



# **Ordinance on the Quota for European Films and Investments in Swiss Film Pro- duction FQIO**

## **Practical guidelines to the quota and invest- ment obligation**

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January 2025

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## 1 Obligations of television and on-demand services and responsible bodies

Obligations	Affected	Ordinance	Launch	Implementation	Information
Investment obligation FiA	Television and on-demand services	FQIO	2024	FOC	Present document, FOC website <sup>1</sup>
Quota obligation FiA	On-demand services	FQIO	2024	FOC	Present document, FOC website
Reporting requirement FiA	On-demand services subject to payment	FQIO (FiA 2017-2023)	2017	FSO	FSO website <sup>2</sup>
Quotas and investments RTVA	Radio and television broadcasters	RTVO	2007 to 2023 incl. investment obligation, only TV quotas from 2024	OFCOM	OFCOM website <sup>3</sup>

The *quota and investment obligation* enshrined in the revised Film Act (FiA, SR 443.1) obliges companies operating active →*television* and →*on-demand services* in Switzerland and broadcasting →*eligible films* in its →*programmes* or offering them as a →*catalogue* to view on demand, to invest a minimum of 4% of their turnover in Swiss film production as of 2024. The on-demand services must also ensure that at least 30% of their content is →*European*. The Federal Office of Culture (FOC) manages the quota and investment obligation and its implementation provisions in the Ordinance on the Quota for European Films and Investments in Swiss Film Production (FQIO, SR 443.12). The FOC issues the necessary documentation, provides information, answers questions and ensures implementation of obligations (registration, reporting).

There is no quota obligation for television broadcasters in the Film Act. Broadcasters falling under the remit of the Federal Act on Radio and Television (RTVA), however, remain obliged under the RTVA to reserve a substantial proportion of the broadcasting time for Swiss and other European works (RTVA Art. 7). The Federal Office of Communications (OFCOM) retains responsibility for supervising this provision. The current investment obligation for television services under the RTVA supervised by OFCOM shall be replaced by the investment obligation under the Film Act supervised by the FOC as of 1 January 2024.

The *reporting requirement for on-demand services* is valid for on-demand films subject to a fee. It was introduced on 1 January 2017 and applies independently of the reporting requirement pertaining to the investment obligation. It is independent of turnover and applies from the first film offered for payment. The reporting requirement obliges on-demand services to report their catalogues incl. on-demand viewings per title every year. The Swiss Federal Statistical Office (FSO) remains responsible for implementing the reporting requirement and gathering data on on-demand services. The processes related to the reporting requirement remain unchanged for companies required to report. The processes managed by the FOC regarding the quota and investment obligation apply in addition, provided the company is subject to these obligations.

The FQIO also contains implementation provisions for the reporting requirement (Art. 27). However, the information below applies solely to the quota and investment obligation.

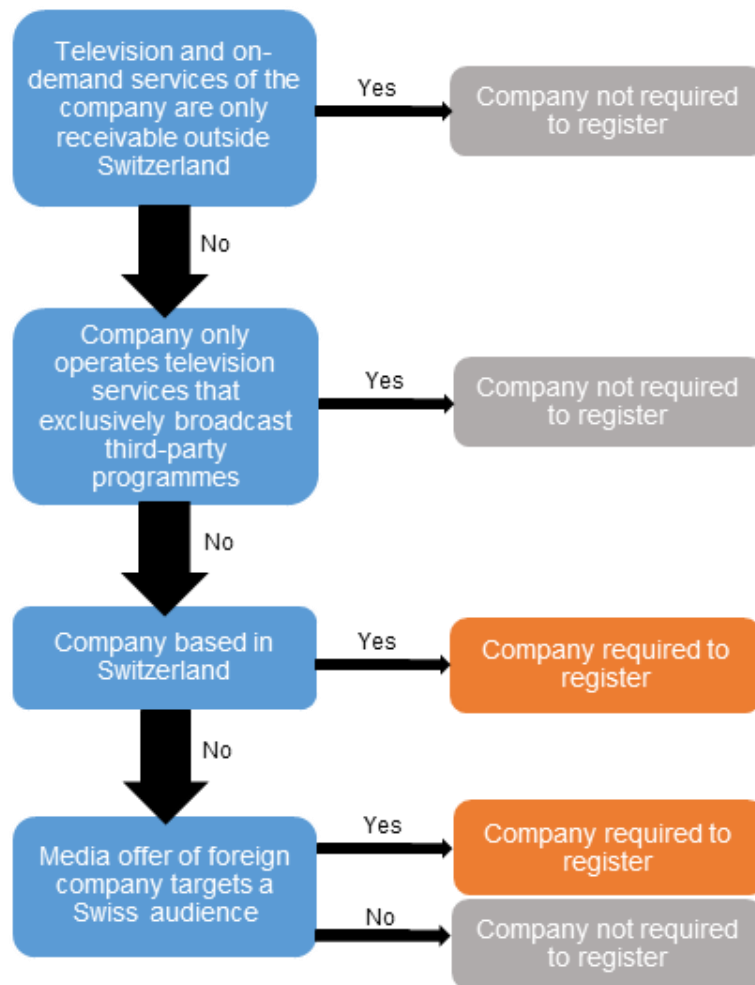
<sup>1</sup> Quota and investment obligation FOC: <https://www.bak.admin.ch/bak/en/home/cultural-creativity/film1/fqiv.html>

<sup>2</sup> FSO reporting requirement: [www.fiv.bfs.admin.ch](http://www.fiv.bfs.admin.ch)

<sup>3</sup> OFCOM reporting requirement (in German, French and Italian): <https://www.bakom.admin.ch/bakom/de/home/elektronische-medien/informationen-fuer-radio-und-fernseheranstalter/meldepflicht-fuer-radio-und-fernseheranstalter.html>

## 2 Basic provisions on the registration, quota, investment and reporting obligation

### 2.1 Companies required to register and companies not subject to the Film Act



Companies that do not operate any →*television* or →*on-demand services* that can be received in Switzerland are not subject to the Film Act. This also applies to companies solely operating television services used to broadcast third-party →*programme* services.

If a company operates television services that can be received in Switzerland with its own programme or on-demand services, a distinction is made between companies based in Switzerland or abroad.

