

[DE] Film Support Act Amendment

IRIS 2008-5:1/8

*Nicola Lamprecht-Weißenborn
Cologne Media Law Research Centre*

On 5 March, the *Bundesbeauftragte für Kultur und Medien* (Federal Government Minister for Culture and Media - BKM) tabled a preliminary draft amendment to the *Filmförderungsgesetz* (Film Support Act - FFG) (see IRIS 2004-1: 10 and IRIS 2003-5: 14). The amendment was drafted following a round table meeting held in December 2007 between representatives of the film industry (associations of producers, cinemas, distributors and authors), *Bundestag* members, representatives of the *Länder*, the *Filmförderungsanstalt* (Film Support Institute) and regional film support bodies, who attended at the invitation of the BKM. Interested parties had until 18 March 2008 to submit comments on the preliminary draft.

The FFG regulates film aid at the national level through the *Filmförderungsanstalt* (FFA). The amended Act contains significant changes in terms of the blocking periods for supported films, for example. For instance, exploitation by on-demand services will be permitted after six months (the same as for video and DVD) rather than 12. The blocking period for pay-TV will be shortened from 18 to 12 months and for free-to-air TV from 24 to 18 months after the film is first shown in cinemas.

Furthermore, a number of changes to the criteria and extent of film aid are planned. Regarding film development support (reference film aid), for example, films with low production costs (under EUR 1 million) will in future be treated the same as children's films and producers' first films. However, the decision as to whether to award grants will also be dependent on additional conditions being met (concerning limits on exploitation by TV companies and appropriate cinema exploitation). Significant changes are also made to development support for short films (reference film aid). For project films, aid will only be granted in future (in the form of partly repayable interest-free loans of up to EUR 1 million) if the amount of aid is reasonably proportionate to the expected production costs and appears justified in an overall assessment process. Minimum share quotas for co-production aid will be abolished. Grants for screenplay authors will in future be worth up to EUR 30,000 (or EUR 50,000 in special cases). So-called "treatments" (abridged versions of an actual screenplay) will also be eligible for aid of up to EUR 10,000.

The film tax paid by cinemas and the video industry (including Video-on-Demand services) to finance film aid is retained under the new draft, although it is linked to a minimum net turnover of EUR 50,000 for the video industry. Television companies remain obliged to contribute in accordance with agreements with the FFA (see IRIS 2008-2: 9). The same will apply to so-called "programme marketing companies", i.e. companies which offer digital subscription-based film services combining individual channels of their choice.

A new distribution formula is proposed for the use of funds. For example, proportionately less funding will be available for film development aid, while a higher proportion will be used for sales promotion.

A final draft should be presented to the *Bundestag* this summer; the new FFG is expected to enter into force on 1 January 2009.

Vorentwurf zur FFG-Novelle

http://www.bundesregierung.de/nn_23334/Content/DE/Artikel/2008/03/2008-03-05-novellierung-filmfoerderungsgesetz.html

Preliminary draft amendment to the FFG

