



Mapping of national rules for the promotion of European works in Europe

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Director of publication – Susanne Nikoltchev, Executive Director

Editorial supervision – Maja Cappello, Head of Department for Legal Information

Editorial team – Francisco Javier Cabrera Blázquez, Maja Cappello, Julio Talavera Milla, Sophie Valais

Research assistants – Léa Chochoy, Ismail Rabie

European Audiovisual Observatory

Contributing author

Jean-François Furnémont, Founding Partner of Wagner-Hatfield

Proofreading

Jackie McLelland

Editorial assistant – Sabine Bouajaja

Marketing – Nathalie Fundone, nathalie.fundone@coe.int

Press and Public Relations – Alison Hindhaugh, alison.hindhaugh@coe.int

European Audiovisual Observatory

Publisher

European Audiovisual Observatory
76, allée de la Robertsau, 67000 Strasbourg, France
Tel.: +33 (0)3 90 21 60 00
Fax: +33 (0)3 90 21 60 19
iris.obs@coe.int
www.obs.coe.int

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Foreword

Whenever the subject of public policy arises, there are two questions to address. First of all, there is the WHY, that is, what is your policy purpose? Which are the policy goals you want to achieve? Then there is the HOW, that is, which measures do you apply in order to achieve your goals?

In the case of the promotion of European audiovisual works, explaining the WHY is quite easy. European films and other audiovisual works are culturally valuable, they face strong competition from outside Europe, and they suffer from a somewhat weak circulation outside their country of origin. Taken together these three reasons make a compelling case for regulatory intervention.

Having solved the WHY, there is the question of HOW. As Shakespeare would have said, *Ay, there's the rub!* Introducing measures that are conducive to the adequate promotion of European films and other audiovisual works can be quite an intricate regulatory exercise.

Firstly the works must be financed. This usually happens through a mix of private sector money, public funding made up of levies and taxes imposed on various actors in the audiovisual sector and, as a complement to state support, of financial investment obligations placed on TV and VOD providers.

But even this is not enough. What is the point of getting your film financed if you do not manage to get it shown to an audience? To this question there is an answer in the form of quotas and prominence obligations.

A nice variety of measures exist for this. But why so many? Well, each of them fulfils a different function. Levies and taxes are measures that oblige TV and VoD providers, distributors, theatres, the video industry, etc. to support film funds financially. Financial obligations “incite” them to produce or finance the production of EU audiovisual works. Quotas provide access to TV and VoD screens. Finally, prominence obligations aim at ensuring that audiovisual works are adequately “findable” in VOD catalogues.

A variety of measures is certainly good, but it makes the understanding of the whole system a rather cumbersome exercise. This is why the availability of comparative data and analysis on the different initiatives and rules in support of the promotion of European works has become crucial.

This need for information led the European Film Agency Directors (EFADs) to request that the European Audiovisual Observatory produce a mapping report with a description of the above-mentioned initiatives and rules in each of the 31 countries that are members of the EFADs (EU-28, Iceland, Norway and Switzerland). This report aims at providing an overview of the chosen “regulatory mix” for each of these 31 countries, with a comparative analysis and a set of national factsheets for each of them.



The work has been carried out with the involvement of a network of independent national experts, who have provided the Observatory with the necessary elements by responding to a comprehensive questionnaire. The replies have been elaborated into national factsheets, which have been verified first by the experts themselves and then cross-checked by the national representatives of each relevant fund. This exchange with the competent public institutions has been extremely valuable, and has allowed the Observatory to enhance its research through the eyes of the practitioners.

And last, but not least, my warmest thanks go to Jean-François Furnémont, Founding Partner at Wagner-Hatfield, for his most reliable and indefatigable work with us throughout the whole project.

Strasbourg, January 2019

Maja Cappello

Head of the Department for Legal Information
European Audiovisual Observatory



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Pool of national experts for the collection of data

- AT The Austrian submission was provided by Prof. Dr. Josef Trappel, Professor of media policy and media economics and Head of Department for Communication Studies at the University of Salzburg, and Mag. Dr. Corinna Gerard-Wenzel, Lecturer at the University of Salzburg and Senior Lecturer at the Johannes Kepler University of Linz.
- BE The Belgian submissions were provided by Thibaut Mulatin, Directeur de la direction des Médias et de l'Aide à la presse, Service général de l'Audiovisuel et des Médias, Administration générale de la Culture du Ministère de la Fédération Wallonie-Bruxelles (French Community) and by An Jacobs, Attorney at Law and Managing Director of the Association of Flemish Independent Film & Television Producers (Flemish Community).
- BG The Bulgarian submission was provided by Dr. Bissera Zankova, President of the "Media 21" Foundation, and Dr. Ivo Indzhov, Associate Professor of Journalism at St. Cyril and St. Methodius University, Veliko Tarnovo.
- CH The Swiss submission was provided by Matthias Bürcher, Head of PICS and co-productions, Federal Office of Culture.
- CY The Cypriot submission was provided by Yorgos Trillis, Attorney at Law.
- CZ The Czech Republic submission was provided by Antonín Hedrlín, Attorney at Law.
- DE The German submission was provided by Bérénice Honold and Julia Piaseczny, International and European Affairs, German Federal Film Board (FFA).



- DK The Danish submission was provided by Palle Dam Leegaard, Special Advisor, The Danish Film Institute.
- EE The Estonian submission was provided by Andres Jõesaar, Associate professor of media policy, Tallinn University.
- ES The Spanish submission was provided by Araceli Gozalo, Technical Counsellor, Spanish Film and Audio-visual Arts Institute (ICAA).
- FI The Finnish submission was provided by Mikko Hoikka, Sector Director, Federation of Finnish Media Industry & CEO, Finnish Periodical Publishers' Association.
- FR The French submission was provided by Marc Le Roy, PHD in law.
- GB The British submission was provided by Carol Comley, Head of Film Policy, British Film Institute.
- GR The Greek submission was provided by Alexandros Oikonomou, Lawyer – Legal expert for the National Council of Radio and Television.
- HR The Croatian submission was provided by Hrvoje Hribar, independent audiovisual expert and film director.
- HU The Hungarian submission was provided by Károly Radnai, Partner, OrienTax.
- IE The Irish submission was provided by James Hickey, Chief Executive of Fís Éireann/Screen Ireland.
- IS The Icelandic submission was provided by Jón Óskar Hallgrímsson, Icelandic Film Centre, and Heiðdís Lilja Magnúsdóttir, Icelandic Media Commission.
- IT The Italian submission was provided by Ernesto Apa, Partner, Portolano Cavallo Studio Legale.
- LT The Lithuanian submission was provided by Jurgita Iešmantaitė, Deputy Executive Director, Radio and Television Commission.
- LU The Luxembourgish submission was provided by Aleksandra Suwala, LL.M, Attorney at Law.



- LV The Latvian submission was provided by Ieva Andersone, LL.M, Attorney at Law.
- MT The Maltese submission was provided by Pierre Cassar, Freelance consultant.
- NL The Dutch submission was provided by Helga Zeinstra, Senior legal/policy advisor, Ministry of Education, Culture & Science.
- NO The Norwegian submission was provided by Live Nerøen, Head of Statistics, Norwegian Film Institute.
- PL The Polish submission was provided by Aleksandra Suwala, LL.M, Attorney at Law.
- PT The Portuguese submission was provided by Mariana Lameiras, Postdoctoral Fellow, United Nations University Operating Unit on Policy-Driven Electronic Governance (UNU-EGOV) / Researcher, Communication and Society Research Centre (CSRC), University of Minho, and Elsa Costa e Silva, Professor, University of Minho / Researcher, Communication and Society Research Centre (CSRC), University of Minho.
- RO The Romanian submission was provided by Marius Dragomir, Director, CEU Center for Media, Data and Society (CMDS).
- SE The Swedish submission was provided by Malin Wallin, Attorney at Law.
- SI The Slovenian submission was provided by Tanja Kerševan Smokvina, Associate Partner, Wagner-Hatfield.
- SK The Slovakian submission was provided by Juraj Polak, Senior Lawyer at Markiza-Slovakia.



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1. Executive summary

1.1. Project Objective

The discussion around the revision of the Audiovisual Media Services Directive (AVMSD) has generated debates in Europe about putting in place adequate national regulatory frameworks in order to promote European works and improve the circularity of the value chain.

The need for comparative data and analysis on the different initiatives and rules in support of the promotion of European works in place in Europe (EU28, Iceland, Norway and Switzerland) has become crucial in this context.

For this reason, the European Film Agency Directors (EFADs) asked the European Audiovisual Observatory to produce a mapping report with a description of the above-mentioned initiatives and rules designed to promote European works that are currently in place in the 31 countries that are members of the EFADs (EU-28, Iceland, Norway and Switzerland).

For each of these 31 countries, this report aims at identifying the existing financial investment obligations applicable to broadcasters, VOD providers and distributors, and the levies to film funds that are imposed on the different players in the audiovisual industry (broadcasters, VOD providers, distributors, theatres, the video industry,...), as well as identifying the promotion obligations (quotas and/or prominence) imposed on broadcasters and VOD providers.

The report also aims at providing a comprehensive comparative analysis of the functioning of these various support mechanisms..

1.2. Key Findings

1.2.1. Definitions

One of the objectives of this mapping was to provide a list of the definitions given by each national lawmaker of the key concepts of the mapping (“European works”, “independent producer” and “prominence”).



A definition of “European works” is provided in the vast majority of cases (25 out of 31). The definitions are rather harmonised, since the AVMS Directive provides for such a definition (but offers member states the possibility of adapting it).

A definition of “independent producer” is provided in fewer cases (23 out of 31). In line with recital 71 of the AVMS Directive, the criteria used to define the independence of a producer vis-à-vis an AVMS provider are usually:

- the level of shares that an AVMS provider holds in a production company (or vice versa);
- the level of turnover that a production company makes due to contracts with a single AVMS provider.

No regulatory framework provides a definition of what should be understood as “prominence”.

1.2.2. Financial investment obligations

Another purpose of this mapping was to detail the financial investment obligations (direct contributions) which are imposed on the following media providers:

- linear AVMS providers (broadcasters);
- non-linear AVMS providers (VOD services);
- distributors.¹

These are the three types of players on which financial investment obligations are most commonly imposed.

Financial investment obligations are imposed on broadcasters in the vast majority of cases (26 out of 31).

Yet, in more than half of these cases, the obligation is not mandatory but optional, which means that broadcasters can choose between the financial investment (direct contribution) and:

- reserving a percentage of their transmission time for independent works (in line with the obligation derived from Article 17 of the AVMS Directive); in most of

¹ For the purpose of this mapping, distributors should be understood not as theatrical distributors, but as audiovisual media distributors (such as, for example, cable and IPTV operators). The glossary provided in the last section of this mapping defines the distributor as follows: “*The natural or legal person who establishes a contractual relation with audiovisual media service providers with a view to constituting an offer of audiovisual media services which is made available to the public by electronic communications networks within the meaning of point (a) of Article 2 of Directive 2002/21/EC. A person who constitutes such an offer by establishing contractual relations with other distributors is also considered a distributor.*”



those situations, the percentage is the one mentioned in Article 17 of the AVMS Directive (10%);

- paying a levy (indirect contribution), usually to the relevant film/audiovisual fund.

In around half of these cases, specific financial investment obligations are imposed on public broadcasters; these are usually higher than those imposed on private broadcasters (if any). In a few cases (Bulgaria, Belgium – Flemish Community, Latvia, the Netherlands, Poland and Slovenia), only public broadcasters have financial obligations.

Financial investment obligations are imposed on VOD services in 10 out of 31 cases.

- In six cases they are mandatory and in three cases they are optional: VOD services can choose between the financial investment (direct contribution) and paying a levy (indirect contribution), usually to the relevant film/audiovisual fund;
- or VOD services can choose between the financial investment (direct contribution) and quotas for European works in their catalogues.

Financial investment obligations are not imposed on distributors in the vast majority of cases, with only one country (Belgium, both Communities) in which all distributors have to invest a share of the revenues they make from subscriptions, either directly or indirectly, in audiovisual works, and another country (Greece) in which satellite distributors must allocate a share of their turnover to the production of cinematographic works.

1.2.3. Levies

This mapping also aimed to provide information about the levies (indirect contribution) which are imposed on the following film and media providers:

- linear AVMS providers (broadcasters);
- non-linear AVMS providers (VOD services);
- distributors;
- theatres;
- the video industry;
- other potential players such as theatrical distributors or Internet service providers;

Levies are imposed on broadcasters in 11 out of 31 cases.

In some of these cases, the obligation is not mandatory but optional, which means that broadcasters can choose between a financial investment (direct contribution) and paying a levy (indirect contribution) to the relevant film/audiovisual fund.

The amount due by broadcasters is:

- either a percentage of their turnover (between 1.4% and 5.65%);
- or a percentage of their advertising revenues (between 1.5% and 5%).



The beneficiary is usually the national/federal film/audiovisual fund, except in one country (Austria), where the beneficiary is the state budget.

No levy is applicable to foreign broadcasters targeting the domestic audience.

Levies are imposed on VOD services in 7 out of 31 cases.

In some of these cases, the obligation is not mandatory but optional, which means that VOD services can choose between a financial investment (direct contribution) and paying a levy (indirect contribution) to the relevant film/audiovisual fund.

The amount due by VOD providers represents a percentage of the turnover/revenues raised from the service they provide (between 0.5% and 3%).

In all cases, the beneficiary is the national/federal film/audiovisual fund.

The levy is also applicable to foreign VOD services targeting the domestic audience in 3 out of 31 cases (Belgium – Flemish Community, Germany and France).

Levies are imposed on distributors in 7 out of 31 cases.

In some of these cases, the obligation is not mandatory but optional, which means that distributors can choose between a financial investment (direct contribution) and paying a levy (indirect contribution) to the relevant film/audiovisual fund.

The amount due by the distributors is:

- either a specific amount of the subscription fee (between EUR 1.30 and EUR 2.60);
- or a percentage of the turnover/revenues raised from their subscribers (between 0.5% and 3.5%).

In all cases, the beneficiary is the relevant film/audiovisual fund.

Levies are imposed on theatres in 9 out of 31 cases.

The amount due by theatres is:

- either a percentage of the price of a cinema ticket (between 0.15% and 11%);
- or a percentage of their turnover/revenues (between 0.5% and 4%).

The beneficiary is, in all cases, the relevant film/audiovisual fund, except in Norway, where the beneficiary is the Ministry of Culture, and in the Netherlands where it is the Abraham Tuschinski Fund (ATF), run by the associations of exhibitors, distributors and producers.

Levies are imposed on the video industry in 4 out of 31 cases.

The amount due by video retailers is:

- either a percentage of their turnover/revenues;



- or a specific amount on each transaction.

The beneficiary is the relevant film/audiovisual fund, except in one country (Norway), where the beneficiary is the Ministry of Culture.

Levies other than the ones described in this section are present in 5 out of 31 cases and are imposed on the following players:

- producers of cinematographic works;
- theatrical distributors ;
- exporters of cinematographic works;
- operators of electronic communications networks;
- advertisers.

The beneficiary in all cases is the relevant film/audiovisual fund.

1.2.4. Quota obligations

Another important objective of this mapping was to detail the quota obligations which are imposed on media providers. These can take the following three forms:

- quotas for European works imposed on linear AVMS providers (broadcasters);
- quotas for independent European works imposed on linear AVMS providers (broadcasters);
- quotas for European works imposed on non-linear AVMS providers (VOD services);

Quotas for European works are imposed on broadcasters in all cases, including in the three non-EU countries of the mapping (which is not the case for the aforementioned obligations).

The formulation of Article 16 of the AVMS Directive has generally been transposed without any significant modifications.

Yet, in several cases, more detailed or stricter rules in this field have been adopted:

- either by deleting the provision according to which quotas have to be fulfilled “*where practicable and by appropriate means*” and therefore making them mandatory for some or all broadcasters;
- or by increasing the majority proportion to a higher percentage than 50%;
- or by imposing quotas for a specific period, such as prime time.

Quotas for independent works are imposed on broadcasters in 29 out of 31 cases, including in the three non-EU countries of the mapping (which is not the case for the aforementioned obligations).



The formulation of Article 17 of the AVMS Directive has generally been transposed without any significant modifications.

Yet, in several cases, more detailed or stricter rules in this field have been adopted:

- either by deleting the provision according to which quotas have to be fulfilled “where practicable and by appropriate means” and therefore making them mandatory for some or all broadcasters;
- or by increasing the proportion to a higher percentage than 10% for some or all broadcasters;
- or by removing the alternative regarding the programming budget offered by Article 17 of the AVMS Directive for some or all broadcasters.

VOD services are invited to promote European works by way of access measures which could potentially include, in the vast majority of cases, a share in their catalogues.

The formulation of Article 13 of the AVMS Directive has generally been transposed without any significant modifications.

Yet, in 13 out of 31 cases, more detailed or stricter rules in this field have been adopted and a specific quota has been imposed for European works in the catalogues of VOD services. The levels of quotas imposed vary between 20% and 60%.

1.2.5. Prominence obligations

VOD services are invited to promote European works by way of access measures which could include, in the large majority of cases, prominence initiatives.

Yet a clear and specific reference to prominence obligations, beyond the wording of the AVMS Directive, is present in only 10 out of 31 cases, with the following formulations:

- “by giving due prominence to or appropriately designating such works”;
- “by highlighting, by way of an attractive presentation, the list of available European works”;
- “ensure a prominent place for European works in the programme catalogue”;
- “use hardware and software for the accessible and attractive presentation of European works”;
- “enhanced visibility of European works or by similar means”;
- “at any moment, reserve a substantial portion of their home page to spotlight European works or works whose original language is French, including by showing images and making trailers available”;
- “adequate prominence”, to be specified in a media regulatory authority regulation which is expected soon;
- “proper identification of the origin of programmes available in the catalogue of programmes as well as providing the option of searching for European works, including works originally produced in the Polish language, or the placement of information and materials promoting European works, including works originally produced in the Polish language”;



- “by adopting functionalities that allow users to search by origin”;
- “shall promote on the home page of their website, in equal measure, the European audiovisual fiction works available in their catalogue, and shall identify the country of origin of each audiovisual programme available in their catalogue”.



2. Methodology

The methodology adopted by the Observatory can be summed up as follows:

- the choice of an international expert to provide assistance throughout the mapping and the elaboration of a comparative analysis;
- the choice of a pool of national experts; where possible, these national experts were deliberately selected because they do not work for film agencies (mainly academics and independent researchers and consultants) in order to allow the cross-checking of the gathered information by film agencies themselves in a second stage;
- the elaboration of a standardised questionnaire to be filled in by each national expert; one questionnaire per country was completed, with the exception of Belgium, where a questionnaire was completed for both the French and the Flemish Communities.

The questionnaire aimed at identifying:

- what kind of financial obligations (direct contribution) are imposed on broadcasters, VOD providers and distributors;
- what kind of levies (indirect contribution) are imposed on film and audiovisual stakeholders (broadcasters, VOD providers, distributors, theatres, the video industry, other stakeholders);
- which quotas for European works are imposed on broadcasters and VOD providers;
- what kind of prominence obligations are imposed on VOD providers.

Based on this, the Observatory, with the assistance of the international expert, elaborated a national legal summary for each member state. These summaries have been checked by the national experts and by the contact points for each EFADs member.

The summaries are structured around 13 sections:

- section 1 provides a brief summary, allowing an overview, in a single table, of the different support schemes in place, both by type of obligation and by player;
- section 2 provides the definition given by each national lawmaker of the key concepts for the present study, which are:
 - “European works”;
 - “independent producer”;
 - “prominence”;
- section 3 details the financial investment obligations (direct contributions) which are imposed on the following media providers:
 - linear AVMS providers (broadcasters);



- non-linear AVMS providers (VOD services);
 - distributors;
- section 4 gives information about the levies (indirect contribution) which are imposed on the following film and media providers:
 - linear AVMS providers (broadcasters);
 - non-linear AVMS providers (VOD services);
 - distributors;
 - theatres;
 - the video industry;
 - other potential players such as film distributors or Internet service providers;
- section 5 deals with the quota obligations which are imposed on media providers, and which can take the following three forms:
 - quotas for European works imposed on linear AVMS providers (broadcasters);
 - quotas for independent European works imposed on linear AVMS providers (broadcasters);
 - quotas for European works imposed on non-linear AVMS providers (VOD services);
- section 6 deals with the prominence obligations which are imposed on non-linear AVMS providers (VOD services);
- section 7 provides information, if any, regarding potential future amendments to the regulatory framework which are currently being discussed or debated in each country;
- section 8 gives the list, if any, of the relevant studies, reports and researches published in the last 5 years on issues related to the present mapping (for example, on issues such as the enforcement of – and compliance with – the obligations or impact assessments);
- section 9 provides all the links to the relevant primary and secondary legislation, in the national language and, where available, in English. When provided, the English translations shall not be considered official translations.

The comparative legal analysis mirrors the structure of the national legal summaries and provides, for the issues detailed in the aforementioned sections 2 to 6, an analysis aimed at highlighting the common trends and patterns which exist between the 31 case studies, as well as the relevant specificities of some individual cases.

3. Comparative legal analysis

3.1. Definitions

The definition of European works is provided in the vast majority of cases (25 out of 31), the exceptions being Switzerland, Germany (federal level), the United Kingdom, Iceland, the Netherlands and Sweden. The definitions are rather harmonised, since the AVMS Directive provides for such a definition (but offers the member states the possibility of adapting it).

