

[AT] More Flexible Blocking Periods in Film Aid Act

IRIS 2010-4:1/6

Harald Karl
Pepelnik & Karl Sollicitors, Vienna

The Austrian *Bundesministerium für Unterricht, Kunst und Kultur* (Federal Ministry for Education, Art and Culture - BMUKK) has distributed a draft amendment to the *Filmförderungsgesetz* (Film Aid Act) for evaluation (evaluation deadline: 15 March 2010).

The most important change concerns the flexibility of blocking periods. In order to protect the different stages of exploitation, the draft prevents film producers from exploiting or allowing the exploitation of films or parts thereof during blocking periods (starting with their release in cinemas) on picture carriers in Austria or of German-language versions abroad, on television or via other media. These blocking periods, which are closely regulated and staggered, impose very tight restrictions on exploitation by film producers. In principle, for example, film producers must wait until six months after a film is released in cinemas before exploiting it on picture carriers, 18 months before allowing it to be broadcast on pay-TV and 24 months before it can be shown on free-to-air television. Applications for shorter blocking periods can be made in exceptional circumstances. Anyone who breaches the blocking periods may have to pay back any aid they received.

The blocking period system will be retained in the future, although according to the draft amendment, the blocking periods will no longer be laid down in the Film Aid Act, but in the aid guidelines, taking into account current developments and the best possible means of exploiting the film for each type of exploitation. The aid guidelines are adopted by the board of the Austrian Film Institute (ÖFI). This system is meant to ensure that exploitation needs can be considered more flexibly in future. As the BMUKK has already announced, there are plans to shorten the blocking periods in the aid guidelines. If the film producer submits a reasoned request, the periods may also be shortened even further in the future. It remains to be seen how the ÖFI board will make use of this regulatory freedom in practice.

As well as this amendment, there are plans to add an extra member to the ÖFI board, to be nominated by the BMUKK, in order to increase the representation of artistic aspects. A further amendment concerns the Austrian *Filmrat* (Film Council), which was set up in 2004 as an advisory body (comprising representatives of politics and the film industry) to advise at least once a year on fundamental film policy issues and film aid, and submit recommendations (see

IRIS 2005-3:5). According to the explanations accompanying the draft amendment, the Film Council has not served any purpose and will therefore be abolished.

Entwurf zum Bundesgesetz, mit dem das Bundesgesetz vom 25. November 1980 über die Förderung des österreichischen Films (Filmförderungsgesetz) geändert wird

http://www.bmukk.gv.at/medienpool/18946/ffg_nov2010_entw.pdf

Draft Federal Act amending the Federal Act of 25 November 1980 on Austrian film aid

