[IT] New legislation on promotion of European and Italian works by audiovisual media service providers released by the Italian Government

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On 28 December 2017, the final version of the legislative decree implementing the reform of the legal framework on cinema and audiovisual services with respect to the promotion of European and Italian works (Legislative Decree No. 204 of 7 December 2017) was published on the Official Journal (the draft of this decree was included in IRIS 2017-10/24). Yet, some significant amendments have been introduced to the relevant provisions, especially with regard to the decree governing the promotion of European works, which provides for a progressive increase of the content and investment quotas.

As regards the content quotas binding on national broadcasters and the public service broadcaster to promote EU works, this increase has been made more gradual. This percentage will be increased to 53% for 2019, to 56% for 2020 and to 60% from 2021 on. No increase will apply in 2018, unlike the original provisions. The final version of the decree also confirms the sub-quota of one third of the quotas for EU works (half thereof for the public service broadcaster) to be reserved for works of Italian original expression produced anywhere from 2019 on. In addition to the above, national broadcasters shall reserve, on a weekly basis, 6% of the Prime Time for cinema, fiction, animation and/or original documentaries of Italian original expression produced anywhere. The percentage has been raised to 12% for the public service broadcaster.

With respect to on-demand service providers, the decree confirms that a quota amounting to 30% of the catalogue has to be reserved for recent EU works and a sub-quota of 15% of the catalogue to content of Italian original expression produced anywhere.

In addition to content quotas, the decree regulates investment quotas. The final version of the text confirms that 10% of the annual net revenues for 2018 (to be devoted entirely to independent producers) has to be reserved by commercial broadcasters for the pre-purchase, purchase or production of EU works; the same percentage is increased to 12.5% for 2019 (five sixths of which for independent producers) and to 15% from 2020 on (five sixths of which for independent producers).

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A significant amendment affects the sub-quota that commercial broadcasters are required to reserve for cinematographic works of Italian original expression produced anywhere by independent producers. The said percentage has been amended and now amounts to 3.2% (instead of 3.5%) of the annual net revenues. This is increased to 3.5% for 2019, to 4% for 2020 and to 4.5% from 2021 on.

Other important changes have been made with respect to the percentage of the relevant sub-quotas for the public service broadcaster. In fact, on the one hand the decree confirms that 15% of the annual total revenues for 2018 has to be devoted to the pre-purchase, purchase or production of EU works; and this percentage is increased to 18.5% for 2019 (five sixths of which for independent producers) and to 20% from 2020 on (five sixths of which for independent producers). On the other hand, the sub-quota reserved for works of Italian original expression produced anywhere amounts to 3.6% for the year 2018, while it is increased to 4% for 2019, to 4.5% for 2020 and to 5% from 2021 on.

For on-demand service providers, an investment quota of 20% of the annual net revenues in Italy has to be reserved for EU works of independent producers, particularly recent ones (that is, released in the last five years), while a sub-quota of not less than half of such a percentage (that is, 10% of the annual net revenues made in Italy) is provided for works of Italian original expression produced anywhere. The final version of the decree also stipulates that from January 2019, the said quota shall be binding on providers having the editorial responsibility for offers targeting Italian consumers, even if based abroad. Finally, the decree, in accordance with the draft version, establishes sanctions ranging from EUR 100 000 to EUR 5 000 000; however, the maximum has now been reduced from 2% to 1% of the annual revenues if the same exceeds the threshold of EUR 5 000 000.

Decreto legislativo 7 dicembre 2017, n. 204 - Riforma delle disposizioni legislative in materia di promozione delle opere europee e italiane da parte dei fornitori di servizi di media audiovisivi, a norma dell'articolo 34 della legge 14 novembre 2016, n. 220

http://www.beniculturali.it/mibac/multimedia/MiBAC/documents/1513686295987_d_lgs_7_dicembre_2017_ProduttoriIndipendenti.pdf

Legislative Decree no. 204 of 7 December 2017 - Reform of the legislative provisions on the promotion of European and Italian works by audiovisual media service providers, pursuant to Article 34 of the Law of 14 November 2016, n. 220

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