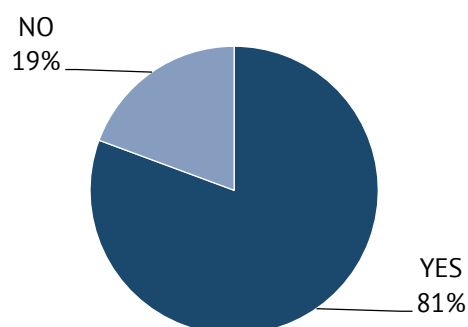
The definition of an independent producer is provided in the majority of cases (23 out of 31), the exceptions being Austria, Switzerland, Cyprus, Germany, Denmark, Greece, Poland and Sweden. In line with recital 71 of the AVMS Directive, the criteria used to define the independence of a producer vis-à-vis an AVMS provider are usually:

- the level of shares that an AVMS provider holds in a production company (or vice versa);
- the level of turnover that a production company makes due to contracts with a single AVMS provider.

No regulatory framework provides a definition of what should be understood as prominence.

Figure 1 visualises the presence or not of a definition of “European works” in the analysed countries and Table 1. provides the text of the definitions in each relevant country.

Figure 1. Definition of “European work” in the 31 European countries



Source: Analysis of the responses to the European Audiovisual Observatory standardised questionnaire.



Table 1. Definition of a European work

| | Level |
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| AT | <p><i>"12. European works:</i></p> <p><i>a) works originating in Member States;</i></p> <p><i>b) works originating in European third countries party to the European Convention on transnational Television of the Council of Europe and fulfilling the conditions of item 1m;</i></p> <p><i>c) works co-produced within the framework of agreements related to the audio-visual sector concluded between the European Union and third countries and fulfilling the conditions defined in each of those agreements.</i></p> <p><i>The application of the provisions of b) and c) shall be conditional on works originating in Member States not being the subject of discriminatory measures in the third country concerned.</i></p> <p><i>13. The works referred to in item 12 a) and b) are works mainly made with authors and workers residing in one or more of the countries referred to in item 11 a) and b) provided that they comply with one of the following three conditions:</i></p> <p><i>a) they are made by one or more producers established in one or more of those countries, or</i></p> <p><i>b) the production of the works is supervised and actually controlled by one or more producers established in one or more of those countries, or</i></p> <p><i>c) the contribution of co-producers of those countries to the total co-production costs is preponderant and the co-production is not controlled by one or more producers established outside those countries.</i></p> <p><i>14. Works that are not European works within the meaning of item 12 but that are produced within the framework of bilateral co-production agreements concluded between Member States and third countries shall be deemed to be European works provided that the co-producers from the European Community supply a majority share of the total cost of production and that the production is not controlled by one or more producers established outside the territory of the Member States."</i></p> |
| BE FR | <p><i>"A European work is:</i></p> <p><i>(a) work originating in Member States of the European Union which is carried out essentially with the assistance of authors and workers residing in one or more of these States and who meets one of the following three conditions: it is carried out by one or more producers established in one or more of these States; the production of this work is supervised and effectively controlled by one or more producers established in one or more of these States; the contribution of the co-producers of these States is a majority in the total cost of the co-production, and this co-production is not controlled by one or more producers established outside these States;</i></p> <p><i>(b) a work originating in European third States party to the Council of Europe Convention on Transfrontier Television which is carried out essentially with the assistance of authors and workers residing in one or more of those States and who meets one of the following three conditions: it is carried out by one or more producers established in one or more of these States; the production of this work is supervised and effectively controlled by one or more producers established in one or more of these States; the contribution of the co-producers of these States is a majority in the total cost of the co-production and this co-production is not controlled by one or more producers established outside these States; a work originating in European third States party to the Council of Europe's European Convention on Transfrontier Television is, however, only a European work if the works originating from the Member States of the European Union are not being the subject of discriminatory measures in the third State concerned.</i></p> <p><i>(c) a work co-produced in the framework of agreements concerning the audiovisual sector concluded between the European Union and third countries and fulfilling the conditions laid down in each of those agreements, provided that works originating in the Member States of the Union are not being the subject of discriminatory measures in the third country concerned;</i></p> <p><i>(d) a work produced in the framework of bilateral co-production agreements concluded between Member States and third countries, provided that the co-producers from the Member States take a majority share in</i></p> |



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| | <p><i>the total cost of production and that production is not controlled by one or more producers established outside the territory of the Member States.”</i></p> |
| BE NL | <p><i>“Paragraph 11 European productions means:</i></p> <p><i>a) the following productions :</i></p> <p><i>1) productions created in the Member States of the European Union;</i></p> <p><i>2) productions from third-party European states that have signed the Council of Europe’s Treaty as regards cross-border television and which comply with the conditions, as set out in item b);</i></p> <p><i>3) co-productions produced within the scope of the agreements between the European Union and third-party countries concerning the audiovisual sector and which comply with the conditions of the aforementioned agreements. A condition for the application of items 2) and 3) is that productions made in Member States are not affected by discriminatory measures in the third-party countries concerned;</i></p> <p><i>b) the productions, referred to in items a), 1), and a), 2), are productions that were mainly produced with the help of authors and collaborators who reside in one or more of the Member States mentioned in items a), 1), and a), 2), and meet one of the three following conditions :</i></p> <p><i>1) the productions were created by one or more producers, established in one or more of these States;</i></p> <p><i>2) their creation came about under the supervision and actual control of one or more producers established in these Member States;</i></p> <p><i>3) the contribution of the co-producers of these States to the total cost of the co-production is significant and the co-production is not controlled by one or more producers established outside of these Member States;</i></p> <p><i>c) productions that are not European productions as referred to under item a), but which are created within the framework of co-production agreements concluded between the Member States and third-party countries, are considered to be European products as long as the European Union co-producers hold a majority share in the total product costs and the production is not controlled by one or more producers established outside of the Member States.”</i></p> |
| BG | <p><i>“European works shall be:</i></p> <p><i>(a) works originating in Member States of the European Union created mainly by authors and workers residents in one or more of these States, provided that they meet at least one of the following three conditions:</i></p> <p><i>(aa) created by one or more producers established in one or more of these countries; or</i></p> <p><i>(bb) the creation of the works is monitored and actually controlled by one or more producers established in one or more of the said countries;</i></p> <p><i>(cc) co-producers from these countries make a major contribution to the costs of the overall co-production and are not controlled by one or more producers established outside those countries;</i></p> <p><i>(b) works originating in third European countries which are parties to the European Convention on Transfrontier Television of the Council of Europe, adopted in Strasbourg on 5 May 1989 (ratified by law, SG 117/97) , SG 32/99), created mainly by authors and workers residing in one or more of these countries, provided they meet at least one of the following three conditions:</i></p> <p><i>(aa) created by one or more producers established in one or more of these countries;</i></p> <p><i>(bb) the creation of the works is monitored and actually controlled by one or more producers established in one or more of the said countries;</i></p> <p><i>(cc) the co-producers of these countries make a major contribution to the costs of the overall co-production and are not controlled by one or more producers established outside those countries, provided that works originating in Member States of the European Union are not subject to discriminatory measures in the third countries concerned;</i></p> <p><i>(c) works co-produced within the framework of audiovisual agreements concluded between the European Union and third countries and fulfilling the conditions laid down in each of these agreements, provided</i></p> |



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| | <p><i>that works originating in Member States are not subject to discriminatory measures in these countries.</i></p> <p><i>Works which are not European works within the meaning of points (a), (b) or (c) but which are produced under bilateral co-production contracts concluded between Member States of the European Union and third countries shall be considered as European provided that the co-producers in the European Union bear the bulk of the total cost of production and that production is not controlled by one or more producers established outside the territory of the Member States of the European Union.”</i></p> |
| CH | None. |
| CY | <p><i>“(1) For purposes of this Part, the term “European works” shall mean:</i></p> <p><i>(a) works originating in Member States;</i></p> <p><i>(b) works originating in European third countries which are parties to the European Convention on Transfrontier Television of the Council of Europe and fulfil the conditions of subsection (2) of this section;</i></p> <p><i>(c) works co-produced within the framework of agreements related to the audiovisual sector concluded between the European Community and third countries which fulfil the conditions defined in each of those agreements;</i></p> <p><i>Provided that the application of the provisions of paragraphs (b) and (c) shall be conditional on works originating in Member States which are not subject to discriminatory measures in the third countries concerned.</i></p> <p><i>(2) The works referred to in paragraphs (a) and (b) are works mainly made with creators and workers residing in one or more of the States referred to in paragraphs (a) and (b) of subsection (1), provided that they comply with one of the following three conditions:</i></p> <p><i>(i) they are made by one or more producers established in one or more of those States; or</i></p> <p><i>(ii) production of the works is supervised and actually controlled by one or more producers established in one or more of those States;</i></p> <p><i>(iii) the contribution of co-producers of those States to the total co-production costs is preponderant and the co-production is not controlled by one or more producers established outside those States.</i></p> <p><i>(3) Works that are not European works within the meaning of subsection (1) but are produced within the framework of bilateral co-production treaties concluded between Member States and third countries shall be deemed to be European works, provided that the co-producers from the European Union supply a majority share of the total cost of production and that the production is not controlled by one or more producers established outside the territory of the Member States.”</i></p> |
| CZ | <p><i>“(1) Treated as European works shall be:</i></p> <p><i>a) works originating from the Member States of the European Union,</i></p> <p><i>b) works originating from States which are not Member States of the European Union but are parties to the European Convention on Transfrontier Television, and meeting the conditions specified in Paragraph 3 below, or</i></p> <p><i>c) works co-produced within the framework of agreements related to the audiovisual sector concluded between the European Communities and third countries and fulfilling the conditions defined in each of those agreements.</i></p> <p><i>(2) Provisions of points b) and c) of Paragraph 1 above shall only be applied if works originating in the Member States of the European Union are not the subject of discriminatory measures in the third countries concerned.</i></p> <p><i>(3) The works referred to in points a) and b) of Paragraph 1 above are works mainly made with authors and workers residing in one or more of the States referred to in those provisions, provided that:</i></p> <p><i>a) such works are made by one or more producers established in one or more of those States,</i></p> <p><i>b) the production of such works is supervised and actually controlled by one or more producers established in one or more of those States, or</i></p> |



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| | <p><i>c) the contribution of co-producers of those States to the total co-production costs is preponderant and the co-production is not controlled by one or more producers established outside those States.</i></p> <p><i>(4) Works that are not European works within the meaning of Paragraph (1) above but that are produced within the framework of bilateral co-production agreements concluded between Member States and third countries shall be deemed to be European works, provided that the co-producers from the Member States of the European Union supply a majority share of the total cost of production and that the production is not controlled by one or more producers established outside the territory of the Member States of the European Union.”</i></p> |
| DE | None (federal level). |
| DK | <p>“1. In this Executive Order, European works shall mean:</p> <ol style="list-style-type: none"> 1) works originating in EU Member States, 2) works originating in European third States party to the European Convention on Transfrontier Television of the Council of Europe and fulfilling the conditions of point 3, and 3) works co-produced within the framework of agreements related to the audiovisual sector concluded between the Community and third countries and fulfilling the conditions defined in each of those agreements. <p>2. The application of the provisions of point 1, Nos. 2 and 3, shall be conditional on works originating in Member States not being the subject of discriminatory measures in the third country concerned.</p> <p>3. The works referred to in point 1, Nos. 1 and 2, are works mainly made with authors and workers residing in one or more of the States referred to in point 1, Nos. 1 and 2, provided that they comply with one of the following three conditions:</p> <ol style="list-style-type: none"> 1) They are made by one or more producers established in one or more of those States. 2) The production of the works is supervised and actually controlled by one or more producers established in one or more of those States. 3) The contribution of co-producers of those States to the total co-production costs is preponderant and the co-production is not controlled by one or more producers established outside those States. <p>4. Furthermore, in this Executive Order, works that are not European works as defined in point 1, cf. points 2 and 3, but produced within the framework of bilateral co-production agreements concluded between Member States and third countries shall be deemed to be European works, provided that the co-producers from the Union supply a majority share of the total cost of production and production is not controlled by one or more producers established outside the territory of the Member States.”</p> |
| EE | <p>“(1) An audiovisual work of the European origin (hereinafter European work) is:</p> <ol style="list-style-type: none"> 1) a work originating in a Member State of the European Union; 2) a work originating in a European third State party to the European Convention on Transfrontier Television; 3) a work which is co-produced within the framework of an agreement of cooperation concluded between a Member State of the European Union and a third state and is fulfilling the conditions specified in the agreement. <p>(2) A work originating in a Member State of the European Union or a third State party to the European Convention on Transfrontier Television that has been mainly made in cooperation with the authors and workers residing in one or more of the States referred to is a European work provided that the work complies with one of the following conditions:</p> <ol style="list-style-type: none"> 1) a work has been made by at least one producer established in at least one of the States referred to; 2) the production of the work is organised and controlled by one or more producers established in one or more of the States referred to; 3) the contribution of co-producers of those States to the total co-production costs is preponderant and the |



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| | <p><i>co-production is not controlled by any of the producers established outside those States.</i></p> <p><i>(3) Application of clauses 1) 2) and 3) of this section shall be conditional on works originating in Member States of the European Union not being subject to discriminatory measures in the third country concerned.</i></p> <p><i>(4) Works that are not European works within the meaning of subsection (1) of this section but are produced within the framework of a bilateral co-production agreement concluded between a Member State of the European Union and a third State shall be deemed to be European works provided that the co-producers from a Member State of the European Union supply a majority share of the total cost of production and the production is not controlled by any of the producers established outside the territory of the Member States of the European Union.”</i></p> |
| ES | <p><i>“a) Works originating in Member States and works originating in European third States party to the European Convention on Transfrontier Television of the Council of Europe, provided that the works of the Member States are not the subject of discriminatory measures in the third country in question. Original works means works which are mainly made with authors and workers residing in one or more of the States referred to in the previous sub-paragraph, provided that, in addition, they comply with one of the following three conditions: the works are made by one or more producers established in one or more of those States, or production of the works is supervised and actually controlled by one or more producers established in one or more of those States, or the contribution of co-producers of those States to the total co-production costs is preponderant and the co-production is not controlled by one or more producers established outside those States.</i></p> <p><i>b) Works co-produced in the framework of agreements related to the audiovisual sector concluded between the European Union and third countries and fulfilling the conditions defined within each of these agreements, provided that Member States works are not under discriminatory measures in the third countries concerned.</i></p> <p><i>c) Works that are not European works within the meaning of paragraph a) but that are produced within the framework of bilateral co-production treaties concluded between Member States and third countries provided that the co-producers from the Community supply a majority share of the total cost of production and that the production is not controlled by one or more producers established outside the territory of the Member States.”</i></p> |
| FI | <p><i>“An audiovisual work is considered European when the majority of workers that have taken part in the production live in European countries and 1) at least one of the producers is located in Europe or 2) the producer located in Europe has controlled the production or 3) in a co-production, the bulk of the production costs are borne by European co-producers. In joint productions with third European countries, the work is considered European if it has been produced in accordance with the relevant treaties on European audiovisual productions.”</i></p> |
| FR | <p><i>“I. European audiovisual works and European cinema films are:</i></p> <p><i>a) Works from members of the European Union;</i></p> <p><i>b) Works from countries who signed the European Convention on Transfrontier Television of the Council of Europe,</i></p> <p><i>Who respect these conditions:</i></p> <p><i>1. On the one hand, the works must have been principally done by authors, performers, technicians and creators who live in one or several of these States and with the use of studios shooting, sound studios located in these same States. The proportion of the part of the works is fixed by a decree.</i></p> <p><i>2. On the other hand:</i></p> <p><i>a) The works must have been either produced by a company with a head office in these States or the CEO and the majority of the directors must be citizens of one of these States, on the condition that the company which oversees the production of these works has financial responsibility.</i></p> <p><i>b) Or be mostly financed by co-producers from these States on the condition that the co-production is not controlled by one or several producers from outside these States.</i></p> |



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| | <p><i>II. Furthermore, works co-produced as part of an agreement between the European Union and other countries outside the Union can be considered European works.</i></p> <p><i>III. Works co-produced as part of bilateral agreements between the European Union and countries outside Union, financed mostly by co-producers of the Union, on the condition that the co-production is not controlled by a producer from outside the Union.”</i></p> |
| GB | None. |
| GR | <p><i>“(1)European works:</i></p> <p><i>(i) works originating in EU Member States;</i></p> <p><i>(ii) works originating in European third States party to the European Convention on Transfrontier Television of the Council of Europe and fulfilling the conditions of paragraph 3;</i></p> <p><i>(iii) works co-produced within the framework of agreements related to the audiovisual sector concluded between the European Union and third countries and fulfilling the conditions defined in each of those agreements.</i></p> <p><i>(2) The application of the provisions of points (ii) and (iii) of paragraph 1 shall be conditional on works originating in Member States not being the subject of discriminatory measures in the third country concerned.</i></p> <p><i>(3) The works referred to in points (i) and (ii) of paragraph 1 are works mainly made with authors and workers residing in one or more of the States referred to in those provisions provided that they comply with one of the following three conditions:</i></p> <p><i>(a) they are made by one or more producers established in one or more of those States;</i></p> <p><i>(b) the production of the works is supervised and actually controlled by one or more producers established in one or more of those States;</i></p> <p><i>(c) the contribution of co-producers of those States to the total co-production costs is preponderant and the co-production is not controlled by one or more producers established outside those States.</i></p> <p><i>(4) Works that are not European works within the meaning of point (iii) of paragraph 1 that are produced within the framework of bilateral co-production agreements concluded between EU Member States and third countries shall be deemed to be European works provided that the co-producers from the Union supply a majority share of the total cost of production and that the production is not controlled by one or more producers established outside the territory of the Member States.”</i></p> |
| HR | <p><i>“1) - works originating in Member States of the European Union,</i></p> <p><i>- works originating in European States party to the European Convention on Transfrontier Television and fulfilling the conditions of paragraph 3 of this Article,</i></p> <p><i>- works co-produced within the framework of agreements related to the audiovisual sector concluded between the European Union and third countries and fulfilling the conditions defined in each of those agreements.</i></p> <p><i>(2) Application of the provisions of paragraph 1, subparagraphs 2 and 3 of this Article shall be conditional only on works originating in Member States of the European Union not being the subject of discriminatory measures in the countries concerned.</i></p> <p><i>(3) The works referred to in paragraph 1, sub-paragraphs 1 and 2 of this Article are works mainly made by authors and workers residing in those States referred to in paragraph 1, sub-paragraphs 1 and 2 of this Article, provided that they comply with one of the following conditions:</i></p> <p><i>- they are made by producers established in one or more of the aforementioned States, or</i></p> <p><i>- production of an individual work is supervised and actually controlled by one or more producers established in one or more of the aforementioned States, or</i></p> <p><i>- the contribution of co-producers of the aforementioned States to the total co-production costs is preponderant and the co-production is not controlled by one or more producers established outside the</i></p> |



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| | <p><i>aforementioned states.</i></p> <p><i>(4) Works that are not considered European works within the meaning of paragraph 1 of this Article, but that are produced within the framework of bilateral co-production treaties concluded between Member States of the European Union and third countries shall be deemed to be European works, provided that the co-producers from the European Union supply a majority share of the total cost of the production and that the production is not controlled by one or more producers established outside the territory of the Member States of the European Union.”</i></p> |
| HU | <p><i>“European work shall mean:</i></p> <p><i>(a) any Hungarian work;</i></p> <p><i>(b) any work originating in a member State of the European Union;</i></p> <p><i>(c) any work originating in a European State which is a party to the European Convention on Transfrontier Television, adopted in Strasbourg on 5 May 1989, promulgated by Act XLIX of 1998;</i></p> <p><i>(d) any work produced under the co-production of the production companies of a member State of the European Union and a State outside the European Union, provided that the majority of the total co-production costs is provided by the co-producers from a EU member State, and the production is not controlled by one or more producers who are established in a country other than an EU member State; or</i></p> <p><i>(e) any work produced in co-production, within the framework of an agreement concluded between the European Union and third countries concerning the audiovisual sector, and which complies with the conditions of the applicable agreements.</i></p> <p><i>The works mentioned in points (b)-(c) are works which were produced by authors and with the contribution of professionals having their addresses in one or more states defined under points (b)-(c), provided that the given work meets one of the following three conditions:</i></p> <ol style="list-style-type: none"> <i>1. it is the work of one or more producers established in one or more of the above-mentioned States;</i> <i>2. its production is supervised and actually controlled by one or more producers established in one or more of the above-mentioned States;</i> <i>3. the contribution of co-producers from the above-mentioned states to the total co-production costs is preponderant and the co-production is not controlled by one or more producers established outside the above-mentioned States.</i> <p><i>The works defined under points (c) and (e) can qualify as European works if no discriminatory measures apply to the works originating from the members States in the given affected State outside the European Union.”</i></p> |
| IE | <p><i>“European works means the following:</i></p> <p><i>(a) works originating in the State or another Member State,</i></p> <p><i>(b) works originating in European third States party to the European Convention on Transfrontier Television of the Council of Europe and fulfilling the conditions of Regulation 2(2),</i></p> <p><i>(c) works co-produced within the framework of agreements related to the audiovisual sector concluded between the Community and third countries and fulfilling the conditions defined in each of those agreements.”</i></p> |
| IS | <p>None.</p> |
| IT | <ul style="list-style-type: none"> <i>- “works originating in Member States;</i> <i>- works originating in European third States party to the European Convention on Transfrontier Television of the Council of Europe as ratified by Law No. 327/1991;</i> <i>- works co-produced within the framework of agreements related to the audiovisual sector concluded between the European Union and third countries and fulfilling the conditions defined in each of those agreements.</i> <p><i>The works referred to in points 1) and 2) are works mainly made with authors and workers residing in one</i></p> |



