



Film Act Consultation FQIO

Information session

FOC, Room Friedrich Dürrenmatt, and Webex

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Une version française de cette présentation est disponible sur le site web

Eine deutsche Version dieser Präsentation ist auf dem Website verfügbar

www.bak.admin.ch/cinema -> *Implementation of the amendment to the Film Act*

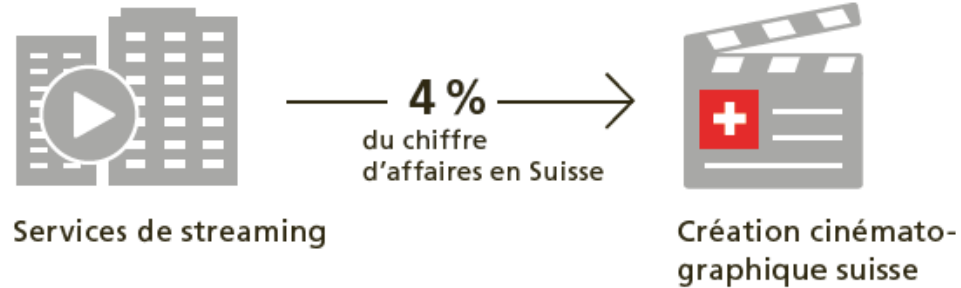


Revision of the Film Act

- Private TV services (so far) and streaming services (new) must invest 4% in Swiss filmmaking.
- Private TV services (so far) must offer 50%, streaming services (new) 30% of European films.
(European Directive AVMSD)

Les deux principales modifications de la loi sur le cinéma

Obligation d'investir



Quota de contenus européens





Legal provisions

- **FiA** Art. 24 a (quota), Art. 24 b-f (investment obligation), Art. 24 g-i (procedure)
- **FQIO**
 - Quota obligation (Chapter 2 Art. 6-8)
 - Investment obligation (Chapter 3 Art. 9-21)
 - Procedure and obligation to report (Chapter 4-5, Art. 22-37)
- **FiFV/OECin** Certificates of origin and coproduction recognitions (5th title, art. 106-114)
- **International** coproduction agreements
- **RTVA/RTVO** TV investment obligation (until 2023), TV quota obligation

Who is affected and how? Former legislation until 2023

	Television services	On-demand services
Registration	Yes (RTVA)	No
Obligation to report paid viewings	No	Yes
Quota	50% ("substantial proportion" RTVA) National + regional-language programmes	No
Investment obligation	4% (RTVA) From 1 million CHF income and >1 film	No

Who is affected and how? New legislation from 2024

	Television services	On-demand services
Registration	Yes (FiA)	Yes
Obligation to report paid viewings	No	Yes
Quota	50% ("substantial proportion" RTVA) National + regional-language programmes	30% and designation (FiA) From 2.5 million CHF income and 12 films Exception: Already reported to the EU
Investment obligation	4% (FiA) From 2.5 million CHF income and 12 films	4% (FiA) From 2.5 million CHF income and 12 films
Exceptions	Minority programme, takeover of third-party offer without changes (subsidiary)	

Television broadcasters vs. television services

- **Television broadcasters (RTVA)**
 - *Broadcaster*: natural or legal person bearing responsibility for the creation of programmes or for the compilation thereof into a programme service
- **Television service (FQIO)**
 - Television broadcasters and
 - Companies that transmit programmes of TV broadcasters on a linear basis or offer them on a delayed basis, i.e. for on-demand
- **On-demand services**
 - Companies that offer film catalogs on a non-linear basis
- **Not affected**
 - User-generated content (social networks)



What is considered a film?