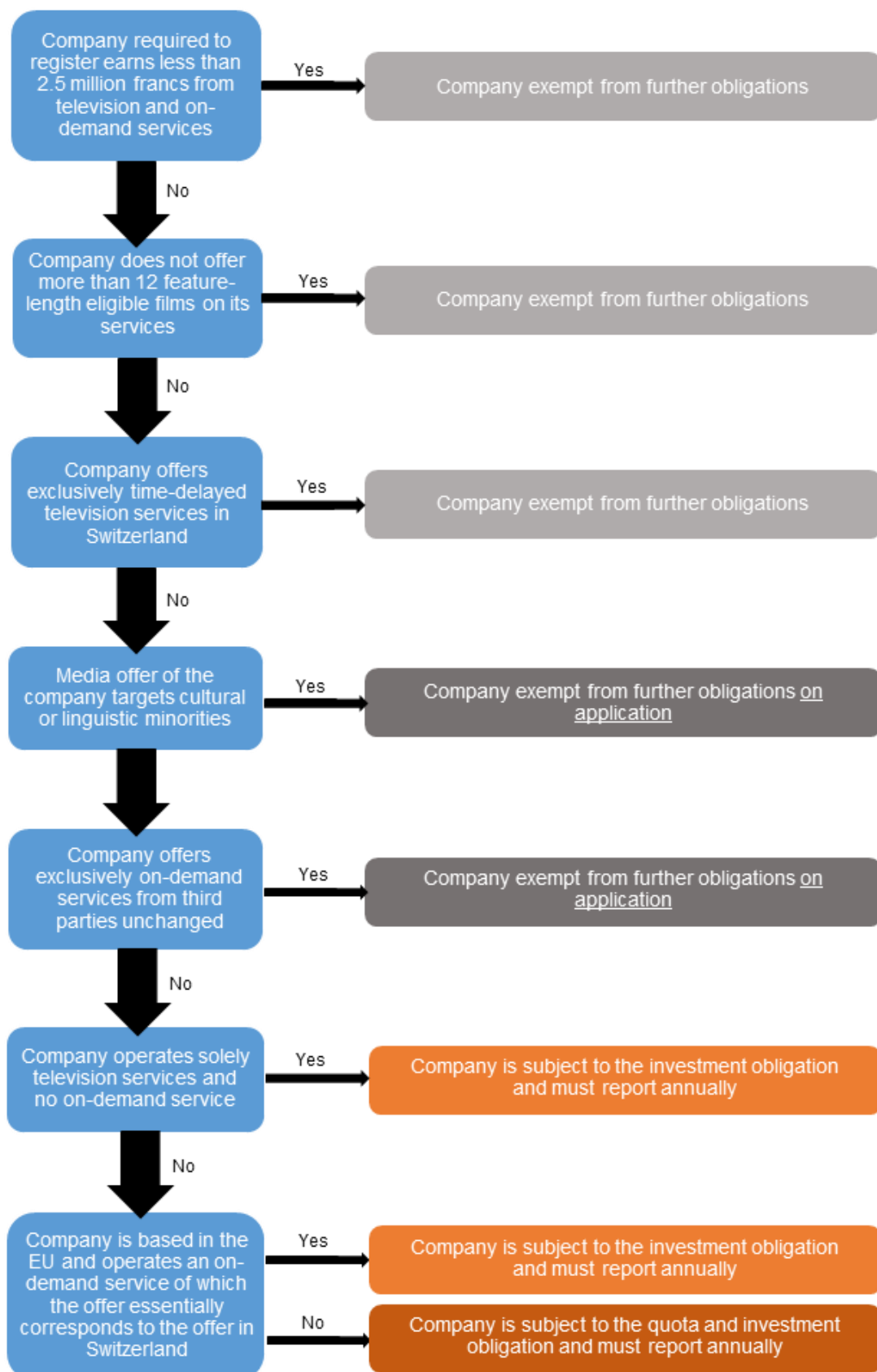
- Companies that are based in Switzerland are invariably obliged to register.
- Companies that are not based in Switzerland must only register when their media offer – also, but not necessarily exclusively – targets a Swiss audience.

Targeting a Swiss audience is assessed mainly via the following criteria:

- Targeting a Swiss audience through the thematic selection of films, other media content and the presentation of the media offer
  - *Examples: Swiss films, texts/subtitles in national languages, advertising in domestic media or on placards in Switzerland i.a.*
- Pricing structure and payment options with a link to Switzerland
  - *Examples: prices in CHF, specifically Swiss payment options (eg. Twint)*
- Advertising customers from Switzerland
- Targeting a Swiss audience through advertising

If a company is required to register, the investment and quota obligation will be reviewed in a second step.

## 2.2 Overview of exemptions for companies required to register



Companies required to register (see chapter 2.1) may be exempt from further obligations if they meet the conditions given in the chart. An *→exemption* must be applied for on registering. The processes and necessary supporting documents are outlined in more detail in the chapter on registration (3.2 and

3.3). Exemptions only concern the investment and quota obligation. Companies that offer on-demand services and are required to register must report viewings of feature-length films to the Federal Statistical Office FSO if they are paid for.

### 3 Registration

All companies required to register (see chapter 2.1) must do so unprompted via the platform for supporting subsidies FPF of the Federal Office of Culture. Newly founded companies that meet the applicable criteria are obliged to register on becoming operational and must register within 30 days.

The registration form on FPF is available via the following link:

<https://www.gate.bak.admin.ch/fpf/public/home>

First of all, an FPF user account must be created by clicking "Register". You can then access the registration application relevant to the quota and investment obligation (Current calls for entries by domains -> Registration). The FPF account can also be used for the annual report.

All areas relevant to registration are outlined in detail below.

#### 3.1 Company information and turnover

The company offering →*television-* and →*on-demand services* is required to register and not the individual services. A company therefore only registers once for all its services.

The registration form specifies which information companies have to provide. The information includes, for example, where the company is based, the management, contact person and turnover of the company over the past two years in Switzerland (the turnover generated abroad is not included).

The FQIO allows companies, if they wish, to group the investment obligations of individual companies at the level of an existing →**group of companies**, if they are economically linked. This enables groups of companies to cluster their investments in a practical way. As the companies are legally independent, they must establish a joint representative and undertake to be jointly and severally liable. Every individual company in the group must register independently and declare the group and representing company.