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| | <p>or more of the States referred to in those provisions provided that they comply with one of the following three conditions: (i) they are made by one or more producers established in one or more of those States; (ii) the production of the works is supervised and actually controlled by one or more producers established in one or more of those States; (iii) the contribution of co-producers of those States to the total co-production costs is preponderant and the co-production is not controlled by one or more producers established outside those States.”</p> |
| LT | <p>“1. The following shall be considered European audiovisual works (hereinafter: ‘European works’):</p> <p>1) works produced in the Republic of Lithuania or in other EU Member States and States of the European Economic Area and other States which have ratified the Council of Europe Convention on Transfrontier Television, if the producers of such works are established in these States or the production of such works is controlled by one or more producers established in these States, or the contribution of the producers established in the aforementioned States to the costs of the co-production (production) is larger than the contribution of the producers established in other (third) countries and the total co-production (production) is not controlled by one or more producers established outside the Republic of Lithuania, the EU Member States, the States of the European Economic Area or the other States which have ratified the Council of Europe Convention on Transfrontier Television;</p> <p>2) works produced in third countries, that is, outside the EU Member States, States of the European Economic Area or other States which have ratified the Council of Europe Convention on Transfrontier Television, if they are produced by producers established in one or several third countries or by such producers in co-operation with producers established in one or several EU Member States and in the Republic of Lithuania provided that the European Union and the Republic of Lithuania have concluded agreements with these third countries on cooperation in the audiovisual field and provided that such works are largely produced by authors and producers residing in one or several European States.</p> <p>2. Points 1 and 2 of paragraph 1 of this Article shall apply in the event that works produced in the Republic of Lithuania or the EU Member States are not subject to discriminatory measures in the countries referred to in points 1 and 2 of paragraph 1 of this Article.</p> <p>3. Works which within the meaning of paragraph 1 of this Article should not be considered as European works, but which have been produced within the framework of bilateral co-production (production) contracts between the EU Member States or the Republic of Lithuania and third countries, shall be treated as European works if the contribution of the producers from the European Union or the Republic of Lithuania comprises the major part of the costs of co-production (production) and if the creation (production) thereof is not controlled by producers established in a State other than the EU Member State.</p> <p>4. Works which within the meaning of paragraphs 1 and 2 of this Article should not be considered as European works, but which have been largely produced in co-operation with authors and producers residing in one or several EU Member States shall be treated as European works to the extent proportionate to the contribution of producers established in the EU Member States to the costs of the total co-production (production).”</p> |
| LU | <p>“a) works originating in a Member State of the European Economic Area;</p> <p>b) works originating in third States, but parties to the European Convention on Transfrontier Television;</p> <p>c) works which are co-produced within the framework of an agreement of cooperation concluded between a Member State of the European Union and a third State and fulfilling the conditions specified in the agreement.”</p> |
| LV | <p>“(1) European audiovisual works are:</p> <p>1) literary dramatic works, serials, films, documentary, art, education and similar creative works produced in Latvia and other European Union Member States; and</p> <p>2) audiovisual works complying with the provisions of Paragraph three of this Section, which have been produced in those European Convention on Transfrontier Television Member States which are not European Union Member States and do not apply discriminating regulations in relation to audiovisual works produced in Latvia and other European Union Member States.</p> <p>(2) In accordance with agreements entered into between the European Union and States other than</p> |



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| | <p><i>European Union Member States and provided they do not apply discriminating regulations in relation to audiovisual works produced in Latvia and other European Union Member States, co-production audiovisual works which comply with the conditions of the aforementioned agreements shall also be considered as European audiovisual works.</i></p> <p><i>(3) European audiovisual works specified in Paragraph one, Clauses 1 and 2 of this Section are such works which have been produced primarily by authors and technical employees from one or more of the States referred to in Paragraph one, Clauses 1 and 2, and which comply with at least one of the following conditions:</i></p> <p><i>1) they have been produced by one producer or several producers whose permanent place of residence is in one of these States;</i></p> <p><i>2) the production of the works is supervised and actually controlled by one producer or several producers whose permanent place of residence is in one these States; or</i></p> <p><i>3) the investment of producers from these states covers the larger share of co-production costs, and the co-production is not controlled by one producer or several producers residing permanently outside these States.</i></p> <p><i>(4) European audiovisual works shall also be deemed to be such works, which are not European audiovisual works within the meaning of Paragraph one of this Section, but which have been produced within the scope of bilateral co-production agreements between Latvia or other European Union Member States and a State other than a European Union Member State, if the Latvian producers or producers of the European Union Member States cover the larger share of co-production costs, and the co-production is not controlled by one or more producers permanently residing outside the territory of Latvia or the European Union Member States.”</i></p> |
| <p>MT</p> | <p><i>“(3) For the purposes of this regulation, “European works” means:</i></p> <p><i>(a) works originating in Member States of the European Union, hereinafter referred to as “Member States”;</i></p> <p><i>(b) works originating in European third States party to the European Convention on Transfrontier Television of the Council of Europe and fulfilling the conditions in sub-regulation (4);</i></p> <p><i>(c) works co-produced within the framework of agreements related to the audiovisual sector concluded between the Community and third countries and fulfilling the conditions defined in each of those agreements;</i></p> <p><i>Provided that the application of the provisions of paragraphs (b) and (c) shall be conditional on works originating in Member States not being the subject of discriminatory measures in the third country concerned.</i></p> <p><i>(4) The works referred to in sub-regulation (3)(a) and (b) are works mainly made with authors and workers residing in one or more of the States referred to in the said paragraphs, provided that they comply with one of the following three conditions:</i></p> <p><i>(a) they are made by one or more producers established in one or more of those States; or</i></p> <p><i>(b) production of the works is supervised and actually controlled by one or more producers established in one or more of those States, or</i></p> <p><i>(c) the contribution of co-producers of those States to the total co-production costs is preponderant and the co-production is not controlled by one or more producers established outside those States.</i></p> <p><i>(5) Works that are not European works within the meaning of sub-regulation (3) but that are produced within the framework of bilateral co-production treaties concluded between Member States and third countries shall be deemed to be European works provided that the co-producers from the Community supply a majority share of the total cost of production and that the production is not controlled by one or more producers established outside the territory of the Member States.”</i></p> |
| <p>NL</p> | <p>No, but the Media Act refers to Article 1 of the AVMS Directive.</p> |
| <p>NO</p> | <p><i>“European works means works originating in States party to the EEA Agreement or in States party to the Council of Europe’s Convention on Transfrontier Television. The works must be produced with the</i></p> |



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| | <p><i>participation of authors and workers residing in one or more of the said States.</i></p> <p><i>Furthermore, the works must meet at least one of the following three conditions:</i></p> <p><i>a) they must be produced by one or more producers established in the said States, or</i></p> <p><i>b) production must be actually monitored and controlled by one or more producers established in the said States, or</i></p> <p><i>c) co-producers in the said States must supply a majority share of the total cost of the coproduction. The co-production shall not be controlled by one or more producers established outside the territory of the said States.</i></p> <p><i>Works mainly produced with the assistance of originators and workers residing in one or more States party to the EEA Agreement, but to which the first and second paragraphs do not apply, shall be regarded as European works to an extent corresponding to the proportion of the contribution of co-producers in the States party to the EEA Agreement to the total production costs.</i></p> <p><i>"European works" also means works originating in European States other than States party to the EEA Agreement or the Council of Europe's Convention on Transfrontier Television. For such works it is a condition that the works are mainly produced with the assistance of originators or workers residing in one or more European States and that:</i></p> <p><i>d) the works are either exclusively produced by or in co-production with producers established in one or more of the States party to the EEA Agreement, or</i></p> <p><i>e) the works are produced by producers established in other European States and the necessary agreements have been concluded between States party to the EEA Agreement and the State in question.</i></p> <p><i>The first to fourth paragraphs apply on the condition that works originating in States party to the EEA Agreement are not subjected to discriminatory measures in the European third States in question.</i></p> <p><i>Works produced within the framework of bilateral agreements on co-production concluded by States party to the EEA Agreement and other States, but to which the preceding paragraphs do not apply, shall be deemed to be European works provided that co-producers in States party to the EEA Agreement supply a majority share of the total production costs, and that production is not controlled by one or more producers established outside the member States' territories."</i></p> |
| PL | <p><i>"1. A programme shall be deemed to be a European work, if it:</i></p> <p><i>1) originates in a Member State of the European Union, or</i></p> <p><i>2) originates in another State party to the European Convention on Transfrontier Television concluded in Strasbourg on 5 May 1989 (official journal "Dz.U." of 1995, item 160 and of 2004, item 250), hereinafter the "European Convention on Transfrontier Television", which does not apply discriminatory measures against any programmes originating in Member States of the European Union, or</i></p> <p><i>3) was co-produced within the framework of an agreement related to the audiovisual sector executed between the European Union and other third State, and fulfils the requirements defined in the agreement, if this State does not apply discriminatory measures against any programmes originating in Member States of the European Union.</i></p> <p><i>2. A programme originates in the States referred to in paragraph 1 sub-paragraphs 1 and 2, if the majority of the creative team members have their permanent residence in the territory of one of those States and provided at least one of the following conditions is met:</i></p> <p><i>1) the programme is produced by a producer whose head office or permanent residence is in the State referred to in paragraph 1, sub-paragraphs 1 and 2,</i></p> <p><i>2) the production of the programme is supervised and controlled by a natural person having a permanent residence in the State referred to in paragraph 1, sub-paragraphs 1 and 2, or by a legal person or entity having no legal personality, while its head office is located in the State referred to in paragraph 1, sub-paragraphs 1 and 2,</i></p> <p><i>3) the contribution of co-producers having a head office or permanent residence in the State referred to in paragraph 1, sub-paragraphs 1 and 2, to the total production costs is preponderant and the co-production</i></p> |



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| | <p><i>is not under the control of co-producers that do not have their head office or permanent residence in the State referred to in paragraph 1, sub-paragraphs 1 and 2.</i></p> <p><i>3. (repealed).</i></p> <p><i>4. A programme shall also be deemed a European work, if it was made pursuant to bilateral co-production agreements executed by Member States of the European Union and third parties, and the contribution of co-producers having a head office or permanent residence in the State referred to in paragraph 1, sub-paragraph 1, to the total production costs is preponderant and the co-production is not under the control of co-producers that do not have their head office or permanent residence in the territory of the State referred to in paragraph 1, sub-paragraph 1.</i></p> <p><i>5. (repealed)."</i></p> |
| PT | <p><i>"(i) works originating in Member States;</i></p> <p><i>(ii) works originating in European non-member States which are parties to the European Convention on Transfrontier Television of the Council of Europe and which satisfy the conditions of paragraph 3;</i></p> <p><i>(iii) works co-produced under agreements relating to the audiovisual sector, including the cinema sector, concluded between the European Union and third countries and fulfilling the conditions laid down in each of those agreements;</i></p> <p><i>The works referred to in (i) and (ii) shall be those works which, essentially carried out with the participation of authors and workers residing in one or more of the States to which those provisions refer, satisfy one of the following conditions:</i></p> <p><i>(i) the production is carried out by one or more producers established in one or more of those States;</i></p> <p><i>(ii) the production is supervised and actually controlled by one or more producers established in one or more of those States;</i></p> <p><i>(iii) the contribution of co-producers from these States to the total cost of coproduction shall be preponderant and co-production shall not be controlled by one or more producers established outside those States."</i></p> |
| RO | <p><i>"1) For the purpose of the present law, European works means the following:</i></p> <p><i>a) works originating in the EU member States</i></p> <p><i>b) works originating in third-party European States (part of the European Convention on Transfrontier Television of the Council of Europe), which fulfil the conditions from point 3.</i></p> <p><i>c) works co-produced as part of agreements regarding the audiovisual sector concluded between the European Community and third-parties, which fulfil the conditions foreseen in each of these agreements.</i></p> <p><i>2) The definitions of works under point 1.b and 1.c are applicable only in the case of works originating in member States that are not part of discriminatory provisions in the respective third-party countries.</i></p> <p><i>3) Works as defined under point 1.a and 1.b are works produced mostly with the contribution of authors and personnel that reside in one or several of the respective States, on condition that these works fulfil one of the following requirements: a) are produced by one or more producers residing in one or more of the respective States; b) the production of these works is supervised and actually controlled by one or more producers residing in one or more of the respective States; c) the contribution of the co-producers from these States to the total co-production costs is preponderant, and the co-production is not controlled by one or more producers residing outside those respective States.</i></p> <p><i>4) Works that are not European works as defined in point 1, but that are produced as part of bilateral co-production treaties concluded between member States and third-party countries, are considered to be European works, on the condition that a majority percentage in the total production costs be covered by the co-producers from the European Community and the production not be controlled by one or more producers residing outside the territory of the member States."</i></p> |
| SE | None. |
| SI | <i>"20. Under this Act, 'European audiovisual works' means:</i> |

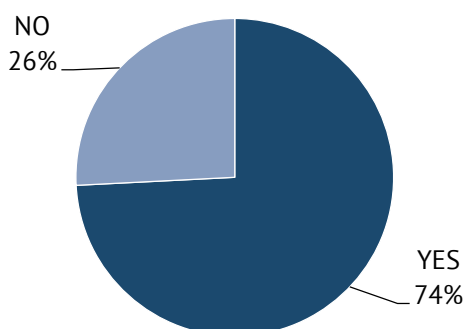


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| | <p>- works originating in European Union Member States;</p> <p>- works originating in European third States party to the European Convention on Transfrontier Television of the Council of Europe in which audiovisual works of European Union Member States are not subject to discriminatory measures and which meet the conditions referred to in point 21 of this paragraph;</p> <p>- works originating in European third States in which audiovisual works of European Union Member States are not subject to discriminatory measures and which were wholly made in a co-production of producers established and registered in European Union Member States with producers from European States with which the European Union has signed agreements in the audiovisual area, if these works were mainly made by authors and workers from one or more European States.</p> <p>21. The European works referred to in the first and second indents of the previous point are works which have been mainly made by authors and workers residing in the States referred to in these indents, provided they comply with one of the following conditions:</p> <p>- the producers of these works are established or registered in one or more of those States;</p> <p>- the work was made under the supervision and actual control of one or more producers from those States;</p> <p>- the contribution of co-producers from those States to the total co-production costs is preponderant and the co-production is not controlled by one or more producers established or registered outside those States.”</p> |
| SK | <p>“(1) For the purposes of this act, “European work” means work originating from:</p> <p>a) one of the Member States of the European Union,</p> <p>b) one of the European States which is a contracting party to the European Convention on Transfrontier Television, if there are in this State no discriminatory measures against work under (a) and the work fulfils the conditions under subsection (2),</p> <p>c) a co-production within the framework of agreements related to the audiovisual sector concluded between the European Union and third countries that fulfil the conditions defined in each of those agreements, if such third countries do not have discriminatory measures against works under (a).</p> <p>(2) The work referred to in subsections (1)(a) and (b) shall specifically be work made by authors and employees residing in or having a long-term residence in one or more Member States of the European Union or in one or more States which are contracting parties to the European Convention on Transfrontier Television and that satisfies the following conditions:</p> <p>a) it is made by one or more producers whose headquarters, business establishment or residence is in one or more of these States, or</p> <p>b) the production of the work is controlled by one or more producers with headquarters, a business establishment or residence in one or more of these States, or</p> <p>c) the contribution of the co-producers of these States to the total co-production costs is preponderant and the co-production is not controlled by one or more producers with their headquarters, business establishment or residence outside of these States.</p> <p>(3) a European work is also work made within the framework of bilateral co-production treaties concluded between the Member States of the European Union and third states, if the co-producers from the Member States of the European Union bear most of the total costs of the production, and their production is not controlled by one or more producers having their headquarters, business establishment or residence outside the territory of the Member States of European Union.”</p> |

Source: Analysis of the responses to the European Audiovisual Observatory standardised questionnaire.

Figure 2 visualises the presence or not of a definition of “independent producer” in the analysed countries and Table 2. provides the text of the definitions in each relevant country.

Figure 2. Definition of “independent producer” in the 31 European countries



Source: Analysis of the responses to the European Audiovisual Observatory standardised questionnaire.

Table 2. Definition of independent producer

| | Level |
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| AT | None. |
| BE FR | <p><i>“An independent producer :</i></p> <ul style="list-style-type: none"> ▪ has a separate legal personality from that of an AVMS provider; ▪ does not have a direct or indirect share of more than 15% of the capital of an AVMS provider; ▪ does not make more than 90% of its turnover during a period of three years of the sale of its productions from the same AVMS provider; ▪ does not have more than 15% of its capital held directly or indirectly by an AVMS provider, ▪ does not have more than 15% of its capital held by a company which owns, directly or indirectly, more than 15% of the capital of an AVMS provider. <p><i>An independent producer from the French Community is one which is established in the French-language region or in the bilingual region of Brussels-Capital and that meets the criteria of the previous paragraph.”</i></p> |
| BE NL | <p><i>“Independent producer: the producer:</i></p> <p><i>a) of whom the legal personality is separate from that of a broadcaster;</i></p> <p><i>b) who does not own (directly or indirectly) more than 15% of the capital of a Flemish broadcaster;</i></p> <p><i>c) whose capital is not owned (directly or indirectly) for more than 15% by a company that owns (directly or indirectly) more than 15% of the capital of a Flemish broadcaster.”</i></p> |
| BG | <p><i>“Independent Producer means a producer registered under the Commerce Act or under the legislation of a Member State of the European Union or of another State party to the Agreement on the European Economic Area that is organizationally and economically independent in its activity of a broadcaster and is</i></p> |



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| | <p>subject to the following requirements:</p> <ol style="list-style-type: none"> 1. is not the owner of a radio or television operator or of a share in its property; 2. a radio or television operator is not the owner of such a person or of a share of his/her property.” |
| CH | None. |
| CY | None. |
| CZ | <p>“Treated as an independent producer shall be any legal person or natural person which or who is not a television broadcaster and is not interconnected with a television broadcaster in property terms, or whose supply of works to a single television broadcaster does not exceed 90% of its total production over 3 years. A person interconnected with a television broadcaster in property terms shall be understood to mean a person holding voting rights or an ownership interest in the television broadcaster or a person in which a television broadcaster holds voting rights or an ownership interest.”</p> |
| DE | None (federal level). |
| DK | None. |
| EE | <p>“A European independent producer is:</p> <ol style="list-style-type: none"> 1) a producer that holds the majority of shares or the majority of votes determined by the shares of a legal or natural person of a Member State or State party to the Convention; 2) a producer whose copyrights or the rights related to the copyrights for the production transferred on the basis of the law or agreement are held by a legal or natural person of a Member State or State party to the Convention; 3) a producer that has produced its own audiovisual production for at least two audiovisual media providers during the last two years.” |
| ES | <p>“A producer is someone, either a natural or legal person, who assumes the initiative, coordination and the economic risks for making audiovisual content. An independent producer is someone, either a natural or legal person, that generates that content, on its own initiative or by request, and, in exchange for compensation, makes it available to an audiovisual service provider with which it is not stably linked in a common business strategy.</p> <p>It is presumed to be stably linked when they are both part of the same group of companies, according to Article 42 of the Code of Commerce, or when there are stable agreements of exclusivity that restrict their freedom to enter into contracts with third parties.”</p> |
| FI | <p>“An independent producer means a producer of audiovisual programmes whose share capital cannot be controlled for more than 25% by an individual audiovisual content service provider or for more than 50% by several providers, and who, during the past three years, has produced no more than 90% of its programmes for the same provider.”</p> |
| FR | <p>“An independent producer is independent from a broadcaster if:</p> <ol style="list-style-type: none"> 1) The broadcaster does not directly or indirectly hold more than 15% of the capital share or the voting rights. 2) The independent producer does not directly or indirectly hold more than 15% of the capital share or of the voting rights of the broadcaster. 3) A shareholder or a group of shareholders do not control the broadcaster and the producer at the same time.” <p>Furthermore, Articles 15, 31 and 34 (for audiovisual works) and 8 and 23 (for cinematographic works) of Decree No. 2010-416 and Articles 15, 30 and 42 (for audiovisual works) and 6 and 36 (for cinematographic works) of Decree No. 2010-747 provide details on the specific conditions under which a cinematographic or an audiovisual work can be eligible as an independent work.</p> |
| GB | <p>“a producer who:</p> <ul style="list-style-type: none"> ▪ is not an employee of a broadcaster; |



