[DE] ARD and Producers' Alliance negotiate "Framework Agreement 2.0"

IRIS 2016-3:1/9

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The new Eckpunktevereinbarung 2.0 ("Framework Agreement 2.0") between the regional broadcasters forming the ARD network and the Allianz Deutscher Produzenten - Film & Fernsehen (Alliance of German Producers - Film & Television, or Producers' Alliance) concerns balanced contract terms and conditions and the fair distribution of exploitation rights between the public service broadcaster and TV programme producers. In this agreement, which came into force on 1 January 2016, the ARD has undertaken to adhere to certain terms and conditions with regard to television productions it has commissioned in the Fiction, Documentary and Entertainment genres. In particular, the agreement contains detailed new rules on "calculating prices" and "rights". For example, for the first time producers can now also assert rights in their works in the case of partially financed TV projects, and exploits those rights themselves from the outset.

As far as the calculation of costs is concerned, the ARD did not recognise important job designations like Producer or Head Author for a TV production in the past, nor did the broadcaster pay general costs, for example for a project-related legal consultation or archive work. The ARD will now notify these and comparable additional costs to the Kommission zur Ermittlung des Finanzbedarfs der Rundfunkanstalten (Commission for Determining the Financial Requirements of Broadcasters - KEF) for the next TV licence period, which begins in 2017. These costs are still subject to approval by the KEF.

Furthermore, for the first time in the history of commissioned productions in Germany producers can now acquire and also exploit their own rights by co-financing TV programme items. To this end, the parties to the agreement have developed a "layered model", which will enable the fair distribution of exploitation rights by means of a uniform catalogue. Producers were also able to negotiate a "success bonus" for their works: and the agreement contains a systematic success-based model, according to which the broadcaster will pay a bonus to honour awards and nominations for the best works, also taking account of the number of repeats of the TV item on the various ARD platforms. The ARD accordingly intends to award an annual amount of EUR 3.2 million in success-based bonuses to individual producers.

Other provisions of the "Framework Agreement 2.0" relate to revenue sharing and the exploitation of unused rights by producers, the creation of an arbitration

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body, and binding rules on invitations to pitch for contracts and on selection procedures. For example, the ARD will in future also meet a request for the reimbursement of expenses incurred when a producer pitches for but is not awarded a contract. Seven rules for a good pitch are also provided: limitation of number of participants, transparent procedure, concrete specifications, secure funding and a guaranteed broadcast slot, reimbursement of pitching costs, intellectual property protection and uniform continuous assistance.

Eckpunkte für ausgewogene Vertragsbedingungen und eine faire Aufteilung der Verwertungsrechte bei Produktionen für die Genres Fiktion, Unterhaltung und Dokumentation

http://www.ard.de/download/1016420/Eckpunkte_fuer_ausgewogene_Vertragsbedingungen_bei_Produktionen_von_Mitgliedern_der_Allianz_Deutscher_Produzenten___Film___Fernsehen_im_Auftrag_der_ARD_Landesrundfunkanstalten.pdf

Guidelines for balanced contractual terms and conditions and the fair distribution of exploitation rights in the case of productions for the genres Fiction, Documentary and Entertainment

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