##### Required supporting documentation:

Upload the past two annual reports with information on the company and annual accounts. The VAT returns of the past two years are also required. If a **company has no VAT number in Switzerland**, it must provide three VAT-related key figures as specified by the Federal Tax Administration, corresponding to figures 200, 221 and 235. You can also find the following links under "Downloads" at the start of the registration process on FPF.

Explanations of the corresponding VAT figures (in German):

<https://www.gate.estv.admin.ch/mwst-webpublikationen/public/pages/taxInfos/cipherDisplay.xhtml?publicationId=1010429&componentId=1010582>

Sample VAT return:

<https://www.estv.admin.ch/estv/de/home/mehrwertsteuer/mwst-abrechnen/mwst-formulare.html>

#### 3.2 Application for exemption from the investment and quota obligation

A registered company can be exempt from the investment, quota and associated reporting requirement provided it meets an exemption criterion. For an →*exemption* from further obligations, the company must specify which exemption criteria it meets when registering on the platform for supporting subsidies (FPF). The exemptions must be documented. Justified applications must be made for an exemp-

tion in connection with the targeting of minorities (chapter 3.2.4) and the provision of →*on-demand services* by third-party companies (chapter 3.2.5). In the event that exemptions are requested, supporting documentation must be provided.

Exemptions confirmed by the FOC are valid provided the company meets at least one of the criteria. If no criterion is met anymore, the exemption expires and the company must report to the FOC unprompted.

If a company wishes to make a declaration of exemption from further obligations, it can activate the appropriate fields on FPF. The exemption criteria, required supporting documentation and applications are outlined below.

### **3.2.1 Turnover for all on-demand/television services in Switzerland is below 2.5 million francs**

The company enters the turnover for the past year for its →*television* and →*on-demand services* in Switzerland directly on the FPF registration form (turnover from the last definitive annual accounts). Enter turnover from on-demand and television services in Switzerland excluding VAT, not the company's total turnover.

#### Required supporting documentation:

If the company only offers television and on-demand services, the VAT return is not necessary. Otherwise:

- Annual accounts or other documents containing key figures on turnover by business area.
- If turnover for services cannot be given separately or if the media offers are partly or wholly free of charge, the operating costs of the services, overall operating costs, and total turnover must be provided to calculate the pro rata turnover.

### **3.2.2 A maximum of 12 films offered per calendar year over all services**

A company can confirm through its information on the FPF platform and the exemption declaration, that a maximum of 12 films are offered over all services per calendar year (checkbox, the number of films does not have to be declared). The FOC may conduct checks.

#### Required supporting documentation:

Description of the service to prove that the offer is not film-based (presentation of services, information on the offer etc.). This may include a link to a website outlining the offer.

### **3.2.3 Exclusively time-delayed television service**

Declaration (checkbox), whereby the company only offers the →*programme services* of third parties unchanged and with a →*time-delay*.

#### Required supporting documentation:

Information on the corresponding services (information, brochures, presentations etc.)

### **3.2.4 Application for exemption : targeting of cultural and linguistic minorities**

→*Television* and →*on-demand services* can be broadcast from Switzerland to a non-European audience in Switzerland. These services are for cultural or linguistic minorities and do not show Swiss or European productions. Companies operating such services exclusively can be exempted from the quota and/or investment obligation on request (checkbox and justification).

#### Required supporting documentation:

Information on corresponding services (information, brochures, presentations etc.)

### 3.2.5 Application for exemption: only on-demand services of third-party companies offered

If a company only offers →*on-demand services* from third parties unchanged, it may submit an application for an →*exemption* from further obligations (checkbox and justification).

#### Required supporting documentation:

Information on the corresponding services (information, brochures, presentations etc.)

### 3.2.6 Companies with a different main activity

→*Companies with a different main activity* are bound by the investment obligation. They may, however, request that the calculation of the minimum amount of investment be based solely on the revenue of their →*television* and →*on-demand services* as opposed to total revenue. Here too, the revenue achieved in Switzerland is relevant.

Companies that do not earn the majority of their revenue from their television and on-demand services may state that when registering on FPF. On registration give the company's overall turnover plus the turnover for television and on-demand services (see glossary and chapter 4.1.2 Companies with a different main activity).

#### Required supporting documentation:

VAT returns, annual accounts (always the last available and definitive documents) and other documentation for the past two years must be sent via FPF as proof of the company's income and to document the proportion of earnings from the services:

- Annual accounts or other documents containing details of turnover per business area.
- If turnover for services cannot be given separately or if the media offers are partly or wholly free of charge, the operating costs of the services, overall operating costs, and total turnover must be provided to calculate the pro rata turnover.

### 3.3 Entry of activities and services

When registering, a company must enter all →*television* and →*on-demand services* which it operates and for which at least one →*eligible film* is offered. **Services without eligible films do not have to be entered here, such as channels dedicated to sports.**

An internet address and the business model (SVOD, AVOD, TVOD etc.) must be indicated for on-demand services. For these services it must also be specified whether the quota obligation is already controlled in another EU member state, and whether the →*catalogue* of the service is essentially the same in both countries. In this event, the company may be exempt from providing additional evidence in relation to the quota for the on-demand services in question.

New services, the closure of services or fundamental changes to the business model for example, must be reported to the FOC without it having been requested.

#### Required supporting documentation:

Information on the services, if not included in the annual reports (description, presentation etc.).

### 3.4 Close of registration: forms and supporting documents for submission

When closing the registration process, VAT returns, annual reports, and/or annual accounts, plus supporting documentation if necessary (→*exemptions* and →*different main activity*) must be uploaded. The registration form must also be printed and returned **signed and by post** to the FOC. The signatory must be authorized to sign on behalf of the company. Powers of attorney are admitted and must be attached.

### 3.5 Communication of obligations and entry in the public register

Once the registration form and all necessary documents have been submitted in their entirety, the FOC will check the registration and define the company's obligations. These obligations will be notified to the company in writing. The company has 30 days to demand a contestable ruling.



Companies under obligation are entered in a public register. Information on the companies, including name, headquarters, addresses, business model etc. can be seen in the register, as well as the obligations binding on the company (investment obligation, quota obligation, reporting requirement). Turnover and business secrets are not made public. The register is published on the following FOC webpage:

<https://www.bak.admin.ch/bak/en/home/cultural-creativity/film1/fqiv/register.html>

The FOC reserves the right to perform spot checks of information provided during registration and to have the information confirmed by the registered company.