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| | <ul style="list-style-type: none"> ▪ does not have a shareholding greater than 25% in a broadcaster; ▪ is not a body corporate in which a broadcaster has a shareholding greater than 25% or in which any two or more broadcasters together have an aggregate shareholding greater than 50%.” |
| GR | None. |
| HR | <p>“(1) An independent producer of audiovisual works (hereinafter: the independent producer) shall be a legal or natural person who meets the following conditions:</p> <ul style="list-style-type: none"> - that he/she is registered for performing the activity of producing audiovisual works and his/her seat is in the Republic of Croatia or in one of the European Union Member States; - that he/she is not included in the organisational structure of the broadcaster; - that the television broadcaster may have no more than 25% of the producer’s share capital or managerial or voter’s rights; - that he/she does not realise more than one half of his/her annual production upon the order of one single television broadcaster. <p>(2) An independent producer shall also be a legal or natural person who is registered for performing the activity of producing audiovisual works and has his/her seat in one of the third countries, if European works have comprised the major part of his/her audiovisual production in the last three years and if he/she, in addition to that, fulfils the conditions set out in paragraph 1, sub-paragraphs 2 and 3 of this Article.</p> <p>(3) An independent producer may not be a legal or natural person whose average share of financial means for covering the total expenses of production or co-production, in which he/she has participated in the last three years, does not exceed 10%.”</p> |
| HU | <p>“Independent production company shall mean a production company in which neither the concerned media service provider nor the owner with a qualifying holding in such a media service provider has a direct or indirect shareholding; and neither any director, executive employee of the media service provider nor any of their close relatives is in a work-related relationship with or has an ownership share in such a production company.”</p> |
| IE | <p>“(12) In this section, independent programme means a television or sound broadcasting programme made by a person who complies with the following conditions, namely:</p> <p>(a) each of the following matters as respects the said programme is determined by him or her or by one or more persons on his or her behalf and over whose activities in respect of the determination of such matters he or she exercises control, namely:</p> <ul style="list-style-type: none"> (i) the persons who are to participate in the said programme, (ii) the persons who are to be involved in the making of the said programme, and (iii) the equipment and facilities to be used in the making of the said programme, <p>(b) he or she is not a subsidiary of a broadcaster, and</p> <p>(c) he or she is not a holding company of a broadcaster.”</p> <p>(13) For the purposes of the definition in subsection (12), where:</p> <ul style="list-style-type: none"> (a) two or more broadcasters hold shares in a body corporate or a holding company of a body corporate, or (b) each of two or more broadcasters (being shareholders in a body corporate or a holding company of a body corporate) by the exercise of some power exercisable by it without the consent or concurrence of any other person can appoint or remove a holder of a directorship of the body corporate or, as the case may be, the holding company, <p>then, notwithstanding that the body corporate is not a subsidiary of any of these broadcasters, the body corporate is deemed not to comply with the condition specified in paragraph (b) of that definition if</p> |



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| | <p>(i) the total number of shares held by the said broadcasters in the body corporate or, as the case may be, the holding company, or</p> <p>ii) the total number of directorships of the body corporate or, as the case may be, the holding company that the aforesaid powers of the said broadcasters may be exercised in respect of,</p> <p>is such that, were the said broadcasters to be regarded as one company, the body corporate would be a subsidiary of it, and</p> <p>(I) RTE' is one of the said broadcasters, or</p> <p>(II) there exists a business relationship between the said broadcasters that, in the opinion of RTE', is of such a kind as is likely to result in the said broadcasters acting in concert with one another in exercising their rights under those shares or in exercising the said powers."</p> |
| IS | "An undertaking which is also a separate legal person, independent of the media service provider concerned in the sense that it is not under its direct or indirect control, either individually or in partnership with others, and free to define its own commercial policy." |
| IT | "European companies carrying out audiovisual production that are neither subsidiaries, nor related-companies to audiovisual media service providers subject to Italian jurisdiction and, alternatively: 1) do not reserve, over a three-year timeframe, more than 90% of their production for the same audiovisual media service provider; or 2) hold secondary rights." |
| LT | "Independent producer means a person who is not a participant of a provider of audiovisual media services or a broadcaster of radio programmes or a member of the management bodies thereof, also a person who is not linked with a provider of audiovisual media services or a broadcaster of radio programmes by employment and service relations or joint activity who creates audiovisual works or programmes and sells them freely or otherwise transfers them for public dissemination." |
| LU | "Any natural person producing audiovisual works without exercising the activity of an audiovisual media service provider and any legal person producing audiovisual works without exercising the activity of an audiovisual media service provider and whose majority of shares are not controlled by an audiovisual media service provider." |
| LV | "Independent producer – a private person who is not an electronic mass medium but who is engaged in the production of films, advertising, individual radio or television broadcasts, programmes." |
| MT | <p>"Producers who are independent of broadcasters means any person who:</p> <p>(a) is not an employee (whether or not on temporary leave of absence) of a broadcaster;</p> <p>(b) does not have a shareholding greater than 15% in a broadcaster;</p> <p>Provided that a company shall not be considered as an independent producer if a broadcaster has a shareholding greater than 15% in such company."</p> |
| NL | <p>"Independent production is defined as a work that is not produced by:</p> <p>a. public service media;</p> <p>b. commercial media;</p> <p>c. a foreign broadcaster;</p> <p>d. a legal entity in which an institution as referred to in points a, b or c, whether or not by means of one or more subsidiaries, has an interest of more than twenty-five percent;</p> <p>e. a legal entity in which two or more institutions as referred to in points a, b or c, together with one or more of their respective subsidiaries, have an interest of more than fifty per cent;</p> <p>f. a company in which an institution as referred to in points a, b or c, or one or more of its subsidiaries, as a partner is fully liable towards creditors for its debts."</p> |
| NO | <p>"A producer is to be regarded as an independent producer in relation to the first paragraph if:</p> <p>a) A broadcaster does not own shares or interests in the production company representing more than 25</p> |



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| | <p><i>per cent of the votes in the company. Where several broadcasters are co-owners of a production company, the broadcasters' shares must not constitute more than 50 per cent of the votes in the production company. The same applies where a production company owns shares or interests in a broadcaster.</i></p> <p><i>b) The producer does not sell more than 90 per cent of its production over a three-year period to a single broadcaster, unless the producer produces only one programme or a series in the course of this period.</i></p> <p><i>c) The producer holds secondary rights to its productions."</i></p> |
| PL | None. |
| PT | <p><i>"Independent producer means a legal person whose principal activity is the production of cinematographic or audiovisual works, provided that the following requirements are met cumulatively:</i></p> <p><i>i) Not more than 20% of the capital stock can be held, directly or indirectly, by a media service provider or, in the case of several media service providers, not more than 50%;</i></p> <p><i>(ii) 90% limit of total income, in the last fiscal year or accumulated in the last three fiscal years, from each media service provider."</i></p> |
| RO | <p><i>"A producer is independent from a certain broadcaster if its audiovisual production activity is financially supported to a proportion of less than 25% by the same sources of programme service in which its production is aired and if it owns less than 25% of the capital of the company that finances the respective programme service."</i></p> |
| SE | None. |
| SI | <p><i>"22. Under this Act, an independent producer of audiovisual works is a legal or natural person that meets the following four conditions:</i></p> <ul style="list-style-type: none"> <i>- they are registered to produce audiovisual works and are established in the Republic of Slovenia or another European Union Member State;</i> <i>- they are not part of the organisational structure or legal personality of a television broadcaster;</i> <i>- a television broadcaster has not more than a 25% share in the equity of or management or voting rights in its property;</i> <i>- they make not more than half their annual production on commission from an individual television broadcaster.</i> <p><i>23. An independent producer may also be a legal or natural person registered to produce audiovisual works and established in a third country if European works have accounted for a majority of their audiovisual production in the last three years and they meet the conditions referred to in the second and third indents of the previous point."</i></p> |
| SK | <p><i>"(1) An independent producer in audiovision (hereinafter referred to as "independent producer") is the producer of audiovisual work, registered in the list of independent producers, who meets the following conditions:</i></p> <ul style="list-style-type: none"> <i>a) he/she is not a broadcaster;</i> <i>b) he/she is not personally or materially connected with a broadcaster and</i> <i>c) the run-time of the audiovisual works originally produced by an independent producer for television broadcasting by one television broadcaster does not represent more than 90% of the total run-time of the audiovisual works, including cinematographic works produced by him/her.</i> <p><i>(2) An independent producer is also the producer of audiovisual work who is not personally or by commercially connected with the broadcaster and is deemed to be an independent producer in the EU Member State or in the State which is a contractual party to the European Convention on Cross-Border Television."</i></p> |

Source: Analysis of the responses to the European Audiovisual Observatory standardised questionnaire.



3.2. Financial investment obligations

The following tables summarise the financial investment obligations which are most common in Europe (on broadcasters, VOD services and distributors).

In Portugal, however, in addition to these obligations, there are also two specific financial investment obligations (investment in cinematographic and audiovisual production) which are imposed by law on:

- distributors of cinematographic works: 3% of the revenues from the previous year; the following investments are eligible:
 - participation in the film's financial package, as co-financier, without any involvement in the production;
 - participation in the film's production, as co-producer;
 - advancements on production, as guarantee minima;
 - the purchase of national cinematographic works' distribution rights;
 - the restoration and mastering of films of supported and other national works, as long as two copies are delivered to the Cinemateca.
- The video industry: 1% of the retailing (but not renting) revenues from the previous year; the following investments are eligible:
 - the same as those eligible for theatres;
 - the purchase of rights for videogram editing or the distribution of national cinematographic works.

3.2.1. Financial investment obligations by linear AVMS providers (broadcasters)

Financial investment obligations are imposed on broadcasters in the vast majority of cases (26 out of 31 cases), the exceptions being Estonia, Croatia, Lithuania, Luxembourg and Norway.

Yet, in more than half of these cases (14 out of 26 cases), the obligation is not mandatory but optional, which means that broadcasters can choose between the financial investment (direct contribution) and:

- reserving a percentage of their transmission time for independent works (in line with the obligation derived from Article 17 of the AVMS Directive); this is the case in Austria, Cyprus, Denmark, Finland, the United Kingdom, Ireland, Iceland, Malta, Romania, Sweden and Slovakia; in most of those situations, the percentage is the one mentioned in Article 17 of the AVMS Directive (10%), except in Finland (19%) and Slovakia (15% for the public broadcaster);
- paying a levy (indirect contribution), usually to the film/audiovisual fund; this is the case in Belgium – French Community, Switzerland and Hungary.

In 13 cases, specific financial investment obligations are imposed on public broadcasters; these are usually higher than those imposed on private broadcasters (if any). This is the

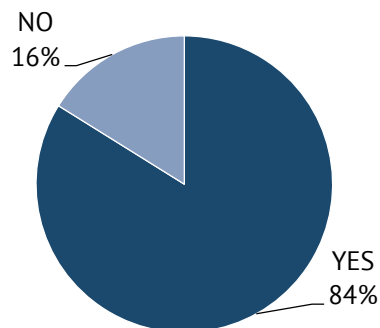


case in Belgium – French Community and Flemish Community, Bulgaria, Switzerland, the Czech Republic, Spain, Ireland, Iceland, Italy, Latvia, the Netherlands, Poland, Portugal and Slovenia. In six of these cases, only public broadcasters have financial obligations (Bulgaria, Belgium – Flemish Community, Latvia, the Netherlands, Poland and Slovenia).

The only 6 countries where mandatory financial obligations are imposed on both public and private broadcasters are Spain, France, Germany, Greece, Italy and Portugal.

Figures 3 and 4 visualise the presence or not of financial investment obligations on public and private broadcasters in the analysed countries and Table 3. summarises the concrete obligations in each relevant country.

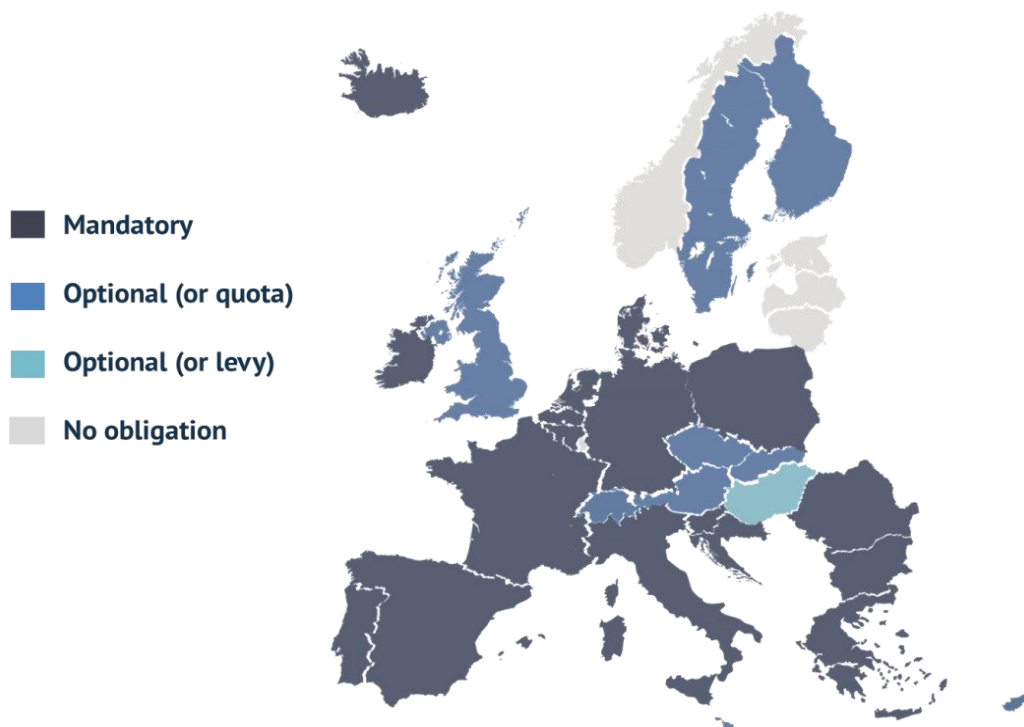
Figure 3. Financial obligations by broadcasters in the 31 European countries



Source: Analysis of the responses to the European Audiovisual Observatory standardised questionnaire.

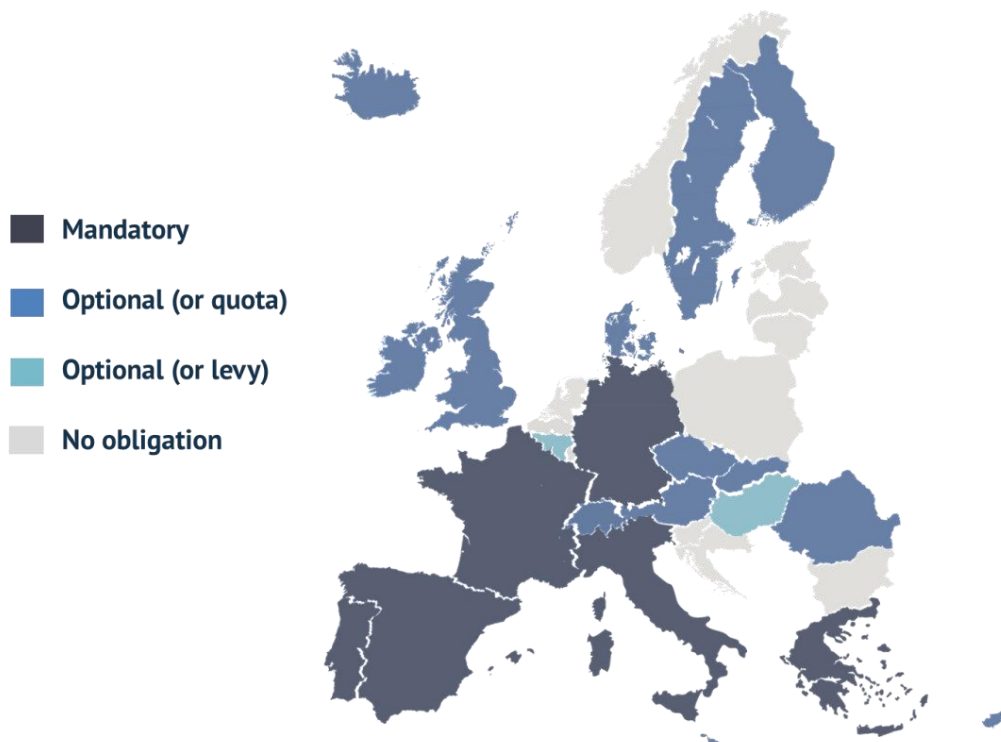


Figure 4. Financial obligations by public broadcasters by country



Source: Analysis of the responses to the European Audiovisual Observatory standardised questionnaire.

Figure 5. Financial obligations by private broadcasters by country



Source: Analysis of the responses to the European Audiovisual Observatory standardised questionnaire.



Table 3. Level of financial investment by broadcasters

| | Level |
|--------------|--|
| AT | <p>Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping services), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters.</p> <p>However, for private broadcasters this obligation only applies “<i>where practicable and by appropriate means.</i>”</p> |
| BE FR | <p>The public service media RTBF has to invest a yearly amount of at least EUR 7 200 000 in contracts with independent producers from the French Community.</p> <p>The amount of the yearly contribution from private broadcasters depends on their turnover from the previous year. The turnover is defined as the amount of gross receipts, without deduction of commissions and overpayments, linked to the insertion of advertising and sponsorship in the services, and all other gross revenues, without deduction, resulting from the provision of television services for remuneration, including gross revenues from any distributor of services or third parties for obtaining the television services and the ones generated by the content of the programmes. For 2018, the different levels of contribution are as follows: 0% if the turnover is below EUR 394 989.86; 1.4% if between EUR 394 989.87 and EUR 6 583 164.30; 1.6% if between EUR 6 583 164.31 and EUR 13 166 328.60; 1.8% if between EUR 13 166 328.61 and EUR 19 749 492.90; 2% if between EUR 19 749 492.91 and EUR 26 332 657.20; 2.2% if above EUR 26 332 657.21.</p> <p>This obligation is optional: private broadcasters have the possibility of choosing between the financial investment (direct contribution) and a levy (indirect contribution) to the CCA film fund.</p> |
| BE NL | <p>The public service media VRT shall invest a minimum of 15% of its total income (excluding exchange deals, the Brussels Philharmonic and restructuring costs) in external production. This percentage shall evolve from 15% in 2016 to a minimum of 18.25% by 2020.</p> |
| BG | <p>Only the public service media BNT has financial investment obligations, one pursuant to the Radio and Television Act (10% of its subsidies) and another one pursuant to the Act on the Protection and Promotion of Culture (amount not publicly available).</p> |
| CH | <p>Private broadcasters showing films shall invest 4% of their gross income on the acquisition, production or co-production of national works. Small broadcasters with less than 1 million Swiss francs gross income are exempt (Article 7 RTVA and Article 6 RTVO).</p> <p>This obligation is optional: private broadcasters have the possibility of choosing between the financial investment (direct contribution) and a levy (indirect contribution).</p> <p>The public broadcaster SRG SSR has a general legal obligation to support the national audiovisual industry in its licence. SRG SSR and the independent audiovisual industry concluded an agreement (“Pacte de l’audiovisuel”) in 1997 which regulates the annual amount of money reinvested by SRG SSR into the national audiovisual industry. Under the current Pact covering the years 2016-2019, SRG SSR contributes 27.5 million Swiss francs each year to the production of films (including 14 million Swiss francs in television productions, 9 million Swiss francs in cinema projects and 1 million Swiss francs in animated films and other support for multimedia projects).</p> |
| CY | <p>Broadcasters shall reserve, where practicable and by appropriate means, at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters.</p> |
| CZ | <p>Broadcasters shall reserve, where practicable, at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping services), or alternately shall invest at least 10% of their programming budget, for European works created by producers who are independent from broadcasters.</p> |
| DE | <p>Television broadcasters shall contribute to securing German and European film and television</p> |



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| | productions as a cultural asset and as part of the audiovisual heritage. |
| DK | <p>The Danish Broadcasting Corporation (DR) and TV2 shall each invest DKK 65 000 000 (approximately EUR 9 000 000) per year in Danish films (Media Agreement 2015–2018).</p> <p>Moreover, the DR shall delegate production to independent producers for an average of DKK 300 000 000 (approximately EUR 40 000 000) per year within the period of the Media Agreement. The new DR public service contract (2019–2023), negotiated in application of the new Media Agreement for the same period, imposes on DR the obligation to engage in Danish-language short films, documentaries and feature films produced by independent producers at a rate which corresponds to the current investment in terms of the number of titles, namely 14 fiction films and 23 short films/documentaries per year. The new contract also states that the DR shall delegate production to the external market equalling 14% of the DR's public financing over the agreement period.</p> <p>Also, broadcasters shall endeavour to ensure that more than 10% of their transmission time (excluding the time allotted to news, sports events, competitions and teletext services) is reserved for European works.</p> |
| EE | <p>There is no financial investment scheme in Estonia, but when the regulatory authority (TJA – Technical Regulatory Authority) launches a tender for issuing a licence, “a minimum amount in the programme service of works by Estonian authors and audiovisual works completed with the financial support of the Estonian State; the proportion of musical and verbal broadcasts in the programme service, including the proportion of news programmes; the amount of programmes in the programme service reflecting life in the coverage area; the requirements for the coverage area; the main target audience; and the language of verbal broadcasts may be established as secondary conditions of the activity licence for the provision of a free access television service, a conditional access television service and a radio service.”</p> |
| ES | <p>Broadcasters with State or Autonomous Community coverage shall make an annual contribution to the pre-financing of European cinematographic films, films and series made for television, documentaries and animated films and series, amounting to 5% (6% for public broadcasters) of the revenues raised in the previous financial year according to the profit-and-loss account and corresponding to the channels on which those audiovisual products were broadcast less than seven years from when they were first produced.</p> |
| FI | <p>Broadcasters shall reserve 19% of their transmission time (excluding the time allotted to news, sports events, competitive entertainment programmes, advertising, teletext services and teleshopping), or alternately 19% of their programming budget, for European works created by producers who are independent from broadcasters. Half of the programmes included in the said share shall have been produced within the past five years.</p> |
| FR | <p>Broadcasters shall invest at least 3.2% (3.5% for public broadcasters) of their previous year's turnover in the development of the production of European cinematographic works, including at least 2.5% in works whose original language is French. This applies to broadcasters who broadcast more than 52 films, or more than 104 broadcasts of films, with a maximum of 192 per year.</p> <p>Thematic broadcasters focused on cinema that are allowed to broadcast up to 500 films per year, shall, depending on the service, invest a minimum of between 12.5% and 27% of their yearly turnover in the development of the production of European cinematographic works, including a minimum of between 9.5% and 22% in works whose original language is French. These percentages are subject to guaranteed minima per subscriber.</p> <p>Broadcasters shall also invest at least 15% of their yearly turnover (14% for broadcasters not distributed via DTT) in the development of the production of European audiovisual works or works whose original language is French. Services that reserve less than 20% of their transmission time for audiovisual works are exempt, except if their yearly turnover exceeds EUR 350 000 000.</p> <p>Thematic broadcasters focused on cinema shall invest at least 3.6% of their yearly turnover (6% for broadcasters not distributed via DTT) in the development of the production of European audiovisual works or works whose original language is French.</p> |
| GB | <p>Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to</p> |



