

[CH] Switzerland adopts new obligations for audiovisual services

IRIS 2021-9:1/3

Matthias Bürcher
Federal Office of Culture

After 18 months of deliberation, the Swiss Parliament has adopted a revision of the *Filmgesetz* (Federal Act on Film Production and Film Culture - FiG) on 1 October 2021. The law introduces a quota for European works for non-linear services, as well as an investment obligation for both linear and non-linear services. The regulation closely follows the framework of the Audiovisual Media Services Directive (AVMSD) of the European Union. The volume of investment to films and audiovisual content is expected to increase by CHF 18 million per year.

Non-linear services must include in their offer at least 30% European films (quota) and assure that these titles are labelled and visible (prominence). The obligation also concerns services outside Switzerland if their target public includes Switzerland. Exceptions are made for services with low turnover, showing few films or special interest programs. The 50% quota for linear television is still valid and regulated in the *Bundesgesetz über Radio und Fernsehen* (Federal Act on Radio and Television – RTVG).

Both non-linear and linear services must devote 4% of their turnover to the funding of Swiss films or official co-productions. The obligation concerns private broadcasters, foreign broadcasters with a publicity window to Switzerland, TVOD and SVOD platforms, as well as telecom services providing film content. The public service broadcaster SRG-SSR is not included, because its investment obligation is subject to a separate licence agreement with the government. Free services are not included, either. Exceptions are made for services with low turnover, showing few films or special interest programs. For linear services, the new investment obligation replaces the current obligation in the Radio and Television Act.

The funding will mostly go to Swiss films and official co-productions, which includes theatrical films, but also to narrative audiovisual productions, as long as they comply to the definition of film in the Film Act. The producer of the film must be independent from the service. The service can either buy the licences of existing films, commission or co-produce a film.

Alternatively, the service can invest in publicity for Swiss films and co-productions (up to CHF 500 000 per year), or support institutions that support films (regional

funds, festivals). If the service, within a timeframe of four years, does not invest less than 4%, then a subsidiary fee is due.

The services must apply to a public registry. Foreign services must indicate a mailing address in Switzerland and specify the responsible persons. The services must report annually on quota, turnover and investment activities. Online services must further communicate the number of views by title. This data can be published periodically. The communication obligation was already introduced in 2016.

The law is still subject to a possible referendum and is expected to be effective on 1 January 2023. The *Bundesamt für Kultur* (Federal Office of Culture - BAK) is charged to implement the law. A decree from the government will further detail the definitions of turnover, film scope, independence of the producer and the production, and investment types.

Filmgesetz - Änderung vom 1. Oktober 2021

<https://www.fedlex.admin.ch/eli/fga/2020/727/de>

Film Act - revision of 01 October 2021