Changes to the company structure or business model must be reported to the FOC without delay. The FOC then decides whether the entire registration process needs to be repeated. *Examples of relevant changes: dissolution or founding of a new service, new company owner, dissolution or new composition of a registered group of companies, changes to strategic bodies such as the management, change of headquarters or delivery address, plus the founding, renaming, dissolution as well as changes to the business models of television and on-demand services.*

## 4 Investment and reporting obligation

### 4.1 Annual report on the platform for supporting subsidies FPF

The annual report linked to the investment (and quota) obligation must be submitted on the FPF platform.

<https://www.gate.bak.admin.ch>

The FPF user account created for registration can also be used for reporting (see chapter 3).

After completing the application form, uploading all the attachments and closing the reporting on FPF, the application form must be returned signed and by post. This signature validates all the information (turnover, investments, etc.) and supporting documents provided and confirms their completeness. **The form must be signed by a person authorized to sign on behalf of the company.** Persons authorized to sign may also give power of attorney to third parties. In this case, a copy of the power of attorney must be attached to the application.

### 4.2 Relevant gross revenues and reporting of turnover

#### 4.2.1 Criteria for establishing relevant gross revenues

In principle, the relevant → *gross revenues* correspond to the company's<sup>4</sup> annual turnover excluding value-added tax (VAT), as used for calculating the VAT owed to the Federal Tax Administration (FTA). Income outside Switzerland (221 on the VAT return) and loss of income (235) such as discounts or other price reductions are deducted from overall turnover (200) provided they have not already been taken into consideration in overall turnover<sup>5</sup>.

	Sample VAT calculation	CHF	CHF
200	Overall turnover excl. VAT		8 000 000
221	Income outside Switzerland	200 000	
235	Loss of income (discounts and price reductions)	480 000	
	Total deductions		- 680 000
	<b>Relevant gross revenue</b>		<b>7 320 000</b>

<sup>4</sup> Company: company or group of companies as reported as one entity on registration. The investment obligation is established at the level of this unit declared by the company and the minimum amount calculated.

<sup>5</sup> If a company has entered turnover including VAT income under 200, it must enclose corresponding confirmation from the FTA. The FOC deducts VAT from turnover prior to determining the investment amount.

For companies that **exclusively operate** →**television and/or** →**on-demand services or earn the majority of their revenue from these services**, the FOC uses the VAT return to establish the minimum investment obligation of 4% of turnover.

If a **company has no VAT number in Switzerland**, it must give these three key figures as specified by the Federal Tax Administration (200, 221 and 235).

Explanations about these figures are available via the link below (in German):

<https://www.gate.estv.admin.ch/mwst-webpublikationen/public/pages/taxInfos/cipherDisplay.xhtml?publicationId=1010429&componentId=1010582>

You can find a VAT return sample via the following link:

<https://www.estv.admin.ch/estv/en/home/value-added-tax/accounting-vat/vat-forms.html>

#### 4.2.2 Companies with a different main activity

If a company does not earn **the majority of its turnover from its** →**television and** →**on-demand services**, turnover from television and on-demand services in Switzerland excluding VAT is considered. This shall include income from:

- The sale or rental of audio-visual content
- The films shown or offered as part of the subscription service or in return for making a flat-rate payment
- Income from advertising shown on the television or on-demand service
- Income from passing on or using data collected in connection with the use of the television or on-demand service.

If **the revenue from services cannot be distinguished from the overall revenue or if the** →**media offer is free of charge**, the relevant revenue shall be calculated according to the percentage of the overall operating costs that are attributable to the television and on-demand services.

Companies with a different main activity declare the turnover of their services in Switzerland excluding VAT (alternatively the operating costs of the services) and give an estimate of the proportion of this turnover in relation to total turnover in Switzerland. The turnover of services must be supported by evidence, for example by referring to page numbers in the annual accounts where the amounts are documented. If the amounts are not documented in the annual accounts, other appropriate supporting documents need to be provided.

#### 4.2.3 Required supporting documents with regard to turnover

All →**companies subject to the investment obligation** that earn the majority of their turnover from their film offer provide the VAT statement, which they also submit to the Federal tax administration FTA:

Companies without a VAT number in Switzerland send the completed VAT form to the FOC, i.e. the three key figures from the calculation as per the FTA instructions (200, 221, 235).

Companies that do not earn the majority of their revenue from →**television** or →**on-demand services**, must submit annotated supporting documents confirming the turnover for the services indicated in the reporting on PPF (e.g. references to passages from the annual accounts, extracts from the accounts).

### 4.3 Conditions for eligibility of investments

#### 4.3.1 Films of Swiss origin

One condition for the eligibility of expenses for films is the →*Swiss origin* of the film in question<sup>6</sup>. The Swiss origin of the film must be verified by the FOC prior to evaluating the eligibility of the investments. The FOC should confirm the origin of a film as early as possible to establish clarity for the executive production company and the →*company subject to the investment obligation*. When filing the annual report on the investment obligation, proof of Swiss origin must be provided for each film.

For →*independently produced works*, where the film rights remain with the production companies, the FOC may issue a certificate of origin or a recognition as an official co-production. The FOC confirms that the work is a Swiss film (or →*series*) with the **certificate of origin**<sup>7</sup>. **Recognition as an official international co-production** is given when the rights are held by production companies from at least two countries and the countries in question have signed a co-production agreement. It may take the form of bilateral agreements or the “*European Convention on Cinematographic Co-Production*”. This recognition includes Swiss minority co-productions. In many cases the co-production conventions do not include recognition of television productions or series<sup>8</sup>. A provisional version of both documents is possible. The official international co-production is not to be confused with a →*co-production* between one or more →*independent production companies* and the company subject to the investment obligation.

A certificate of origin cannot be produced for **commissioned productions** as the rights to the work are transferred to the commissioning company financing the film. In such cases, the FOC issues a **confirmation of origin** on request and upon verification. The Swiss origin of a film is thus confirmed. The financing and rights are attributed to the executive production company for the purposes of verification. The FOC may issue a **provisional confirmation of origin** on request and prior to production. A **definitive confirmation of origin** is issued following receipt and validation of the details. Please refer to the practical guidelines on the certificate of origin for further information about the confirmation of origin.