A film is defined as any sequence of structured images, with or without a soundtrack, intended for reproduction, which when viewed, gives the impression of movement, irrespective of the technical procedure for shooting, recording or playback chosen. (FiA)

Eligible (positive catalog)	Not eligible (negative catalog)
Documentaries	Daily news
Feature films	Entertainment shows (talk show, reality show, docu-soap)
Animation films	Live or deferred transmissions
Experimental films	Video games
	Advertising
	Didactic films
	Human dignity, sexism, racism, violence, pornography

The term film includes all durations (also short films) and formats (also series)

Film duration and series formats

	Feature films	Series	Other films
Criterion	from 60 minutes	Season from 100 minutes	Animation from 5 minutes or film for theatrical or festival distribution
Threshold obligation	12 films or seasons		No
Quota	Yes	Yes	Optional
Investment	Yes	Yes	Yes



What is a European film (quota)?

- Swiss film
- Film from the European Union
- Film from a country of the European Convention on Television (1989)
- Film from a country of the European Convention on Co-Production (1992 and 2017)



Calculation of gross revenues

- Principle: gross revenues excluding the VAT tax

Legationsabrechnung
Datum der Kontoprüfung:
MST-Num:
ESTV-ID:

Siehe beachten: Die Liquidationsrechnung ist auf jeden Fall anzuhängen einzureichen, auch wenn keine Steuer zu zahlen ist.

5. UMSATZ (Zentrale Bilanz nachweislich auf dem Mehrerlösausschluss vom 12.02.2016):
Von Konzerten oder von Teilen der Rechnung des Konzertes als unmittelbares Ergebnis für kulturpolitische Übertragungen im schweizerischen Innenbereich (Art. 21a, 21b, 21c) oder für Kulturleistungen im schweizerischen Ausland (Art. 21d) zu leisten oder zu leisten sein (Art. 21, 21a bis 21d)
200

Abgaben
Für die Steuer zu leistende Leistungen (Art. 21a, 21b, 21c) von der Steuer befreit abzugeben an legitimierte Empfängerinnen und Empfänger (Art. 107 Abs. 1 bis 4)
Leistungen im Ausland (Ort der Leistung im Ausland)
200

Übertragung im Massnahmefall (Art. 21, 21a bis 21d) Form: (Wohnsitz)
200

Von der Steuer ausgenommenen Übertragungen (Art. 21f), für die nach Art. 22 nicht zu zahlen sind
200

Ergebnisänderungen wie Ertrag, Rücklage usw.
200

Direkter U.S. Wert des Ertrags, Abzug des Wertes der Vermögensgegenstände (Art. 21g)
200

Steuerbarer Gesamtertrag (Art. 21g bis 21h) (Art. 21g)
200

6. STEUERBEIHEBUNG

Steuer	Leistungen CHF ab 01.01.2016	Steuer CHF / % ab 01.01.2016	Leistungen CHF bis 31.12.2017	Steuer CHF / % bis 31.12.2017
Mehrwert	100	2,7%	101	2,7%
Rechtsanwaltschaft	100	2,7%	101	2,7%
Rechtsanwaltschaft	100	2,7%	101	2,7%
Rechtsanwaltschaft	100	2,7%	101	2,7%
Total geschätzte Steuer (Art. 301 bis 302)				388

Vorteile auf Material- und Dienstleistungsaufwand
200

Vorteile auf Fortwärtigkeiten und übrigen Betriebsaufwand
200

Vorteile auf unentgeltlichen gemachten Verwendungen (Art. 303, Eigenverbrauch (Art. 31))
200

Vorteile auf unentgeltlichen Nicht-Eigentümern, Spenderinnen, Touristenabgaben (Art. 33 Abs. 2)
200

Zu bezahlende Betrag
200

Guthaben der steuerpflichtigen Person
200

7. ANDERE MITTELFLÜSSE (Art. 18 Abs. 2)
Subventionen, durch Konzerte eingetragene Touristenabgaben, Ertragsanteile und Abrechnungsbeiträge (Art. 18)
200

Spenden, Zuschüsse, Schenkungen usw. (Art. 41)
200

Die Werte sind abschliessend zu prüfen. Die Angaben sind zu bestätigen. Name, Vor- und Nachname:
Unterschrift:
www.foc.ch

Exceptions

- Companies that operate networks: Takeover of film offer (proof)
- Companies that offer several offers and whose revenues originate for the most part from offers that do not include films: Revenue share (proof)
- Companies whose revenues originate for the most part from activities unconnected with the film offer: Revenue share (proof)

Which films are eligible for the investment obligation?

