[DE] Federal Cabinet approves amended Film Support Act

IRIS 2024-7:1/24

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On 22 May 2024, the German federal government approved a draft amendment to the *Gesetz über Maßnahmen zur Förderung des deutschen Films* (Act on measures to promote German film – FFG-E). The Federal Government Commissioner for Cultural and Media Affairs (BKM), Claudia Roth, had previously tabled a bill in February (see IRIS 2024-4:1/21).

The cabinet draft contains numerous editorial amendments compared with the February bill, e.g. including the use of gender-neutral language.

In terms of its content, the cabinet draft extends the remit of the *Filmförderungsanstalt* (Federal Film Board – FFA), which supports the structure of the German film industry and the creative and artistic quality of German film-making, by requiring it, as well as the existing themes of diversity, inclusion and anti-discrimination, to promote gender equality in the film and cinema industry (Art. 2(11) FFG-E). The FFA will, therefore, specifically take gender equality into account as it fulfils its responsibilities (Art. 3(5) FFG-E). Gender equality will also be reflected in the future composition of the FFA administrative council (Art. 6(2) FFG-E). Other organisations, including digital, telecommunications and press associations, can appoint administrative council members (Art. 6(1) FFG-E). The diversity committee mentioned in the February bill will also take gender equality into account, but will "have no direct or indirect influence on artistic decisions" (Art. 30 FFG-E).

One significant addition to the cabinet draft is the FFA's obligation, for transparency reasons, to develop an effective compliance management system by recognised standards. The compliance officer will need to report regularly to the executive committee (Art. 32(1)(9) and 38(2) FFG-E).

Under Article 53 of the existing Film Support Act, to protect individual exploitation windows, supported films may not be exploited abroad, on television or by any other means before the end of the relevant blackout periods. Firstly, the cabinet draft shortens the blackout period for paid video-on-demand services and pay-TV from six to four months after the release of a film to take into account changes to exploitation practices that mean that cinema films are now exploited sooner after their cinema release than before. The draft also explains that later exploitation

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should also be contractually possible (Art. 54 FFG-E). For example, a film that a streaming provider finances should be subject to a sufficiently long exploitation window. One new addition is the idea that a different blackout period can be agreed as long as certain conditions are met (Art. 57 FFG-E). For free-to-air television and free video-on-demand services, the blackout period can be shortened to up to six months if the producer and the owners of the exploitation rights that help to finance the film agree, "taking into account the respective financing shares" (Art. 57(1) FFG-E). According to the explanatory memorandum, this should help create a more flexible environment and encourage the financing of cinema films.

The FFA will, in future, be required to give special treatment to films whose director has sole responsibility for directing a film for the first or second time, as well as children's films and documentary films (Art. 63(2) FFG-E). Film funding should also only be based on a film's success in festivals and competitions of particular national significance, in order to ensure it is used in a way that benefits all groups of stakeholders (Art. 64(2) FFG-E).

The cabinet draft has already been notified to the European Commission in accordance with Directive (EU) 2015/1535 (notification number 2024/0255/DE). The current Film Support Act is valid until 31 December 2024. However, the *Bundestag* (German parliament) must discuss and approve the amended version before it can enter into force in early 2025. Furthermore, funding incentives and other measures will also need to take gender equality into account (Art. 65 FFG-E). Employment conditions, especially pay, in relation to funded films will also need to be improved. This includes appropriate pension contributions for people involved in film production (Art. 81 FFG-E).

The film levy paid by cinemas will move away from a screen-based charge to a cinema-based fee to reflect the cinema's performance more accurately. The levy thresholds are slightly different to those mentioned in the February bill (Art. 128 FFG-E). The cabinet draft also includes special provisions regarding the film levy paid by video-on-demand service providers with no editorial responsibility (Art. 138 FFG-E). These will apply to cable network operators who offer access to video-on-demand services but have no editorial responsibility themselves, for example. Where a provider only acts as an intermediary, the levy will be paid by the video-on-demand service provider with editorial responsibility. However, if a cable network operator acquires the licensing rights and offers its customers access to such VoD services, it will have to pay the levy itself.

Gesetzentwurf der Bundesregierung zur Novellierung des Filmförderungsgesetzes vom 22. Mai 2024

https://www.kulturstaatsministerin.de/SharedDocs/Downloads/DE/Filmfoerderungsgesetz/2024/2024-05-22-Gesetzentwurf-FFG2025.html

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Federal government bill amending the Film Support Act, 22 May 2024

Pressemitteilung der Bundesregierung vom 22. Mai 2024

https://www.bundesregierung.de/breg-de/aktuelles/bundeskabinett-beschliesst-entwurf-zur-novellierung-des-filmfoerderungsgesetzes-kulturstaatsministerin-roth-damit-wird-der-deutsche-film-gestaerkt--2285738

Federal government press release of 22 May 2024

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