	RS/SI
62	Village Cinemas	6	6	CZ/GR
63	Ufa	3	6	DE
64	Cinesur	3	6	ES

Rank	Exhibitor	Digital Sites	Digital Screens	Country
65	Neocine	3	6	ES
66	Ciné Monterau Point Com	1	6	FR
67	Bio Rex Cinemas	3	6	FI
68	Formula Kino	3	6	RU
69	Kinomax	6	6	RU
70	Bloom Theatres	5	6	GB
71	Euroscoop	3	5	BE/NL
72	Cinedom	1	5	DE
73	Cinetech	2	5	DE
74	Association Ciné Manivel	1	5	FR
75	Cinémovida	1	5	FR
76	Flash Color	2	5	IT
77	Stella Film	5	5	IT
78	Gate Group	1	5	IE
79	Trondheim Kino	2	5	NO
80	FDO	2	5	PT
81	Socorama Castello Lopes Cinemas	5	5	PT
82	Hollywood Multiplex	3	5	RO
83	Kosmos	4	5	RU
84	Mir Kino	3	5	RU
85	Pobeda Cinema	4	5	RU
86	Liag Capitol	2	4	CH
87	Cinecity Event Kino	1	4	DE
88	Dietrich Theater	1	4	DE
89	Luxor Filmpalast	1	4	DE
90	Theaterhaus Speyer	1	4	DE
91	Sercine	2	4	ES
92	UCC	4	4	ES
93	Association Education Familiale Cinéma Le Vauban	1	4	FR
94	Cinémas Grand Forum	1	4	FR
95	Emeraude Cinéma	2	4	FR
96	Warner Village	3	4	IT
97	Spurling Group	1	4	IE
98	Kristiansand Kino	2	4	NO
99	Luxor Theater	2	4	NL
100	Engro Tus	4	4	SI

Source: Media Salles

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OBSERVATOIRE EUROPÉEN DE L'AUDIOVISUEL  
EUROPEAN AUDIOVISUAL OBSERVATORY  
EUROPÄISCHE AUDIOVISUELLE INFORMATIONSTELLE

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It is the task of the European Audiovisual Observatory to improve transparency in the audiovisual sector in Europe. It does this by collecting, processing and publishing up-to-date information about the various industries concerned.

The Observatory has adopted a pragmatic definition of the audiovisual sector in which it works. Its principal areas of interest are film, television, video/DVD, new audiovisual media services and public policy on film and television. In these five areas, the Observatory provides information in the legal field as well as information about the markets and financing. As far as its geographical scope is concerned, the Observatory monitors, records and analyses developments in its member states. In addition, data on non-European countries is also made available when judged appropriate. The various stages involved in providing information include the systematic collection and processing of data as well as its final distribution to our users in the form of print publications, information on-line, databases and directories, and our contributions to conferences and workshops. The Observatory's work draws extensively on international and national information sources and their contributions of relevant information. The Observatory Information Network was established for this purpose. It is composed of partner organisations and institutions, professional information suppliers and selected correspondents. The Observatory's primary target groups are professionals working within the audiovisual sector: producers, distributors, exhibitors, broadcasters and other media service providers, international organisations in this field, decision-makers within the various public bodies responsible for the media, national and European legislators, journalists, researchers, lawyers, investors and consultants.

The European Audiovisual Observatory was established in December 1992 and is part of the Council of Europe thanks to its status as a "partial and enlarged agreement". Its offices are in Strasbourg, France. The Observatory's membership currently comprises 36 European States and the European Community, which is represented by the European Commission. Each member appoints one representative to its board, the Executive Council. An Executive Director heads the international Observatory team.

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