<https://www.bak.admin.ch/bak/de/home/kulturschaffen/film1/internationale-zusammenarbeit/information-koproduktion.html>

The Swiss origin of the films is a necessary, but not in itself sufficient condition for expense eligibility. Investments must also flow into independent production companies and the contracts must include certain framework conditions as listed below.

#### 4.3.2 Independent companies as payment recipients

In order for expenses for film production to count as eligible, the production companies in receipt of the payments must be independent from the investing company. The production company must meet the following requirements:

- It must be based in Switzerland.
- It must be professionally organised.
- It must have been producing films in Switzerland for more than two years.
- Most of the company management board and persons with an interest in the production company's equity and debt must be resident in Switzerland.
- It must not be significantly influenced by companies subject to the investment obligation or have close economic links with such companies. As for all independent third parties, universal independence is required from all companies subject to the investment obligation.

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<sup>6</sup> FiA Art. 2 para. 2, [SR 443.1](#)

<sup>7</sup> Certificate of origin (in German): <https://www.bak.admin.ch/bak/de/home/kulturschaffen/film1/internationale-zusammenarbeit/information-koproduktion.html>

<sup>8</sup> Co-productions (in German): <https://www.bak.admin.ch/bak/de/home/kulturschaffen/film1/internationale-zusammenarbeit/koproduktionsabkommen.html>

- Commissioned productions must also be specifically independent to avoid the independent production company being overly dependent on one individual company subject to the investment obligation. In the past five years (or since its foundation), no more than half of its films may have been commissioned films of the relevant company subject to the investment obligation.

*Contributions made to* → **single purpose entities**, i.e. new production companies founded solely for the production of a specific film, may be eligible. Such companies must not meet two of the criteria listed above (two years in film production and number of commissions from the company subject to the investment obligation in the past five years). Instead, the producers responsible for the film project must have several years of experience in the production of → *independent film projects*. All other criteria must also be met.

The FOC reviews the independence of the production company when assessing the → *Swiss origin* of a film. If the FOC concludes that the independence criteria are not met, it will inform the company to that effect in writing. The company has 30 days to demand a contestable ruling.

For the → *acquisition* of exploitation rights of films, other independent third parties such as distribution companies or rights holders may also receive eligible payments. However, the rights holders must also be independent and meet the same requirements as the production companies.

In areas in which the investments are not directly linked to films, such as advertising and marketing (promotion of film culture), other companies and institutions may become eligible payment recipients, such as festivals, magazines, film archives etc. They must also meet the independence requirements for the payments to be eligible.

#### 4.4 Reporting template: list of investments

Each company sends the FOC a list of all investments made, which it would like to have taken into account. Use the FOC template and transmit it in the attachments to the annual report on the FPF platform. This list can be found in the FPF reporting application on the 'Downloads' page or on the FOC website under the following link (Excel at the bottom of the webpage under "Documents"):

<https://www.bak.admin.ch/bak/en/home/kulturschaffen/film1/fqiv/berichterstattung.html>

The registered unit is specified in the FOC Excel file and must be respected. The unit (line) of this list is defined by:

- *investing company (given in the list header)*
- *year (given in the list header)*
- receiving company (or person):  
→ *Name, address, e-mail*
- investment type:  
→ *see list below*
- If the investment relates to a film, the film in question including film-specific metadata, namely
  - film title
  - ISAN:  
→ *Universal identification number for audio-visual works (www.isan.org).*  
*Ex. (format) : 0000-0005-5FE4-0000-Q-0000-0000-X.*
  - director
  - year of production  
→ *Year of first eligible investment for production; year of production according to rights holder for purchase and promotion.*
  - length in minutes

The corresponding investment amounts must be given in Swiss francs. If several payments for the same film project are made out to the same payment recipient in the same year, these payments must be added up and entered on one line. Some practical examples below:

- *Company A invests in company Z in year YYYY for the production of film Q and acquires the independently produced film P from the same company Z*
  - *Two different films in the list with the respective investment types and information on both films.*
- *Company B invests by paying two instalments in year YYYY in film R of company Z, with a third instalment paid in year YYYY+1*
  - *One line for the aggregated payments on the list of year YYYY*
  - *Another line for the third payment on the list of year YYYY+1 to be entered on the list for the following year.*

The following investment types are eligible:

- Film – acquisition (FLIC)
- Film - production of commissioned film (FCOM)
- Film – production of CH film or co-production (FCOP)
- Film - TV advertising and marketing (only for television services) (FPUB)
- Promotion of film culture (film critic, magazines, festivals etc. only possible for television services) (CULT)
- Collective rights management organisations (FUND)
- Film funding institutions (COPY)

The ***list of investments must be sent to the FOC as an Excel file on FPF at the time of reporting.*** Further technical explanations are on the Excel template in the top left. The next chapters provide details on possible investments and required supporting documentation.

The FOC is available to advise the companies providing and receiving the investments and review the eligibility of the investments as far as possible. The FOC also offers, as explained below, formal confirmations of origin for films or recognition of film funding institutions.

## 4.5 Eligible expenses and reporting

### 4.5.1 Expenses for independent production companies and rights holders concerning films

Payments to independent production companies are only eligible if they are in relation to →***eligible films***. Expenses for the acquisition of rights of use, commissioned productions, co-productions or promotion of eligible films are allowed.

Regarding the →***acquisition of rights of use of →independently produced eligible films*** the agreement must allow the licence rights to revert to the rights holder after no more than 5 years or, if the option of an extension has been agreed, after no more than 15 years.

When ***producing a → commissioned film*** the exploitation rights remain with the production company or can be transferred back to it, provided the price does not exceed 10% of the production costs. The investing company must therefore finance at least 90% of the production.

For the →***co-production of an eligible film with an →independent production company*** expenses of the company under obligation are potentially eligible for production and the transfer of exploitation rights. The production of the film must be on the initiative and under the economic and artistic responsibility of the independent production company. The rights remaining with the production company must enable it to exploit the film outside the services of the →***company subject to the investment obligation***. The film rights must revert to the production company after no more than 7 years, or if the option of an extension has been agreed, after no more than 15 years.

For →***television services*** there is the possibility of including ***advertising of eligible and independently produced films in television programmes***. Such own contribution by a television service must be provided on the basis of an agreement with the independent production company and charged

at normal market rates. Advertising for films is only eligible if it does not relate to own programme content.