- Swiss film (proof: certificate of origin)
- Recognized cinema coproduction (proof: recognition)
 - Agreements with Italy, France, Germany, Austria, French Community of Belgium, Luxembourg, Canada, Mexico
 - European Convention on Co-Production (1992 or 2017)
- Recognized television coproduction (proof: recognition)
 - Agreements with Canada, Mexico, Belgium
 - European agreement under development



Independence of the production company and the film

Independent production company	Independent work
<ul style="list-style-type: none">• Ownership• Influence• Number of films $\leq 50\%$ produced for<ul style="list-style-type: none">• a single television service• a single on demand service• a single media company	<ul style="list-style-type: none">• Initiative for the project• Economic responsibility• Artistic responsibility <p>By an independent production company</p>
Professional organisation	Remaining rights must permit active exploitation
2 years of experience	

A commissioned film must be produced by an independent company, but it is not an independent work.

Investment in film

	License	Commissioned film	Coproduction
Existing films	Yes		
New films	Yes	Yes	Yes
Independent production company	Yes	Yes	Yes
Independent work	Yes	No	Yes
Transfer of rights	Own use only	All rights	Active exploitation by the production company must be possible
Limited duration	5 years	No	7 years
Eligible expenses	Payments	Payments	Payments
Eligible for production support		No	Yes

Coproduction is defined here as a financial contribution of the Service to the production of an independent work.

Other investments

	Promotion	Film funding institution
Television services	500,000 per programme	Yes
On-demand services	No	Yes
Scope	Advertising services, film reviewing, film culture (magazines, film archives, festivals, continuing education, promotion)	Institutions recognized by the FOC
Eligible expenses	Payments or services (market prices)	Payments



Schedule

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2024	In force		Registration					Notification obligations				
2025				Annual report				Notification audit result				
2026				Annual report				Notification audit result				
2027				Annual report				Notification audit result				
2028				Annual report				Ruling audit result Subsidiary levy				
2029				Annual report				Notification audit result				

Reporting

- Services file an annual report on
 - Gross revenues
 - Expenses
 - Nature of expense
 - Title, production company, director
 - Payments (amount, recipient, legal grounds)
- Production companies apply at any time for
 - Certificates of origin / recognition of coproductions
- FOC
 - advises services and production companies
 - communicates the result of the audit based on the annual report
 - Possibly calculates the subsidiary levy after four years

Calculation of the subsidiary levy every four years

	Revenues	4 %	Investments	Difference	Balance	Subsidiary levy
2024	10 000 000	400 000	200 000	200 000	200 000	
2025	15 000 000	600 000	550 000	50 000	250 000	
2026	17 500 000	700 000	800 000	-100 000	150 000	
2027	20 000 000	800 000	900 000	- 100 000	50 000	50 000
2028	22 500 000	900 000	850 000	50 000	50 000	
2029	25 000 000	1 000 000	900 000	100 000	150 000	

Data collection and publication

	Register	Reporting obligation	Quota obligation	Investment obligation
Condition		Paid viewings only	Only if not already reported in the EU	
Data	Contact details, business model	On-demand viewings of feature films	Feature films and series offer	Revenues, investments
Collection	FOC	FSO	FOC	FOC
Publication	Register (public)	Anonymous statistics	Quota (not) fulfilled	Investment statistics, subsidiary levy

The list of published data in the ordinance is exhaustive.



The FOC advises services and production companies

Do you have a film project?

Are you wondering about eligibility as a Swiss film or coproduction?

Are you wondering about eligibility as an investment?

Are you wondering about the admissibility of contracts?

Do you have any questions about reporting?

- Contact us with your questions.
- We are available for consultation.
- Contact us early so that you have time to make your decisions.



Thank you for your attention

Do you have questions about the presentation or the ordinance?