

Act II of 2004

on Motion Picture

In order to enhance and preserve the values of Hungarian motion picture culture, to develop the Hungarian film industry and to make it internationally competitive, to create a support system that promotes the efficient use of resources with a view to the development of the culture of films and to establish a legal background that serves this purpose and is in line with the regulations of the European Union, the Parliament of Hungary drafts the following act:

Chapter I

GENERAL PROVISIONS

Title 1

Scope of the Act

Article 1

(1) This Act shall cover the production, distribution and archiving of Hungarian films and films produced with Hungarian participation as well as the distribution of films in Hungary.

(2) The scope of this Act shall not cover audiovisual works produced by business associations and other organisations or government bodies for the purpose of performing their tasks, intended exclusively for their internal use, audiovisual media services defined in a separate law, and multimedia productions marketed for the purpose of being played as games.

(3) Chapter I and Titles 1, 2 and 4 of Chapter II of this Act shall be applied to subsidies that serve the implementation of the objectives of the motion picture industry on condition the source of these subsidies is an appropriation determined in the central budget or the budget of a local or a minority government, to subsidies granted by the Government, a foundation or public foundation founded by a local or minority government, and to subsidies granted by the National Cultural Fund.

Title 2

Definition of Terms

Article 2

For the purposes of this Act:

1. *motion picture industry*: the entirety of activities that exist within the scope of motion picture culture and the motion picture industry as well as all persons pursuing such activities;
2. *film*: work that, in accordance with Act LXXVI of 1999 on Copyright (hereinafter referred to as: Szjt.), qualifies as a film, excluding news programmes, topical and service magazine programmes, sports broadcasts, talk-shows, game and quiz shows, as well as commercials that fall under the scope of the act on the basic conditions and certain limits of business advertising activities;

3. *film authors*: authors of literary and musical works produced for the purpose of film, the director of films and all persons who have contributed creatively to developing an entire film, as well as the authors of other works used in the film;

4. *film producer*: a legal person or business association without legal personality who or which initiates and organises the realisation of a film in his/her/its own name, ensuring financial and other conditions for this purpose; and has the right to use and to authorise the use of the film;

5. *Hungarian film producer*: a film producer who is a legal person or a business association without legal personality, with registered seat in Hungary, the majority of executive officers of which are citizens of an EEA State or country that is a signatory to the European Convention on Transfrontier Television and in which citizens or legal persons of such countries have an influence that ensures majority control;

6. *international co-production film*: a film produced by film producers who are subject to the jurisdiction of different states, which qualifies as a co-production film in line with a bilateral or multilateral international agreement or the laws of the countries concerned;

6a. *co-production film*: a film produced jointly by Hungarian producers in which the rights and obligations of the producers are regulated by a co-production agreement;

7. a) *Hungarian film*: a film in which Hungarian participation scores at least 75 points based on the table set out in Article 3;

b) *film with Hungarian participation*: a film in which Hungarian participation scores at least 30 points based on the table set out in Article 3;

c) *other film with Hungarian participation*: a film in which Hungarian participation scores at least 15 points based on the table set out in Article 3;

d) *other film*: a film in which Hungarian participation scores less than 15 points based on the table set out in Article 3;

8. *film originally produced in the Hungarian language*: a film that belongs to any of the following categories:

a) during its filming the actors (and the narrator during the post-production) use the Hungarian language most of the time,

b) during its filming the actors (and the narrator during the post-production) use the language of a minority living in Hungary, on condition the subject is related to the life or culture of that minority;

9. *direct subsidy*: financial allowance granted by the bodies defined in Article 1 (3) of this Act for motion picture industry purposes;

10. *indirect subsidy*: subsidy for the realisation of the objectives of the motion picture industry, for which the entity providing such subsidy may be granted tax benefits specified by law;

11.

12. *selective subsidy*: subsidy due to the film producer, film distributor or any other applicant under this Act, based on the decision of the supporting body made by way of a tender application or by evaluation of an individual request, and subject to the characteristics of the film (in particular, the script, budget, artistic value, authors, producers, and actors of the film) or the nature of another objective to be supported;

13.

14. *supporting body*: the organisation or institution that provides support to motion picture industry objectives as defined in Article 1 (3);

15. *film distribution*: making the original or reproduced copies of a film accessible to the public in particular

a) by distribution, or by offering films for distribution,

b) by operating movie theatres,

- c) by publishing, selling, renting or renting in usufruct films on any medium;
16. *movie theatre*: premises installed and used for the public presentation of films in return for an entrance fee, equipped with any visual display equipment;
17. *movie theatre operation*: business activity aimed at presenting films to the public in movie theatres;
18. *film distributor*: business association or any other organisation engaged in the distribution of films in a business-like manner;
19. *film plan development*: the total of research, production, planning and organisational work aimed at the creation, merchantability and sale, feasibility and consequent realisation of film plans and scripts;
20. *film production*: the total of creative, organisational, financial and technical activities from the start of the shooting of the film up to the production of the first original copy of the film; the first original copy of the film is the first final copy suitable to be shown to audiences;
- 20a. *film production company*: a legal person or a business association without legal personality which organises the realisation of a film based on an agreement for film production but shall not be considered a film producer in respect of the given film;
- 20b. *Hungarian film production company*: a film production company having its registered seat in Hungary, registered in accordance with Article 27, the majority of executive officers of which are citizens of an EEA State or country that is a signatory to the European Convention on Transfrontier Television;
21. *preparation of film production*: creative and organisational activities aimed at ensuring the necessary financial, technical and organisational conditions for film production, preceding the actual start of film production;
22. *workshop*: a creative community established for the development of film plans and scripts, the members of which shall closely co-operate, explicitly for the purpose of developing film plans and film plan packages and for the production of films, within the framework of the business form selected by the community in question;
23. *commissioned film*: any film in the production of which a company qualifying as a Hungarian film production company, with a view to the given film, participates;
24. *non-commissioned film*: any film in the production of which a company qualifying as a Hungarian film producer, with a view to the given film, participates;
25. *direct film production cost*: a payment included in the budget of the given film financially settled by the producer of the film, or in the case of a commissioned film, by the Hungarian film production company participating in the production, confirmed by a receipt, which complies with the conditions set out in this Act;
26. *national film assets*: copyrights due to the State pursuant to Article 3 of repealed Act XVI of 1884, economic copyrights due pursuant to Articles 3 and 74 of repealed Act LIV of 1921 on Copyright, economic copyrights due pursuant to Article 41 (3) of repealed Act III of 1969 on Copyright, rights of use due pursuant to Article 64 of Act LXXVI of 1999 on Copyright; furthermore the entirety of rights due to the owners of subsidiary rights as per the provisions of Article 82 of Act LXXVI of 1999 on Copyright, and the copies of the original negatives of films that are part of national film assets;
27. *EEA State*: a Member State of the European Union or another state that is party to the Agreement on the European Economic Area; as well as a state the citizen of which has equal legal status to citizens of states party to the Agreement on the European Economic Area in accordance with the international agreement between the European Community and its Member States and states not party to the Agreement on the European Economic Area;
28. *film creating cultural value based on its genre*: feature film, short feature film, experimental film, documentary, scientific, non-fiction film, animation film, short film, television movie, television series; with the exception of television movies or television series

primarily based on entertainment-oriented presentation of real-life persons and events, which represent no artistic value (reality shows) and fictional film series that are broadcast several times per week consisting of more than twenty episodes, which, due to their unfinished dramaturgy, can be continued without end and which do not establish cultural value (soap operas);

29. *direct Hungarian film production cost*: the group of direct film production costs which occur in the form of tax obligations or which create tax obligations in Hungary and which comply with the requirements set out in this Act.

Title 3

Classification of Films

Article 3

(1) Feature films shall be classified into one of the categories of „Hungarian film”, „film with Hungarian participation”, „other film with Hungarian participation” and „other film” according to the score achieved based on the following table:

| Hungarian elements | Maximum score |
|--|---------------|
| 1. Authors: | |
| Director | 12 |
| Script writer | 8 |
| Composer | 4 |
| <i>Total</i> | <i>24</i> |
| 2. Film producer | |
| Film production company | 10 |
| Producer | 5 |
| <i>Total</i> | <i>15</i> |
| 3. Film originally produced in the Hungarian language | |
| | 15 |
| 4. Actors (appearing in picture or sound): | |
| Leading actors | 10 |
| Supporting actors | 5 |
| <i>Total</i> | <i>15</i> |
| 5. a) Artistic staff: | |
| Director of photography | 3 |
| Editor | 2 |
| Production designer | 2 |
| Costume designer | 2 |
| Make-up artist | 1 |
| b) Technical staff: | |
| Sound engineer | 2 |
| Specialist staff | 2 |
| Workers | 1 |
| <i>Total</i> | <i>15</i> |
| 6. Shooting and post-production: | |
| a) Location where the film is made | |
| Shooting locations | 3 |
| Shooting laboratory (negative development and mastering) | 2 |
| b) Technology used for the shooting | |

| | |
|---|-----------|
| Picture | 2 |
| Lighting | 1 |
| Technical structures | 1 |
| c) Sound post-production (mixing) | 3 |
| d) Laboratory work and electronic imaging post-production | 4 |
| <i>Total</i> | <i>16</i> |

(2) Animated films shall be classified into one of the categories of „Hungarian film”, „film with Hungarian participation”, „other film with Hungarian participation” and „other film”, according to the score achieved based on the following table:

| Hungarian elements | Maximum score |
|---|---------------|
| 1. Authors: | |
| Author of literary book | 6 |
| Character designer | 4 |
| Storyboard writer | 7 |
| Director | 10 |
| Composer | 3 |
| <i>Total</i> | <i>30</i> |
| 2. Film producer | |
| Film production company | 10 |
| Producer | 5 |
| <i>Total</i> | <i>15</i> |
| 3. Film originally produced in the Hungarian language | |
| | 10 |
| 4. Characters (voice of characters) | |
| | 3 |
| 5. Artistic and technical staff: | |
| Picture designer and senior picture designer | 10 |
| Background designer | 4 |
| Animators | 10 |
| Painters | 7 |
| Composite designer | 3 |
| <i>Total</i> | <i>34</i> |
| 6. Post-production | |
| Editor | 4 |
| Sound engineer | 4 |
| <i>Total</i> | <i>8</i> |

(3) Documentaries and scientific, non-fiction films shall be classified into one of the categories of „Hungarian film”, „film with Hungarian participation”, „other film with Hungarian participation” and „other film”, according to the score achieved based on the following table:

| Hungarian elements | Maximum score |
|------------------------------------|---------------|
| 1. Authors: | |
| Director | 12 |
| Scriptwriter, editor or dramaturge | 8 |
| Composer | 4 |
| <i>Total</i> | <i>24</i> |
| 2. Film producer | |
| Film production company | 10 |
| Producer | 5 |

| | |
|---|-----------|
| <i>Total</i> | <i>15</i> |
| 3. Film originally produced in the Hungarian language | 13 |
| 4. Actors (appearing in picture or sound): | 15 |
| 5. Artistic and technical staff: | |
| Director of photography | 10 |
| Sound engineer | 4 |
| Editor | 3 |
| <i>Total</i> | <i>17</i> |
| 6. Shooting and post-production: | |
| a) Shooting locations | 6 |
| b) Technology used for the shooting | 2 |
| c) Sound post-production (mixing) | 4 |
| d) Laboratory work (special effects, lighting) and electronic imaging post-production | 4 |
| <i>Total</i> | <i>16</i> |

(4) The table set out in paragraph (3) shall apply to experimental films and other genres not covered by this Act with the following derogations: if the highest score achievable by the film to be classified — based on actual participation by authors and conditions that can be evaluated using the table — is less than 100 points, the criterion for classification into one of the categories set out in point 7 of Article 2, taking the achievable score as 100 %, shall be for the given film to achieve the percentage corresponding to the points determined in point 7 of Article 2.

