



**Interpretative criteria relating to the procedure for the classification of cinematographic films and other audio-visual works in application of Royal Decree 1084/2015 of 4 December, by which is developed the Law of Cinema**

The approval of Royal Decree-Law 6/2015 of 14 May, amending law 55/2007 of 28 December on Cinema, and Royal Decree 1084/2015 of 4 December, has modified the procedure for the classification of audio-visual works.

Taking into account the issues that each of the concerned sectors has raised, it is appropriate to clarify its interpretation on certain aspects that are the responsibility of the Institute of Cinematography and Audio-visual Arts (ICAA) to carry out; in particular, with regard to its classification obligation, some issues actual procedure and the specifics for the classification of trailers, as well as the treatment of obsolete works and television series.

**1- Scope of the classification obligation**

Pursuant to article 8 of Law 55/2007 of 28 December on Cinema, Royal Decree 1084/2015 regulates, in article 6, the obligation of the classification by age group of cinematographic films and other audio-visual works, prior to their commercialization, dissemination or publicity.

Article 6, paragraph 4, exempts from this obligation television films, television series, as well as those other audio-visual works created for dissemination by means which are considered legally self-regulated. Codes of conduct or other control mechanisms for contents broadcast by such means, which will be governed by its own specific regulations; an exception already established in article 8.1 of Law 55/2007.

This exception to the classification regime affects not only that established in articles 7 and 8 of Royal Decree 1084/2015, which specifically regulates both the procedure for obtaining such classification, as well as the advertising of the same, but also to articles 35 and 36 of the Royal Decree itself, insofar as both relate to the classification obligation.

Therefore, the entry into force of Royal Decree 1084/2015, requires a clarification of the scope of action of ICAA and the classification procedure to be followed depending on the type of audio-visual work. In this sense:

- Cinematographic films and their respective trailers, for exhibition in cinemas, will be subject to what is established in articles 6, 7 and 8 of Royal Decree 1084/2015.
- Television series and television films are excluded from the classification system set out in articles 6, 7 and 8.



## 2- Classification of obsolete works

Article 7.4 of Royal Decree 1084/2015 establishes the possibility of requesting a new classification in the case of obsolescence. However, the article does not specify a specific time frame or date that determines obsolescence. It is therefore necessary to establish an objective criterion to serve as a reference in this regard.

In this sense, the Resolution of 16 February 2010 of the Institute of Cinematography and Audio-visual Arts, establishes criteria for age group classification of cinematographic films and audio-visual works, for two cases:

- to modify the existing age groups.
- to develop and describe the criteria for consideration in order to determine the classification by age group.

Both aspects constitute a more modern system of classification that is more objective and in line with contemporary society, a reason why this norm can be established as a milestone to determine that the classification granted to a work in the past can be considered obsolete. Consequently, for those works that are once again subject to commercialisation, dissemination or publicity, and which have a classification from before the above date, a new classification will be requested by those who are entitled to do so in accordance with article 7.4 of Royal Decree 1084/2015.

## 3- File number for the classification of cinematographic films:

The second additional provision of Royal Decree 1084/2015, establishes that ICAA will assign each cinematographic work with a unique identification code at the moment in which any procedure is carried out. The identification code issued by ICAA will be the file number.

For the application of this provision, several factors must be taken into account:

Until the entry into force of the aforementioned Royal Decree, ICAA assigned audio-visual works different file numbers to each applicant, meaning that the same work could possess different file numbers. This did not mean, however, that the classifications were always different.

Therefore, it is necessary to determine which file number is valid for these purposes in different situations. In this sense, to unify the codes for films that have already been classified, the following criteria will be met:

### - Films that only have one cinema classification file number

To exploit these films on video etc., it is not necessary to carry out a new ICAA classification process but the distributor must indicate the age group classification as well as the cinema classification file number. In the case that a classification is obsolete (because it is dates to before the 2010 Resolution), a new classification will be requested, but the previously assigned file number will be maintained.

### - Films that have one classification file number for cinema and one or more for video

To exploit these films, it is not necessary to apply to ICAA for a new classification. The valid file number will be the one assigned for cinema, which must be then used for all forms of exhibition.



If there are differences between the age group classification decisions, the age recommended in the most recent decision will be valid one. If this rating is obsolete, a new one will be requested, but the existing file number will be retained.

- Films for which there is no cinema file number but one or more video file numbers.

To exploit these films, ICAA will award a new different file number. If the classification is older than the Resolution of the Institute of Cinematography and Audio-visual Arts, of 16 February 2010 which establishes criteria for age group classifications of films and audio-visual works, a new classification application will be submitted to ICAA or it will be subject to self-regulation for its exhibition on television.

#### **4- Classification of trailers and their promotion in cinemas:**

With respect to Article 8 of Royal Decree 1084/2015, especially regarding the determination of trailers, ICAA already prepared a note on this matter on 14 March 2016, the conclusions of which are reiterated:

1- The obligation imposed by section 1 of Article 8 of the aforementioned Royal Decree on certain subjects, to make public the content of the Resolution of age groups classification, refers only to cinematographic films, without this obligation being extended to trailers.

The references to the trailers made in Law 55/2007 and Royal Decree 1084/2015, refer exclusively to film trailers, screened in cinemas for promotional purposes.

2- Consequently, the communication obligations of the classification of trailers provided for in those rules, apply only to cinema owners, not to the title holders or providers of other means by which cinematographic films can be exhibited.

3- Considering that the references to trailers made in the cinema regulations are limited to the trailers intended for exhibition in cinemas, the obligation of indicate "classification pending" when the film has not yet been classified, is limited to these trailers only, in accordance with the provisions of article 8.3 of RD 1084/2015.

4 - Therefore, the classification and publicity of any audio-visual product or commercial communication of a cinematographic film, that uses some of its fragments for its promotion and that is exhibited by means other than in cinemas, will be regulated by the specific legislation of the medium in which the exhibition of those products or communications is programmed, irrespective of whether its content is identical to one of the trailers.

5 - In any case, the scope of Law 55/2007 and Royal Decree 1084/2015, does not extend to television content, so that the television advertisements of cinematographic films, are subject Law 7/2010 of 31 March on Audio-visual Communication, which does not provide any specific obligation for these contents.

It will generally be understood that trailers that accompany a film have the same classification as the film which they are advertising to the viewer (or lower) and the classification must be indicated somewhere clearly visible.



Only if the film is accompanied in the programme where it is screened by a trailer with an age classification higher than the film itself, will it be necessary to highlight the classification of that trailer, somewhere clearly visible.

#### **5- Classification of television series and films for television:**

The classification of television series and television films to be broadcast on television corresponds to the respective provider of the audio-visual communication service, in application of its rules of self-regulation, using, where appropriate, the CODE OF SELF-REGULATION ON TELEVISION CONTENT AND CHILDREN.

For its exploitation by other media, there is no express requirement of classification since, by its nature, television series and films are excluded from the scope of the classification regulations. However, these can be used as an age guide for television broadcasters' self-regulation.

In the case of works not broadcast on television, the distributor may, in the absence of any other classification, assess the possibility of applying some type of self-regulation, as long as they are not films screened in cinemas, which would, in any case, require classification in accordance with articles 6, 7 and 8 of Royal Decree 1084/2015.