- *Example: company subject to the investment obligation XY has co-produced an eligible film Z and acquired the television rights to it. The film is currently only showing at the cinema. Advertising for this film on the television services of XY is eligible.*
- *Example: following the cinema release, film Z is now shown on a television service owned by XY. Advertising for film Z is not eligible.*

Eligible expenses for film advertising plus third-party expenses for film mediation and film culture (see chapter 4.4.2) comes to a maximum of 500,000 francs per year and television service.

When confirming the →*Swiss origin* of the film, the FOC checks the eligibility of the films and contracts for commissioned films and co-productions. The advertising of films and acquisition of rights of use are reviewed again at the time of reporting. Companies have 30 days at all stages to demand a contestable ruling if they do not agree with the FOC decision.

#### Reporting:

The following supporting documents must be sent to the FOC for the annual reporting:

- List of investments (FOC Excel template)
- Contracts (acquisition, advertising)
- Proof of payment/statements including detailed purpose of payment and time of transfer
- Proof of origin of all films: recognition of the co-production, certificate of origin or confirmation of origin
- Information on the broadcast time for TV advertising

#### **4.5.2 Expenses by television services for film critics and film-related organisations (strengthening of film culture)**

For their →*television services* companies can include expenses for independent film-related organisations and for the production of film reviews including payment for image rights as investments, insofar as these expenses together with film advertising do not exceed 500,000 francs per television service. The following count as independent film-related organisations:

- Magazines and electronic media that report on current film production
- Film archives and institutions that make films publicly accessible
- Film festivals with national appeal
- Institutions that contribute to basic and continuing education and training in film-related professions
- Institutions that advertise the Swiss films and recognised co-productions in Switzerland and abroad or Switzerland as a location for film production

Considerations provided in return by such organisations, such as advertising for services of the investing company, must be deducted from the eligible amount.

The →*company subject to the investment obligation* can contact the FOC in advance to determine whether a certain organisation is qualified to receive eligible expenses.

#### Reporting:

Supporting documentation must be provided for all investments:

- List of investments (FOC Excel template)
- Contracts between companies under obligation and receiving organisations
- Proof of payment/statements including detailed purpose of payment and time of transfer

#### 4.5.3 Expenses for authorised collective rights management organisations

Payments to Swiss collective rights management organisations are in principle eligible, albeit to the extent that they are for Swiss films. The *→company subject to the investment obligation* must clearly show which part of the payments is for Swiss films. If it is not possible to ascertain the exact share accounted for by Swiss films, a breakdown based on the share of Swiss films in the entire film offer is also acceptable. If this is also impossible, the expenses will not be deemed eligible.

→ *Illustration of the calculation principles for every service (amounts are subsequently aggregated at company level) based on a fictional example:*

- *On-demand SVOD service with an average of 300,000 subscriptions with 500 to 2000 works*
- *Joint tariff JT 14, 2 francs per subscription and month*
- *The share of the offer from relevant production countries, which also require compensation, is 20%*
- *The share of Swiss films in the offer from the relevant production countries is 10%.*

Amount	Calculation	Result
Basic remuneration JT 14	300 000 x 2.00 x 12	7 200 000
The company only pays for the offer from the relevant production countries	7 200 000 x 20%	1 440 000
<b>Only part of the offer is eligible: the part relevant to Swiss films</b>	1 440 000 x 10%	<b>144 000</b>

##### Reporting:

- List of investments (FOC Excel template)
- Proof of payment including information on the collective rights management company and time of payment

#### 4.5.4 Expenses for recognised film funding institutions

Recognising payment to film funding institutions is contingent on the institution being recognised by the FOC. Payments by *→companies subject to the investment obligation* must flow into the following areas:

- Funding of screenplays by Swiss authors
- Development of independent film projects by Swiss authors
- Production of independent film projects by Swiss authors.

The FOC publishes a list of recognised institutions on its website.

<https://www.bak.admin.ch/bak/en/home/cultural-creativity/film1/fqiv/anerkannte-filmfoerderungsinstitutionen.html>

**All film funding institutions which would like to receive eligible investments must complete a one-time registration on the FOC's platform for supporting subsidies FPF.** The FOC reviews the institution on the basis of the FQIO with respect to the selection of funded films, independence, fairness and transparency of the selection procedure and justification in the event of a rejection. Film funding institutions can complete a one-time registration with the FOC via the following link (Current calls for entries by domains -> Enregistrement):

<https://www.gate.bak.admin.ch/fpf/public/home>

##### Reporting:

- List of investments (FOC Excel template)
- Proof of payment, or confirmation from the film funding institution (amount, date of payment), including confirmation from the film funding institution that the payment has been used for the intended purpose

#### 4.5.5 Summary of expense reporting

Investment type	Recognitions/confirmations	Extent of investment list	Supporting documentation
<i>Film - acquisition</i>	Recognition of co-production or certificate of origin	Fill in incl. film data	<ul style="list-style-type: none"> <li>• Contracts</li> <li>• Proof of payment/statements</li> <li>• Recognition of co-production/certificate of origin</li> <li>• List of investments (FOC Excel template)</li> </ul>
<i>Film - production of commissioned film</i>	Confirmation of origin	Fill in incl. film data	<ul style="list-style-type: none"> <li>• Proof of payment/statements</li> <li>• Confirmation of origin</li> <li>• List of investments (FOC Excel template)</li> </ul>
<i>Film - production of CH film or co-production</i>	Recognition of co-production or certificate of origin	Fill in incl. film data	<ul style="list-style-type: none"> <li>• Proof of payment/statements</li> <li>• Recognition of co-production/certificate of origin</li> <li>• List of investments (FOC Excel template)</li> </ul>
<i>Film - TV advertising</i>	Recognition of co-production, certificate of origin or confirmation of origin	Fill in incl. film data	<ul style="list-style-type: none"> <li>• Contracts</li> <li>• Proof of payment/statements</li> <li>• Recognition of co-production/certificate of origin/confirmation of origin</li> <li>• Information on the broadcast time</li> <li>• List of investments (FOC Excel template)</li> </ul>
<i>Strengthening of film culture (TV)</i>	None	Fill in without film data	<ul style="list-style-type: none"> <li>• Contracts</li> <li>• Proof of payment/statements</li> <li>• List of investments (FOC Excel template)</li> </ul>
<i>Film funding institutions</i>	Institution on list of recognised institutions (FOC website)	Fill in without film data	<ul style="list-style-type: none"> <li>• Proof of payment incl. purpose of investment</li> <li>• List of investments (FOC Excel template)</li> </ul>
<i>Collective rights management organisations</i>	None	Fill in without film data	<ul style="list-style-type: none"> <li>• Proof of payment/statements</li> <li>• List of investments (FOC Excel template)</li> </ul>

