

Consolidation of Legal Entities in the form of an Association
“Association of Cinema Proprietors of the Republic of Kazakhstan
“Cinema Alliance”

Republic of Kazakhstan, 050010
City of Almaty, Al-Farabi ave., 77/8

Republic of Kazakhstan, 050040
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Addressed to the President of the
Republic of Kazakhstan
Mister Tokayev K-Z.K

Addressed to the Prime Minister
of the Republic of Kazakhstan
Mister Smailov A.A.

Dear Kasym-Zhomart Kemelevich and Alikhan Askhanovich!

The Consolidation of Legal Entities in the form of an Association “Association of Cinema Proprietors of the Republic of Kazakhstan “Cinema Alliance” (hereinafter - CLE “Cinema Alliance”) takes the opportunity to express its respect and wishes you success in your professional work.

CLE “Cinema Alliance” is inquiring regarding the integration of a movie monitoring automated data system by the Ministry of Culture and Sports of the Republic of Kazakhstan which puts additional duties on cinemas, such as digital book-keeping for the Ministry of Culture and Sport of the Republic of Kazakhstan while also having to pay the additional cost that comes with integrating such a system, its integration with the pre-existing software of the cinemas, and the cost of maintaining the said system.

According to the article 11 of the law of the Republic of Kazakhstan “On Cinematography” №212-VI from the 3rd of January 2019 (hereinafter - “The Law”) a Unified system of automated data of movie monitoring has been established on the territory of Kazakhstan (hereinafter - “USAD”).

As per the executive order of the Culture and Sports Minister of the Republic of Kazakhstan dating April 9th 2019 №95 which establishes “The Rules of Managing a Unified System of Automated Data” (hereinafter - “The Rules”) which stipulates that an organization which conducts movie-showing (a movie demonstrator) keeps records on them for the purpose of providing information on the movies to the data system.

Meanwhile the article 10 of The Rules stipulates that the information regarding the movies that is being received by the data system from the movie demonstrators, **is used when**

estimating the amount of box-office royalties and the showings of national movies, is carried out in accordance with the paragraph 5 of article 12 of The Law of the Republic of Kazakhstan from January 3rd 2019 “On Cinematography”. The paragraph 5 of article 12 states that the organizations that received state endorsement in the form of funding a national movie have to pay royalties from the box office to the State Center of National Cinematography Aid in the amount that is equal to the percentage of the state-provided aid.

Taking into account the fact that the main principles of the state policy in the field of cinematography are creating an environment for production, replication, screening of national movies, their support, distribution, and promotion according to article 3 of The Law, while also taking into account the aforementioned norms of The Law and The Rules we understand that **the purpose of integrating the USAD is to monitor the box office and the screening of national movies** that have received state aid in the form of **financial support** because paragraph 5 of The Rules states that this information is **used when estimating the box office royalties from box office and screening of national movies**.

We accept and agree with the integration of USAD’s and reporting the information using the USAD but only in terms of national movies that have a national status according to The Law “On Cinematography”, movies that were aided by the state and funds and **financed by the funds in the budget**. Because the production of national movies involved funding from the state and there has to be control over the way they were used and returned we understand the reasoning behind the USAD’s integration as an instrument that is used to get the information in full regarding every screening and every cinema as it specifically pertains to a national movie in order to control royalties from the screening profits of these movies and to ensure returns of the budget funds to the state.

On the zoom meeting with the movie theater representatives and movie distribution companies that was organized by the Ministry of Culture and Sports of The RK a question was asked about what categories of movies are that fall under being monitored and what movies do the theaters have to provide data to USAD’s on. The representatives of the Ministry of Culture and Sports have stated that all the movies shown in cinemas fall under having to mandatorily provide reports and provide reports in USAD’s through a cinema’s Software. Moreover, the representatives of the Ministry have noted that for not providing reports in USAD’s the cinemas can be prosecuted with administrative liability on the accounts of the article 156 of Administrative Rights Codex of the Republic of Kazakhstan.

We want you to pay attention to the fact the Rules obligate the cinemas, as movie demonstrators (exhibitors), to carry out the integration of their own software with USAD and provide an everyday transfer of data to USAD from their cash register machines in real-time while also including all the data on every movie on every showing even going as far as the date, time of screening and of screening, names and numbers of the cinema halls, row numbers and the seats in the hall (?), ticket prices, ticket discounts, distribution license.

Also we would like to point your attention to the fact that in these Rules there is no specific mention of the fact that the cinemas have to provide data to USAD regarding **all types of pictures** that are shown by the theaters.

