



Extended reporting obligation, Film Ordinance (FiO) ([SR 443.11](#)) Article 16a

Instruction leaflet concerning data to be recorded

FSO, version dated 15.01.2018 (corrected)

The revised Film Ordinance (SR 443.11) extends the scope of application of the reporting obligation. These instructions describe and detail the data requirements according to Article 16a of the revised Film Ordinance. They are intended as a guideline or aid to companies with a reporting obligation for internal data collection beginning as of 01.01.2017. Data will be supplied for the first time in 2018. These guidelines are supplemented by datasheets for the individual methods of exploitation and a Q&A document which can be found on the FSO website.

Important information:

As communicated in a circular by the Federal Office for Culture (10.01.2018), the survey is only for electronic services. The Confederation's tasks must be prioritised to that effect. In a first phase, data are only collected from film providers. In a second phase, rights holders may be contacted to check details from platforms. However, since January 2017 rights holders have also been responsible for registering their films with ISAN if they do not yet have an ISAN number (cf. chapter "Data on supply / film catalogues"). Rights holders must register the ISAN codes with the providers at the time of the license agreements at latest.

Methods of film exploitation and data

In addition to the exploitation of films in cinemas (FiO Articles 15 and 16), from 2017 onwards national and international companies which offer films via electronic services on demand or by subscription (esds, platforms) and owners of the corresponding exploitation rights (distributors) shall also be subject to the reporting obligation (Art. 16a para. 1 FiO). A decisive factor here is film supply for and demand from Switzerland and not the company's seat (viewing or sale in Switzerland). The extended reporting obligation currently concerns the following offered and chargeable methods of film exploitation:

esds sales:

Sales of films via digital channels with unlimited rights of use

- *Payment per film without time limitation of user rights*

esds rental:

Time limited, paid sales of user rights for a film (rental)

- *Payment per film, time limited right of use*

esds subscription:

Paid subscription services with unrestricted access to subscription films

- *No payment per film. Instead, there is a flat-rate fee for supplied films with no limitation on the number of views.*

esds platforms which also offer free films in addition to films subject to charge report only films subject to charge and paid views, or views in the scope of a paid subscription.

Extensive digital broadcasting station offerings (e.g. catch-up TV) are not surveyed.

For all data reported, it must be clear to which method of exploitation they refer. Companies with an obligation to report offering films via several methods of exploitation need to provide their data separately for each method of exploitation.

For the methods of exploitation esds, films which fulfil the following criteria must be reported:

- Sold or offered to the Swiss public as animated films, documentaries or feature films
- At least 60 minutes long

Pornographic films are not subject to the reporting obligation even if they fulfil the formal criteria mentioned above (cf. [Art. 16 para. 2 FiA](#)). The same also applies for TV series.

Data on supply / film catalogues

For supply-related data, information on films must be delivered separately for each method of exploitation. This concerns lists of films that must be reported which are supplied to customers from Switzerland in the survey year. The lists should also contain films removed from the offering or not requested at all in the survey year. In accordance with the FiO, the following film information is expected:

- ISAN number (optional: V-ISAN) and the following information contained in the ISAN code:
 - Original title and title used in the three language regions
 - Director
 - Scriptwriter and producer for Swiss films
 - Film genre (*feature film, documentary film, animated film*)
 - Production country and co-production countries
 - Language versions offered for the film (*original, German, French, Italian*)
 - Year of production
- Start date of exploitation for every method of exploitation
- Length in minutes
- Owner of exploitation rights for Switzerland.

With the entry into force of the legal reporting requirements, all new releases starting from 1st January 2017 on digital platforms (esds) must have an ISAN number. This ISAN obligation also concerns older films that are re-released on “pm” or “esds”. Existing ISAN codes for films have to be taken over by the companies subjected to the reporting requirement. This increases the general quality of the statistic (films without an ISAN cannot be analysed in detail, their sales or clicks can only be shown in a global statistic). All existing codes are publically accessible on the ISAN homepage. You can also find pre-existing ISAN numbers generated for cinema releases on the ProCinema website (for example, see: <https://www.procinema.ch/de/statistics/filmdb/1000857.html>). This website is being updated permanently with ISAN codes.

There is no legal obligation for retroactive application of ISAN numbers for “esds” titles released before 1st January 2017, though it would highly increase the data quality. These older titles have to be communicated with their respective internal IDs. With the delivery of the ISAN code, information on a film that is contained in the ISAN code does not have to be provided in addition. The instruction leaflet issued by ISAN-Berne on registering an ISAN number for films, which do not have such a reference number at the time

of their first exploitation in Switzerland, is available at:

http://www.isan-berne.org/fileadmin/isan_berne/Dokumente/News/2016_12_meldepflicht_bak_merkblatt_isan_EN.pdf

For esds, various (media) versions of a film or films in packages are offered (digital sales of various titles as a package). This makes it difficult to record the information listed above *for each film*, because the language versions for each film offered or the length of the film version may vary. For this reason and to also simplify the recording of data, the information above is to be provided in these cases per film *and* per product unit (identifiable product, such as a certain film version or a package, identifiable, for example, via internal product numbers).

Data on usage

In general no information is expected on turnover. Instead data is expected on annual usage data in the form of frequencies (e.g. number of sales or views). The details of the data requirements on usage vary by method of exploitation:

esds sales – delivery per film or film and product unit

Digital sale of films, no turnover:

- Annual number of sales per film
(For delivery by product and product ID, the linking of the product to the individual films via ISAN must always be possible, even for various product versions and package offers)

esds rental – delivery per film or film and product unit

Views with payment per film or product, given in:

- Annual number of payments per film
(Number of transactions, no turnover; for delivery by product and product ID, the linking of the product to the individual films via ISAN must always be possible, even for various product versions and package offers)
- Cumulated annual number of minutes of views per film *(if technically possible, see datasheets)*

esds subscription – delivery per film or film and product unit

Views on paid subscription services (fixed fee for films), given in:

- Annual number of requests/views per film
(See datasheets: Absolute number and limited number per user; for delivery by product and product ID, the linking of the product to the individual films via ISAN must always be possible, even for various product versions and package offers)
- Cumulated annual number of minutes of views per film *(if technically possible, see datasheets)*.

Only views and sales from Switzerland are relevant.

Confidentiality of analyses

The delivered data are handled confidentially by the FSO in accordance with the Federal Statistics Act (SR 431.01) and are only published in aggregated form. Subsequently, it will not be possible to draw any conclusions about the companies with a reporting obligation from the statistical analyses.

Inquiries

For inquiries and comments concerning the [data requirements](#), please contact the FSO directly. Detailed information for the various methods of exploitation can be found on the FSO website.

poku@bfs.admin.ch - www.fiv.bfs.admin.ch

Instructions concerning data to be recorded from 01.01.2017

If you have any other questions on the reporting obligation, please contact the Federal Office of Culture:

Filmexploitation@bak.admin.ch –
<https://www.bak.admin.ch/bak/en/home/cultural-creativity/film/film-rechtliche-informationen/ss-film---rechtliche-informationen.html>