[PT] Amendment to the Cinema Act allows operators to pay less

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Early this year, the Portuguese parliament approved the first amendment to the Cinema and Audiovisual Act (no. 55/2012, dated 6 September 2012) (see IRIS 2012-7/33 and IRIS 2013-4/26), which establishes reduced fees for operators. The act proposal was intended to provide more funding to this field of activity through the collection of a fee from pay-TV operators (namely, Zon/Optimus, MEO/PT, Cabovisão and Vodafone), an amount which is directed to the Institute of Cinema and Audiovisual (ICA - Instituto do Cinema e do Audiovisual) for later investment in the sector. However, at the beginning of this year, their debt was around EUR 11 million of the fee correspondent to the preceding year, 2013. So, this government proposal to amend the Cinema Act was mostly due to non-payment of fees from pay-TV providers. The decision was aimed at reverting the situation by altering the conditions of fee collection and proposing a different scheme for fee collection.

According to this amendment (Act no. 28/2014, of 19 May 2014), operators will pay less than before. It sets an annual fee of EUR 1.75 for each subscriber, which represents a significant reduction from what was established by previous rules (of a minimal amount of EUR 3.50 increased up to a maximum of EUR 5). In practice, the amount paid directly to ICA is lower when compared to what was defined by the initial version of the Cinema Act and the rest of it comes from fees which operators pay to the Telecommunications regulatory body, ANACOM (Autoridade Nacional de Comunicações). Operators will pay EUR 1.75 per year for each pay-TV subscriber until 2019 and ANACOM will pay the remaining EUR 1.75 (totalling the EUR 3.50). After this period, operators will pay EUR 2 while ANACOM will pay EUR 1.50 euro.

There is, however, an exception to this scheme, as ANACOM will pay more in 2014. In fact, a transitory provision establishes that “in 2014, the amount to be transferred to ICA, because of the net income of ANACOM (…) is equivalent to the total amount due in that year by operators of subscription television services” (Article 4 of Law no. 28/2014). Summing up, cinema receives from the telecommunications sector EUR 3.50 for each pay-TV subscriber in 2014.

In short, the main goal of this amendment to the 2012 law was to solve the problem of delays in the payment of fees (which occurred in 2013, and also

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caused severe damage in the opening of public support programs for the sector) and to contribute to an effective funding of cinema production with public support through ICA.

Lei n.º 28/2014, de 19 de maio de 2014 - Altera a lei da arte do cinema e das atividades cinematográficas e audiovisuais, aprovada pela Lei n.º 55/2012, de 6 de setembro. Publicada no Diário da República n.º 95, 1.ª Série, de 19-05-2014

http://www.anacom.pt/render.jsp?contentId=1241712

Act no. 28/2014, of 19 May 2014 - First amendment to the Law of cinema and cinematographic and audiovisual activities no. 55/2012. Published in the official news bulletin "Diário da República" no. 95, 1st series, dated 19 May 2014

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