#### 4.6 Deadlines, balance of investment obligation and subsidiary levy

##### 4.6.1 Deadlines and written notification of annual balance of investments

Reporting on investments in the form of a list accompanied by all the supporting documents required by the FOC must be completed on the FPF platform and sent to the FOC by 30 April of the following year. Having received the complete and correct dossier, the FOC will issue a written notice about the balance of the annual investment obligation for the →*company subject to the investment obligation*. The company can take a stand about the notice. The FOC will then issue a ruling as to the applicable turnover and resulting obligation to invest and the sum of the eligible investments for the reporting year, plus the investment balance in the current investment period.

A subsidiary levy is calculated and decreed at the end of each four-year investment period (chapter 4.5.2).

##### 4.6.2 End of the four-year period: calculation of the subsidiary levy and investment obligation ruling

As a general rule, a company is subject to the investment obligation in its first year of operation of →*television* and →*on-demand services*. A **four-year investment period** begins with the investment obligation, in which the company must invest at least 4% of turnover generated in Switzerland in Swiss film production. That means the 4% minimum investment requirement must not be met every year but at the end of a four-year period.

The company receives a ruling about the **balance of the investment obligation including the annual balance** following each report. This balance is carried over from year to year during the four-year investment period. A subsidiary levy is due to the FOC at the end of the four-year investment period if



the balance is negative. A **positive balance cannot be carried over to the next four-year investment period as the law stipulates a minimum investment of 4%.**

→ Calculation example of subsidiary levy:

	Turnover	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	<b>50,000</b>
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	

#### 4.6.3 Changes within the four-year investment period

If a →company subject to the investment obligation becomes operational **during a calendar year**, the part-year counts as the first year.

If a company initially subject to the investment obligation ceases operations **within the four-year investment period** or changes its structure in a substantial way, the investment period will end. An interim statement must be created. Any subsidiary levy is calculated for the partial investment period and a ruling is issued if applicable.

If a **company initially subject to the investment obligation is exempt from the obligation to invest for at least one year within the four-year investment period**, for example, because turnover has fallen below the threshold, the investment period will end in the last year where there is an obligation to invest. An interim account needs to be created and any subsidiary levy will be calculated and ruled for the interrupted investment period if applicable.

#### 4.7 Analysis and results

The FOC publishes general analyses on the investment and quota obligation with key figures in addition to the company register. These analyses do not include any references to specific companies, instead they report the sum of all expenses by services broken down by type of investment, the sum of all deferred investments, the subsidiary levies received and the way they are used by the FOC. These analyses can be found on the following website:

<https://www.bak.admin.ch/bak/en/home/cultural-creativity/film1/fqiv/resultate-analysen.html>

### 5 Quota and reporting obligation

Foreign companies may be exempt from reporting the quota in Switzerland if they must already report their quota in the EU country in which their service is based. The reporting requirement for these services is deemed to have been met in Switzerland if the company confirms on registration that its offer in Switzerland essentially corresponds to that in the country where its service is based. The following applies only to companies subject to the quota obligation, which must also report their quota in Switzerland.

Reporting on the quota must also be submitted on the FPF platform (see chapter 4.1).

#### 5.1 Reporting quota and visibility of European works

For reporting in connection with the quota obligation, the FOC template on the 'Downloads' page of the FPF application must be used. The template can also be found at the following link (Excel is at the bottom of the page under "Documents"):

Reporting of the quota must be separate for each → *on-demand service*. The **FOC template must therefore be used for each on-demand service**.

On-demand services subject to the quota obligation must deliver a brief description of the measures implemented to specifically identify → *European films* and make them easy to find (**visibility of European works**) in the Excel template (300-500 characters). This brief description can be published as a statement of the company on the FOC website with the decision on the fulfilment of the quota obligation.

When **reporting for the quota obligation** the number of films offered for each on-demand service must be included in the first part of the Excel template. The film versions are not to be counted as extra. Package offers, film packages for example, do not count as they cannot always be clearly assigned to a country. Alternatively, at the request of the company under obligation, the entire duration can be given in minutes instead of the number of films. In the second part of the Excel template, the list of → *eligible* European films must be given, also following the principles above: no film versions and no film packages. The reporting of the quota obligation is based on the reporting requirement for on-demand services implemented by the FSO. The companies under obligation can also use that as a basis insofar as the film offer in question essentially corresponds for the reporting requirement and the quota obligation.

The completed Excel file must be submitted on the FPF platform together with the report on the investment obligation by 30 April of the following year.

## 5.2 Publication of quota obligation fulfilment

On the basis of the report submitted, the FOC establishes whether the quota obligation is fulfilled and whether the visibility measures are sufficient. The FOC informs the company of the outcome of its audit in writing. Companies have 30 days to demand a contestable ruling. The FOC webpage then states whether the company met its obligations. The FOC will also publish an anonymous analysis of the visibility measures. The publication appears on the following website:

<https://www.bak.admin.ch/bak/en/home/cultural-creativity/film1/fqiv/resultate-analysen.html>

## 6 Annex: FQIO glossary

Articles relate to the FQIO unless specified otherwise.

Concept	Description
<b>Acquisition</b>	Agreement on the transfer of user rights to a current or new → independently produced film for use on own services. Assigned rights must revert to the production company after 5 years (with an option of 15 years) (→Art. 11).
<b>Catalogue</b>	→Media offer of an →on-demand service (→Art. 3).
<b>Commissioned film</b>	Film whereby the production is paid for by the →company subject to the investment obligation and it acquires the exploitation rights for an indefinite term in return. Rights outside own use can remain with the production company. The price for that, however, may not exceed 10% of production costs. (→Art. 12).
<b>Company subject to the investment obligation</b>	Company that offers →television services and/or →on-demand services and that must invest in Swiss film production as per Art. 24b FiA.
<b>Company with a different main activity</b>	Companies that earn less than half of their →gross revenue with →television and →on-demand services in Switzerland. That includes network operators as well as companies with →media offers without films (eg. sports broadcasters) and entities with different business models (eg. sale of computers and books).