(5) When calculating the points specified in this Article, the points that can be awarded for the Hungarian elements of a film shall be adjusted to the ratio of Hungarian participation within the specific elements; and, in the case of a film production company, to the contribution of the Hungarian film producer within the total film budget or to the ratio of direct film production costs arising in Hungary within the total film budget, should this latter amount be higher.

Purpose and Principles of the Act

Article 4

The purpose of this Act is:

a) to ensure wide access to the values of Hungarian motion picture culture and to increase the number of viewers;

b) to preserve and enhance the values of Hungarian motion picture culture by supporting the creation of films and artistic, scientific and education activities related to motion pictures;

c) to provide appropriate legal background and financial resources for Hungarian film production to be successful in the international and, in particular, in the European audio-visual market;

d) to create a professional structure that is able to ensure the production and distribution of high-standard domestic audio-visual works and the development of the Hungarian motion picture industry infrastructure by efficiently using budgetary and other resources available;

e) to determine the statutory and other state tasks required for the functioning of the domestic motion picture industry;

f) to determine the institutional framework for preserving and utilising national film assets, and in connection with this, to create a uniform framework for settling economic rights of the state;

g) to assist and promote the establishment of international and, in particular, European relations in the motion picture industry.

Article 5

(1) In order to achieve the objectives determined in this Act, the Act defines the method for providing budgetary resources and resources outside the budget required for the Hungarian motion picture culture and motion picture industry to play a domestic and international role.

(2) This Act shall be applied so that the professional and artistic independence of the resource distribution and institutional system of the Hungarian motion picture industry defined in the Act shall not be infringed.

(3) In the course of operating the state support system defined in this Act, efforts shall be made to use public funds efficiently and effectively, and the use of state subsidies shall be transparent and controllable.

(4) In applying this Act and operating the state support system defined by the Act, the promotion of equal opportunities of people belonging to different nationalities of the society and of people with disabilities shall be ensured.

Chapter II

SUPPORT FOR THE MOTION PICTURE CULTURE AND THE MOTION PICTURE INDUSTRY

Title 1

Principles of the support system

Article 6

The purpose of this chapter is to determine the framework for a comprehensive support system that promotes the stability of the Hungarian motion picture industry, makes the utilisation of public funds more efficient and controllable by ensuring predictability, as well as specifies consolidated basic criteria for films and organisations of motion picture industry that receive state support. Accordingly, in the course of operating the support system, the following objectives and principles shall be applied in particular:

a) increasing the number of Hungarian films and films produced with Hungarian participation,

b) making the production and financing of films easier to plan,

c) ensuring that films are completed and reach the audience,

d)

e) mobilisation of the industry's own resources and promoting investments into the motion picture industry,

f) preserving the existing values of the Hungarian film culture in neighbouring countries and supporting the creation of new values.

Article 7

The sources of the support system shall consist of direct and indirect state subsidies set out in this Act.

Title 2

The Hungarian National Film Fund Non-Profit Private Limited Company

Article 8

(1) The Hungarian National Film Fund Non-Profit Private Limited Company (hereinafter referred to as: the MNF) shall allocate the funds defined for the motion picture industry according to the provisions of this Act.

(2) The MNF is a sole non-profit private limited company founded by the Hungarian State Holding Company (hereinafter referred to as: the MNV Zrt.), the share of which is not tradable. The MNF's deed of foundation is adopted by the MNV Zrt. The deed of foundation and its amendments are published by the founder in the Official Gazette.

Article 9

(1) The MNF is led by the chief executive officer.

(2) The MNF's support functions are provided by the five-member Film Industry Arbitration Committee operating within the MNF, as defined in the MNF's Support Regulation.

(3) The members of the Film Industry Arbitration Committee are the chief executive officer and four other Hungarian nationals having at least five years of professional experience in any field of the motion picture industry. The members of the Film Industry Arbitration Committee shall be appointed by the chief executive officer and shall receive a salary determined by him/her. The chief executive officer shall dismiss the member of the Film Industry Arbitration Committee if he/she commits a serious breach of the obligation in connection with his/her mandate.

(4) The Film Industry Arbitration Committee shall decide by the majority of the votes of all members.

Article 9/A

(1) The sources of the MNF's revenue shall consist of the central budgetary funding and other revenues of the MNF.

(2) 80% of the gambling tax on the six-game lottery shall be allocated to the MNF for the performance of its duties under this Act, and this expenditure shall be provided for in the budgetary chapter of income and expenditure of state assets.

(3) The MNF shall use its other revenues generated during its operation for motion picture industry related purposes under this Act.

(4) In the course of performing its tasks, the MNF shall pay attention to serving different needs of the society and to ensuring the diversity of the Hungarian motion picture industry. It shall, in particular, provide opportunities, on the basis of equal opportunities, for different generations of film producers, workshops, and trends to be presented to the broadest public possible and for the realisation of their creative objectives. For this purpose, in the course of developing a related distribution system, it shall determine the proportions of each sub-area;

create a balance between the perspectives of authors, film producers, distributors, and viewers as well as artistic and economic interests.

Article 9/B

(1) The tasks of the MNF shall be in particular:

a) to operate the motion picture industry support system through distributing the sources of revenue;

b) to elaborate principles for tender applications, with particular regard to

ba) equal opportunities of applicants, the clarity, transparency and comparability of tender applications,

bb) ensuring the continuous presence of Hungarian films and the Hungarian film industry on domestic and the European film market as well as on markets outside of Europe,

bc) promoting the distribution of Hungarian and universal film culture in Hungary,

bd) ensuring the continuity of tendering;

c) to continuously monitor the completion of films and the achievement of other supported objectives starting from the award of subsidies, and to control the use of subsidies, to promote the international distribution of films and their presence at film festivals;

d) international representation of the film industry and maintaining international relations, facilitating involvement in the international motion picture industry tender system;

e) supporting Hungarian motion picture art in neighbouring countries and promoting its continuous presence on domestic and European film markets as well as on markets outside of Europe;

f) management and utilisation of economic rights acquired under a contract related to films realised with state support, based on the MNF's Support Regulation and the agreement concluded with the supported organisation or person ;

g) management and utilisation of property owned or managed by the MNF;

h) preparing concepts on the development of the state support system for the motion picture industry;

i) registering state and local government-owned sites of outstanding importance for the dissemination of Hungarian culture and for Hungary's international assessment, suitable for film shooting, and assistance in the use of such sites for film production under an agreement with those authorised to dispose of such sites.

(2) The MNF shall determine the detailed rules that ensure the application of the principles and conditions for tender applications and support defined by this Act in its deed of foundation and/or its support regulation. The support regulation shall be published by the MNF in the Official Gazette and on its home page.

Title 3

The Motion Picture Coordination Council

Article 10

Article 11

Title 4

Rules of allocating subsidies

Article 12

(1) Direct subsidy for the motion picture industry shall be given through selective subsidies.

(2) Within selective subsidies, bodies providing subsidies may grant refundable or non-refundable subsidies. For refundable subsidies, the supporting bodies shall determine the method and amounts of such refunds.

(3) Based on this Act, subsidies may be granted for the purposes of the following film industry activities:

- a)* film plan development,
- b)* preparation of film production,
- c)* film production,
- d)* film distribution, marketing activities for film distribution and film sales,
- e)* film copy renovation and archiving,
- f)* research and training in the motion picture industry,
- g)* organising events in the motion picture industry, attending events and film festivals,
- h)* preparing and releasing publications in the motion picture industry,
- i)* infrastructure development.

(4) With regard to reaching the maximum limit (maximum extent) of the state subsidies granted for the activities determined in paragraph (3), all motion picture state subsidies shall be taken into account regardless of the number of the actual supporting bodies. The state subsidy of films that receive subsidies for the preparation of film production shall be taken into account when calculating the subsidy limits determined in Article 13.

(5) The Media Service Support and Asset Management Fund (hereinafter referred to as: the MTVA) – with the prior authorisation from the Media Council of the National Media and Communications Authority (hereinafter referred to as: the Media Council) – may conclude an agreement with the MNF to support films in accordance with the provisions of this Act.

(6) To harmonise the distribution of state sources for motion picture industry purposes, the MNF may conclude an agreement with other supporting bodies to support motion picture industry activities defined in paragraph (3).

(7)

(8) No subsidy under this Act shall be granted to activities that are aimed at the production, distribution, and archiving of films that are to be classified in Category VI in accordance with Article 21. Furthermore, no subsidy shall be granted to television movies or television series, which do not qualify as films creating cultural value based on their genre.

(9) Indirect state subsidy under this Act shall be adjusted to the direct costs of film production and to direct Hungarian film production costs.

(10) The basis for the indirect state subsidy of a film is 100 % of direct film production costs, if at least 80% of direct production costs of the film qualify as direct Hungarian film production costs. In the case of films that do not reach this ratio, the basis for the indirect state subsidy is the amount of direct Hungarian film production costs multiplied by 1.25.

Article 12/A

(1) Direct and indirect subsidies under this Act for purposes of film production shall be granted only to films that meet the cultural requirements set out in Article 12/B.

(2) Direct subsidies for purposes of film distribution under this Act shall be granted only in relation to films that meet the cultural requirements set out in Article 12/B.

