

[DE] Concession in longstanding German film aid dispute: Netflix will pay film levy

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According to numerous media reports based on information provided by the Filmförderanstalt (German Film Board - FFA), the US streaming service Netflix, which has been providing services aimed at German viewers since 2014, has announced that it intends to start paying the film levy required under German law in September 2019. This could mark the end of a dispute that has lasted several years concerning the company's obligations under the German Filmförderungsgesetz (Law on the funding of film production - FFG).

The FFA has the task of supporting the German film industry and the creative and artistic quality of German film-making. It is largely financed through the collection of a film levy from a variety of sources. As well as cinemas, video distributors, television broadcasters and programme marketers, Article 153 FFG requires video-on-demand services such as Netflix to pay the levy if their revenue in Germany exceeds EUR 500 000. This applies not only to providers with headquarters or subsidiaries in Germany, but also to providers of German-language video-on-demand services in relation to revenue generated in Germany. An application contesting these rules, submitted by Netflix to the General Court of the European Union last year, was rejected. In a judgment of 16 May 2018 (Case T-818/16), the General Court found inadmissible Netflix's application for the annulment of the European Commission's 2016 decision regarding the rules on foreign providers (see IRIS 2018-6/100). Netflix had argued that the FFG violated the free movement of services, freedom of establishment and EU aid and tax regulations.

Netflix's apparent willingness to pay the levy suggests that it has decided not to take further legal action. According to Article 153(3) FFG, the film levy is worth 1.8% of the first EUR 20 million of annual revenue generated in Germany and 2.5% of annual revenue above EUR 20 million. Netflix reported global revenue of around USD 15 billion in 2018. However, it does not publish figures for individual (national) markets, so it is difficult to calculate how much it will owe. The sum that Netflix will ultimately pay therefore remains to be seen.

"Netflix unterwirft sich dem deutschen Gesetz", *welt.de*, 14. Februar 2019

<https://www.welt.de/kultur/kino/article188798337/Netflix-unterwirft-sich-dem->

[deutschen-Gesetz.html](#)

Welt.de, 14 February 2019

