[GB] Definition of "Independent Producer" Amended

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The UK has amended the definition of "independent producer" for the purposes of section 16 of the Broadcasting Act 1990, which requires that independent productions form at least 25% of programmes broadcast by the major broadcasters. This in turn implements the requirements on independent productions of the "Television Without Frontiers" Directive.

The new amending order makes two important changes to the definition of "independent producer". The first is to provide that the previous exclusion of any producer in which a broadcaster owned more than 15% of shares applies only to UK broadcasters. The effect is that any producer owned by a foreign broadcaster will still be treated as an independent producer in the UK. This resolves a controversial problem concerning Endemol, the major UK producer that devised "Big Brother". The company was bought by Telefonica, the Spanish broadcaster, and so according to the previous law no longer qualified as an independent producer. The order also provides a new definition of a UK broadcaster for this purpose; this is any broadcaster who provides a television service intended for reception in, or in any area in, the UK, whether or not the service is also intended for reception elsewhere.

The second change relates to the time at which an independent producer must qualify as such. According to the previous law, this had been the time at which the programme was made, which was interpreted as the date on which it was transmitted. This interpretation caused problems if a programme was commissioned from an independent producer who was subsequently taken over by a broadcaster. Under the new law, the relevant date becomes the date at which the programme is commissioned, so long as the commissioning is in good faith in the expectation that the producer will still be independent when the programme is made, and that the programme is made within two years of the commission.

The order came into effect on 3 July 2003.

The Broadcasting (Independent Productions) (Amendment) Order 2003, Statutory Instrument 2003 No. 1672

http://www.hmso.gov.uk/si/si2003/20031672.htm

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