Article 12/B

A film shall meet cultural requirements if it scores at least 16 points based on the criteria established in the table below, in such a way that it scores points in at least four out of categories *a)-n)*, and

a) shall be considered an European co-production film, as determined in a separate law, if the co-production is made with Hungarian participation,

or

b) fulfils at least two of the criteria listed in points *a)-h)*:

| Cultural content | | Awardable points |
|---------------------|---|---|
| <i>a)</i> | the topic of the film or the work that serves as the basis for the film is based on a story (event) that is part of Hungarian or European culture, or is related to the presentation or reworking of a story (event) that is significant from a historical, mythological or religious aspect; | 1 |
| <i>b)</i> | the topic of the film or the work that serves as basis for the film features persons or characters who are related to Hungarian or European culture, or are significant due to their relation to history, society or religion; | 1 |
| <i>c)</i> | the film presents Hungarian or European traditions and lifestyles or promotes certain elements of these traditions and lifestyles; | 1 |
| <i>d)</i> | the film is set at a Hungarian location or (an)other European location(s) or a related cultural setting, or its imagery presents a Hungarian location or (an)other European location(s) (city, region) or presents typical Hungarian or European cultural motifs; | 1 |
| <i>e)</i> | the script of the film or the work that serves as basis for the film is based on the adaptation of a literary or other work of cultural value (works of applied and fine art, musical composition, etc.); | 1 |
| <i>f)</i> | the topic of the film or the material that serves as basis for the film is focused on an issue that is relevant to Hungarian society or other European societies from a cultural, sociological or political aspect; | 1 |
| <i>g)</i> | the film reflects or presents certain significant Hungarian or European values—in particular: cultural diversity, respect for cultural traditions, respect for the institution of the family, solidarity, equality, protection of minorities, tolerance, environmental protection; | 1 |
| <i>h)</i> | the film serves the better understanding of and familiarity with Hungarian and European culture and identity. | 1 |
| Production criteria | | |
| <i>i)</i> | a film creating cultural value based on its genre; | 4 |
| <i>j)</i> | contributors to the film include Hungarian citizens or citizens of other EEA States, or citizens of non-EEA States who won awards at international film festivals in their capacity as a: | 1 point for each 2 categories fulfilled, maximum 6 points |
| | <i>ja)</i> director, | |
| | <i>jb)</i> producer, | |
| | <i>jc)</i> director of photography, | |
| | <i>jd)</i> script writer, | |
| | <i>je)</i> leading and supporting actors, | |
| | <i>jf)</i> composer, | |

| | | |
|------------|---|---|
| | <i>ig</i>) production designer, | |
| | <i>jh</i>) costume designer, | |
| | <i>ji</i>) editor, | |
| | <i>jj</i>) make-up artist, | |
| | <i>jk</i>) senior production manager/production manager or | |
| | <i>jl</i>) post-production manager (audio/visual/digital); | |
| <i>k</i>) | the final version of the film is produced in the language of an EEA State; | 4 |
| <i>l</i>) | At least 51% of the participants of the film — with the exception of contributors who scored points in accordance with Point j) — are citizens of an EEA State or the film in question is a co-production that does not qualify as a European co-production film; | 4 |
| <i>m</i> | The shooting location is in Hungary; | 3 |
| <i>n</i>) | The preparation of film production or the post-production takes place in Hungary. | 3 |

Article 13

(1) Unless this Act states otherwise, in the case of any film the extent of direct and indirect subsidies shall not exceed 50% of the production budget of the film, or in the case of a co-production film 50% of the Hungarian contribution.

(2) In the case of Hungarian films produced for movie theatre screening – in the genres of feature film, feature-length documentary, popular scientific and animation film – the extent of direct and indirect subsidies shall not exceed 90% of the production budget of the film, or, in the case of international co-production films produced with Hungarian participation, 90% of the Hungarian contribution, on condition the production budget of the film in the case of Hungarian films does not exceed HUF 237 million or, in the case of co-production films produced with Hungarian participation, HUF 467 million.

(3) In the case of Hungarian films, the extent of direct and indirect subsidies shall not exceed 90% of the production budget of the film, or, in the case of international co-production films produced with Hungarian participation, 90% of the Hungarian contribution, on condition the film has originally been produced in the Hungarian language, furthermore, if it is likely that the production budget of the film shall not be recovered even through the total revenue from all channels of distribution. If the production budget of the film is recovered during distribution, the amount exceeding the production budget shall be repaid to the organisation providing the direct subsidy or, in the case of multiple organisations, the proportionate amount, respectively, to the extent of the subsidy provided.

(4) In the case of documentaries, animation films, scientific, non-fiction films, experimental films or short films, the extent of direct and indirect subsidies may reach 100% of the production budget of the film, or, in the case of international co-production films produced with Hungarian participation, 100% of the Hungarian contribution, if the resources necessary for producing such a film, which contributes to cultural diversity, cannot be ensured through other means. This rule shall not be applied to feature films produced for movie theatre screening.

(5) The value limit set out in paragraph (2) increases annually

a) in the case of Hungarian films, with the rate of the consumer price index published by the Hungarian Statistical Office with reference to the previous calendar year,

b) in the case of international co-production films produced with Hungarian participation – taking into account the ratio of Hungarian and non-Hungarian contribution –, with the rate

of the price index specified in point *a*) and the inflation of the euro zone. The reviewed value limits are set by the Budget Act.

(6) When determining the value limits specified in paragraph (2), the submission of the first tender application for state subsidy in relation to film production shall prevail, which

a) in the case of direct state subsidy, is the date of the announcement of the call for tender application or, in the case of subsidies not granted through tendering, the date of the submission of the individual subsidy application,

b) in the case of indirect state subsidy, is the date of the submission of the request related to determining entitlement to the subsidy.

(7) The supported entity shall spend at least 60% of the direct subsidy on direct film production costs in Hungary. The supporting body is entitled to stipulate a higher referent percentage; however, this shall not exceed 80% of the subsidy provided. If the script of the film requires shooting in original locations, the supporting body may agree for a maximum of 60% of the subsidy provided to be spent on film production costs outside Hungary.

(8) Unless legislation states otherwise, the Hungarian producer of the film with Hungarian participation and of the international co-production film with Hungarian participation is entitled to equal rights and must meet the same obligations as the producer of any Hungarian film.

(9) Direct subsidy under this Act can be granted to Hungarian films and films with Hungarian participation.

Article 14

(1) Persons and organisations defined in Article 27 and registered by the Motion Picture Authority may receive direct and indirect subsidies defined by this Act if they comply with the provisions of this Act and the conditions determined by the supporting body.

(2) For activities set out in points *b*)-*c*) of Article 12 (3), direct subsidies may be granted only to film producers, while for activities described in point *d*), only to film distributors.

(3) No direct or indirect subsidy shall be granted to:

a) those who have not been registered by the Motion Picture Authority in the register specified in Article 27 or have been deleted from the said register,

b) those who have outstanding debts towards the state in the form of taxes, contributions or other payables,

c) those who have not fulfilled their obligation to provide a mandatory copy for archiving, in accordance with the relevant piece of legislation,

d) those who have not accounted for the use of a subsidy granted by the supporting body, those whose settlement of accounts has not been accepted by the supporting body, or those who have overdue unpaid liabilities to the supporting body,

e) organisations the executive officers or owners of which include a person who, during a period of three years preceding the date of the submission of the application for subsidy, has been the executive officer of an organisation which has not accounted, to the supporting body, for the use of direct subsidies during the term of his/her service as executive officer or its settlement of accounts has not been accepted by the supporting body,

f) an organisation the owners of which include an organisation that has not accounted, to the supporting body, for direct subsidy used during a period of three years preceding the date of the submission of the subsidy application or such settlement of accounts has not been accepted by the supporting body,

g) against whom bankruptcy, liquidation or winding-up proceedings are in progress,

h) who does not meet the requirements of orderly labour relations as set out in a separate law,

i) any legal person or any business association without legal personality with a registered seat in Hungary or in any of the EEA States which legal person or business association has no registered place of business in Hungary latest at the time of the disbursement of the state subsidy.

(4) The supporting body may grant an exemption from the condition for exclusion specified in point d) of paragraph (3) after three years following the expiry of the reporting deadline at the earliest. In the case of overdue payment obligations that have not been settled, no such exemption may be granted until the obligations are settled.

(5)

(6) Direct subsidy shall only be granted after the conclusion of an agreement between the supported organisation and the supporting body. Should the supported objective not be achieved due to a breach of contract by the supported organisation, the supported organisation shall be obliged to repay the amount of the subsidy to the supporting body.

Article 14/A

(1) No direct subsidy shall be granted to officials of a supporting body who decide on subsidies and to relatives of such persons as listed in point b) of Article 685 of the Hungarian Civil Code. Furthermore, no direct subsidy shall be granted to a tendering organisation in which the persons mentioned above are executive officers with authorisation to represent the organisation or in which such persons have significant influencing interest as set out by Act CXLIV of 1997 on Business Associations.

(2) The official of the supporting body who makes decisions or recommendations regarding subsidies shall not participate in the assessment of the tender application or the subsidy application if he/she or her/his close relative under point b) of Article 685 of the Hungarian Civil Code is the author of the film concerned by the tender application (subsidy application) under the Copyright Act, or if he/she or his/her close relative under point b) of Article 685 of the Hungarian Civil Code is in an employment relationship or any other legal relationship aimed at work, with the tendering party or, alternatively, if he/she provides services to the tendering party through a business association in which he/she is a member or shareholder.

(3) The remuneration of the official of the supporting body who makes decisions or recommendations regarding subsidies and that of her/his close relative under point b) of Article 685, for his/her activities under paragraph (2) carried out during his/her mandate with regard to the supported film shall not be offset against the subsidy.

(4) The officials of the supporting body who make recommendations on subsidies shall report, to the decision makers of the supporting body, all and any circumstances that relate to personal relationships with the tendering party along with their recommendation concerning the decision.

(5) The officials concerned shall submit written statements regarding the conflict of interest prior to the consideration of the related application. If the executive concerned or the provider of the recommendation makes false statements with regard to the conflict of interest or provides false data, his/her appointment shall be terminated by force of law.

(6) If the law sets out a different rule regarding conflict of interest concerning the given supporting body, the stricter of the two rules shall be applied. For the purposes of this Act, the chief executive officer of the MNF and the members of the Film Industry Arbitration Committee shall be considered as officials deciding on subsidies.

Article 15

(1) Selective subsidies may be granted by way of applications in the case of activities defined in points a)-e) of Article 12 (3). Unless otherwise stated by law, a supporting body may grant individual subsidies to the extent of, and subject to, the conditions specified in its support regulation if the realisation of objectives selected earlier by way of application cannot be ensured otherwise.

(2) Selective subsidies for the purpose of producing films may be disbursed only if the supporting body has established that the film producer who requests a subsidy has

a) a production plan and budget at an appropriate level of completion required for starting production,

b) collateral for the budget of the film production (calculated without the amount of subsidy requested),

c) consent from holders of author's and neighbouring rights for film dramatisation and the distribution of the film, and/or contracts pertaining to this.

(3) In addition to the conditions defined in points a) and b) of paragraph (2), selective subsidies may be disbursed for the production of international co-production films with Hungarian participation only if the Hungarian film producer has title of ownership to the first original negative or an original copy suitable for the reproduction of the film and/or is entitled to make a copy thereof suitable for screening. In the case of international co-production films with Hungarian participation, the condition defined in point c) of paragraph (2) shall be met in respect of one of the producers of the film.

(4) The supporting body shall make its decisions in possession of accurate information on the works supported and/or the tender applications through carefully considering all circumstances. The supporting body shall continuously monitor and control the realisation of the objective supported with the assistance of a production and financial supervisor and will, in accordance with this Act, take all measures that ensure completion of the production of the films supported.

