[ES] Regulation on Broadcasters' Financing of European and Spanish Films

IRIS 2004-8:1/11

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The Royal Decree 1652/2004 of 9 July sets out a Regulation that provides for the mandatory investment by television programmers in the pre-financing of European and Spanish cinematographic and television films. This obligation was already included in Law 22/1999 (which amended Law 25/1994 that incorporated into Spanish law the "Television Without Frontiers" Directive see IRIS 1999-7: 10 and also IRIS 2001-8: 13), but was difficult to apply in practice.

The newly-approved regulation, which is applicable to television operators that include in their programming feature films of current production, i.e. not older than seven years, aims to clarify the obligation and facilitate the application of the existing rules, which have up to now not been applied. It specifies how to calculate the 5% of the television broadcaster's operating income obtained in the previous year, which is the amount that broadcasters are obliged to invest in financing the film industry. The income to be taken into account for the purposes of calculation is all kinds of income obtained from the programming and exploitation of the TV channels which give rise to the obligation to invest (including advertising income, membership fees and public subsidies, if any). The regulation sets out detailed procedures on information and control to render the said obligation effective. The amount to be invested can fund fiction films, documentaries or animation, long and short films and television films (those audiovisual works of similar characteristics to cinematographic feature films, i.e. works of a duration exceeding 60 minutes, whose commercial exploitation does not include theatrical exhibition), but not TV series. 60% of the investment shall be dedicated to Spanish cinema.

The new regulation has satisfied producers, directors and actors, as well as distributors and exhibitors, but it has been criticized by television broadcasters, because TV series are excluded from the benefits of such funding, and because the sanction for not complying with the rules may, in some cases, result in the loss of the broadcaster's license.

Statutory Instrument 1652/2004 of 9 July 2004 regulating the mandatory investment by television programmers in the pre-financing of European and Spanish cinematographic and television films

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