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| | news, sports events, games, advertising, teletext services and teleshopping programmes), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters. |
| GR | Each year, the public broadcaster ERT shall allocate 1.5% of its yearly turnover and private broadcasters shall allocate 1.5% of their yearly advertising revenues to the production of Greek cinematographic works. |
| HR | No obligation. |
| HU | Broadcasters with significant market power shall invest 2.5% of their yearly advertising revenues in supporting new Hungarian cinematographic works. This obligation is optional: broadcasters have the possibility of choosing between the financial investment (direct contribution) and a levy (indirect contribution) to the film fund (Media Service Support and Asset Management Fund). |
| IE | Broadcasters shall reserve, where practicable and by appropriate means, at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters. The public service media RTÉ shall invest each year EUR 40 000 000 (adapted on a yearly basis to the Consumer Price Index since 2008) in an “ <i>independent programme account</i> ” whose purpose shall be the following: “(i) <i>commissioning the making of independent television or sound broadcasting programmes, (ii) procuring the formulation by persons of proposals for the commissioning by RTÉ of the making of the above programmes, and (iii) assisting the completion of independent television or sound broadcasting programmes the making of which has not been commissioned by RTÉ</i> ”. |
| IS | Broadcasters shall, as far as possible, reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext service and teleshopping), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters. Moreover, the public broadcaster RÚV shall buy content from or co-produce content with independent producers of TV series, movies and documentaries for an amount corresponding to at least 8% of its total revenue in 2017, 9% in 2018 and 11% in 2019. |
| IT | Private broadcasters shall reserve at least 10% of their net annual revenues, as indicated in the income statement of the last annual financial statements available, for the production, pre-acquisition and acquisition of European works (for 2018, 100% must be devoted to works realised by independent producers). This percentage shall be increased to 12.5% for 2019 (five sixths of which for independent producers) and to 15% from 2020 onwards (five sixths of which for independent producers). Private broadcasters are also subject to a specific sub-quota of 3.2% of their net annual revenues to be allocated to cinematographic works of Italian original expression produced by independent producers. This percentage shall be increased to 3.5% as of 1 July 2019, to 4% for 2020 and to 4.5% from 2021 onwards. The public broadcaster RAI shall allocate to the pre-acquisition, acquisition and production of European works a quota of not less than 15% of the overall annual revenues (for 2018, 100% is devoted to works realised by independent producers). This percentage shall be increased to 18.5% as of 1 July 2019 (five sixths of which for independent producers) and to 20% from 2020 onwards (five sixths of which for independent producers). Not less than 5% of such a quota shall be allocated to animated works for children’s education. The RAI is also subject to a specific sub-quota of 3.6% of its annual net revenues to be allocated to cinematographic works of original Italian expression produced by independent producers. This percentage shall be increased to 4% as of 1 July 2019, to 4.5% for 2020 and to 5% from 2021 onwards. |
| LT | No obligation. |



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| LU | No obligation. |
| LV | The public broadcaster LTV shall “ensure the availability of the Latvian national audiovisual heritage to the public by purchasing national films, demonstrating them in their programmes, and undertaking other support measures for the Latvian film sector in accordance with the legal acts pertaining to this sector” and “shall co-operate with the State direct administration institution the National Film Centre on matters concerning the national film heritage”. |
| MT | Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters. |
| NL | Article 2.116 of the Media Act states that secondary legislation shall set the percentage of the total programming budget that the public service media organisations shall invest in independent works and that this percentage shall be set between 10% and 20%. Secondary legislation has set this percentage at 16.5%. Moreover, in the yearly budget allocated to the NPO, on the basis of the Media Act, an amount is specifically allocated for its investment in CoBO: EUR 8 106 325 in 2017 and EUR 8 274 457 in 2018. Furthermore, the Performance Agreement between the government and the NPO states that the NPO shall spend EUR 16 600 000 per year on high quality Dutch drama, documentaries and talent development. |
| NO | No obligation. |
| PL | The public broadcaster TVP shall allocate at least 1.5% of its annual revenues from the television licence fee collected from television set owners to the production of films. TVP shall submit an annual report to the Polish Film Institute by the end of the first quarter of the calendar year. If the amount is not spent entirely on film production, TVP shall pay the difference resulting from the settlement to the Polish Film Institute within one month after the first quarter of the calendar year. |
| PT | All broadcasters that include in their services feature and short films, television films, cinematographic creation documentaries or creative documentaries for television and television series, including fiction and animation, shall participate in cinematographic and audiovisual production by means of yearly investment obligations for the financing of writing works and for the development, production and co-production of national creative works, or by purchasing the rights for the broadcast, transmission and making available of national and European creative works. PT For private broadcasters, the investment amounts to 0.75% of the yearly revenues generated by the transmission of audiovisual commercial communications. Broadcasters that programme exclusively pornographic works are exempt. For the public service media RTP, the investment amounts to 8% of the yearly revenues generated by the audiovisual contribution. In Portugal, the audiovisual contribution corresponds to the licence fee for the funding of the public service broadcaster. It is paid monthly by every household via the energy bill (EUR 3.02 per month). |
| RO | Private broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping services), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters. The public broadcasters Romanian Radio Corporation and Romanian Television Corporation shall reserve at least 10% of their transmission time for European works created by producers who are independent from broadcasters. |
| SE | Broadcasters (except those whose services are distributed exclusively via cable and IPTV) shall reserve, unless there are special reasons to the contrary, at least 10% of their yearly transmission time (excluding the time allotted to news, sports events, games, advertising and teleshopping), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters. |



| | |
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| SI | The public service media RTVSLO shall support Slovenian film production by conducting a tender for the funding of film production by independent producers corresponding to at least 2% of the broadcasting fees collected in the previous year. |
| SK | Broadcasters shall reserve at least 10% of their transmission time for European works created by producers who are independent from broadcasters (15% for the public service media Rozhlas a Televízia Slovenska – RTVS), but this obligation is also considered to be fulfilled if the broadcaster has reserved at least 10% (15% for RTVS) of its programming budget, including programme purchase and production costs, for European works created by independent producers. |

Source: Analysis of the responses to the European Audiovisual Observatory standardised questionnaire.

3.2.2. Financial investment obligations by non-linear AVMS providers (VOD services)

Financial investment obligations are imposed on VOD services in only 10 out of 31 cases.

The only seven countries where mandatory financial obligations are imposed on VOD services are Denmark (as of 2020), Spain, France, Germany, Greece, Italy and Portugal.

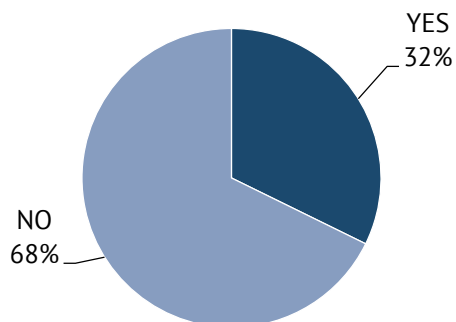
In three cases, the obligation is not mandatory but optional:

- in one case, VOD services can choose between the financial investment (direct contribution) and paying a levy (indirect contribution), usually to the film/audiovisual fund (Belgium – French Community and Flemish Community).
- in two cases, VOD services can choose between the financial investment (direct contribution) and quotas for European works in their catalogues (the Czech Republic and Slovenia).

In ten other cases, the legal framework is only a transposition of the formulation of Article 13 of the AVMS Directive, according to which VOD services “shall promote where practicable and by appropriate means, the production of and access to European works”, or a similar formulation inspired by that provision (Cyprus, Finland, Croatia, Ireland, Lithuania, Luxembourg, the Netherlands, Norway, Romania and Sweden), which does not imply a financial investment obligation.

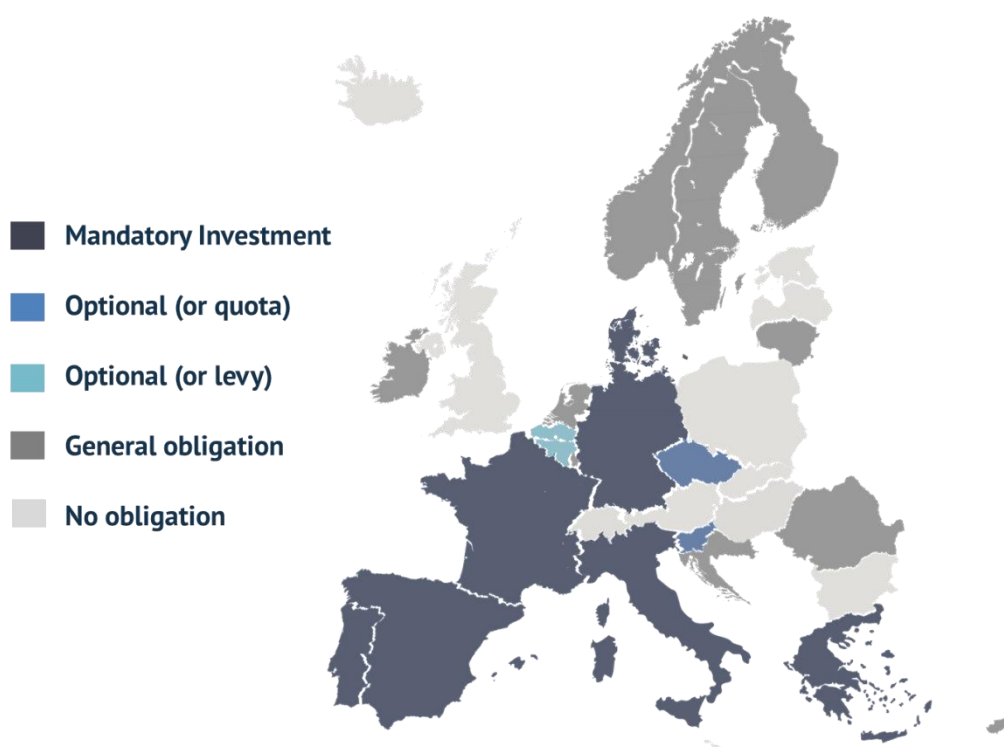
Figure 6 and 7 visualise the presence or not of financial investment obligations on VOD services in the analysed countries and Table 4. summarises the concrete obligations in each relevant country.

Figure 6. Financial obligations by VOD services in the 31 European countries



Source: Analysis of the responses to the European Audiovisual Observatory standardised questionnaire.

Figure 7. Financial obligations by VOD services by country²



Source: Analysis of the responses to the European Audiovisual Observatory standardised questionnaire.

² As of 2020 in Denmark; in Italy conditions will change as of July 2019.



Table 4. Level of financial investment by VOD services

| | Level |
|--------------|---|
| AT | No obligation. |
| BE FR | Same as for linear AVMS providers (see table 3). |
| BE NL | <p>An amendment to the Radio and Television Act was adopted in June 2018 and has come into force in January 2019, creating an optional obligation: private VOD providers will have the possibility of choosing between the financial investment (direct contribution) and a levy (indirect contribution) to the Flanders Audiovisual Fund.</p> <p>The Flemish government has, however, yet to determine the criteria, conditions and procedures for said financial investment obligations/levy.</p> |
| BG | No obligation. |
| CH | No obligation. |
| CY | VOD services shall promote, where practicable and by appropriate means, the production of and access to European works. |
| CZ | VOD services shall reserve, where practicable, at least 10% of of the total number of programmes in their catalogues for European works, or alternately shall invest at least 1% of the total revenues generated by the service in the production of European works or the acquisition of the rights to use European works through the service. |
| DE | The same as for linear AVMS providers applies to non-linear offers which consist of programmes which are each activated against individual payment. This concerns pay-per-view-offers which are excluded by definition as being television but are treated as television-like on demand services in a comparable way in terms of the obligations such as the ones concerning film production support.. |
| DK | From 2020, streaming service providers shall be required to invest 2% of their turnover in Denmark in the form of direct investments in new Danish-language content. This obligation shall apply to all streaming services in the Danish market, including foreign services that target the Danish public. A limit is set so that companies with a turnover of less than DKK 375 000 (approximately EUR 50 000) in Denmark are exempt. The detailed implementation of the arrangement between the parties to the Media Agreement will be agreed in the autumn of 2018. |
| EE | No obligation. |
| ES | Same as for linear AVMS providers (see table 3). |
| FI | VOD services shall promote the production and distribution of European works with the help of financial contributions for productions, programme acquisitions, the enhanced visibility of European works or by similar means. |
| FR | <p>The following obligations are applicable only to providers with a turnover above 10M€ per year, offering more than 10 cinematographic or audiovisual works.</p> <p>Transaction VOD providers shall invest at least 15% of their previous year's turnover in the development of the production of European cinematographic works, including 12% in works whose original language is French. They shall also invest, under the same financial conditions, in the production of European audiovisual works.</p> <p>Subscription VOD providers shall invest at least 26% of their turnover in the development of the production of European cinematographic works, including 22% in works whose original language is French, when the service includes at least 10 cinema films released in theatres in the previous 22 months. These percentages are lower (between 21% and 17%) when the service includes at least 10 cinema films released in theatres in the previous 22-36 months and similar to the one applicable to transaction VOD providers (between 15% and 12%) in other cases. They shall also invest, under the same financial conditions, in the development of the production of European audiovisual works.</p> |



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| GB | No obligation. |
| GR | Same as for linear AVMS providers (table 3). Moreover, VOD services shall promote, where practicable and by appropriate means, the production of and access to European works. |
| HR | VOD services shall promote, where practicable and by appropriate means, the production of and access to European works. |
| HU | No obligation. |
| IE | VOD services shall promote, where practicable and by appropriate means, the production of and access to European works. |
| IS | No obligation. |
| IT | From 1 July 2019 onwards, VOD services shall promote the production of and access to European works by assigning an annual financial contribution to European works by independent producers, with particular reference to recent works, amounting to at least 20% of the net revenues raised in Italy, whether or not the VOD provider is established in Italy. A specific sub-quota of at least 10% of the net annual revenues raised in Italy shall be reserved for works of Italian original expression produced by independent producers. <u>Up to 1 July 2019</u> , VOD services are bound to reserve alternatively (i) at least 5% of the annual revenues derived from the delivery of on-demand content in the previous year for the production of or the purchase of the rights to European works or (ii) a 20% share of their catalogues to European works (the share is calculated in terms of hours, on a yearly basis). VOD services which give prominence to European works in accordance with the criteria set forth by AGCOM Resolution No. 149/15/CONS are entitled to benefit from partial deductions from the investment or broadcasting quotas of up to one fifth of their amount. |
| LT | VOD services shall promote, where practicable and by appropriate means, the production of and access to European works. |
| LU | VOD services shall promote, where practicable and by appropriate means, the production of and access to European works. |
| LV | No obligation. |
| MT | No obligation. |
| NL | VOD providers shall promote the production of and access to European works, but there is no specific obligation to invest and the VOD providers can choose the way in which they fulfil this general obligation. |
| NO | VOD services shall promote the production of and access to European works when practicable and with appropriate means. |
| PL | No obligation. |
| PT | VOD services shall invest at least 1% of the revenues raised by the service in national cinematographic works. |
| RO | VOD services shall promote, where practicable and by appropriate means, the production of and access to European works. Such promotion could relate, <i>inter alia</i> , to the financial contribution made by such services to the production and the rights acquisition of European works, or to the percentage of and/or prominence given to European works in the catalogue of programmes offered. |
| SE | VOD services shall, in an appropriate manner and where it is feasible, promote the production of and access to European works. |
| SI | VOD services shall reserve at least 10% of the programmes in their catalogue in an individual calendar year for European works. VOD providers failing to attain this percentage shall, every calendar year, earmark funds amounting to at least 1% of the revenues raised by their services that |

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| | calendar year for the production of or the acquisition of the rights to the European audiovisual works that they provide via their services. |
| SK | No obligation. |

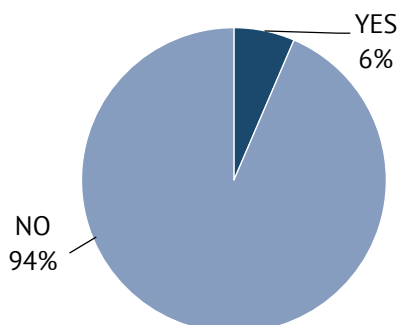
Source: Analysis of the responses to the European Audiovisual Observatory standardised questionnaire.

3.2.3. Financial investment obligations by distributors

Financial investment obligations are not present in the vast majority of cases (29 out of 31 cases), the exceptions being Belgium (French Community and Flemish Community), where all distributors have to invest, directly or indirectly, a share of the revenues made from subscription fee in audiovisual works, and Greece, where satellite distributors must allocate a share of their turnover to the production of cinematographic works.

Figure 8 visualises the presence or not of financial investment obligations on distributors in the analysed countries and Table 5. summarises the concrete obligations in each relevant country.

Figure 8. Financial obligations by distributors in the 31 European countries



Source: Analysis of the responses to the European Audiovisual Observatory standardised questionnaire.

Table 5. Level of financial investment by distributors

| | Level |
|--------------|---|
| AT | No obligation. |
| BE FR | Either EUR 2.57 (amount for 2018) per subscriber in the previous year or 2.5% of the gross receipts for the previous year (without VAT and copyright fees) related to the users' payment for the AVMS offered by the distributor. This obligation is optional: distributors have the possibility of choosing between the financial investment (direct contribution) and a levy (indirect contribution) to the CCA film fund. |
| BE NL | Distributors shall invest either EUR 1.30 per subscriber (indexed every year since 2015) or a lump |



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| | <p>sum of EUR 3 000 000 per year in co-production.</p> <p>This obligation takes the form of co-production projects which are presented to the regulatory authority (VRM) for the purposes of evaluating admissibility and accreditation.</p> <p>The obligation is optional: distributors have the possibility of choosing between the financial investment (direct contribution) and a levy (indirect contribution) to the Flanders Audiovisual Fund.</p> |
| BG | No obligation. |
| CH | No obligation. |
| CY | No obligation. |
| CZ | No obligation. |
| DE | No obligation. |
| DK | No obligation. |
| EE | No obligation. |
| ES | No obligation. |
| FI | No obligation. |
| FR | No obligation. |
| GB | No obligation. |
| GR | Satellite operators distributing pay TV services and telecommunications operators distributing AVMS via the Internet or mobile telephony network shall allocate each year 1.5% of their yearly turnover to the production of Greek cinematographic works. |
| HR | No obligation. |
| HU | No obligation. |
| IE | No obligation. |
| IS | No obligation. |
| IT | No obligation. |
| LT | No obligation. |
| LU | No obligation. |
| LV | No obligation. |
| MT | No obligation. |
| NL | No obligation. |
| NO | No obligation. |
| PL | No obligation. |
| PT | No obligation. |
| RO | No obligation. |
| SE | No obligation. |
| SI | No obligation. |
| SK | No obligation. |

Source: Analysis of the responses to the European Audiovisual Observatory standardised questionnaire.

3.3. Levies

3.3.1. Levies on linear AVMS providers (broadcasters)

Levies are imposed on broadcasters in only 11 out of 31 cases.

Yet, in 3 of these cases, the obligation is not mandatory but optional, which means that broadcasters can choose between the financial investment (direct contribution) described under section 3.2.1 and paying a levy (indirect contribution) to the film/audiovisual fund. This is the case in Belgium (French Community), Switzerland and Hungary.

