

STATE AIDS FOR DIGITAL GAMES IN THE EUROPEAN UNION: A SYMBIOTIC OR PARASITIC RELATIONSHIP?

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The rhetoric of late-stage capitalism emphasizes the freedom of the free market in all aspects of society. However, capitalism is not independent of the workings of the nation-state in the West but is a pervasive form that both shapes and is shaped by state interventions. The interrogation of the supports that underpin cultural production highlights the symbiotic (or perhaps parasitic) relationship between industry and state that marks the games sector.

Within the European Union (EU), the production of digital games is supported by policies at national/regional state level through different incentives mechanisms including the provision of tax incentives, grants and credits. From the first such scheme which was introduced in France in 2007, to the most recent tax credit regime introduced in Ireland in 2022, this paper interrogates the corpus of decisions under which such measures are approved by the European Commission, with such decisions publicly available on the Commission website. National or regional aids have been introduced in Belgium, Denmark, France, Germany, Ireland and the United Kingdom (a pre-Brexit measure). This paper also carries out comparative analysis of the form and structure of such measures from the perspective of commodification of the space of the nation-state (Lefebvre 1991) and of culture (Hesmondhalgh 2019).

The Commission, as guardian of the treaties of the EU, may approve state aid measures which operate to incentivize the production of digital games on the grounds that such aids are cultural (under Article 107(3)(d) TFEU). We therefore see a necessary positioning of digital games as a cultural form. However, in keeping with the multiple understandings of what constitutes culture, there are divergences in the form of national tax support regimes, and consequently, different approaches by the Commission to the state aid approvals. Antitrust law, of which state aid law is an often misunderstood branch, has developed in line with broad understandings of economic development. Therefore, the application of antitrust to forms of culture like games can overemphasize the economic aspects to the policies.

This paper contends that the Commission decisions are driven by multiple rationales, including the protection of the internal market of the EU. They also illustrate a growing pragmatic understanding by the Commission of digital games as a cultural form which aligns with the marketisation and commodification of culture within the creative industries discourses. For Damro et al the Commission is is not simply an honest broker

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but ‘has a strong independent policy view’ (2016, 7). The Commission’s policy view strives to support the EU as a political and cultural supranational institution which does not always align with the needs of the digital games sector or the wants of individual nation-states.

This paper uses a critical law and political economy perspective to interrogate the commodification of the nation-space through the use of state aid supports for digital games within the context of the EU (applying Kerr 2017). It traces patterns both in Commission decisions approving such state aid measures and in the regional/national regulatory regimes that have introduced such measures in the EU. Through this analysis, it offers a mode of understanding of the role of state aids towards the digital games sector. It develops a conceptual understanding of the multiple rationalizations driving policy interventions for digital games development as a cultural and industrial form. It frames the relationship between culture and industry within the EU as both symbiotic and parasitic. The conditions of production matter to the sector and merit more attention (Sotamaa et al 2021) from scholars. This paper aims to bring a critical lens to the funding structures supporting the digital games sector within the EU. It concludes that the state aid regime for digital games in the EU operates in a way that is simultaneously symbiotic AND parasitic, simultaneously offering supports for creative production but tied up with the logics of capitalism.

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