[IT] Three new pieces of legislation on cinema and audiovisual media services

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On 2 October 2017, the Italian Government released the draft of three legislative decrees implementing the reform of the legal framework on cinema and audiovisual services started last year (see IRIS 2017-1/23). The new decrees concern the promotion of European and Italian works by audiovisual media service providers; the protection of minors; and employment in the audiovisual sector. Further to the government's preliminary approval, the draft decrees will be submitted to parliamentary committees, the Council of State and the State-Regions Conference in order to seek relevant opinions; the deadline for the final approval is 11 December 2017.

First, the draft decree on the promotion of European and Italian works provides for a progressive increase in the content and investment quotas that all TV broadcasters are required to reserve for European and Italian works. Also, on-demand service providers are required to comply with specific obligations. In relation to content quotas, the percentage of the content quotas in relation to EU works for both national broadcasters and the public service broadcaster, which for the year 2018 reaches 50,01% , will be increased to 55% for the year 2019 and 60% from 2020 on. As for on-demand service providers, 30% of their catalogue has to be recent (that is to say, from the last five years) EU-content. Regarding works of Italian original expression produced anywhere, it is provided that from 2019 on, national broadcasters must reserve a sub-quota of one third of the reserved quotas for EU works, while the relevant sub-quota for the public service broadcaster reaches half of the above-mentioned quotas. On-demand service providers are required to reserve a sub-quota of not less than half of the percentage of 30% mentioned above (that is to say, no less than 15% of the catalogue).

The decree also provides that, on a weekly basis, national broadcasters have to devote 6% of prime time TV (from 6 p.m. to 11 p.m.) to cinema, fiction, animation and/or original documentaries works of Italian original expression produced anywhere. In relation to the public service broadcaster, this percentage is increased to 12%, half of which has to be reserved for the cinema.

All quotas and sub-quotas are calculated net of TV news, sport, quiz, advertising, teletext and teleshopping programmes.

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In relation to investment quotas, and in accordance with the decree, 10% of the annual net revenues for 2018 (to be devoted entirely to independent producers) must be reserved by commercial broadcasters to pre-purchase, purchase or produce EU works; this percentage increases to 12.5% for 2019 (5/6 of which for independent producers) and to 15% from 2020 on (5/6 of which for independent producers). As for the public service broadcaster, 15% of the annual total revenues for 2018 (to be devoted entirely to independent producers) reserved for the same above-mentioned purposes will be increased to 18.5% for 2019 (5/6 of which for independent producers) and to 20% from 2020 on (5/6 of which for independent producers).

Furthermore, commercial broadcasters must devote a sub-quota of 3.5% of their annual net revenues to cinematographic works of Italian original expression produced anywhere by independent producers for 2018, increasing to 4% for 2019 and to 4.5% from 2020 on. As far as the public service broadcaster is concerned, the respective initial sub-quota of 4% of the annual total revenues for 2018 is increased to 4.5% for 2019 and 5% from 2020 on. The decree stipulates that the public service broadcaster's investment in animated works for children's education produced by independent producers should be equal to the sub-quota of 5% of the quota provided for EU works.

On-demand service providers are required to invest 20% of their annual net revenues in Italy in EU works of independent producers, particularly recent ones (that is to say, released in the last five years); a sub-quota of not less than half of such a percentage (that is to say, 10% of the annual net revenues generated in Italy) must be devoted to works of Italian original expression produced anywhere. It is also provided that from January 2019, such a quota must also be met by providers who have the editorial responsibility for offers targeting Italian consumers, even if based abroad. The sanctions for non-compliance, significantly toughened by the decree, range from a minimum of EUR 100,000 to a maximum of EUR 5 million, or up to 2% of annual revenues.

Secondly, the draft decree on the protection of minors enhances the role of providers, who are requested to classify the works appropriately, taking into account the age of the recipient public; amends the provisions on censorship by removing the absolute prohibition of works' release in cinemas as well as releases conditioned to cuts or amendments; and amends the current works' classification system.

Finally, the draft decree on employment regulates employment relationships in the audiovisual and cinematographic environment, consistent with the provisions of the recent reform of the legal framework on employment deriving from the so called "Jobs Act". The decree introduces a national classification of artistic and technical professions into the audiovisual and cinematographic sector; including the production of audiovisual works in those sectors that benefit from derogations

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with respect to the maximum number of fixed-term contracts.

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