The amount due by the broadcasters is:

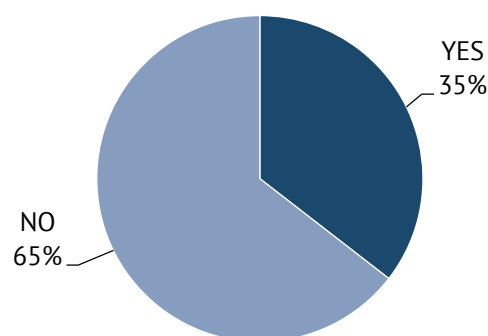
- either a percentage of their turnover (between 1.4% and 5.65%) as in Belgium – French Community, Switzerland, Germany, France and Croatia;
- or a percentage of their advertising revenues (between 1.5% and 5%) as in Austria, the Czech Republic, Hungary, Poland, Romania and Slovakia.

The beneficiary is usually the film/audiovisual fund, except in Austria, where the beneficiary is the state budget.

No levy is applicable to foreign broadcasters.

Figures 9, 10 and 11 visualise the presence or not of levies on broadcasters (public and private) in the analysed countries and Table 6. summarises the concrete obligations in each relevant country.

Figure 9. Levies on broadcasters in the 31 European countries



Source: Analysis of the responses to the European Audiovisual Observatory standardised questionnaire.



Figure 10. Levies on public broadcasters by country



Source: Analysis of the responses to the European Audiovisual Observatory standardised questionnaire.

Figure 11. Levies on private broadcasters by country



Source: Analysis of the responses to the European Audiovisual Observatory standardised questionnaire.



Table 6. Levies on broadcasters

| | Level |
|--------------|--|
| AT | Broadcasters are subject to a levy of 5% of their advertising revenues. The beneficiary is not a specific funding scheme, but the state budget. |
| BE FR | Private broadcasters have the possibility of choosing between the financial investment (direct contribution) described under table 3 and a levy (indirect contribution). |
| BE NL | No obligation. |
| BG | No obligation. |
| CH | Private broadcasters have the possibility of choosing between the financial investment (direct contribution) described under table 3 or a levy (indirect contribution). |
| CY | No obligation. |
| CZ | Private broadcasters that are licensed for a nationwide and free-to-air coverage via the DTT platform and that show cinematographic works are subject to levy of 2% of their advertising revenues. |
| DE | Private free-to-air broadcasters whose transmission time contains at least 2% of feature films (with theatrical release) and whose yearly revenues from advertising exceed EUR 750 000, and pay TV broadcasters whose yearly subscription revenues exceed EUR 750 000 are subject to a levy. The levy for free-to-air broadcasters is between 0.15% and 0.95% of their turnover, depending on the volume of feature films in their total transmission time. The levy for pay TV broadcasters is 0.25% of their net subscription revenues. Public broadcasters are subject to a levy of 3% of the costs incurred for the transmission of feature films, including, <i>inter alia</i> , the costs of licences, distribution, co-production and administration. |
| DK | No obligation. |
| EE | No obligation. |
| ES | No obligation. |
| FI | No obligation. |
| FR | Broadcasters are subject to a levy of 5.65% of their yearly turnover, with an abatement of EUR 11 000 000, or EUR 16 000 000 for broadcasters who do not have revenues from the transmission of commercial communications. |
| GB | No obligation. |
| GR | No obligation. |
| HR | All broadcasters shall contribute to the funding of the Croatian Audiovisual Centre (HAVC). The amount of the contribution represents a percentage of their turnover. The following percentages apply, depending on the type of broadcaster: public broadcaster HRT: 2%; private national broadcasters: 0.8%; private local broadcasters with a reach extending over 750 000 viewers: 0.5%. |
| HU | Broadcasters have the possibility of choosing between the financial investment (direct contribution) described under table 3 and a levy (indirect contribution). |
| IE | No obligation. |
| IS | No obligation. |
| IT | No obligation. |
| LT | No obligation. |
| LU | No obligation. |
| LV | No obligation. |



| | |
|-----------|---|
| MT | No obligation. |
| NL | No obligation. |
| NO | No obligation. |
| PL | Private broadcasters are subject to a levy of 1.5% of the revenues obtained from advertising, teleshopping and sponsored programmes, or revenues from fees collected directly from subscribers for access to the service if these revenues are higher in a given settlement period. |
| PT | No obligation per se (see “other levies”). |
| RO | Private broadcasters are subject to a 4% contribution from the equivalent value of the advertising minutes purchased by economic agents and/or advertising/media agencies, which is added to the value per minute and is cashed from the advertising agency, the intermediary media-buying agency purchasing the advertising minutes, or the economic agent purchasing the advertising minutes. They shall send to the Romanian Film Centre (CNC) a list of the contracts concluded, containing their value and the names of the sales agents. The public broadcaster TVR shall contribute a sum representing 15% of its own income from advertising sales to support cinematographic works. |
| SE | No obligation. |
| SI | No obligation. |
| SK | Private broadcasters whose programming consists of more than 15% of audiovisual works with nationwide or multi-regional coverage and whose programming is not dedicated exclusively to self-promotion are subject to a levy of 2% (5% for RTVS) of the revenues generated by advertising and teleshopping in the last calendar year. |

Source: Analysis of the responses to the European Audiovisual Observatory standardised questionnaire.

3.3.2. Levies on non-linear AVMS providers (VOD services)

Levies are imposed on VOD services in only 7 out of 31 cases.

Yet, in one of these cases, the obligation is not mandatory but optional, which means that VOD services can choose between the financial investment (direct contribution) described under section 3.2.1 or 3.2.2 and paying a levy (indirect contribution) to the film/audiovisual fund. This is the case in Belgium (French Community and Flemish Community).

The amount due by the VOD providers is a percentage of their turnover/revenues raised from the service (between 0.5% and 3%).

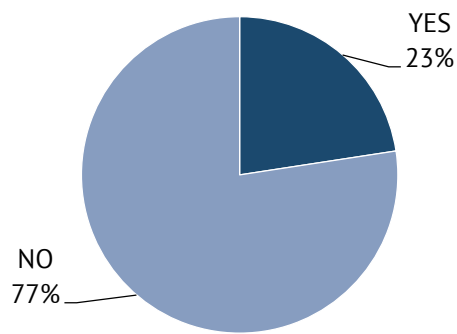
In all cases, the beneficiary is the film/audiovisual fund.

The levy is also applicable to foreign VOD services targeting the domestic audience in 3 out of 31 cases (Belgium – Flemish Community, Germany and France).

Figures 12 and 13 visualise the presence or not of levies on VOD services in the analysed countries and Table 7. summarises the concrete obligations in each relevant country.



Figure 12. Levies on VOD services in the 31 European countries



Source: Analysis of the responses to the European Audiovisual Observatory standardised questionnaire.

Figure 13. Levies on VOD services in by country



Source: Analysis of the responses to the European Audiovisual Observatory standardised questionnaire.



Table 7. Levies on VOD services

| | Level |
|--------------|--|
| AT | No obligation. |
| BE FR | Same as for linear AVMS providers (see table 6). |
| BE NL | An amendment to the Radio and Television Act was adopted in June 2018 and has come into force in January 2019, creating an optional obligation: private VOD services will have the possibility of choosing between the financial investment (direct contribution) and a levy (indirect contribution) to the Flanders Audiovisual Fund. The Flemish government has, however, yet to determine the criteria, conditions and procedures for said financial investment obligations/levy |
| BG | No obligation. |
| CH | No obligation. |
| CY | No obligation. |
| CZ | VOD services which have cinematographic works in their catalogues are subject to a levy of 0.5% of the revenues raised by the service. |
| DE | VOD providers (licence holders) that distribute feature films made for commercial purposes are subject to a levy of 1.8% of their yearly turnover (2.5% if their turnover exceeds EUR 20 million) if their turnover from the exploitation of feature films exceeds EUR 500 000 per year. The levy also applies to foreign VOD providers targeting the German public. |
| DK | No obligation. |
| EE | No obligation. |
| ES | No obligation. |
| FI | No obligation. |
| FR | Since 1 January 2018, a 2% tax on the yearly turnover (increased to 10% when the transaction concerns pornographic or violent works) has been payable for making available to the public in France services which give them access to cinematographic or audiovisual works, upon individual request and by means of an electronic communication process, whether or not the VOD provider is established in France. An abatement of 66% or EUR 100 000 applies to free services. |
| GB | No obligation. |
| GR | No obligation. |
| HR | VOD providers are subject to a levy of 2% of the revenues raised by the service. |
| HU | No obligation. |
| IE | No obligation. |
| IS | No obligation. |
| IT | No obligation. |
| LT | No obligation. |
| LU | No obligation. |
| LV | No obligation. |
| MT | No obligation. |
| NL | No obligation. |



| | |
|-----------|--|
| NO | No obligation. |
| PL | No obligation. |
| PT | No obligation per se (see “other levies”). |
| RO | VOD services are subject to the monthly collection of a contribution of 3% of the price of films downloaded after payment through the services of data transmission, including Internet and mobile services. |
| SE | No obligation. |
| SI | No obligation. |
| SK | VOD services are subject to a levy of 0.5% of the revenues generated by the service in the last calendar year. |

Source: Analysis of the responses to the European Audiovisual Observatory standardised questionnaire.

3.3.3. Levies on distributors

Levies are imposed on distributors in only 8 out of 31 cases.

Yet, in two of these cases, the obligation is not mandatory but optional, which means that distributors can choose between the financial investment (direct contribution) described under section 3.2.3 and paying a levy (indirect contribution) to the film/audiovisual fund. This is the case in Belgium – French Community and Flemish Community.

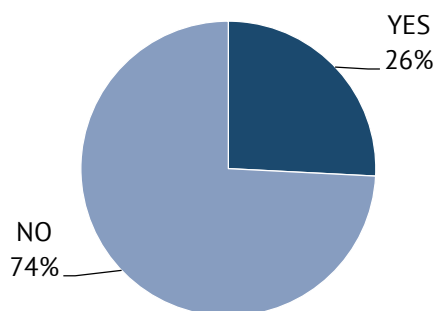
The amount due by the distributors is:

- either a specific amount of the subscription fee (between EUR 1.30 and EUR 2.60) as in Belgium (French Community and Flemish Community) and Portugal, or;
- a percentage of their turnover/revenues raised from their subscribers (between 0.25% and 3.5%) as in the Czech Republic, France, Germany, Poland, Romania and Slovakia.

In all cases, the beneficiary is the film/audiovisual fund.

Figure 14 visualises the presence or not of levies on distributors in the analysed countries and Table 8. summarises the concrete obligations in each relevant country.

Figure 14. Levies on VOD distributors in the 31 European countries



Source: Analysis of the responses to the European Audiovisual Observatory standardised questionnaire.

Table 8. Levies on distributors

| | Level |
|--------------|---|
| AT | No obligation. |
| BE FR | Distributors have the possibility of choosing between the financial investment (direct contribution) described under table 5 and a levy (indirect contribution). |
| BE NL | Distributors have the possibility of choosing between the financial investment (direct contribution) described under table 5 and a levy (indirect contribution). |
| BG | No obligation. |
| CH | No obligation. |
| CY | No obligation. |
| CZ | Distributors are subject to a levy of 1% of the revenues raised from their subscribers. |
| DE | The levy for distributors as defined in the present mapping is 0.25% of their net subscription revenues. |
| DK | No obligation. |
| EE | No obligation. |
| ES | No obligation. |
| FI | No obligation. |
| FR | Distributors are subject to a levy whose percentage varies depending on their turnover: 0.5% of the turnover between EUR 10 000 000 and EUR 250 000 000; 2.10% of the turnover between EUR 250 000 000 and EUR 500 000 000; 2.80% of the turnover between EUR 500 000 000 and EUR 750 000 000; 3.5% of the turnover over EUR 750 000 000. |
| GB | No obligation. |
| GR | No obligation. |
| HR | No obligation. |
| HU | No obligation. |
| IE | No obligation. |



| | |
|-----------|---|
| IS | No obligation. |
| IT | No obligation. |
| LT | No obligation. |
| LU | No obligation. |
| LV | No obligation. |
| MT | No obligation. |
| NL | No obligation. |
| NO | No obligation. |
| PL | Distributors on the DTT platform are subject to a levy of 1.5% of the revenues derived from the fees charged for access to television programmes broadcast or retransmitted on the DTT platform. Distributors on the cable platform are subject to a levy 1.5% of the revenues derived from the fees charged for access to retransmitted television programmes and the provision of re-broadcast services. |
| PT | Distributors are subject to a levy of EUR 1,75 per subscriber per year (EUR 2 from 2020). This amount is complemented by the amount of EUR 1,75 per subscriber per year (EUR 1,5 from 2020) paid by the National Telecommunications Authority (ANACOM). |
| RO | Distributors are subject to the collection of a contribution of 3% of the price of the advertising minutes aired in their own services, sold by cable television companies that have a TV licence. It also benefits from the collection of a contribution of 1% of the income generated monthly by the economic operators for retransmission through cable, satellite and the digital retransmission of TV programmes. |
| SE | No obligation. |
| SI | No obligation. |
| SK | Distributors are subject to a levy of 1% of the revenues raised from their subscribers in the last calendar year. |

Source: Analysis of the responses to the European Audiovisual Observatory standardised questionnaire.

3.3.4. Levies on theatres (cinema tickets)

Levies are imposed on theatres in only 9 out of 31 cases.

The amount due by the theatres is:

- either a percentage of the price of a cinema ticket (between 0.15% and 11%), as in the Czech Republic, France, the Netherlands and Slovakia, or;
- a percentage of their turnover/revenues (between 0.5% and 4%), as in Germany, Croatia, Norway, Poland and Romania.

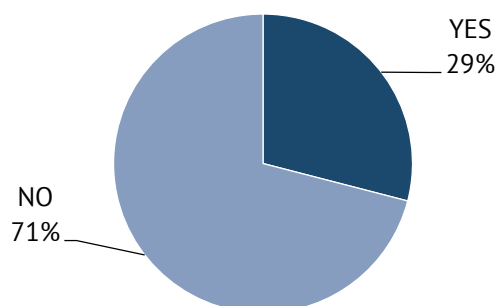
The beneficiary, in all cases, is the national film/audiovisual fund, except in Norway where the beneficiary is the Ministry of Culture, and in the Netherlands where it is the

Abraham Tuschinski Fund (ATF), run by the associations of exhibitors, distributors and producers.³

The contribution to film funding in the Netherlands cannot be fully considered as a levy as defined by the present mapping, since it is voluntary and not mandatory. However, in order to enable a relevant comparative analysis, and considering the fact that this contribution involves all the major stakeholders and that the State is also party to the agreement, it is mentioned under this section rather than under section 3.3.6.

Figure 15 and 16 visualise the presence or not of levies on theatres in the analysed countries and Table 9. summarises the concrete obligations in each relevant country.

Figure 15. Levies on theatres in the 31 European countries



Source: Analysis of the responses to the European Audiovisual Observatory standardised questionnaire.

³ This contribution cannot be fully considered as a levy as defined by the present mapping, since it is voluntary and not mandatory. However, in order to allow a relevant comparative analysis, and considering the fact that this contribution involves all the major stakeholders and that the state is also a party to the agreement, it is mentioned under this section rather than under section 3.3.6.

Figure 16. Levies on theatres in the 31 European countries



Source: Analysis of the responses to the European Audiovisual Observatory standardised questionnaire.

Table 9. Levies on theatres

| | Level |
|--------------|--|
| AT | No obligation. |
| BE FR | No obligation. |
| BE NL | No obligation. |
| BG | No obligation. |
| CH | No obligation. |
| CY | No obligation. |
| CZ | Theatres are subject to a levy of 1% of the price of a cinema ticket. |
| DE | Theatres who exploit films over 58 minutes are subject to a levy if their yearly turnover with tickets exceeds EUR 100.000: 1.8% of their yearly turnover if it does not exceed EUR 200 000; 2.4% of their yearly turnover if it does not exceed EUR 300 000; and 3% of their yearly turnover if it exceeds EUR 300 000. |
| DK | No obligation. |
| EE | No obligation. |
| ES | No obligation. |
| FI | No obligation. |



| | |
|-----------|--|
| FR | Theatres are subject to a levy equal to 10,72% of the price of the admission ticket including VAT (multiplied by 1.5 if the film contains pornography or incitement to violence) and another levy equal to 0,232% of the price of the admission ticket excluding VAT and the aforementioned levy. |
| GB | No obligation. |
| GR | No obligation. |
| HR | Theatres are subject to a levy equal to 0.5% of their revenues, food & beverages revenues excluded. |
| HU | No obligation. |
| IE | No obligation. |
| IS | No obligation. |
| IT | No obligation. |
| LT | No obligation. |
| LU | No obligation. |
| LV | No obligation. |
| MT | No obligation. |
| NL | Pursuant to the Covenant negotiated between the Association of Cinemas and Film Theatres (Nederlandse Vereniging van Bioscopen en Filmtheaters - NVBF), the Association of Film Distributors (Filmdistributeurs Nederland - FDN), the Association of Film Producers (Filmproducenten Nederland - FPN), the Netherlands Film Fund (Stichting Nederlands Fonds voor de Film) and the State, the amount of EUR 0.15 per cinema ticket (60% being due by NVBF and 40% by FDN) is dedicated to the production of mainstream films ("Publieksfilm"), apart from 6% of the total amount, which is used by the FDN and NVBF for other purposes, such as research and the financing of the platform www.film.nl . The Fund is managed by the Abraham Tuschinski Foundation (Stichting Abraham Tuschinski Fonds), run by the NVBF, FDN and FPN. |
| NO | Theatres are subject to a levy of 2.5% of their turnover. |
| PL | Theatres are subject to a levy of 1.5% of the revenues generated by the screening of films and commercials. |
| PT | No obligation per se (see "other levies"). |
| RO | Theatres are subject to the collection of a contribution of 4% of the total income generated through the exploitation of cinema films, of any kind and through any type of support, in cinema theatres or in any spaces for public viewing. |
| SE | No obligation. |
| SI | No obligation. |
| SK | Theatres are subject to a levy of 1% of the price of a cinema ticket. |

Source: Analysis of the responses to the European Audiovisual Observatory standardised questionnaire.

3.3.5. Levies on the video industry

Levies are imposed on the video industry in only 4 out of 31 cases.

The amount due by the video retailers is:

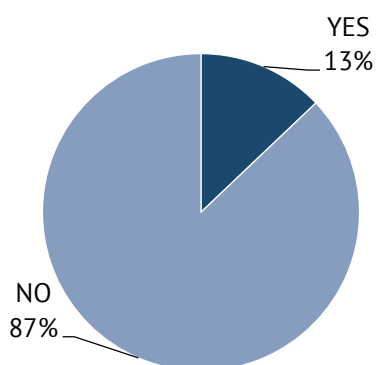
- either a percentage of their turnover/revenues (between 1.8 and 2.5% in Germany, 2% in France and 3% in Romania), or;

- a specific amount on each transaction (EUR 0.35 in Norway).

The beneficiary is the national film/audiovisual fund, except in Norway, where the beneficiary is the Ministry of Culture.

Figure 17 visualises the presence or not of levies on the video industry in the analysed countries and Table 10. summarises the concrete obligations in each relevant country.

Figure 17. Levies on the video industry



Source: Analysis of the responses to the European Audiovisual Observatory standardised questionnaire.

Table 10. Levies on the video industry

| | Level |
|--------------|--|
| AT | No obligation. |
| BE FR | No obligation. |
| BE NL | No obligation. |
| BG | No obligation. |
| CH | No obligation. |
| CY | No obligation. |
| CZ | No obligation. |
| DE | Video distributors (licence holders) who exploit films over 58 minutes long as licence holders on DVD or Blu-ray Disc by sell-through or rental are subject to a levy of 1.8% of their yearly turnover (2.5% if their turnover exceeds EUR 20 000 000) if their yearly net turnover is more than EUR 500.000 and at least 2% share of this turnover made with feature films. |
| DK | No obligation. |
| EE | No obligation. |
| ES | No obligation. |



| | |
|-----------|--|
| FI | No obligation. |
| FR | Video retailers are subject to a 2% tax on their yearly turnover, which is increased to 10% where the transaction concerns pornographic works. |
| GB | No obligation. |
| GR | No obligation. |
| HR | No obligation. |
| HU | No obligation. |
| IE | No obligation. |
| IS | No obligation. |
| IT | No obligation. |
| LT | No obligation. |
| LU | No obligation. |
| LV | No obligation. |
| MT | No obligation. |
| NL | No obligation. |
| NO | Video retailers are subject to a levy of NOK 3.5 (approximately EUR 0.35) per videogramme sold or rented. |
| PL | No obligation. |
| PT | No obligation. |
| RO | Video retailers are subject to the collection of a contribution amounting to 3% of the sales and/or rental price of recorded video cassettes, DVDs or any recorded material which can be multiplied through video or digitally, payable by the economic agent that carries out the sales and/or rental wholesale. The contribution for films classified as XXX, unauthorised for public screening, is 15%. |
| SE | No obligation. |
| SI | No obligation. |
| SK | No obligation. |

Source: Analysis of the responses to European Audiovisual Observatory standardised questionnaire.

3.3.6. Other levies

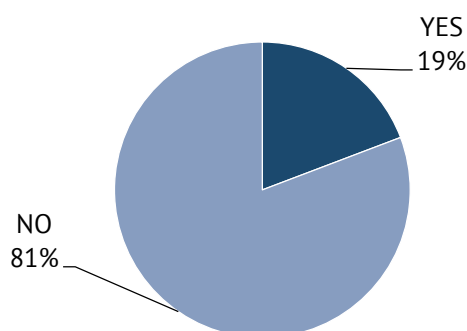
Levies, other than the ones described under sections 3.3.1 to 3.3.5, are present in 5 out of 31 cases. The other types of existing levies are imposed on the following players:

- producers of cinematographic works (France);
- distributors of cinematographic/audiovisual works (France, Poland and Slovakia);
- exporters of cinematographic works (France);
- operators of electronic communications networks (Croatia);
- advertisers (Portugal).