In addition to that, it's been made very clear by a verbal statement of the Ministry of Culture of the Republic of Kazakhstan representative that the theaters have to pay for the integration of USAD into their system out of their own pocket. Furthermore, contracts have been sent to the cinemas regarding getting connected to USAD which imply annual payments on the cinemas' part for the maintenance of USAD.

Most of the cinemas have expressed negativity in this regard and we do not understand the feasibility behind monitoring all the movies and providing daily reports to USAD, including the most detailed information on row numbers and hall seats on all different shown movies and the box office. Most of the cinemas also do not agree with giving the data regarding their trade secrets without any guarantee of confidentiality due to the fact that they are not sure about who can access that information and what goals in mind they might have with it.

Integrating additional reports by USAD is a redundancy of functions and operating actions of a state-run structure - The Committee of National Income of The Ministry of Finances of The Republic of Kazakhstan which oversees control over economic activity of businesses, to which all the cinemas already provide their reports on a regular basis, including daily unloading of information from their cash registers regarding the tickets sold and other means of income, while also paying all the taxes, put in place beforehand by law of the Republic of Kazakhstan. Moreover, a blunt move from the Ministry of Culture and Sports of The Republic of Kazakhstan to force duties of additional services and expenses of a commercial entity which will conduct integrating and maintaining USAD. Because you know, cinemas do not pay for the Committee of national income's report management.

Hereby we have no choice but to point your attention to the fact that during the pandemic, operations of all cinemas have been put to a halt and we were basically idle for the year 2020, whereas for 2021 we operated under strict restrictions on hall occupancy load, business hours, forbidden to work on the weekends thus being left with next to none of the help from the state and we basically left to fend for ourselves. Under current circumstances there is still a considerable amount of influence of global events on the fragile financial state of the cinemas after the coronavirus pandemic. During the pandemic many hollywood studios have halted their production due to there restrictions being put into place, movie theaters were getting shut down everywhere, movie screenings were halted which is the reason for there not being many big-buck movies.

Considering the fact that cinemas have experienced a considerable loss from being idle during the pandemic, whereas post-pandemic cinemas cannot recover to the pre-pandemic level of commercial activity due to there not being enough hollywood content getting produced, absence of dubbed pictures, additionally not having any kazakhstani movies, under current circumstances income of the cinemas is minimal.

Besides that, some companies had to have resorted to doing shootings of the movies out of their own pocket or loaning it, with no state support or subsidies, in order to have any content to be shown in their theaters.

What we propose is for The Law “On Cinematography” was refined in parts regarding specific arrangements on improving the cinemas and to screen kazakhstani movies only based on how motivated the theaters themselves are because 90% of all the movies being shown in theaters are not Kazakhstani. In this case instead of motivation and aiding them in post-covid period, cinemas are being granted additional responsibilities, additional expenses, additional load in the form of additional report management.

We think that the introduction of USAD does not facilitate development of cinemas in Kazakhstan, demand for which is over 2000 cinemas in Kazakhstan because currently 70% of large population centers (small and medium cities) are not covered.

Under current circumstances cinemas are waiting for real help from the state in the face of The Ministry of Culture and Sports of the Republic of Kazakhstan in solving their problems with content, with dubbing the movies, benefits or preferences regarding other vital problems. We understand that distribution companies and their affiliates are interested in integrating USAD and also lobby for it and for providing data reports on all categories of movies in order to receive information on the cinemas’ box office returns from the movie runs.

In this situation, **because the development of this system was at state’s expense**, and according to our info USAD’s development cost them a colossal sum of 100 million tenge, i.e. our tax money, it should also be at their expense to integrate and maintain it because cinemas all their taxes.

Taking into account that during the 9th of July meeting the prime minister Alikhan Smailov has mentioned that currently there are many formal demands to the businesses and that a presence of such demands negatively impacts business climate in the country, that’s why it has been decided by the central state entities and the NPE (National Palace of Entrepreneurs) “Atameken” that activities regarding the reduction of regulatory acts have to be carried out.

“We have been ordered by the head of state to provide more freedom to businesses. It’s one of the main directions of the state in terms of formulating a new economic policy. The inspecting state entities should not have the ability to prosecute businesses for formal reasons.” - as said by Alikhan Smailov.

As a result, the prime minister has ordered the proper entities to revitalize work on cleaning up the Kazakhstani legal framework from excessive demands from businesses by reviewing and reducing them. Decrease in administrative load on businesses and a launch of a risk-management system are basic steps in the on-going reform.