Article 16

Article 17

(1) The detailed rules of the support of the operation of movie theatres classified as "art" movie theatres as well as of the distribution of films classified as "art movies" shall be determined by the minister responsible for culture (hereinafter referred to as: the Minister) in a decree.

Chapter III

THE MOTION PICTURE AUTHORITY

Title 1

The Motion Picture Authority

Article 18

(1) The Motion Picture Authority shall perform public administration tasks related to the operation of the motion picture industry.

(2) The Motion Picture Authority shall be the Office of the National Media and Infocommunications Authority (hereinafter referred to as: the Office).

(3) The Office shall operate the National Film Office for the performance of motion picture industry related tasks. The detailed rules of the organisation and tasks of the National Film Office shall be determined by the Organisational and Operational Regulation of the National Media and Infocommunications Authority (hereinafter referred to as: the NMHH). The National Film Office shall be headed by a civil servant ranking as head of department appointed for indefinite period by the President of the NMHH (hereinafter referred to as: the President) upon recommendation by the Director of the NMHH (hereinafter referred to as: the Director), the rights of employer – with the exception of the appointment, dismissal and recall – shall be exercised by the Director.

(4) The Motion Picture Authority shall cover its expenses related to its operation from the central budgetary support and from its own revenues.

Article 19

(1) The Motion Picture Authority shall perform the following tasks: it shall

a) rate films in accordance with this Act in order to protect minors and apply the sanctions set out in the Act if rating regulations are breached,

b) classify films of artistic value or films worthy of support due to their cultural significance as well as movie theatres distributing such films in accordance with this Act,

c) keep authentic, official records in accordance with this Act and the President's decree on organisations of the motion picture industry and on natural persons that require support under this Act, on films eligible for support, films not receiving support, as well as films to be distributed and films classified as "art movies", movie theatres classified as "art movie theatres",

d) classify films for the production of which subsidy is requested under this Act into categories of "Hungarian film", "co-production film with Hungarian participation", "other film with Hungarian participation" or "other film",

e) control and certify compliance with the cultural requirements in accordance with this Act;

f) control, establish and certify entitlement to use indirect and direct state subsidies in accordance with this Act, and issue the subsidy certificate in accordance with the Act on Corporate Tax and Dividend Tax,

g) perform statistical activities concerning the motion picture industry,

h) conduct procedures *ex officio* or upon request concerning the supervision of compliance with its regulatory decisions and with provisions of this Act and legislation issued under the authorisation granted in this Act,

i) perform other tasks concerning the motion picture industry, as defined in this Act or in other legislation based on the authorisation granted in this Act.

(2) The Office shall perform the following tasks not in its regulatory competence:

a) perform data provision activities based on its records concerning the motion picture industry,

b) issue co-production certificates specified in international agreements in accordance with the proceedings set out in such agreements,

c) perform the tasks specified in Article 33,

d) perform other tasks concerning the motion picture industry as set out in this Act or in other legislation based on the authorisation granted in this Act.

(3) An administrative service fee set out by the decree of the President shall be paid for the registration and classification activities of the Office under this Act.

Procedures of the Motion Picture Authority

Title 1

Application of the general rules of the administrative proceedings

Article 19/A

(1) Unless otherwise provided by this Act, the Office and the President shall act in accordance with Act no. CXL of 2004 on the General Rules of Administrative Proceedings and Services (hereinafter referred to as: Ket.).

(2) The President as the competent authority shall examine the appeals against the administrative decisions of the Office under this Act.

(3) The supporting body concerned by the subject matter of the administrative case shall also have the right of appeal against the resolution and the ruling of the Office which can be contested by a separate appeal.

(4) The Office can open proceedings ex officio in cases falling within its competence, except if the proceedings can only be launched at request under this Act.

(5) The Office can extend its proceedings ex officio – before taking a decision – if it becomes aware of an infringement of rights outside the scope of the subject matter of the administrative case but closely or indirectly related to it. The clients shall be informed of the extension of the proceedings ex officio in accordance with the relevant provisions of the Ket. By extending the proceedings ex officio, the deadline for administration shall be extended with the period applicable the procedure.

(6) In the case of lack of competence – without examination by the competent authority or transferral – the Office can dismiss the application without substantive examination or terminate the proceedings.

(7) If data or facts underlying the legally binding administrative decision of the Authority change, the client shall inform the Office within 15 days of the change or his/her becoming aware of it.

(8) Based on the notice of change under paragraph (7) or other official knowledge, the Office is entitled to initiate proceedings ex officio to verify if the change in data or facts substantially affect the administrative decision or the conditions underlying the administrative decision. If the Office finds that the change in data or facts substantially affect the official decision, it shall change or withdraw the decision in an ex officio administrative procedure, as appropriate.

(9) If the film producer fails to notify the Office as set out in paragraph (7), the Office can impose a fine pursuant to point c) paragraph (8) of Article 19/H.

Title 2

Confidentiality

Article 19/B

(1) Individuals employed or contracted, or formerly employed or contracted by the Authority – with the exception of providing data defined in relevant legislation for other organisations – are obliged to safeguard personal data, classified information, business secret they became aware of in connection with the activities of the Authority during the course of

their employment, as well as after it, in addition to all data, facts and circumstances the Authority is not obliged to disclose pursuant to the provisions of the relevant legislation.

(2) Individuals listed in paragraph (1) shall not unlawfully disclose any data, fact or circumstance they became aware of during the course of performing their responsibilities; shall not use it or disclose it to third parties.

Electronic communication

Article 19/C

(1) Within the competences of the Authority under this Act, the President can determine in a decree the procedures in which electronic communication is mandatory or exclusive.

(2) Exclusive electronic communication can be required in procedures concerning only legal persons or business associations without a legal personality or other organisations.

(3) Exclusive electronic communication cannot be required in procedures concerning natural persons.

Deadline for administration

Article 19/D

(1) The deadline for administration in the Authority's procedures is forty days, unless otherwise provided by this Act.

(2) The deadline can be extended in justified cases on one occasion, by up to thirty days.

Clarification of the facts

Article 19/E

(1) In the course of the clarification of the facts, the Authority shall apply the relevant provisions of the Ket. with the exceptions set in paragraphs (2) – (7) below.

(2) The Authority is entitled to inspect, examine any medium and document containing data – including confidential information protected by law – about the production, state subsidy, distribution, archiving of films and to make copies or extracts of them.

(3) The Authority can oblige the client, other parties to the procedure, their representatives, employees and other persons in a legal relationship with the client and with other parties to the procedures to provide data, orally or in writing in a comparable format determined by it or to provide any other information.

(4) In particularly justified cases, the Authority can, for the purpose of clarification of the facts, if it cannot be expected from other means of evidence, oblige persons or organisations other than the client or party to the procedure to provide data or means of evidence. The person or organisations obliged to provide data or means of evidence can appeal against such a ruling to the Metropolitan Tribunal with suspensory effect, the court shall decide in non-judicial priority proceedings, within eight days. Against the Metropolitan Tribunal's ruling no further remedy is available.

(5) If required for the clarification of the facts, the Authority can oblige the client to make a declaration, warning him/her of the legal consequences of non-compliance or inadequate compliance pursuant to Article 19/F.

(6) To clarify the facts, the Authority can oblige the client to provide missing information setting an appropriate deadline and warning him/her of the legal consequences of non-compliance.

(7) In exceptionally justified cases, the Authority can use the documents, data and other means of evidence in its other proceedings if this is required for the adequate or efficient enforcement of rights or to reduce the clients' procedural burdens.

Procedural fine

Article 19/F

(1) In the event of obstructing the procedure the Authority may impose a fine on the client, other parties to the procedure and on the person obliged to assist with the clarification of the facts if his/her conduct aims at, or can result in, delaying the proceedings or obstructing the finding of relevant facts.

(2) The highest amount of the procedural fine is HUF 500,000, in the case of natural persons HUF 100,000.

(3) In addition to the provisions of paragraphs (1) – (2), the Authority can impose a fine of up to HUF 3 million on the senior officer of the non-complying organisation in case of obstructing the procedure or non-compliance or inadequate compliance with the data provision obligation; in case of repeated non-compliance the Authority is obliged to impose a fine.

(4) When imposing a fine, the Authority shall consider in particular the net revenue of the non-compliant organisation in the previous year and the recurrence of the infringement.

Data Provision

Article 19/G

(1) The Office shall issue and forward official certificates on Hungarian motion picture industry related data in its records required by the European Audiovisual Observatory and other European and international organisations.

(2) The Office can request persons and organisations under the scope of this Act to provide data indispensable for the performance of its tasks defined by this Act, even if the data qualify as information protected by law, with the exception of classified information. There is no remedy available against this request, which can be contested in the application against the administrative resolution under paragraph (3).

(3) In case of non-compliance or inadequate compliance with the request under paragraph (4) by the person or organisation required to provide data, the Office can oblige them in its administrative resolution to provide the data.

(4) The Office can impose in its administrative resolution periodic or continuous data provision on persons and organisations under the scope of this Act.

(5) The Office can impose in its administrative resolution distance data provision from an in-process control system installed on site or in the official records on persons and organisations under the scope of this Act.

(6) The resolution of the Office pursuant to paragraphs (3) – (5) cannot be appealed. The client can request the review of the resolution from the court competent in administrative matters within fifteen days of the notification of the resolution with reference to an infringement of the law. The court shall decide within fifteen days in non-judicial proceedings, if necessary after hearing the parties. The submission of the application for non-

judicial proceedings shall have suspensory effect on the execution of the resolution. The decision of the court cannot be appealed.

(7) If the person or organisation obliged to provide data does not comply or inadequately complies with the data provision obligation under paragraphs (3)-(5), the Office shall impose a maximum fine of HUF 500,000, taking into account the net revenue of the non-compliant organisation in the previous year and the recurrence of the infringement.

Legal consequences

Article 19/H

(1) The Office shall have the right to apply a legal consequence defined in this Act on those infringing the provisions of this Act or legislation issued upon authorisation by this Act.

(2) In applying the legal consequence, the Office, under the principle of equal treatment, shall act in line with the principles of progressivity and proportionality; shall apply the legal consequence proportionately, in line with the gravity and rate of recurrence of the infringement, taking into account all circumstances of the case and the purpose of the legal consequence.

(3) If the infringement is of minor significance and no recurrence can be established, the Office, on noting and warning on the fact of the infringement, may require, setting a deadline of 30 days, that the infringer discontinue its unlawful conduct, refrain from infringement in the future and act in a law-abiding manner and may also set the conditions thereof.

(4) In the context of the notice defined under paragraph (3), the considerations defined in paragraph (7) shall not be applied.