The beneficiary, in all cases, is the national film/audiovisual fund, as well as the National Museum of Cinema (Cinemateca) in Portugal.

Figure 18 visualises the presence or not of other kinds of levies in the analysed countries and Table 11. summarises the concrete obligations in each relevant country.

Figure 18. Other levies in the 31 European countries



Source: Analysis of the responses to the European Audiovisual Observatory standardised questionnaire.

Table 11. Other levies

| | Level |
|--------------|---|
| AT | None. |
| BE FR | None. |
| BE NL | None. |
| BG | None. |
| CH | None. |
| CY | None. |
| CZ | None. |
| DE | None. |
| DK | None. |
| EE | None. |
| ES | None. |
| FI | None. |
| FR | <p>The following players in the cinematographic and audiovisual industry are subject to a levy, of which the CNC is the beneficiary:</p> <ul style="list-style-type: none"> ▪ producers of cinematographic works: 0.58% of the revenues generated by the transfer of their exploitation rights for the works they produce; ▪ distributors of cinematographic works: 0.58% of the revenues generated by the exploitation of the works they distribute (0.68% for distributors of pornographic works); ▪ exporters of cinematographic works: 0.55% of the turnover generated by the exportation of |



| | the works. |
|-----------|--|
| GB | None. |
| GR | None. |
| HR | Cable and satellite operators are subject to a levy of 0.5% of their revenues, and operators of public networks, including Internet-connected operators involved in the distribution of an audiovisual signal (namely IPTV operators), to a levy of 0.8% of their revenues. |
| HU | None. |
| IE | None. |
| IS | None. |
| IT | None. |
| LT | None. |
| LU | None. |
| LV | None. |
| MT | None. |
| NL | None. |
| NO | None. |
| PL | Theatrical distributors are subject to a fee of 1.5% of the revenues obtained from the sale and rental of media with films recorded on them and from agreements authorising other entities to sell or rent such films. |
| PT | No levy is directly imposed on broadcasters, VOD providers or theatres. However, any commercial communication which is made available to the public by any of these players is subject to an “exhibition fee” amounting to 4% of the revenues raised, paid directly by the advertiser. |
| RO | None. |
| SE | None. |
| SI | None. |
| SK | Distributors of audiovisual works are subject to a levy of 1% of the revenues raised from the distribution of such works on the territory of the Slovak Republic in the last calendar year. |

Source: Analysis of the responses to the European Audiovisual Observatory standardised questionnaire.

3.4. Quota obligations

3.4.1. Quotas for linear AVMS providers (broadcasters) – EU works

As a consequence of the transposition of Article 16 of the AVMS Directive, quotas are imposed on broadcasters in all cases, including in the three non-EU countries of the mapping.

The formulation of Article 16 of the AVMS Directive (*“Member States shall ensure, where practicable and by appropriate means, that broadcasters reserve for European works a majority proportion of their transmission time, excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping”*) has generally been transposed without any significant modifications.

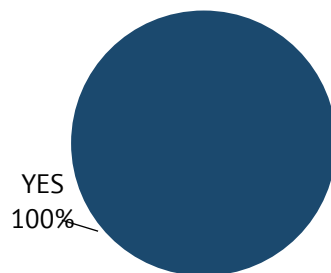
Yet, in several cases, more detailed or stricter rules in this field have been adopted:

- either (20 out of 31 cases) by deleting the provision according to which quotas have to be fulfilled *“where practicable and by appropriate means”* and therefore making them mandatory for some or for all broadcasters (Belgium – French Community and Flemish Community, Cyprus, Germany, Estonia, Spain, Finland, France, Greece, Croatia, Hungary, Italy, Latvia, Malta, the Netherlands, Norway, Poland, Portugal, Romania, Slovenia and Slovakia)
- or (7 out of 31 cases) by increasing the majority proportion to a higher percentage than 50% (Estonia, Spain, Greece, Croatia, France, Italy and Latvia)
- or (2 out of 31 cases) by imposing quotas on a specific period (prime time in France and on a quarterly basis in Poland).

In four cases, stricter rules apply to the public broadcaster (Belgium – French Community, France, Croatia and Hungary).

Figure 19 and 20 visualise the presence or not of quota obligations for European works on broadcasters in the analysed countries and Table 12. summarises the concrete obligations in each relevant country.

Figure 19. Quota obligation on broadcasters - European works in the 31 European countries



Source: Analysis of the responses to the European Audiovisual Observatory standardised questionnaire.

Figure 20. Quota obligation on broadcasters (European works) by country



Source: Analysis of the responses to the European Audiovisual Observatory standardised questionnaire.

Table 12. Quota for broadcasters – EU works

| | Level |
|--------------|--|
| AT | Broadcasters shall reserve, where practicable and by appropriate means, a majority proportion of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping services) for European works. |
| BE FR | Broadcasters shall reserve a majority proportion of their transmission time (excluding the time allotted to news, sports events, games, advertising, self-promotion and teleshopping) for European works. The management contract of the public broadcaster RTBF can fix a higher quota. Under the current management contract, the quota is 55%. |
| BE NL | Broadcasters shall reserve a majority proportion of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping services) for European works. |
| BG | Broadcasters shall reserve, where practicable, at least 50% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping services) for European works. |
| CH | Broadcasters shall reserve, within a framework of practical feasibility and with appropriate resources, a majority proportion of their transmission time (excluding the time allotted to news, sports events, games, advertising and teletext services) for European works. |
| CY | Broadcasters shall reserve at least 50% of their transmission time (excluding the time allotted to |



| | |
|-----------|--|
| | news, sports events, games, advertising, teletext services and teleshopping) for European works. |
| CZ | Broadcasters shall reserve, where practicable, a majority proportion of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping services) for European works. |
| DE | Television broadcasters should reserve the majority proportion of the time they devote to the transmission of feature films, films made for television, TV series, documentaries and comparable productions overall for European works, in accordance with European law. |
| DK | Broadcasters shall endeavour to ensure that more than half of their transmission time (excluding the time allotted to news, sports events, competitions and teletext services) is reserved for European works. |
| EE | Broadcasters shall reserve at least 51% of their transmission time (excluding the time allotted to news, sports events, competitive entertainment programmes, advertising, teleshopping and teletext services) for European works. |
| ES | Broadcasters shall reserve at least 51% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping) for European works. |
| FI | Broadcasters shall reserve a majority proportion of their transmission time (excluding the time allotted to news, sports events, competitive entertainment programmes, advertising, teletext services and teleshopping) for European works. |
| FR | Broadcasters shall reserve at least 60% of their transmission time dedicated to cinematographic works for European works, including at least 40% for works whose original language is French, as well as at least 60% of their transmission time dedicated to audiovisual works for European works, including at least 40% for works whose original language is French. These quotas are higher for the public broadcaster France Télévisions: 70% and 50%, respectively. |
| GB | Broadcasters shall reserve a majority proportion of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping programmes) for European works. |
| GR | Broadcasters shall reserve at least 51% of their yearly transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping) for European works. |
| HR | The public broadcaster HRT shall reserve at least 51% of its transmission time for European works, and 40% of this proportion shall be dedicated, on each channel, to Croatian works. Private broadcasters shall do their utmost to reserve a majority proportion of their annual transmission time for European works. Broadcasters who cannot attain this proportion shall progressively increase the proportion every year, but the minimum initial proportion shall be 20%. |
| HU | Private broadcasters shall reserve at least 50% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teleshopping, political advertisements, public service announcements, sponsorship announcements, public service advertisements and the non-interactive teletext) for European works and at least 33% for Hungarian works. The public broadcaster MTV has higher quotas (60% and 50%, respectively). |
| IE | Broadcasters shall reserve, where practicable and by appropriate means, a majority proportion of their transmission time (excluding the time allotted to news, sports events, competitive entertainment programmes, advertising, teleshopping and teletext services) for European works. |
| IS | Broadcasters shall strive to devote a majority proportion of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping) to Icelandic and European works. |
| IT | Broadcasters shall reserve a majority proportion of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping programmes) for European works. The quota will be increased progressively to 53% from 1 July 2019, 56% for 2020 |



| | |
|-----------|--|
| | and 60% from 2021 onwards. As of 1 July 2019, private broadcasters shall reserve a sub-quota of at least one third of the quota for European works for works produced in the Italian language (that is, 17.7% between 1 July 2019 and 31 December 2019). The percentage has been increased to 50% for the public broadcaster RAI (that is, 26.5% between 1 July 2019 and 31 December 2019). |
| LT | Broadcasters shall reserve, where practicable, at least 50% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping) for European works. |
| LU | Broadcasters shall reserve, where practicable, a majority proportion of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping) for European works. This proportion shall be attained gradually, on the basis of appropriate criteria. |
| LV | Broadcasters shall reserve at least 51% of their weekly transmission time (excluding the time allotted to news, sports events, games, advertising, teleshopping and teleshopping windows) for European works. |
| MT | Broadcasters shall reserve at least 50% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping) for European works. |
| NL | Broadcasters shall reserve a majority proportion of their transmission time for European works. |
| NO | Broadcasters shall reserve at least 50% of their transmission time (excluding the time allotted to news, sports events, entertainment programmes with competitive elements, advertising and teletext services) for European works. |
| PL | Broadcasters shall reserve at least 50% of their quarterly transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping) for European works. |
| PT | Broadcasters shall reserve at least 50% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teleshopping and teletext) for European works. |
| RO | Broadcasters shall reserve a majority proportion of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping services) for European works. |
| SE | Broadcasters shall reserve, unless there are reasons to the contrary, more than 50% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teleshopping and teleshopping windows) for European works. |
| SI | Broadcasters shall reserve at least 50% of their yearly transmission time (excluding the time allotted to news, sports events, games, advertising, teleshopping and teletext services) for European works. |
| SK | Broadcasters shall reserve a majority proportion of their quarterly transmission time (excluding the time allotted to news, sports events, games, advertising, teleshopping and teletext services) for European works. |

Source: Analysis of the responses to the European Audiovisual Observatory standardised questionnaire.

3.4.2. Quotas for linear AVMS providers (broadcasters) – independent works

As a consequence of the transposition of Article 17 of the AVMS Directive, quotas are imposed on broadcasters in the vast majority of cases (29 out of 31), including in the three non-EU countries of the mapping, the exceptions being France and Italy.



The formulation of Article 17 of the AVMS Directive (*“Member States shall ensure, where practicable and by appropriate means, that broadcasters reserve at least 10 % of their transmission time, excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping, or alternately, at the discretion of the Member State, at least 10 % of their programming budget, for European works created by producers who are independent of broadcasters”*) has generally been transposed without any significant modifications.

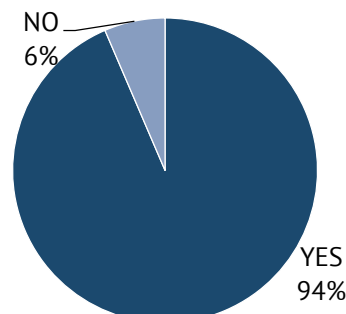
Yet, in several cases, more detailed or stricter rules in this field have been adopted:

- either (18 out of 31 cases) by deleting the provision according to which quotas have to be fulfilled *“where practicable and by appropriate means”* and therefore making them mandatory for some or for all broadcasters (Austria, Belgium – French Community and Flemish Community, Bulgaria, Estonia, Spain, Finland, Greece, Croatia, Hungary, Latvia, Malta, the Netherlands, Norway, Poland, Portugal, Romania, Slovenia and Slovakia)
- or (5 out of 31 cases) by increasing the proportion to a higher percentage than 10% for some or for all broadcasters (Bulgaria, Finland, Croatia, Hungary, Latvia and Slovakia)
- or (15 out of 31 cases) by removing the alternative regarding the programming budget offered by Article 17 of the AVMS Directive for some or for all broadcasters (Belgium – French Community and Flemish Community, Bulgaria, Estonia, Spain, Greece, Croatia, Hungary, Lithuania, the Netherlands, Norway, Poland, Portugal, Romania, Slovenia and Slovakia).

In 6 cases, stricter rules apply to the public broadcaster (Austria, Croatia, Hungary, Latvia, Romania and Slovakia).

Figure 21 and 22 visualise the presence or not of quota obligations for independent works on broadcasters in the analysed countries and Table 13. summarises the concrete obligations in each relevant country.

Figure 21. Quota obligation on broadcasters – works by independent producers



Source: Analysis of the responses to the European Audiovisual Observatory standardised questionnaire.

Figure 22. Quota obligation on broadcasters (works by independent producers) by country



Source: Analysis of the responses to the European Audiovisual Observatory standardised questionnaire.

Table 13. Quota for broadcasters – independent works

| | Level |
|-------|---|
| AT | Broadcasters shall reserve at least 10% of their transmission time (excluding the time devoted to news, sports events, games, advertising, teletext and teleshopping services), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters. However, for private broadcasters, this obligation only applies “where practicable and by appropriate means.” |
| BE FR | Broadcasters shall reserve 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, self-promotion and teleshopping) for European works created by producers who are independent from broadcasters. |
| BE NL | Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping services) for European works created by producers who are independent from broadcasters. |
| BG | Broadcasters shall reserve at least 12% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping services) for European works created by producers who are independent from broadcasters. |
| CH | Broadcasters shall reserve, within a framework of practical feasibility and with appropriate resources, |



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| | at least 10% of their transmission time (excluding the time devoted to news, sports events, games, advertising and teletext services), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters. |
| CY | Broadcasters shall reserve, where practicable and by appropriate means, at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters. |
| CZ | Broadcasters shall reserve, where practicable, at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping services), or alternately shall invest at least 10% of their programming budget, for European works created by producers who are independent from broadcasters. |
| DE | No specific obligation in German law but: "General television channels should comprise a significant proportion of own productions as well as commissioned and joint productions originating in the German-language regions and Europe as a whole. The same requirement relates to thematic channels as far as this is feasible regarding their focus in terms of content." |
| DK | Broadcasters shall endeavour to ensure that more than 10% of their transmission time (excluding the time allotted to news, sports events, competitions and teletext services), or alternately 10% of their programming budget, is reserved for European works. |
| EE | Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, competitive entertainment programmes, advertising, teleshopping and teletext services) for European works created by producers who are independent from broadcasters. |
| ES | Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping) for European works created by producers who are independent from broadcasters. |
| FI | Broadcasters shall reserve 19% of their transmission time (excluding the time allotted to news, sports events, competitive entertainment programmes, advertising, teletext services and teleshopping), or alternately 19% of their programming budget, for European works created by producers who are independent from broadcasters. |
| FR | No obligation. |
| GB | Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping programmes), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters. |
| GR | Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping) for European works created by producers who are independent from broadcasters. |
| HR | The public broadcaster HRT shall reserve 15% of its programming budget for European works created by producers who are independent from broadcasters, and at least 7 5% for Croatian works. Private broadcasters shall reserve at least 10% of their transmission time for European works created by producers who are independent from broadcasters. |
| HU | Private broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teleshopping, political advertisements, public service announcements, sponsorship announcements, public service advertisements and the non-interactive teletext) for European works created by producers who are independent from broadcasters, and at least 8% for Hungarian works. The public broadcaster MTV has a higher quota (15%). |
| IE | Broadcasters shall reserve, where practicable and by appropriate means, at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping), or alternately 10% of their programming budget, for European works |



| | |
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| | created by producers who are independent from broadcasters. |
| IS | Broadcasters shall, as far as possible, reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext service and teleshopping), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters. |
| IT | No obligation. |
| LT | Broadcasters shall reserve, where practicable, at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping) for European works created by producers who are independent from broadcasters. |
| LU | Broadcasters shall reserve, where practicable, at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping) for European works created by producers who are independent from broadcasters. This proportion shall be attained gradually on the basis of appropriate criteria. |
| LV | Private broadcasters shall reserve at least 10% of their broadcasts and 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teleshopping and teleshopping windows) for European works created by producers who are independent from broadcasters. The public broadcaster LTV shall reserve at least 30% of its full transmission time for European works created by producers who are independent from broadcasters. |
| MT | Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters. |
| NL | Broadcasters shall reserve at least 10% of their transmission time for European works created by producers who are independent from broadcasters. |
| NO | Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext service and teleshopping) for European works created by producers who are independent from broadcasters. |
| PL | Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping) for European works created by producers who are independent from broadcasters. |
| PT | Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teleshopping and teletext) for European works created by producers who are independent from broadcasters. |
| RO | Private broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping services), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters. The public broadcasters Romanian Radio Corporation and Romanian Television Corporation shall reserve at least 10% of their transmission time to European works created by producers who are independent from broadcasters. |
| SE | Broadcasters shall reserve, unless there are special reasons to the contrary, at least 10% of their yearly transmission time (excluding the time allotted to news, sports events, games, advertising and teleshopping), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters. |
| SI | Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teleshopping and teletext services) for European works created by producers who are independent from broadcasters. |



| | |
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| SK | Broadcasters shall reserve at least 10% (15% for RTVS) of their monthly transmission time (excluding the time allotted to news, sports events, games, advertising, teleshopping and teletext services) for European works created by producers who are independent from broadcasters. |
|-----------|---|

Source: Analysis of the responses to the European Audiovisual Observatory standardised questionnaire.

3.4.3. Quotas for non-linear AVMS providers (VOD services)

As a consequence of the transposition of Article 13 of the AVMS Directive, VOD services are invited to promote European works by way of access measures which could potentially include quotas in catalogues in the vast majority of cases (26 out of 31), the exceptions being Belgium – French Community, Bulgaria, Switzerland, Estonia and the United Kingdom.

The formulation of Article 13 of the AVMS Directive (“*Member States shall ensure that on-demand audiovisual media services provided by media service providers under their jurisdiction promote, where practicable and by appropriate means, the production of and access to European works*”) has generally been transposed without any significant modifications.

Yet, in 13 cases, more detailed or stricter rules in this field have been adopted and a specific quota for European works in the catalogues of VOD services has been imposed. The various levels of quotas imposed are the following:

- 60% of the cinematographic and audiovisual works featured in VOD catalogues in France;
- 50% of the works featured in VOD catalogues in Austria and Lithuania;
- 30% of the works featured in VOD catalogues in the Belgium – Flemish Community, Spain and Italy;
- 20% in Poland and Romania;
- 10% (first two years of operation) and then 15% (third year onwards) in Malta;
- 10% of the works of the catalogue in the Czech Republic and Slovenia;
- 25% of the total duration time of the programmes made available in a given calendar year in Hungary;
- At least 20% of the total duration time of the programmes made available per calendar month in Slovakia.

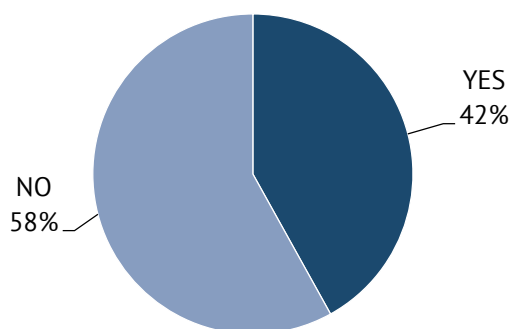
In one case, the promotion obligation only applies to the public broadcaster (Austria).

In three cases, neither quotas nor prominence measures (see section 3.5) are imposed (Switzerland, Estonia and the United Kingdom).

Figure 23 and 24 visualise the presence or not of specific quota obligations for European works on VOD services in the analysed countries and Table 14. summarises the concrete obligations in each relevant country.

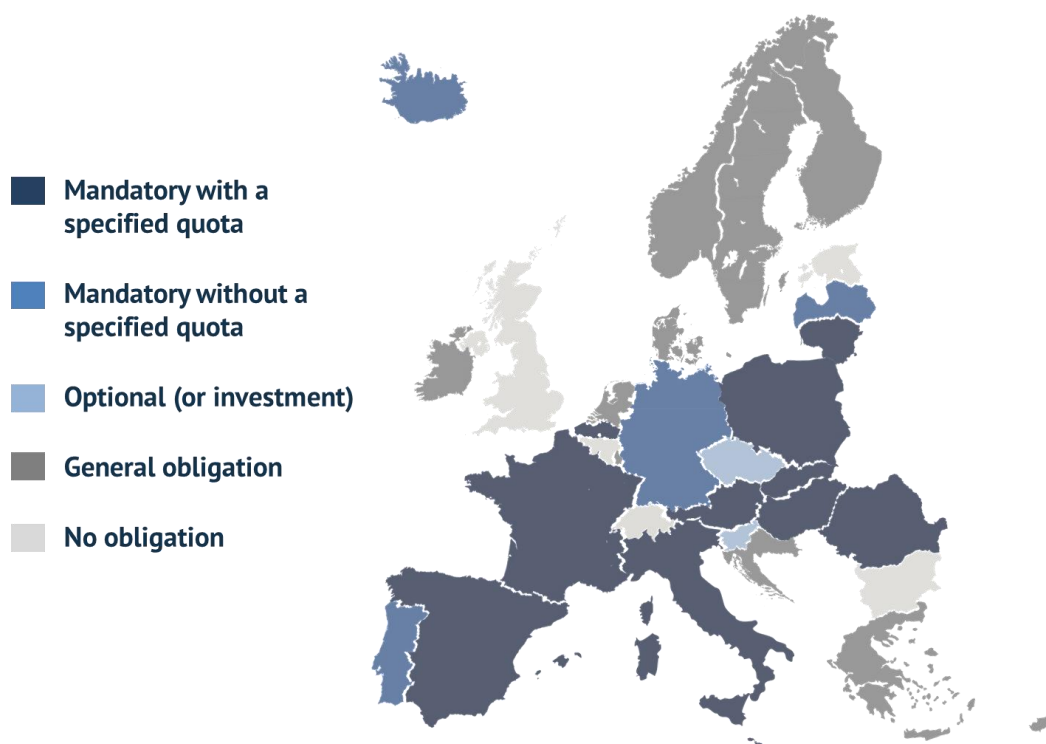


Figure 23. Quota obligation on VOD services in the 31 European countries – European works



Source: Analysis of the responses to the European Audiovisual Observatory standardised questionnaire.

