

► **Switzerland**

Federal Act on Film Production and Film Culture

New Art 19 par 2 and 3 (in force on 01.01.2016)

(sole distributor clause)

2 A company¹ may distribute a title² for its first public showing³ in the cinema or for other uses of the work⁴ only if it holds the rights for the whole of Switzerland to all language versions⁵ that are available for exploitation in Switzerland.⁶

3 The foregoing does not apply to exploitation by broadcasting organisations in programme services under Article 2 letter a of the Federal Act of 24 March 2006 on Radio and Television⁷.

¹ „A company“ meaning a legal entity or a corporate group of different legal entities under uniform direction.

² „title“ meaning all films with a runtime of more than 60 minutes.

³ „first public showing“ refers only to theatrical exploitation. In case of physical (DVD, blue-ray, etc.) and digital (VOD, catch up, etc.) distribution the clause refers also to the back catalogue.

⁴ „Other uses of work“ refers to physical and digital distribution. The law requires for the channels “theatrical”, “home video” and “digital distribution” a sole distributor holding the rights for all of Switzerland to all language versions, that are available for exploitation in Switzerland. The channels “home video” and “digital” cannot be separated among different distributors and are, in analogy to the theatrical rights, to be signed as exclusive rights.

⁵ Meaning not only the official Swiss languages (German, French, Italian, Romansh) but all language versions for exploitation in Switzerland, particularly the original version.

⁶ Art 19 par 2 applies to all agreements signed on or after 1 January 2016. Output deals are affected if signed before 1 January 2016 but film titles are non-determinable.

⁷ Art. 2 letter a of the Federal Act of 24 March 2006 on Radio and Television reads as follows: “programme service means sequence of programmes which are offered continuously, defined in time and transmitted using telecommunications techniques and which are intended for the public“. The so-called linear programs are therefore exempted from the clause on exploitation. For the application of Art. 19 par 2 of the film act, a so called 7 days catch-up of its own programs by a free-tv broadcaster is considered equivalent to the linear program.