[DE] ARD and Producers' Alliance Agree Cooperation Guidelines

IRIS 2013-6:1/14

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On 10 May 2013, the Arbeitsgemeinschaft der öffentlich-rechtlichen Rundfunkanstalten der Bundesrepublik Deutschland (association of German public service broadcasters - ARD) and the Allianz Deutscher Produzenten - Film & Fernsehen e.V. (alliance of German film and television producers - Produzentenallianz) agreed a set of cooperation guidelines for fully financed commissioned documentary productions (see IRIS 2010-2/14; IRIS 2010-10/25). Both parties believe that the guidelines considerably improve contractual conditions for producers. The guidelines are based on the agreement concluded between the Produzentenallianz and Zweites Deutsches Fernsehen (ZDF) in October 2012 (see IRIS 2012-10/10).

The guidelines contain the following provisions:

- Producers will receive a 16% share in the gross proceeds from foreign, pay-TV, cinema and DVD sales. Synchronisation costs and a 35% lump sum for processing will be deducted from the gross proceeds. Details on the distribution of proceeds from on-demand services are yet to be agreed.

- Exploitation rights that are not used by the broadcaster concerned within five years can be transferred back to the producer if it can show that it can exploit the production. In such cases, the broadcaster retains non-exclusive broadcasting and clip rights. Clip rights allow broadcasters to use and exploit the production as often as they like by including clips in other productions. The rule applies retrospectively to all productions broadcast for the first time since 1 July 2011. Outside of German-speaking territories, producers can also exploit productions before the five-year deadline if they can show that they can exploit them. With both types of exploitation by producers, the broadcasters receive a share of the proceeds.

- Options for claiming production costs have been improved in numerous ways for producers. For example, overheads allowances have been increased and new job descriptions and positions included in the estimated overall costs (e.g. casting costs or camera assistants).

- If material or formats have been developed by a producer and shared with the broadcasters, the production must be carried out with the producer concerned

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(producer tie-up).

- Disputes over the application of the guidelines may be referred to the joint clearing house previously set up.

The guidelines apply to complete productions lasting 15 minutes or longer.

Apart from the retrospective application of the clause on producer exploitation, the guidelines apply to contractual cooperation from 1 March 2013 onwards. They are due to expire on 30 June 2016. The ARD and Produzentenallianz will meet again one year before this deadline to negotiate the renewal and possible amendment of the guidelines.

Eckpunkte für die vertragliche Zusammenarbeit zwischen den Mitgliedern der Allianz Deutscher Produzenten - Film & Fernsehen e.V. und den ARD-Landesrundfunkanstalten

http://www.produzentenallianz.de/die-produzentenallianz/ergebnisse/inhalte-ergebnisse/terms-of-trade-eckpunkte-fuer-die-vertragliche-zusammenarbeit-zwischen-den-mitgliedern-der-allianz-deutscher-produzenten-film-fernsehen-ev-und-den-ard-landesrundfunkanstalten.html

Guidelines for contractual cooperation between the members of the Allianz Deutscher Produzenten - Film & Fernsehen e.V. (alliance of German film and television producers) and the ARD members

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