(5) If, considering all the circumstances of the case, the notice cannot be applied or would prove inefficient to enforce compliance with the obligation to discontinue the infringement, the Office, without stating the reasons for dispensing with issuing a notice, shall prohibit the unlawful conduct and/or may set obligations to ensure compliance with the provisions of this Act and may apply legal consequences pursuant to paragraph (8).

(6) In case of repeated infringement, the Office shall have the right to impose a fine of up to HUF two million on the senior officer of the infringing organisation in line with the gravity, nature of the infringement and the circumstances of the particular case.

(7) The Office shall impose the legal consequence, depending on the nature of the infringement, taking into account the gravity, recurrence, continuity, duration of the infringement, the pecuniary advantage obtained as a result of the infringement, the harm to interests caused by it, the number of persons aggrieved by or exposed to the harm of interests, the damage caused by the infringement and the impact of the infringement on the market, and other considerations that may be taken into account in the particular case.

(8) The Office shall have the right to impose the following legal consequences:

a) if the distributor of the film distributes the film or the trailer without the age rating of the Office or if — despite the Office's decision — the age restriction symbol is not displayed or not correctly displayed, or if a film not registered in the Office's distribution record is distributed unlawfully, the Office shall impose a fine of HUF 10,000 to HUF 3 million on the film distributor and/or the person or organisation responsible for the unlawful situation;

b) it can require the infringer to publish a communication on its homepage, in a newspaper or otherwise in a manner and for the time specified in its resolution;

c) if data provision or reporting obligations under this Act or other legislation issued under authorisation by this Act are not fulfilled or are delayed, the Office may impose a fine of HUF 3,000 to HUF 100,000;

d) in case of infringement of the provisions of this Act or other legislation issued under authorisation by this Act not specified in points a) and c) and of the Authority's administrative decision not specified in this Act and in point a), the Office may impose a fine of HUF 3,000 to HUF one million;

e) it can apply other legal consequences specified in this Act.

(9) For the purpose of paragraphs (6) and (8) recurrence can be established if the infringer committed the infringement established in the legally binding administrative resolution of the Office on the same legal basis and in breach of the same provisions of legislation, in the same subject.

(10) The legal consequences specified in paragraph (8) can be imposed jointly.

(11) Unpaid fines shall be considered public debts, which can be collected in a similar manner to the collection of taxes. Collected fines shall be used for the realisation of the objectives specified in this Act.

(12) The Office – with regard to the immediate enforceability pursuant to paragraph (6) of Article 21/A – shall provide for the display of the age restriction imposed by its resolution at the client's expense if the client does not or inadequately comply with the obligation despite a notice setting a deadline for compliance.

Inquiries, initiation of criminal proceedings

Article 19/I

(1) If the Authority detects a circumstance based on which a reasonable suspicion of infringement of the law is raised in connection with the use of the subsidy under this Act which may harm the state budget, the Authority shall make an inquiry at the competent tax administration body, submit a notification or file a police report. Until the legally binding termination of the procedure initiated upon the inquiry, notification or report the Authority shall suspend the procedures involving the supported person or organisation.

(2) If, in the procedure under paragraph (1), the court establishes a criminal offense in its legally binding decision, which harmed the state budget, the supported person or organisation concerned and the organisation the senior officer or owner of which has been a senior officer of the organisation concerned by the criminal offense when the offense was committed, may not benefit from direct or indirect subsidies.

(3) If, in the procedure under paragraph (1), the court establishes in its legally binding decision an infringement of the law not constituting a criminal offense, which harmed the state budget, the supported person or organisation concerned and the organisation the senior officer or owner of which has been a senior officer of the organisation concerned by the infringement of the law within three years before the submission of the subsidy claim, may not benefit from direct or indirect subsidy.

(4) The Authority shall act in accordance with the provisions of paragraph (1)-(3) if it has not initiated the procedures under paragraph (1), but based on data available, in the absence of a pending procedure an inquiry, notification or report under paragraph (1) should be made.

General regulatory supervision

Article 19/J

(1) The Office, within its scope of responsibilities and competence, shall have the right to supervise, at request or ex officio, within a regulatory inspection or a regulatory procedure, the enforcement and observance of the provisions of this Act and other legislation issued

under the authorisation granted in this Act, as well as compliance with its regulatory decisions and the subsidy contracts concluded by the Office.

(2) Should the Office establish the infringement of the provisions laid down in its regulatory decision, it shall consider, on the basis of all circumstances of the case, the facts revealed in the inspection, the gravity of the infringement and the effective enforcement of rights, launching enforcement proceedings under the Act on the General Rules of Administrative Proceedings and Services, or a regulatory procedure to apply the legal consequences under this Act.

(3) The Office shall have the right to apply the legal consequences set out in Article 19/H in cases of infringements revealed in the course of general regulatory supervision.

Title 3

Rating procedures

Rating of films for the protection of minors

Article 20

(1) In order to ensure healthy intellectual and spiritual development of minors, films to be marketed in Hungary shall be classified into the categories defined in Article 21 and this classification shall be published in accordance with the provisions of this Act.

(2) The provisions of paragraph (1) shall not apply to films shown for no more than ten times over a year that do not enter the film distribution network, presented at nationwide film days (film weeks) or film festivals organised in line with inter-state agreements or by professional organisations.

Article 21

Rating categories for films shall be as follows:

a) Films that may be viewed without regard to age restrictions shall be classified into Category I.

b) Films that may awake fear in viewers of less than six years of age or films that cannot be understood or may be misunderstood by viewers of less than six years of age, due to their age, shall be classified into Category II. The rating of such films shall be: „not suitable for viewers under six years of age”.

c) Films that may awake fear in viewers of less than twelve years of age or films that cannot be understood or may be misunderstood by viewers of less than twelve years of age, due to their age, shall be classified into Category III. The rating of such films shall be: „not suitable for viewers under twelve years of age”.

d) Films that are capable of unfavourably influencing the physical, intellectual or moral development of children below the age of sixteen, particularly by indirectly alluding to violence or sexuality, or the dominant component of the topic of which films is a conflict that is resolved violently shall be classified into Category IV. The rating of such films shall be: „not suitable for viewers under the age of sixteen”.

e) Films that are capable of unfavourably influencing the physical, intellectual or moral development of minors, particularly by offering a direct and natural depiction of violence or sexuality as a dominant component, shall be classified into Category IV. The rating of such films shall be: „not suitable for viewers under the age of eighteen”.

f) Films that are capable of exerting a seriously unfavourable influence on the physical, intellectual or moral development of minors particularly by containing pornography, extreme or unjustified violence shall be classified into Category VI. The rating of such films shall be: „recommended only for adults”. These films can only be presented publicly in a special network of distributors available only for adults or in cinemas or public screening places (film clubs) between 22 and 05 hours.

Article 21/A

(1) The distributor shall notify the Office at least thirty days before the planned start date of the distribution of the Hungarian and original title of the film to be distributed, the synopsis, the names of the producer, director, script writer, composer, director of photography, leading actors and its proposal for the film’s rating based on the categories specified in Article 21.

(2) A copy of the film on a medium suitable for viewing should be submitted at the time of the notification under paragraph (1).

(3) In the case of foreign language films, if a dubbed or subtitled version is not available, the dialogue list in Hungarian should be submitted as well.

(4) The Office shall decide on the rating based on a proposal from the Age Restriction Committee within fifteen days of the submission of the notification.

(5) Unless otherwise provided by this Act, the film shall not be distributed without a regulatory decision on the age rating, in particular, advertising activities cannot be started using movie trailers without age rating.

(6) The first-instance decision of the Office made in the rating procedure shall be immediately enforceable regardless of an appeal.

(7) The Office shall register the film and the data and facts underlying the regulatory decision – in an ex officio procedure – to its official records on distributed films immediately after the first-instance decision was made.

(8) Films not listed in the official records on distributed films shall not be distributed.

Article 21/B

(1) If the distributor wishes to start advertising activities at least thirty days before the planned start date of the distribution (premiere) and a copy suitable for submission under Article 21/A is not available, the distributor can request the Office to classify the movie trailer separately based on categories defined in Article 21/A (separate classification of the movie trailer). Advertising activities cannot be started using movie trailers without age rating.

(2) The distributor can submit an application to the Office for the separate classification of the movie trailer at least thirty days before the planned start date of the advertising activity. The application must be accompanied by – from the data specified in Article 21/A – the data available and a copy of the movie trailer on a medium suitable for viewing. In the application, the distributor should justify that the missing data and attachments under Article 21/A are unavailable at the time of application for reasons beyond its control. The distributor – with regard to the film’s content and expected classification – in its reasoned application can indicate the rating category under Article 21 with regard to which it does not request classification to a lower category.

(3) Provisions of paragraphs (4) and (6) of Article 21/A shall be applied in the case of separate classification of the movie trailer with the distinction that the decision made on the separate classification of the movie trailer shall be valid until the first-instance decision on the film’s age rating under Article 21/A.

(4) If the distributor requests the movie trailer's separate classification, it shall submit the film under paragraph (2) of Article 21/A to the Office for classification in accordance with Article 21/A immediately after having obtained it but no later than the deadline set in paragraph (1) of Article 21/A.

The Age Restriction Committee

Article 22

The Office shall establish and operate the Age Restriction Committee, which will make recommendations to the Office with regard to ratings and the classification of films into categories.

Article 23

(1) The Age Restriction Committee shall be composed of a minimum of fourteen and a maximum of twenty-eight members. To operate the Age Restriction Committee, the Office shall conclude cooperation agreements with the following non-governmental organisations of its choice:

- a)* non-governmental organisations dealing with the impact of media on children's development;
- b)* teachers' organisations involved in media and motion picture education;
- c)* organisations of pediatric psychologists;
- d)* film distributors' professional organisations.

(2) Through the cooperation agreements under paragraph (1) the Office shall ensure that non-governmental organisations delegate an appropriate number of qualified members to the Age Restriction Committee. The Office can also delegate qualified members to the Committee from among the Authority's civil servants having experience regarding the impact of media on children's development.

(3) The Age Restriction Committee acting in the given case shall be appointed and convened by the Office from among the members of the Age Restriction Committee. The Age Restriction Committee acting in the given case shall consist of at least seven members. The Age Restriction Committee acting in the given case shall include at least

- a)* two persons with a degree in psychology, who have professional experience regarding the impact of media on children's development,
- b)* two persons with a degree in education, who have professional experience in the area of film distribution or media or motion picture education,
- c)* two persons with a higher education qualifications, who have professional experience regarding the impact of media on children's development,
- d)* one representative of the film distributors.

(4) Members of the Age Restriction Committee shall receive a salary, members of the Age Restriction Committee acting in the given case shall receive a reimbursement set by the President.

(5) The Minister, the minister in charge of education, the minister in charge of child and youth protection and the Media Council can each delegate one representative with experience in the field of child and youth protection to participate at the meetings of the Age Restriction Committee as experts.

Display of the Classification of Films

Article 24

(1) Film distributors shall, in a conspicuous manner, display the symbol corresponding to the category determined by the Office in the film and in the movie trailer, at all public screenings of the film and the movie trailer, on the packaging and cover of all data media marketed as well as in all communications and advertisements related to the film in accordance with the provisions set out in the President's decree.

