[CH] Promotion of diversity of film offers on the Internet

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The Swiss Confederation's cinematographic policy aims to encourage the creation of films as well as to enhance the diversity and quality of what is on offer. Because of the country's linguistic and cultural pluralism, the cinema market in Switzerland is fragmented; it is not big enough to develop in a standard market economy. Measures aimed at promoting cinematographic diversity therefore ensure that a variety of films are on offer throughout the country. To achieve this, Article 19 (2) of the Cinema Act (Loi sur le Cinéma - LCin) requires those companies wishing to screen a film for the first time in a cinema theatre to acquire the rights for all language versions shown in Switzerland. Under this clause guaranteeing diversity, the films are available in all the country's linguistic regions, thereby preventing the fragmentation of the cinema market in Switzerland and preventing the supply coming solely from sources in the neighbouring country concerned.

Until now, however, the obligation only applied to screenings in cinema theatres. Films nowadays are now largely viewed on online offers available on the Internet (VoD), significantly reducing the effectiveness of the clause guaranteeing diversity. Swiss distributors are in fact often unable to acquire rights for use outside cinema theatres covering all the linguistic regions. This renders the diversity of the offer in the country more fragile, and to remedy the situation the addition of Article 19 (2) of the LCin now extends the clause guaranteeing diversity to include the new ways of watching films.

Since 1 January 2016, then, a company may only show a film, whether in a cinema theatre or in any other way, if it holds rights covering the entire territory of Switzerland for all the language versions used in the country. Thus the change in the regulations makes it possible to adapt the legal framework to technological developments; it applies to both films on physical media (DVDs) and non-linear digital use (VoD). The rule applies to Swiss or international purchasers of the rights to show films intended for the cinema and shown in Switzerland. As a result, these rights can no longer be divided between a number of holders. On the other hand, the single distribution clause does not require the joint acquisition of rights to show a film both in cinema theatres and by non-linear means, nor does it apply to the broadcasting of television programmes.

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Furthermore, starting on 1 January 2017, companies which hold rights or show films other than in cinema theatres will be required to notify the Federal Statistics Office each year of their operating results for each linguistic version (Article 24 (3)bis of the LCin). This obligation applies to films lasting more than 60 minutes which are designed for cinematographic use, and also applies to companies showing films on digital platforms.

Implementation of the clause guaranteeing diversity will be monitored constantly by the Federal Office of Culture. It is important to take account of the rapid evolution in the ways in which films can be shown by digital means, in order to ensure that the legal provisions do indeed make it possible to achieve the desired aims.

Loi fédérale sur la culture et la production cinématographique (loi sur le cinéma)

https://www.admin.ch/opc/fr/classified-compilation/20001389/index.html

Federal law on culture and cinematographic production (Cinema Act - LCin)

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