[DE] ARD and Producers' Alliance Agree Cooperation Guidelines

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In December 2009, the *Arbeitsgemeinschaft der öffentlich-rechtlichen Rundfunkanstalten Deutschlands* (association of German public service broadcasters - ARD) and the *Allianz Deutscher Produzenten Film & Fernsehen e. V.* (alliance of German film and television producers) agreed a set of guidelines for cooperation in relation to commissioned television productions.

One of the provisions of the agreement is that, as well as the standard model whereby commissioned productions are fully financed by the broadcaster, the model of co-financing by producers should be strengthened. Under the co-financing model, the broadcaster only receives a limited proportion of the rights, depending on its share of the costs and contractual conditions, which are negotiated on a case-by-case basis.

In addition, the guidelines stipulate that producers should receive a 50% share of all the net proceeds from foreign exploitation of productions, as well as domestic pay-TV, cinema, DVD and on-demand services.

If the broadcasters do not use their rights to a production within a five-year period, the producer is entitled to exploit those rights, but must give half the proceeds from such "self-exploitation" to the commissioning broadcaster, who retains non-exclusive broadcasting rights.

With regard to light entertainment programmes, the economic rights to a particular programme format are held by the party that bears the related development costs. Here also, it will be possible to share the proceeds, depending on the proportion of the costs borne by each party.

A clearing house composed of two representatives of each party will be established to settle disputes concerning the agreed guidelines.

The agreement is based on the statement of the *Länder* concerning Art. 6 of the *Rundfunkstaatsvertrag* (Inter-State Broadcasting Agreement), which was included in the *12. Rundfunkänderungsstaatsvertrag* (12th amendment to the Inter-State Broadcasting Agreement). In this statement, the *Länder* urge public service broadcasters to see that clear commitments are made to ensure "balanced contractual conditions and the fair distribution of exploitation rights" in the field of

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film and television productions.

"Self-exploitation" rights apply to all productions made after 1 March 2008. The remaining guidelines concern productions made after 1 January 2010. The guidelines will initially apply until 31 December 2013.

Eckpunkte für ausgewogene Vertragsbedingungen bei Produktionen von Mitgliedern der Allianz Deutscher Produzenten - Film & Fernsehen im Auftrag der ARD-Landesrundfunkanstalten in der Schlussfassung vom 8. Dezember 2009

http://www.produzentenallianz.de/fileadmin/data/dokumente/Offizielle_Dokumente/091208-ARD_PA_Eckpunkte_Schlussfassung.pdf

Guidelines on balanced contractual conditions for productions by members of the Allianz Deutscher Produzenten Film & Fernsehen e. V. (alliance of German film and television producers) commissioned by ARD members, final version, 8 December 2009

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