Classification of Films in the Interest of Supporting Film Distribution

Article 25

(1) In order to promote the distribution of films of artistic value or worthy of support due to their cultural significance, the Office, at the request of the film producer or distributor, may grant "art" classification to films. The Minister shall act as expert authority in the procedure.

(2) The Office shall, at the operator's request, grant "art" classification to any movie theatre the operator of which agrees to comply with the conditions defined in a separate law. For movie theatres with more than one auditorium, "art" classification may be awarded to a specific auditorium of the movie theatre if the operator agrees to comply with the conditions applicable to "art" movie theatres in respect of that given auditorium.

(3) The conditions of classification as an „art" movie theatre shall be determined by the Minister in a decree.

Article 25/A

(1) In its application for classification as an „art" movie theatre, the operator shall indicate the movie theatre's name, address, the operator's name and seat, company registration number and shall declare that it agrees to comply with the conditions applicable to "art" movie theatres and auditoriums for the given year.

(2) If a change in the data under paragraph (1) occurs after the submission of the application, the operator shall report it to the Office in writing within fifteen days of the change.

Article 25/B

(1) The Office shall continuously monitor movie theatres classified as "art" movie theatres and evaluate compliance with the conditions of "art" classification set out in the relevant piece of legislation.

(2) The operator shall provide data to the Office until the twentieth day following each quarter – broken down to „art" movie theatres and auditoriums operated by him/her – on the title, the classification category under Article 3, and the „art" classification of the screened films, the time and venue of the screening, number of audience and price revenues.

(3) The Office shall oblige the operator to provide data by its resolution pursuant to paragraph (3) of Article 19/H if the operator does not comply or inadequately complies with its obligations under paragraph (1).

Article 25/C

(1) The Office shall revoke the classification if

a) the conditions for „art” movie theatres set out in the relevant piece of legislation are not met; or

b) the operator fails to comply with the data provision obligations under paragraph (2) of Article 25/B despite obligation by the Office under paragraph (3) of Article 25/B.

(2) The Office shall immediately notify the organisations supporting „art” movie theatres and auditoriums if it revokes the „art” classification of the movie theatre or auditorium.

(3) In the case of paragraph (1) a repeated request for „art” classification can only be submitted in the quarter following the withdrawal.

Article 25/D

If granting „art” classification, the Office shall register, in a procedure ex officio, the movie theatres and auditoriums granted „art” classification in its official register of „art” movie theatres and auditoriums immediately after the decision becomes legally binding. The official register shall contain data under Article 25/A, and data specified in the President’s decree. The detailed rules for registration shall be specified in the President’s decree.

Article 26

(1) In the classification procedure of „art” films a five-member Film Committee, operated by the Minister as expert authority, shall make recommendations to the Minister as to classifying films as “art” films. The Minister shall appoint the members of the Film Committee following an open tendering procedure. Committee members shall have qualification or professional experience in the field of film art, motion picture science or motion picture education. Members shall be appointed for a terms of three years.

(2) The Minister as expert authority shall classify as “art” films all films to be distributed which:

a) contribute to the development of the Hungarian, European or universal audiovisual culture through their artistic value, or

b) which the Film Committee considers to be of high artistic standard and significant from an artistic or educational aspect.

(3) The Office, at the request of the producer, distributor, dispensing with contribution from the expert authority, shall grant „art” classification to films to be distributed which have received an internationally recognised film award contained in the annually updated list published by the Office.

Article 26/A

(1) The producer or distributor can request the „art” classification of the film to be distributed at least thirty days before the planned start date of the distribution. The request shall contain the title of the film, the name of the producer, director, script writer, composer, director of photography and leading actors.

(2) In the case of foreign language films, the distributor shall submit with the request a copy of the dubbed or subtitled version of the film, or, if a dubbed or subtitled version is not available, a copy with the Hungarian or English-language dialogue list on a medium suitable for viewing.

(3) The request shall contain the film’s synopsis and the recommendation for „art” classification. In the case of films which have received an award at an internationally recognised festival, the requestor shall indicate the film festival and the category in which the film has won.

(4) The Office shall ask for the expert opinion of the Minister immediately after the receipt of the request. The deadline for the administrative procedure of the Minister acting as expert authority shall be thirty days.

(5) The Minister shall invite the Film Committee to make its recommendation under Article 26 (1) immediately after the receipt of the request for an expert opinion. The Minister shall take into account the Film Committee's recommendation made within the time limit for expert authority procedure.

(6) In the case of „art” classification of films the Office shall register, in a procedure *ex officio*, the film classified as „art” film in its record of films classified as „art” immediately after its resolution became legally binding.

Classification of films according to the rate of Hungarian participation

Article 26/B

(1) At the film producer's request, in accordance with the law, the Office shall classify films for the production of which direct state subsidies are requested to establish eligibility to direct state subsidies into one of the following categories:

- a)* Hungarian film,
- b)* co-production film with Hungarian participation,
- c)* other film with Hungarian participation,
- d)* other film.

(2) Direct state subsidy under Article 3 (1) shall be provided subject to the classification of the film according to the rate of Hungarian participation. After the resolution on the classification specified in paragraph (1) has become legally binding, the Office shall, in an *ex officio* procedure, immediately register the classified film and the data and facts underlying the regulatory decision in its official records on films entitled to subsidies. If the film is already included in the records, the Office shall supplement the records with the data and facts established in the resolution on the classification specified in paragraph (1).

(3) The classification specified in paragraph (1) shall be performed by the Office based on the documents listed in paragraphs (4) – (5) and submitted by the film producer to the Office.

(4) If the film's budget does not exceed HUF 50 million, the request for classification shall be submitted before applying for state subsidy. The following documents shall be attached to the request:

- a)* the list of authors, artistic and technical staff involved in the making of the film,
- b)* the film's budget,
- c)* the time schedule of making the film,
- d)* the financing plan of the film production.

(5) If the film's budget exceeds HUF 50 million, the request for classification shall be submitted at least 40 days before applying for state subsidy. The following documents shall be attached to the request:

- a)* utilisation agreements or other documents containing the consent of the authors of the work on which the film is based,
- b)* the film's script,
- c)* the list of authors, artistic and technical staff involved in the making of the film, production locations according to the table under Article (3), indicating the technical and artistic contribution by foreign countries,
- d)* the film's budget and its detailed financial plan,
- e)* the time schedule of making the film,

f) in case of a co-production film, the producers' co-production agreement, in the absence of such agreement, the agreement of the parties on the division of the revenues and on the regional distribution,

g) the financing plan of the film production.

Article 26/C

(1) The film producer shall notify the Office of a change in the data underlying the classification according to Hungarian participation within 15 days after the change becomes known. Based on the notification or after the the Office becomes aware of the change, the Office shall launch ex officio proceedings if it can be assumed that the change will result in a change in the classification category established in the resolution.

(2) If the film producer fails to comply with the notification obligation under paragraph (1), the Office may impose a fine in accordance with point c) of paragraph (8) of Article 19/H.

Article 27

(1) The Office, in accordance with Article 12/A (1), based on point e) of paragraph (1) of Article 19 shall establish the eligibility to state subsidies at the film producer's request.

(2) The Office, in accordance with Article 12/A (2), based on point e) of paragraph (1) of Article 19 shall establish the eligibility to state subsidies at the film distributor's request.

(3) Certifying compliance with the cultural requirements shall be a condition for granting subsidies under Article 1 (3).

(4) The Office shall keep an official record of the data of its legally binding resolutions adopted on eligibility to subsidies due to compliance with the cultural requirements.

(5) Requests under paragraphs (1) – (2) can be submitted together with requests under Article 26/A, as well as requests in procedures for certifying eligibility to subsidies and for the registration of films to be distributed. In this case, the Office shall decide on the requests in the same procedure.

(6) The following documents shall be attached to the request:

a) the complete Hungarian script of the film or a copy of the film on a medium suitable for viewing,

b) the film producer's or film distributor's declaration on the compliance with the cultural requirements under 12/B based on the table contained therein,

c) proof of payment of the administrative service fee.

(7) No request shall be submitted to establish eligibility for state subsidies for film distribution if the film has already complied with the cultural requirements for state subsidies for film production. In this case the Office shall dismiss the request ex officio without examining it.

(8) With regard to points m) and n) of the system of cultural requirements under Article 12/B

a) one point can be given, if

aa) shooting in Hungary takes up at least one day but it does not reach 25% of the total shooting of the film counted in days, or

ab) costs of the preparation of the film production or the post-production occur partly in Hungary but they do not reach 25% of the total preparation or post-production costs;

b) two points can be given, if

ba) shooting in Hungary reaches 25% of the total shooting counted in days but it does not reach 50%; or

bb) costs of the preparation of the film production or the post-production incurred in Hungary reach 25% of the total preparation or post-production costs but they do not reach 50%;

c) three points can be given if rates under points a) and b) reach or exceed 50%.

Title 4

The records of the Office

Registration of motion picture industry organisations and natural persons

Article 28

(1) Any Hungarian national, person with the right to move and reside freely as set out in a separate law, legal person or any business association without a legal personality having a registered seat in Hungary or in any of the EEA States may apply for registration if they wish to receive direct or indirect state subsidies. The registration procedure for motion picture organisations and natural persons can only be initiated upon request. Registration shall be a condition for granting subsidies under Article 1 (3). Registration shall not be a condition for granting subsidies in the case of organisations and institutions performing film distribution activities only for educational purposes, for executing library or public collection related tasks, except for public collections specifically related to the motion picture industry. When applying for subsidies, these organisations shall declare that the conditions for exclusion set out in Article 28 (7) do not apply to them.

(2) For the registration of an organisation, the application shall contain the applicant's name, registered seat, company registration number or court registration number, tax number together with the name and address of its representative.

(3) For the registration of a natural person, the application shall contain the applicant's name, address, place and date of birth, tax number or tax identification number of the applicant.

(4) The natural person or motion picture organisation applying for registration shall indicate if they wish to be registered as film producer, film production company, film distributor (as film distributor, movie theater operator or other), workshop or other organisation. The data listed in Article 31 available at the time of submission of the application shall be indicated in the application.

(5) The Office shall register applicants if the data specified by the law are provided and there are no grounds for refusal set out in paragraph (9). Changes in the registered data shall be reported to the Office by the applicant of the subsidy within 15 days of the change.

(6) The Office shall make an inquiry to the MNF and the Ministry and the other supporting bodies as applicable, within 15 days of the registration under paragraph (5) for the purpose specified in this paragraph. The organisations inquired shall, within 15 days of the inquiry, declare whether the registered organisation or natural person or other organisation owned or founded by the the owner or founder of the registered organisation has an outstanding, overdue liability under this Act towards the supporting body. If such a liability exists the significant supporting body shall state the amount of the liability and the direct state subsidy used by the applicant as well as the supported activity or film.

