[DE] New German Film Support Act enters into force on 1 January 2022

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A new *Filmförderungsgesetz* (Film Support Act – FFG) entered into force in Germany on 1 January 2022. The new act renews the provisions of the 2017 FFG, which was valid from 2017 until 2021, and contains a number of amendments in response to changing market conditions. Adopted in accordance with the German system of regularly reviewing the film support system, the 2022 FFG only contains minor changes compared with the 2017 version and will remain in force until 31 December 2023.

Firstly, the act broadens the scope of responsibilities of the *Filmförderungsanstalt* (Film Support Agency – FFA). In addition to its existing tasks, the FFA will be required to ensure that film industry workers are employed under conditions that are both socially responsible and fair. It must also take into account the need to promote gender equality, the requirements of people with disabilities and diversity (Article 2 FFG 2022). For example, there will need to be an equal gender balance in its executive committee and its president or a vice-president must be female (Articles 12 and 15 FFG 2022). The FFA board of directors will also be able to issue directives granting derogations from the rules on exploitation windows for the secondary and further exploitation of supported films (Articles 53 to 55 FFG 2022).

New provisions have also been introduced in response to the pandemic, including clear rules on decision-making via videoconference and the effects of a force majeure. In the future, the board will be able, in cases of a force majeure, to grant exceptions to certain requirements for receiving support and individual payment conditions, subject to the agreement of the Federal Government Commissioner for Cultural and Media Affairs (Article 17 FFG 2022). Furthermore, in such cases, a film's initial release or continued exploitation in cinemas can now be replaced with a premiere on paid video-on-demand (VOD) services if the film cannot be shown in cinemas throughout the country for a considerable period of time. The cinema industry must be heavily involved in the exploitation of the film by paid VOD services until the end of the usual exploitation window (Article 55b FFG 2022). Exhibition reference funding can be used to keep cinemas in operation and for other measures designed to protect those that face, or are in imminent danger of facing, financial hardship as a result of force majeure (Article 143 FFG 2022). Finally, the FFA board can, in certain exceptional situations, reallocate funding if it

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appears necessary in order to avert or reduce damage caused by force majeure to the structure of the German film industry.

The 2022 FFG also contains new measures to protect the environment: project film funding and reference film funding will, in future, only be granted if effective measures are taken to protect ecological sustainability during the production process, the details of which will be set out in an FFA directive (Article 59a FFG 2022). Producers must also use a CO2 calculator to establish the greenhouse gas emissions caused by the production of their films (Article 67 FFG 2022).

Amendments have also been made in relation to the use of exhibition reference funding for advertising measures (Article 143 FFG 2022) and the size of the film levy imposed on pay-TV and programme marketing companies (Articles 156 and 156a FFG 2022). Funding for advertising measures will, in future, no longer be limited to films from EU member states, EER member states and Switzerland. The film levy for pay-TV providers will rise from 0.25% to 0.45% of net subscription revenue. Although the film levy for programme marketing companies in Germany, that market audiovisual content in return for a flat-rate payment, remains unchanged under a separate provision, it is increased to 2.5% of net subscription revenue if cinema films make up at least 90% of their business.

Finally, the concept of an “equal state” is introduced. According to Article 40 FFG 2022, an equal state is a non-member state that is treated the same as a member state under EU law in relation to film support. Since Switzerland, for example, as a non-EU member state, is already eligible to benefit from German film support, the new terminology does not change anything. However, this amendment creates the possibility for the United Kingdom, which has left the EU, to be treated as a member state if it signs a similar agreement.

Filmförderungsgesetz 2022

https://www.ffa.de/aid=1394.html?newsdetail=20211222-1351_filmfoerderungsgesetz-20221

2022 Film Support Act

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