Taking into account the aforementioned statements, staying within the aforesaid orders of The President of The Republic of Kazakhstan on providing more freedom to businesses and cleaning up the normative regulations of the excessive demands from businesses and reduction of administrative load on businesses that only make cinemas' operations more difficult, **we are seeking to request You to:**

- 1) **Repeal the report management of cinemas on all categories of movies into the USAD, excluding national movies**, because that demand to businesses is a **redundancy of functions and operating actions of a state-run structure - The Committee of National Income of The Ministry of Finances of The Republic of Kazakhstan**, and is excessive, overbearing, and overbureaucraticizing of cinemas' operations that has no underlying economic preconditions. Still, the cinemas understand and accept the appropriateness of providing data on national movies in USAD's which were funded from the state budget.
- 2) Repeal the prosecution of cinemas on the basis of not providing the data in USAD according to subparagraph №4, paragraph 1, article 156 of Administrative Rights Codex of the Republic of Kazakhstan.
- 3) The integration of USAD regarding national movies should be conducted and maintained at the expense of the budget, but not at the expense of cinemas that, as mentioned before, pay all of their taxes.
- 4) Rid the cinemas of the burden of having to upkeep commercial structures, who carry out the integration and maintenance of USAD.

Hope for your understanding and wish you all the success in your field.

With all due respect,

**President
CLE "Cinema Alliance"**

Yagudina M.S.

Cinemas that are a part of CLE "Cinema Alliance":

(SEC - shopping entertainment center/complex, SC - shopping center)

Cinemas of the "Kinopark" Company Group:

1. "Kinopark 11 IMAX ESENTAI", located in SC "Esentai Mall" (Almaty);
2. "Kinopark 6 Sputnik", located in SEC "Sputnik" (Almaty);
3. "Kinopark 4 Globus", located in SEC "Globus" (Almaty);
4. "Kinopark 8 Moskva", located in SEC "Moskva Metropolitien" (Almaty);
5. "Kinopark 5 Atakent" located in SEC "Atakent Mall" (Almaty);
6. "Kinopark 5 Forum" located in SEC "Forum" (Almaty);
7. "Kinopark 7 IMAX Keruen" located in SEC "Keruen" (Nur-Sultan);
8. "Kinopark 8 IMAX Sary Arka" located in SC "Sary Arka" (Nur-Sultan);

9. "Kinopark 6 Keruency" located in SEC "KeruenCityAstana" (Nur-Sultan);
10. "Kinopark 5 Mega Planet" located in SEC "Mega Planet" (Shymkent);
11. "Kinopark 5 Nauryz Park" located in SEC "Nauryz Park" (Shymkent);
12. "Kinopark 5 Hyper House" located in SEC "Hyper House" (Shymkent);
13. "Kinopark 7 Keruency" located in SEC "Keruen City Aktobe" (Aktobe);

Cinemas of the "Kinoplexx" Company Group:

14. "Kinoplexx 7 Sary Arka" located in Almaty;
15. "Kinoplexx 7 Aport" located in SEC "Aport" (Almaty);
16. "Kinoplexx 6 Almaty Mall" located in SEC "Almaty Mall" (Almaty);
17. "Kinoplexx 8 Kyzyl-Orda" located in SEC "Aray City Mall" (Kyzylorda);
18. "Kinoplexx 3 Aktau" located in SEC "Aktau" (Aktau);
19. "Kinoplexx 2 Urask" located in SEC "Oral" (Uralsk);
20. "Kinoplexx 2 Atyrau" located in SEC "Atyrau" (Atyrau);
21. "Kinoplexx 3D (Karaganda)" located in SC "City Mall" (Karganda);

Cinemas of the "Arman" Company Group:

22. "Arman" located in Almaty;
23. "Arman" located in SEC "Asia Park" (Almaty);
24. "Arman 3D" located in SEC "Mart" (Almaty);
25. "Arman" located in SEC "Asia" (Nur-Sultan);
26. "Arman 3D" located in Kostanay;
27. "Arman Laser Cinema" located in SEC "Mart" in Taraz;

Cinemas of the Meloman Group:

28. "Arsenal" located in Nur-Sultan;
29. "Arsenal" located in Atyrau;
30. "Ertis Cinema" located in Pavlodar;
31. "Festival Cinema" located in Pavlodar;
32. "Arsenal" located in Shymkent;
33. "Grand" located in Schyuchinsk;

Independent Cinemas:

34. "Bekmambetov Cinema"
35. "Lumier ("Люмьер")"
36. "Kino5XX";
37. Cinema in the name of S. Aymanov;
38. "Illusion"
39. "Sary Arka Cinema" network of movie theaters;
40. "Stepnogorsk Cinema";

41. "Bayterek 3D Cinema";
42. "Cinema Park";
43. "Yubileyniy ("Юбилейный")".