(7) If the supporting body declares that the organisation or natural person to be registered or natural person or other organisation owned or founded by the owner or founder of the registered organisation has an outstanding, overdue liability under this Act, the Office shall

delete the registered motion picture organisation or natural person from the records and shall notify the supporting bodies of it.

(8) The Office shall dispense with the inquiry under paragraph (6) in the case of registration of new organisations founded without legal predecessor, the founders (owners) and senior officers of which are exclusively organisations or natural persons already contained in the records.

(9) Applicants against whom bankruptcy, liquidation or winding-up proceedings are in progress cannot be registered. Applicants who have not accounted for the use of the direct state subsidy allocated to them by the deadline and according to the conditions defined by the supporting body, whose settlement account has not been accepted by the supporting body or who have outstanding overdue liabilities towards the supporting body may not be registered until they settle their payment obligations towards the supporting body. Applicants can be registered again if they have fulfilled their payment obligations towards the supporting body.

(10) It shall be clearly stated in the records if the Office notifies the police in accordance with Article 19/I (1) or files a report to it concerning the registered person or organisation in the context of indirect state aid procedures. In such cases, the rights and obligations of the registered person or organisation resulting from the registration shall be suspended until they submit the legally binding resolution closing the procedure.

(11) The Office shall delete from its records, at request or ex officio, motion picture organisations and natural persons in cases specified in this Act. The Office shall delete motion picture organisations and natural persons from the register ex officio pursuant to paragraph (7) and Article 19/I (2) and (3), as well as if the registration should have been refused but the Office became aware of the ground of refusal after the registration or if ground of refusal has occurred after this date.

(12) The Office shall notify of the deletion the MNF, the Ministry and other supporting bodies.

(13) The Office shall quarterly request significant supporting bodies to provide the data specified under paragraph (5).

(14) Other bodies providing state subsidies under this Act shall inform the Office of motion picture industry subsidies provided by them when granting the subsidy and of outstanding, overdue payment obligations of organisations or persons supported by them when the payment is due.

Article 29

(1) The records on motion picture industry organisations and natural persons shall include the following data for all applicants requesting subsidies:

- a)* data specified in Article 28,
- b)* the amount of direct state subsidy used by the applicant, indicating the activity and/or the film supported,
- c)* whether the applicant has accounted for and settled the direct state subsidy used by him/her/it by the deadline and according to the conditions defined by the supporting body, or in the absence of this, the amount of the applicant's liability outstanding towards the supporting body,
- d)* data necessary to achieve the objective of this Act as set out in this Act and in separate legislation.

(2) The data listed in paragraph (1) and changes in such data shall be reported to the Office by the supported person or organisation and the supporting body within 15 days after he/she/it became aware of the data or the change.

Registration of films eligible for subsidy

Article 30

(1) The Office shall register all films for the preparation or production of which state subsidies have been used.

(2) The register referred to in paragraph (1) shall include the title of the film, the name of the producer, the result of the classification proceedings set out in Article 26/B as well as other data required for realising the objectives specified by law as set out in this Act or in separate legislation based on authorisation by the law. Changes in the registered data shall be reported to the Office by the applicant of the subsidy within 15 days of the change.

Registration of films to be distributed

Article 31

(1) The Office shall register all films to be distributed with the exception of films under Article 20 (2).

(2) The register referred to in paragraph (1) shall include the title of the film to be distributed, the name of the producer and the distributor, the result of the classification procedures set out in Articles 20 and 25, as well as other data required for realising the objectives specified by law as set out in this Act or in separate legislation based on authorisation by the law. The distributor shall report these data to the Office.

Common rules for registration

Article 31/A

(1) Data in the Office's records shall be considered data public on grounds of public interest. The Office shall publish its records on its homepage, accessible free of charge in an unrestricted and searchable manner. The Office shall favour and promote the introduction and application of international standards in the field of audiovisual data collection (International Standard Audiovisual Number, ISAN) when establishing the records.

(2) The motion picture industry records of the Office shall contain data specified in this Act and in separate legislation, as well as in the legally binding decisions of the Office, in particular rights and important facts under this Act related to films and to direct and indirect subsidies. Data of natural persons contained in the Office's records shall be considered data public on grounds of public interest. The Office shall control the personal data set out in this Act until their deletion from the records.

(3) Unless otherwise provided by this Act, the motion picture industry records shall authentically attest the existence of the rights and facts registered in them.

(4) The detailed rules of the records the Office under this Act, of the registration procedures and of the data provision from the records shall be determined by the President's decree.

Title 5

Subsidy procedure

Certifying eligibility for subsidy

Article 31/B

(1) At the film producer's or the film production company's request, based on point f) of Article 19 (1), the Office shall control, establish and certify in its resolution eligibility for direct and indirect state subsidies due to films (hereinafter referred to as: eligibility for subsidy). If the Office establishes and certifies the eligibility for subsidy, it shall register the film and the data and the facts underlying the decision in an ex officio procedure immediately after the decision has become legally binding in the official records on films entitled to subsidies. If the film is already included in the records, the Office shall supplement the records with the data established in the resolution specified in paragraph (1). Establishing and certifying eligibility for subsidy shall be a condition for granting subsidies under Article 1 (3).

(2) When establishing eligibility for subsidies, the Office shall examine the film's budget based on which it shall verify, establish and certify the amount of direct production costs and direct Hungarian production costs underlying the state subsidy.

(3) When or before submitting the application for certification of eligibility for subsidy, the film producer or film production company shall announce the start date of the film production (preparation) no later than until the start date, as well as the start date of the filming – including the pre-filming – at least 8 days before that date. Within 60 days of the start of the filming – if only the post-production is done in Hungary, until the start date of the post-production – the following documents shall be submitted with the application:

- a)* the film's final production plan, including preparation, filming and post-production,
- b)* in the case of a commissioned film, the agreement of the Hungarian company participating in the production and the foreign producer (customer), in the case of an international co-production film the co-production agreement,
- c)* in the case of a non-commissioned film, documents verifying the coverage of the direct production costs and the film's total budget,
- d)* the film's budget concerning the direct production costs (countersigned by all co-producers and supporters), financial and financing plan,
- e)* the film producer's or the film production company's statement on the requested issuance schedule for the subsidy certificates.

(4) Costs incurred because of the Office's inability to exercise its control rights due to an omission on behalf of the client, in particular the omission of or inadequate compliance with reporting obligations under paragraph (3), shall not be recognised as direct production costs.

(5) The Office shall examine the value of the service concerned by the direct or indirect subsidy if its price is higher than the usual market price. In such cases, the Office may instruct an expert whose costs shall be advanced by the supported person or organisation. If doubt arises, the Office shall decide on the acceptance of the costs based on the expert's opinion.

(6) When establishing eligibility for subsidy the Office shall examine adherence to the subsidy ratios specified in Article 13.

(7) The Office shall notify of its decision the producer, the film production company and the organisations granting direct subsidies to the film and the tax authority if necessary.

(8) Upon reasoned request, in cases meriting special consideration, the Office may derogate from compliance with certain conditions under paragraph (2), in particular those of set production time and budget.

Subsidy certificate

Article 31/C

(1) The Office shall issue subsidy certificates at the film producer's or film production company's request entitling to indirect state subsidies in accordance with point f) of Article 19 (1) and point 36 of Article 4 of Act LXXXI of 1996 on Corporate Tax and Dividend Tax (hereinafter referred to as: the Tao. tv.).

(2) The request shall be accompanied by:

a) the general ledger statement and the general ledger files including the book items of the film, and

b) the statements of expenditure of costs provided in the application and the actual costs of the previous period, based on the budget approved when establishing the eligibility for subsidy, broken down by item codes.

(3) The supporter's name, registered seat, tax number shall be indicated in the application or within 20 days of the submission of the application and the agreement proving the entitlement to the certificate.

(4) The subsidy certificate shall contain – in addition to the provisions set out in point 36 of Article 4 of the Tao. tv. – the film's title and registration number, the period stated in the application and the direct production costs for this period.

(5) In the case of commissioned films, at the request of the film production company, the film producer may also be indicated in the certificate.

(6) The Office shall preserve the documents obtained in connection with the subsidy certificates issued for ten years following the year of issuance.

Article 31/D

(1) The Office shall issue the subsidy certificates – with the exception specified in paragraph (2) – after the completion of the film production with respect to total direct costs of production.

(2) The film producer or the film production company is entitled to request the subsidy certificate on a monthly or quarterly basis if the production is not completed in nine months or the direct production costs exceed HUF 150 million.

(3) For the purposes of paragraph (2) the amount in each certificate – if issuing certificates for several supporters of the same film, the total amount – shall not exceed 20% of direct production costs incurred until the issuance of the certificate.

(4) In order to achieve the ratio under Article 12 (10) the Office shall prepare the final accounts after the last financial period accounted for in cases under paragraph (2), in which it shall consider – with regard to the total accounted costs – the enforceability of the ratios under Article 12 (10) and the correction of accounting limits to be used for the copyright, the producer's fee, the accountable promotion costs, as well as financially settled costs not accounted for in the period covered by the application under Article 31/E (2).

(5) When issuing the certificate, the Office shall verify adherence to the subsidy ratios set out in Article 13, and, if they have been exceeded, it shall deduct the unlawfully paid subsidy surplus from the sum determined in the subsidy certificate.

Article 31/E

(1) Film production and film production preparation costs can be recognised as direct film production costs if incurred – in connection with Hungarian production in Hungary or abroad – after the submission of the application for registration and fulfil the conditions set out in paragraph (2)-(9).

(2) The Office shall recognise costs for the given phase of the production which are connected to the settlement of accounts between the start and end dates of the period indicated in the application and for which the applicant has accepted the invoice in the indicated period.

(3) Only costs the settlement of which is certified by a document generated in the production period corresponding to the final production plan or within three months of the completion date can be recognised as direct film production costs.

(4) The amount of royalty for the copyright and subsidiary rights of the work underlying the film can be accounted for as direct film production costs if it does not exceed 4% of the sum of the fifth and eighth invoice class of the general ledger statement of the given film.

(5) The accounted amount of the producer's fee shall not exceed 4% of the sum of the fifth and eighth invoice class of the general ledger statement of the given film.

(6) Promotion costs of the production can be accounted for which do not exceed 2% of the sum of the fifth and eighth invoice class of the general ledger statement of the given film or HUF 5 million. Buying advertising space for advertising the film, in particular advertisement published in the written press, public spaces, on vehicles or in the radio or television shall not be considered as promotion costs of the production.

(7) Travel costs related to the film production can only be accounted for as direct film production costs if at least the departure point or the destination is in Hungary.

(8) In the case of a film made of an event, only direct production costs not related to the creation of the event can be accounted for. If the event-related costs and those of the film production cannot be clearly separated, they shall not be accounted for as direct production costs.

(9) Costs the financial settlement of which is realised by issuing a bill of exchange or offsetting products or services shall not be accounted for as direct production costs.

