[DE] ARD publishes first report on programme producers

IRIS 2016-1:1/7

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The Arbeitsgemeinschaft der öffentlich-rechtlichen Rundfunkanstalten der Bundesrepublik Deutschland (German Association of Public Service Broadcasters - ARD) has published a report on programme producers for the first time. It covers the year 2014, in which the ARD says it commissioned films, documentaries and entertainment programmes worth more than EUR 707.1 million. The aim of the report is to ensure more transparency because the ARD, as a public service broadcaster, is also funded by licence fees collected from the public. Writing in the foreword, the ARD's Chairman Lutz Marmo and its Director of Film Production Dr Karola Wille state: "Most of the money for producing the programmes comes from contributions made by everyone, so we want to make the way we use the money entrusted to us as transparent as possible". The report contains details of commissioned productions, co-productions and mixed productions directly commissioned by the regional broadcasters that make up the ARD and "ARD Degeto". The latter is a wholly owned ARD subsidiary and its shareholders are the nine regional ARD broadcasters and their advertising subsidiaries.

The figures in the report show that around 70 per cent of the ARD and Degeto contracts, worth a total of EUR 493.5 million, were awarded to independent producers. Lutz Marmor added: "Two-thirds of the contracts go to independent producers, whose diverse creativity is indispensable for the quality of our programmes. Working with both small and large production companies enables exciting programme material to be made for the ARD, and especially our audience". The report therefore draws a distinction between whether a production was made by a dependent or independent film and/or TV producer. A company is classified as dependent if the regional broadcaster concerned has a direct or indirect stake in it (for example, the DREFA media group in the case of MDR or the Studio Hamburg Group in the case of NDR). For Degeto, companies in which the regional broadcasters own shares are considered dependent. On the other hand, according to the report's definition contracts are to be considered awarded to independent producers if the regional broadcaster concerned has neither a direct nor an indirect financial involvement in them.

There are no legal provisions governing the award to production companies of regional broadcasters' commissioned productions and co-productions. According to the judgment of the Court of Justice of the European Union of 13 December 2007 (Case C-337/06, see IRIS 2007-9:3/2), public service broadcasters constitute

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contracting authorities within the meaning of public procurement law, but the rule in section 100a(2)(1) of the Gesetz gegen Wettbewerbsbeschränkungen (Restraints of Trade Act - GWB) expressly excludes audiovisual services, such as the purchase, development, production or co-production of programmes, from the application of public procurement laws. The core area of the public service broadcasters' business operations thus does not fall within the ambit of formal public procurement law, but the public service broadcasters have reached an internal agreement on the award of commissioned productions and co-productions. The aim of these arrangements is to ensure efficiency in the award of contracts and transparency in the procurement process.

Produzentenbericht der ARD

http://www.ard.de/download/2136062/ARD_Produzentenbericht.pdf

ARD report on programme producers

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