	Only revenue from television and on-demand services is considered for these companies (→Art. 20).
<b>Co-production (FQIO)</b>	→Independently produced film whereby a →company subject to the investment obligation co-finances the production and receives exploitation rights. Assigned rights must revert to the production company after 7 years (with an option of 15 years) (→Art. 13). Co-productions under the FQIO are not to be confused with international co-productions recognised on the basis of international agreements signed by Switzerland.
<b>Docu-soap</b>	Docu-soaps are a type of →reality show.
<b>Eligible film</b>	Documentaries, feature films, animated films and →series, as well as audio-visual works structured in their narrative or creatively designed in a comparable way (→Art. 2). This excludes: <ul style="list-style-type: none"> <li>• News, reports and news features</li> <li>• Entertainment programmes including talk shows, reality shows and games (see glossary)</li> <li>• Live broadcasts and recordings (sports events, concerts, theatre performances etc.)</li> <li>• Computer games</li> <li>• Advertising or promotional films</li> <li>• Educational films</li> <li>• Films excluded from film promotion measures under the FiA (films that glorify or trivialise violence, pornographic films etc.) (FiA Art. 16 para. 2, SR 443.1)</li> </ul>
<b>European film</b>	Swiss film, recognised Swiss-foreign co-production, film from the EU or a signatory state of the Convention on Transfrontier Television as well as a co-production under the European Convention (→Art. 6).
<b>Feature-length film</b>	Feature film or animated film of at least 60 minutes duration, fictional →series of at least 120 minutes per →season, documentary of at least 50 minutes duration, documentary series of at least 100 minutes per season, other →eligible films of at least 50 minutes duration (→Art. 3).
<b>FQIO exemptions</b>	Companies achieving a turnover in Switzerland of less than 2.5 million francs from their →television and →on-demand services or which offer no more than 12 →long →eligible films per calendar year, as well as →time-delayed television services are exempt from the quota and investment obligation. On application, minority programmes and third-party offers taken over unchanged are exempted (→ Art. 5). Companies that broadcast linear →programmes and foreign broadcasters that can be received in Switzerland but do not target a Swiss audience are not affected at all (→Art. 4).
<b>Game shows</b>	Entertainment programme where the participants can expect to win prizes or some other type of reward if they are successful.
<b>Gross revenue</b>	Turnover generated in Switzerland per calendar year excluding value-added tax (→Art. 19). →Exemptions apply to →companies with several offers.
<b>Groups of companies FQIO</b>	Legally independent companies with economic links to each other (through ownership, holding structure etc.). Such groups can cluster their investment obligation if all companies in the group undertake to be jointly and severally liable. Each company in the group registers itself and declares the group and the company representing the group.
<b>Independent production company FQIO</b>	Company neither owned nor significantly influenced by, nor with close economic links to →companies subject to the investment obligation, with a professional organisation, having produced films in Switzerland for more than two years and having produced no more than half of its films as →commissioned films for the company subject to the investment obligation on average over the past five years (→Art. 9). The term is broader than in the DHA Ordinance on Film Promotion (FiPO), where production companies with ties to media companies and film schools are in principle excluded (→Art. 5 FiPO).
<b>Independently produced film FQIO</b>	Film where the initiative of the project as well as the artistic responsibility lies with the →independent production company and it has the remaining rights enabling active exploitation (→Art. 11, 13). Independence is a criterion for accessing film funding (→Art. 3 FiA).

<b>Joint tariff</b>	Copyright royalties approved by the <i>Eidgenössische Schiedskommission</i> (federal arbitration commission) under the Federal Copyright Act (FCA). Art. 13a of the FCA and the joint tariff JT 14 video on demand (→Art. 14) are particularly relevant to the FQIO.
<b>Media offer</b>	Audio-visual content that is offered to the public for consumption (→Art. 3). Offers restricted to a specific group of persons and not for the general public, for example an association chatroom or company videos on the company's intranet are not media offers.
<b>On-demand service</b>	→Media offer that includes →eligible films and is offered as a →catalogue on the internet or via other electronic communication networks (eg. SmartTV or smartphone applications) for viewing at a specifically selected time (→Art. 3). The catalogues must be in an editorial design. Video sharing platforms ("user generated content"), for example, are not editorially designed.
<b>Programme</b>	Linear and editorially designed →media offer of a →television service (→Art. 3).
<b>Promotional film</b>	Short film showing a company, institution, brand or product with advertising intent. Promotional films are not →eligible films (→Art. 2).
<b>Reality show</b>	Genre of programme content ostensibly or actually designed to reflect reality, centred on the persons portrayed and show characters and not the design or narration. Reality shows are not →eligible films (→Art. 2).
<b>Replay TV</b>	→Time-delayed television
<b>Season</b>	Episodes of a →series produced and shown during a specific time period (→Art. 3, 7).
<b>Series</b>	Film production based on a plot that may be complete or incomplete, fictional or based on facts and contains several episodes (→season, Art. 3, 7).
<b>Single purpose entity</b>	Production company founded solely for the production of a specific film project. It may be approved as an →independent production company if the responsible producers have several years of experience in the production of independent film projects (→Art. 9).
<b>Swiss origin</b>	Films of Swiss origin are Swiss films within the meaning of Art. 2 FiA, recognised Swiss-foreign co-productions as well as →commissioned films where the executive production company meets the same requirements (→Art. 8). (See chapter 4.2 for details).
<b>Talk show</b>	On-air discussions whereby - depending on the concept of the broadcast - known or unknown persons are asked questions and debate specific subjects.
<b>Television service</b>	→Media offer that includes →eligible films broadcast in a linear →programme or →time-delayed (→Art. 3). Programmes must be editorially designed. Not editorially designed are, for example, offers that exclusively transmit third-party programmes.
<b>Time-delayed television</b>	→Television service that includes a →programme for a restricted period for viewing in its entirety, also known as →Replay TV. Registration is mandatory for time-delayed television but exempt from further obligations (→Art 5, Art. 61a RTVA).
<b>Voluntary collective rights management arrangement</b>	Negotiated sector agreement between users and authors, whereby certain user rights are charged collectively (→Art. 14).