Article 31/F

(1) Film production and preparation costs or expenditures qualifying as direct production costs shall be recognised as direct Hungarian production costs if:

a) accounted for on invoices specified in points *a)*–*b)* of Article 160 (3) of Act C of 2000 on Accounting (hereinafter referred to as: the Szt.)

b) incurred in connection with discharging tax obligations or obligations generating revenues at budgetary organs under Act CXVII of 1995 on Personal Income Tax, Act XLIII of 2002 on Simplified Entrepreneurial Tax, the Tao. tv. or Act CXX of 2005 on Simplified Public Contributions, or

ba) incurred in connection with discharging contribution obligations related to personal payments made in connection the film production, or

bb) incurred in connection with discharging tax obligations charged to the profit before taxation, including tax obligation of the issuer of the invoice indicated in the invoice (in particular, the non-deductible value added tax charged in advance, or other non-refundable tax charged on the consumption as indicated in the invoice) and

c) they fulfil conditions set out in paragraphs (2)-(9) of Article 31/E.

(2) In addition to the provisions of paragraph (1) the costs of the remuneration of foreign artists and staff members directly contributing to the production can be accounted for as direct Hungarian film production costs even if they are not in the producer's or the production company's books, provided that the resulting income is taxable in Hungary pursuant to Act CXVII of 1995 on Personal Income Tax and it has been paid to the tax authority in accordance with the relevant legislation. The producer or the production company shall credibly prove the payment of the tax.

(3) If acquiring tangible assets, only the amortisation of the equipment directly related to film production can be accounted for pursuant to Article 52 of the Szt., for the period beginning from the production until its completion. If the equipment is used for several film productions at the same time, the eligible costs shall be divided proportionally according to the accounting policy of the film production company.

(4) From costs including mediated services set out in point 1 of Article 3(4) of the Szt. the value of the mediated services provided to the supplier from abroad shall not be accounted for as direct Hungarian film production costs. The value of the mediated services provided from abroad shall be declared by the film production company.

(5) Invoices of domestic suppliers and other domestic costs shall be considered Hungarian production costs and shall be accounted for pursuant to this Article.

(6) In justified cases the Office can extend its regulatory control to the intermediary contracting parties and subcontractors and their legal relationships in order to include the actual service provider under the scope of the regulatory control.

Article 31/G

(1) For subsidies provided by the MNF, the MNF shall control the use of the subsidy and the film's financial accounts, of which it shall prepare minutes as set out in the President's decree. The MNF shall immediately forward the minutes to the Office. The Office shall be bound by the contents of the minutes with respect to the part of its regulatory decision on the subsidy certificate under Article 31/C (1) examined by the MNF; it shall abide by the contents of the minutes in its regulatory decision, except as provided by paragraph (2).

(2) If the contents of the minutes do not comply with the relevant legislation, the Office shall call on the MNF, by setting a deadline, to amend the minutes in order to comply with the relevant legislation. If, despite the warning, the minutes do not comply with legal requirements, the Office shall disregard the minutes and their content in its regulatory procedure and decision.

(3) The Office can conduct a spot check with regard to the provisions of paragraph (1) from the start of the film production until the day of the film's presentation.

(4) The provisions of paragraph (1)–(3) shall be applied if, in the indirect state subsidy procedure the supporting body providing direct state subsidies pursuant to Article 1(3) prepares minutes as set out in the decree of the President.

Article 31/H

If issuing a subsidy certificate, the Office shall, in a procedure *ex officio*, register the film and the data and facts underlying its regulatory decision immediately after the decision has become legally binding, in its records on films eligible for subsidies. If the film is already included in the records, the Office shall amend its records with the data established in its legally binding resolution.

Title 6

Other tasks of the Office

Article 32

(1) Based on an agreement with the Ministry, the Office shall perform data collection and data control tasks for the purpose of operating the motion picture industry information system of the National Statistical Data Collection Programme.

(2) The Office shall order its records under this Act in an electronic database as set out in the decree of the President.

(3) The Office shall certify the eligibility of natural persons, organisations and films for subsidies based on data in its records as set out in this Act, as well as the extent of eligibility, in particular the settlement of accounts with regard to direct state subsidies.

(4) The Office shall register all films for statistical purposes in a procedure *ex officio* for the preparation or the production of which no state subsidies are used. The detailed rules of the registration of such films are set out in the decree of the President.

Article 33

(1) The Office shall assist film producers, film distributors and motion picture organisations in establishing international relations. It shall support acquainting international market players with provisions of this Act promoting the development of motion picture industry and shall participate in the work of European and international motion picture industry organisations.

(2) The Office shall perform tasks set out in bilateral and multilateral international co-production agreements, in particular it shall issue the co-production certificate provided for in the international convention, under the procedure provided for in the convention.

(3) The Office can make recommendations to the Minister with regard to the policy on the domestic and international strategic issues of the motion picture industry, and the Hungarian participation in the audiovisual programmes of the European Union, it can make recommendations to conclude international co-production agreements and on their contents.

Chapter IV

PROTECTION OF NATIONAL FILM ASSETS

Hungarian National Digital Archive and Film Institute

Article 34

(1) The Hungarian National Digital Archive and Film Institute (hereinafter referred to as: the MaNDA) shall be an independent budgetary organ operating as a public collection under the direction of the Minister.

(2) The basic task of the MaNDA – besides its tasks pursuant to Article 59 (7) of Act CXL of 1997 on the Protection of Cultural Goods, Museum Institutions, Public Library Services and Cultural Education – is to perform tasks related to the collection, processing and preservation of tangible, written and other documents of the Hungarian and universal film culture, to contribute to the development of Hungarian culture through professional services and research activities, and to promote motion picture culture-related education.

(3) The MaNDA shall manage films and video documents provided to it in accordance with the Government decree on the provision of mandatory copies of press products and other publications for archiving purposes.

(4) The MaNDA's director shall be appointed and dismissed by the Minister, its rules of organisation and operation shall be approved by the Minister.

Article 35

(1) The asset trustee's right concerning national film assets shall be vested in the MaNDA.

(2) The MaNDA shall not sell, transfer or encumber films in the national film assets either in part or in whole. The MaNDA shall use films received for preservation or in the context of provision of mandatory copies for archiving purposes in its collection only in accordance with the provisions of the Copyright Act.

(3) The MNF shall provide for the distribution of films in the national film assets based on relevant legislation and the agreement with the MaNDA.

(4) The detailed rules for the efficient and multi-channel distribution of films that form a part of the national film assets, as well as the method for distributing the revenue collected from distribution shall be determined by the Government in a decree. This shall not affect the enforcement of rights held by right-holders under the Copyright Act.

(5) The MTVA can use films held by the MaNDA for the purpose of performing its tasks under the Mttv. and can cede them to public media service providers under the Mttv. The right to cede the use shall not be extended to third parties. The MNF and the MTVA shall enter into an agreement with prior authorisation from the Media Council on the terms of use and ceding the use and on the reimbursement for the use, taking into account paragraphs (6) and (7).

(6) The MaNDA and the MNF shall comply with the request of the MTVA to use films within the deadline and in the manner requested by the MTVA, unless compliance is impossible or excluded by the law. The refusal shall be justified, in the case of unjustified refusal the MTVA is entitled to compensation.

(7) Only justified costs incurred directly and inevitably in connection with the use of the film by the MTVA shall be eligible for reimbursement under paragraph (5).

Chapter V

CLOSING PROVISIONS

Article 36

(1) This Act shall enter into force on 1st April 2004. Point 15 e) of Article 2 shall enter into force on the date when the international treaty on the accession to the European Union is promulgated.

(2) The method and conditions of paying the procedural fees of the Office under this Act as well as their amount and pricing rules shall be determined by the President in a decree.

(3) Films that are already under distribution at the time of this Act entering into force need not be reclassified according to the provisions of this Act in respect of age restrictions or "art" classification, and the previous age restrictions and "art" classifications recognised by the Motion Picture Public Foundation of Hungary shall continue to be applied in their case.

(4) As of 1 January 2012, the budgetary appropriations (financial framework) of the motion picture authority for its operation within the budget of the National Office of Cultural Heritage (hereinafter referred to as: the KÖH), as well as the National Film Office's assets taken over by the KÖH as of 1 January 2007 shall be handed over to the NMHH with an itemized settlement of accounts.

(5) With respect to the regulatory tasks related to the motion picture industry, the NMHH shall be the legal successor of the KÖH as of 1 January 2012. All documents and electronically stored data generated during the performance of motion picture industry-related

tasks before 1 January 2012 shall be handed over to the NMHH which shall store and control them.

(7) Films classified for the protection of minors before 1 January 2012 to

- a)* Category II shall be considered as classified to Category III,
 - b)* Category III shall be considered as classified to Category IV,
 - c)* Category IV shall be considered as classified to Category V,
 - d)* Category V shall be considered as classified to Category VI
- as of 1 January by virtue of this Act.

(8) As of 1 January 2012 the provisions corresponding to their new classification under paragraph (7) shall be applied to films classified before this date.

(9) In cases pending on 1 January 2012 the new categories under paragraph (7) shall be applied.

Article 37

(1) The Government shall be authorised to establish in a decree the detailed rules for the efficient and multi-channel distribution of films that form a part of the national film assets, as well as the method for distributing the revenue collected from distribution.

(2) The Minister shall be authorised to establish in a decree

- a)* with the consent of the minister responsible for the supervision of state assets the rules of state subsidies for motion picture industry activities not related to film production,
- b)* the conditions for classification as „art” movie theatre pursuant to Article 25 (2) and accessibility of movies for people with disabilities,
- c)* the detailed rules for supporting the operation of „art” movie theatres and the distribution of „art” movies.

Article 38

The President shall be authorised to establish in a decree

- a)* the detailed rules of the records kept pursuant to this Act, and of data provision from the records,
- b)* the method of displaying the symbol corresponding to the category determined by the Office in the film and in the movie trailer, at all public screenings of the film and the movie trailer, on the packaging and cover of all data media marketed as well as in all communications and advertisements related to the film,
- c)* the conditions for the age rating of films,
- d)* in the indirect support procedure the detailed rules of the minutes prepared by the MNF and other supporting bodies in the context of controlling the use of the subsidies and the film’s financial accounts,
- e)* the rules of issuing co-production certificates specified in international conventions and other certificates necessary for the international co-operation of the Hungarian motion picture industry,
- f)* film production costs underlying the eligibility for direct and indirect subsidies established by the Office,
- g)* procedures in which electronic communication is mandatory or exclusive,
- h)* the method and conditions for ordering records under this Act to electronic databases,
- i)* the method and conditions of paying the procedural fees of the Office under this Act as well as their amount and pricing rules.

Conformity with European Union Law

Article 38/A

This Act serves conformity with Article 24 of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of the free movement and residence of the European Union's citizens and their family members within the territory of the Member States amending Regulation No 1612/68 (EEC) and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC.