# [CH] Parallel Import of Audiovisual Works Authorised Again

**IRIS 2003-8:1/29**

*Patrice Aubry*
*RTS Radio Télévision Suisse, Geneva*

Introduced when the new Federal Law on cinematographic culture and production (Cinema Act - LCin) entered into force, Article 12 (1 bis) of the Federal Law on copyright and neighbouring rights (Copyright Act LDA) of 9 October 1992 looks like being very short-lived. Indeed, it will have taken the Federal Assembly (Swiss Parliament) less than a year to reverse its position and considerably relax the restrictions imposed by this provision (see IRIS 2002-8: 14).

The current Article 12 (1 bis) of the LDA, which entered into force on 1 August 2002, stipulates that copies of an audiovisual work may not be re-sold or circulated in any other way unless the originator either sells it in Switzerland or has authorised its sale in Switzerland. In other words, the parallel import of audiovisual works is prohibited unless the holder of the rights for the work concerned has authorised it in advance. Article 12 (1 bis) of the LDA attracted a wave of protests and heavy criticism from Swiss importers and distributors of videos and DVDs, who thought this rule endangered their businesses.

Taking into account the arguments put forward against this provision, the Federal Assembly has taken the opportunity offered by the revision of the Federal Law on cartels and other restrictions on competition (Cartels Act

- LCart) to amend substantially Article 12 (1 bis) of the LDA. The new text adopted by the Swiss Parliament states, for example, that copies of an audiovisual work may only be re-sold or rented in Switzerland if the originator's performing rights are not infringed. This provision refers to Article 10 (2c) of the LDA, under which the originator has, in particular, the exclusive right to recite, perform or execute his work, directly or by some other process, and to allow it to be seen or heard in locations other than where it is presented. Consequently, the parallel import and sale of videos and DVDs in Switzerland will henceforth be authorised only when the film concerned is no longer being shown in cinemas in any of the country's language regions.

The amendments to the Cartels Act are subject to a possible referendum. If no request for a referendum is filed before 9 October 2003, the Federal Council could fix a date sometime in spring 2004 for the entry into force of the new legal provisions.

© European Audiovisual Observatory (Council of Europe) 2026

***Änderung vom 20. Juni 2003 des Bundesgesetzes vom 6. Oktober 1995 über Kartelle und andere Wettbewerbsbeschränkungen. Veröffentlichung im Bundesblatt Nr. 25 vom 1. Juli 2003***

http://www.admin.ch/ch/d/ff/2003/4517.pdf

*Amendment of 20 June 2003 to the Federal Law on cartels and other restrictions to competition of 6 October 1995. Federal Gazette no. 25 of 1 July 2003*

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026