Figure 24. Quota obligation on VOD services (European works) by country



Source: Analysis of the responses to the European Audiovisual Observatory standardised questionnaire.



Table 14. Quota for VOD services – EU works

| | Level |
|--------------|--|
| AT | The public service media ORF shall reserve in the catalogue of its VOD services, where practicable and by appropriate means, a majority proportion for European works. |
| BE FR | No obligation. |
| BE NL | An amendment to the Radio and Television Act was adopted in June 2018 and has come into force in January 2019, creating the obligation to reserve 30% of the catalogue for European works. |
| BG | No obligation. |
| CH | No obligation. |
| CY | VOD services shall promote, where practicable and by appropriate means, the production of and access to European works. |
| CZ | VOD services shall reserve, where practicable, at least 10% of the total number of programmes in their catalogue for European works, or alternately shall invest at least 1% of the total revenues generated by the service on the production of European works or the acquisition of rights to use European works through the service. |
| DE | The same as for linear AVMS providers applies to non-linear offers which consist of programmes which are each activated against individual payment. This provision targets pay-per-view-offers which are excluded by definition as being television but are treated as television-like on demand services in a comparable way in terms of the obligations such as the ones concerning film production support. |
| DK | VOD providers shall promote, where practicable and by appropriate means, the production of and access to European works. |
| EE | No obligation. |
| ES | VOD services shall reserve 30% of their catalogue for European works. |
| FI | VOD services shall promote the production and distribution of European works with the help of financial contributions to productions, programme acquisitions, the enhanced visibility of European works, or by similar means. |
| FR | VOD services shall reserve, at any moment, among the cinematographic and audiovisual works present in their catalogue (except pornographic and extremely violent works), at least 60% for European works and at least 40% for works whose original language is French. These quotas are reduced to 50% and 35% during the first 3 years of application. |
| GB | No obligation. |
| GR | VOD services shall promote, where practicable and by appropriate means, the production of and access to European works. |
| HR | VOD services shall do their utmost to promote, where practicable and by appropriate means, the production of and access to European works. |
| HU | VOD services shall reserve at least 25% of the total duration time of the programmes made available in a given calendar year to European works, and at least 10% shall be Hungarian works. |
| IE | VOD services shall promote, where practicable and by appropriate means, the production of and access to European works. |
| IS | VOD services shall ensure as far as possible, using suitable methods, that Icelandic and other European works constitute a prominent part of the content they offer. |
| IT | From 1 July 2019 onwards, VOD services shall reserve 30% of their catalogue for recent European works (that is, produced within the last 5 years). |



| | |
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| | <p>A sub-quota of 15% of the catalogue shall be reserved for works of Italian original expression.</p> <p>Up to 1 July 2019, VOD services are bound to reserve alternatively (i) at least 5% of the annual revenues derived from the delivery of on-demand content in the previous year to the production of or the purchase of the rights to European works or (ii) 20% of their catalogue for European works (this percentage is calculated in terms of hours, on a yearly basis). VOD services that give prominence to European works in accordance with the criteria set forth by AGCOM Resolution No. 149/15/CONS are entitled to benefit from partial deductions from the investment or broadcasting quotas, up to one fifth of their amount.</p> |
| LT | VOD services shall reserve at least 50% of the programmes in their catalogue for European works. |
| LU | VOD services shall promote, where practicable and by appropriate means, the production of and access to European works. |
| LV | VOD services shall include European works in their catalogue. The percentage is not further specified. |
| MT | VOD services shall encourage the promotion of European works and culturally diverse programming. A minimum of 10% of European works shall be available in the first two years of operation, rising to 15% in the third year. |
| NL | VOD services shall promote the production of and access to European works. |
| NO | VOD services shall promote the production of and access to European works when practicable and with appropriate means. |
| PL | VOD services shall reserve at least 20% of their catalogue for European works, including works originally produced in the Polish language, and shall give adequate visibility to such programmes in the catalogue. |
| PT | VOD services shall contribute to the promotion of European works by progressively including them in their catalogues. |
| RO | VOD services shall reserve at least 20% of their catalogue for European works, with the exception of information programmes, sports broadcasts and teleshopping. |
| SE | VOD services shall, in an appropriate manner and where it is feasible, promote the production of and access to European works. |
| SI | VOD services shall reserve at least 10% of the programmes in their catalogue in an individual calendar year for European works. |
| SK | VOD services shall reserve at least 20% of the total duration time of the programmes made available per calendar month for European works. |

Source: Analysis of the responses to the European Audiovisual Observatory standardised questionnaire.

3.5. Prominence obligations

As a consequence of the transposition of Article 13 of the AVMS Directive, VOD services are invited to promote European works by way of access measures which could include prominence initiatives in the large majority of cases (19 out of 31 cases).

Yet, of these 19 cases, a clear and specific reference to prominence obligations, beyond the wording of the AVMS Directive, is present only in 10 cases, with the following formulations:

- Austria (“*by giving due prominence to or appropriately designating such works*”);



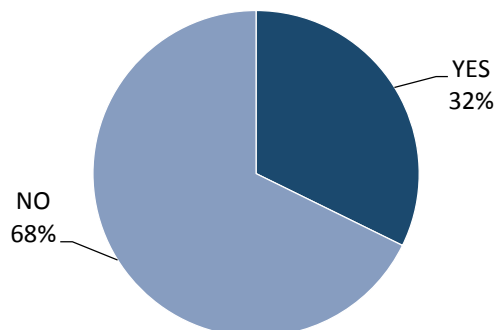
- Belgium – French Community (“by highlighting, by way of an attractive presentation, the list of available European works”);
- Belgium – Flemish Community (“ensure a prominent place for European works in the programme catalogue”);
- Bulgaria (“use hardware and software for the accessible and attractive presentation of European works”);
- Finland (“enhanced visibility of European works or by similar means”);
- France (“on their home page, at any moment, reserve a substantial part the exposure of European works or works whose original language is French, including by exposing imagery and making trailers available”);
- Italy (“adequate prominence”, to be specified in a media regulatory authority regulation which is expected soon);
- Poland (“proper identification of the origin of programmes available in the catalogue of programmes as well as providing users with the option of searching for European works, including works originally produced in the Polish language, or the placement of information and materials promoting European works, including works originally produced in the Polish language”);
- Portugal (“by adopting functionalities that allow users to search by origin”);
- Romania (“shall promote on the home page of their website, in equal measure, the European audiovisual fiction works available in the catalogue and shall identify the country of origin of each audiovisual programme available in the catalogue”).

In one case, the prominence obligation only applies to private broadcasters (Austria).

In three cases, neither quotas (see section 3.4.3) nor prominence measures are imposed (Switzerland, Estonia and the United Kingdom).

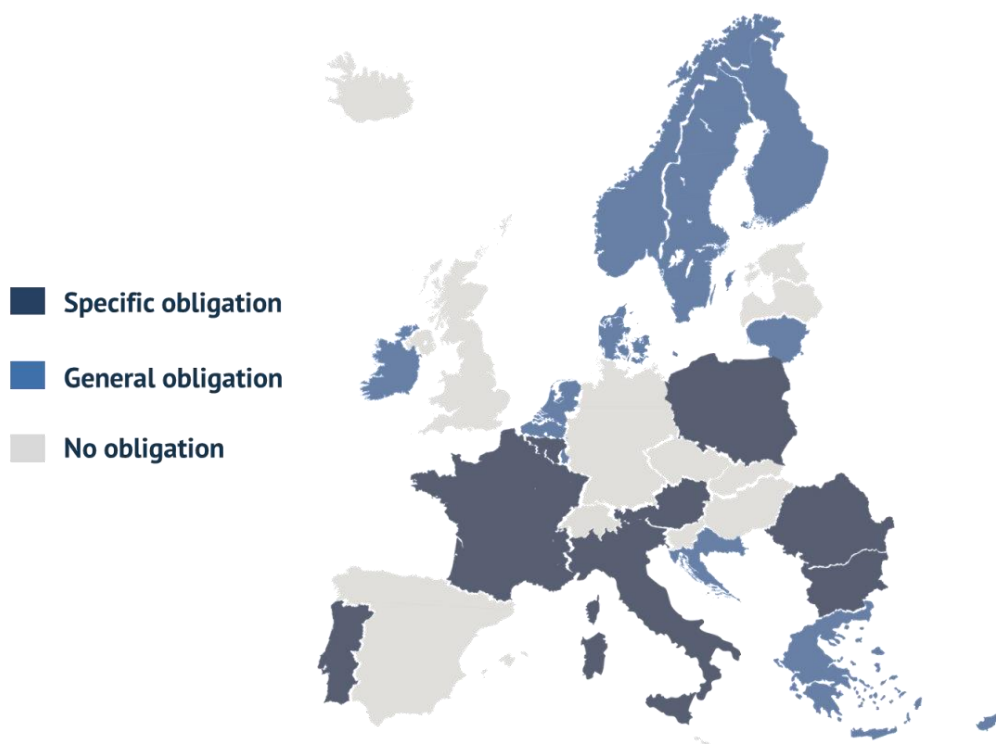
Figure 25 and 26 visualise the presence or not of prominence obligations on VOD services in the analysed countries and Table 15. summarises the concrete obligations in each relevant country.

Figure 25. Prominence obligations for VOD services in the 31 European countries



Source: Analysis of the responses to the European Audiovisual Observatory standardised questionnaire.

Figure 26. Prominence obligations for VOD services in the 31 European countries



Source: Analysis of the responses to the European Audiovisual Observatory standardised questionnaire.

General obligation refers to obligations which are not expressed in the form of concrete measures.

Table 15. Prominence obligations for VOD services

| | Level |
|-------|--|
| AT | Private VOD services shall promote European works in the presentation of their catalogue of programmes by giving due prominence to or appropriately designating such works. |
| BE FR | VOD services shall promote the European works included in their catalogue, including original works by authors from the French Community, by highlighting, by way of an attractive presentation, the list of European works available. |
| BE NL | VOD services shall ensure a prominent place for European works in their programme catalogue. |
| BG | VOD services shall use hardware and software for the accessible and attractive presentation of European works in their catalogue. |
| CH | No obligation. |
| CY | VOD services shall promote, where practicable and by appropriate means, the production of and access to European works. |
| CZ | No obligation. |
| DE | No obligation. |
| DK | VOD services shall promote, where practicable and by appropriate means, the production of and access to |



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| | European works. |
| EE | No obligation. |
| ES | No obligation. |
| FI | VOD services shall promote the production and distribution of European works with the help of financial contributions to productions, programme acquisitions, the enhanced visibility of European works or by similar means. |
| FR | VOD services shall, dedicate a substantial part of their home page, at any moment, to spotlighting European works or works whose original language is French, including by showing images and making trailers available. |
| GB | No obligation. |
| GR | VOD services shall promote, where practicable and by appropriate means, the production of and access to European works. |
| HR | VOD services shall do their utmost to promote, where practicable and by appropriate means, the production of and access to European works. |
| HU | No obligation. |
| IE | VOD services shall promote, where practicable and by appropriate means, the production of and access to European works. |
| IS | No obligation. |
| IT | AGCOM is expected to adopt a regulation to specify how VOD services shall ensure “adequate prominence” to European works within their catalogues. |
| LT | VOD services shall promote, where practicable and by appropriate means, the production of and access to European works. |
| LU | VOD services shall promote, where practicable and by appropriate means, the production of and access to European works. |
| LV | No obligation. |
| MT | No obligation. |
| NL | VOD services shall promote the production of and access to European works. |
| NO | VOD services shall promote, where practicable and by appropriate means, the production of and access to European works. |
| PL | VOD services shall promote European works, including works originally produced in the Polish language, in particular by: properly identifying the origins of programmes available in the catalogue of programmes as well as providing users with the option of searching for European works, including works originally produced in the Polish language, or through the placement of information and materials promoting European works, including works originally produced in the Polish language. |
| PT | VOD services shall give particular visibility to European works in their catalogues by adopting functionalities that allow users to search by origin. |
| RO | VOD services shall promote on the home page of their website, in equal measure, the European audiovisual fiction works available in the catalogue and shall identify the country of origin of each audiovisual programme available in the catalogue. |
| SE | VOD services shall, in an appropriate manner and where it is feasible, promote the production of and access to European works. |
| SI | No obligation. |
| SK | No obligation. |

Source: Analysis of the responses to the European Audiovisual Observatory standardised questionnaire.



4. National legal summaries

4.1. AT – Austria – National legal summary⁴

4.1.1. Summary

Table 16. Austria - Summary of the existing obligations – by type and player

| Obligation | Player | Main feature |
|---|--|---|
| Financial investment obligations | Linear AVMS providers | Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping services), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters. However, for private broadcasters, this obligation only applies “ <i>where practicable and by appropriate means.</i> ” |
| | Non-linear AVMS providers | No obligation. |
| | Distributors | No obligation. |
| Levies | Linear AVMS providers | Broadcasters are subject to a levy of 5% of their advertising revenues. The beneficiary is not a specific funding scheme, but the state budget. |
| | Non-linear AVMS providers | No obligation. |
| | Distributors | No obligation. |
| | Theatres | No obligation. |
| | Video industry | No obligation. |
| | Other | No obligation. |
| Promotion | Quotas European works linear AVMS providers | Broadcasters shall reserve, where practicable and by appropriate means, a majority proportion of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping services) for European works. |

⁴ The factsheet on Austria incorporates the feedback received from Roland Teichmann (Austrian Film Institute) during the checking round with the national film funds.



| | | |
|--|--|---|
| | <p>Quotas independent works linear AVMS providers</p> | <p>Broadcasters shall reserve at least 10% of their transmission time (excluding the time devoted to news, sports events, games, advertising, teletext and teleshopping services), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters.</p> <p>However, for private broadcasters, this obligation only applies “<i>where practicable and by appropriate means.</i>”</p> |
| | <p>Quotas non-linear AVMS providers</p> | <p>The public service media ORF shall reserve in the catalogue of its VOD services, where practicable and by appropriate means, a majority proportion for European works.</p> |
| | <p>Prominence non-linear AVMS providers</p> | <p>Private VOD services shall promote European works in the presentation of their catalogue of programmes by giving due prominence to or appropriately designating such works.</p> |

Source: Austrian response to European Audiovisual Observatory standardised survey

4.1.2. Definitions

Article 2.12 to 2.14 of the Audiovisual Media Services Act defines European works as follows:

“12. European works:

- a) works originating in member States;*
- b) works originating in European third countries party to the European Convention on Transnational Television of the Council of Europe and fulfilling the conditions of item 1m;*
- c) works co-produced within the framework of agreements related to the audiovisual sector concluded between the European Union and third countries and fulfilling the conditions defined in each of those agreements.*

The application of the provisions of b) and c) shall be conditional on works originating in member States not being the subject of discriminatory measures in the third country concerned.

13. The works referred to in item 12 a) and b) are works mainly made with authors and workers residing in one or more of the countries referred to in item 11 a) and b) provided that they comply with one of the following three conditions:

- a) they are made by one or more producers established in one or more of those countries, or*
- b) the production of the works is supervised and actually controlled by one or more producers established in one or more of those countries, or*



c) the contribution of the co-producers of those countries to the total co-production costs is preponderant and the co-production is not controlled by one or more producers established outside those countries.

14. Works that are not European works within the meaning of item 12 but that are produced within the framework of bilateral co-production agreements concluded between member States and third countries shall be deemed to be European works provided that the co-producers from the European Community supply a majority share of the total cost of production and that the production is not controlled by one or more producers established outside the territory of the member States.”

Table 17. Austria - Definition of the main concepts in terms of the promotion of EU works

| Concept | Definition |
|----------------------|------------|
| European works | Yes. |
| Independent producer | No. |
| Prominence | No. |

Source: Romanian response to European Audiovisual Observatory standardised survey

4.1.3. Financial investment obligations

4.1.3.1. Financial investment obligations by linear AVMS providers (broadcasters)

Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping services), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters (section 51 of the Audiovisual Media Services Act and section 11.2 of the ORF Act).

However, for private broadcasters, this obligation only applies *“where practicable and by appropriate means.”*

The Audiovisual Media Services Act shall also apply to broadcasters that do not fall under the provisions on jurisdiction established by the AVMD Directive Directive) if *“1) the media service provider lawfully uses a transmission capacity of a satellite allocated to Austria under international telecommunications law, or 2) signals are transmitted from an earth-satellite transmitting station in Austria”* (section 3.7 of the Act). If neither of these two criteria is fulfilled, the broadcaster shall be subject to the Act also if *“the media service provider is established in Austria pursuant to Articles 49 to 55 of the Treaty on the Functioning of the European Union.”*

**Table 18. Austria - Main features of the financial investment scheme for broadcasters**

| Feature | Description |
|--|---|
| Legal basis for the investment | Private broadcasters: Audiovisual Media Services Act. Public broadcaster: ORF Act. |
| Level of investment | 10% of the transmission time or 10% of the programming budget for independent works (for private broadcasters, "where practicable and by appropriate means"). |
| Mandatory, optional or voluntary investment | Optional. |
| Nature of the investment | Pre-acquisition or co-production. |
| Distinction between genres in which to invest | No. |
| Distinction between public or private broadcasters | Yes. |
| Level of investment in European works | No. |
| Level of investment in independent works | Yes. |
| Level of investment in works in a national language | No. |
| Investment scheme applicable to foreign broadcasters | Yes. |
| Other type of investment | No. |

Source: Austrian response to European Audiovisual Observatory standardised survey

4.1.3.2. Financial investment obligations by non-linear AVMS (VOD) providers

Table 19. Austria - Main features of the investment scheme for VOD providers

| Feature | Description |
|--|-------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Distinction between public or private services | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national | N/A. |



| | |
|---|------|
| language | |
| Investment scheme applicable to foreign VOD providers | N/A. |
| Other type of investment | N/A. |

Source: Austrian response to European Audiovisual Observatory standardised survey

4.1.3.3. Financial investment obligations by distributors

Table 20. Austria - Main features of the investment scheme for distributors

| Feature | Description |
|---|-------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Other type of investment | N/A. |

Source: Austrian response to European Audiovisual Observatory standardised survey

4.1.4. Levies

4.1.4.1. Levies on linear AVMS providers (broadcasters)

Broadcasters are subject to a levy of 5% of their advertising revenues. The beneficiary is not a specific funding scheme, but the state budget (section 2.1 of the Advertising Act).

Table 21. Austria - Main features of the levies on broadcasters

| Feature | Description |
|-------------------------------------|-----------------------------|
| Legal basis of the levy | Advertising Act. |
| Criteria used to determine the levy | 5% of advertising revenues. |
| Mandatory or optional obligation | Mandatory. |



| | |
|--|--|
| Ceiling to the levy imposed | No. |
| Distinction between genres on which to spend the levy | No. |
| Distinction between public and private broadcasters | No. |
| Authority gathering and controlling the amount due | Ministry of Finance (Bundesministerium für Finanzen, BMF). |
| Authority benefiting from the amount due | The State. |
| Levy applicable to foreign broadcasters | No. |

Source: Austrian response to European Audiovisual Observatory standardised survey

4.1.4.2. Levies on non-linear AVMS providers (VOD services)

Table 22. Austria - Main features of the levies on VOD services

| Feature | Description |
|--|--------------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private VOD services | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign VOD services | N/A. |

Source: Austrian response to European Audiovisual Observatory standardised survey

4.1.4.3. Levies on distributors

Table 23. Austria - Main features of the levies on distributors

| Feature | Description |
|--|--------------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |



| | |
|--|------|
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Austrian response to European Audiovisual Observatory standardised survey

4.1.4.4. Levies on theatres (cinema tickets)

Table 24. Austria - Main features of the levies on theatres (cinema tickets)

| Feature | Description |
|--|--------------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Austrian response to European Audiovisual Observatory standardised survey

4.1.4.5. Levies on the video industry

Table 25. Austria - Main features of the levies on the video industry

| Feature | Description |
|--|--------------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Austrian response to European Audiovisual Observatory standardised survey

4.1.4.6. Other levies

N/A.



4.1.5. Quota obligations

4.1.5.1. Quotas for linear AVMS providers (broadcasters) – EU works

Broadcasters shall reserve, where practicable and by appropriate means, a majority proportion of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping services) for European works (section 50 of the Audiovisual Media Services Act and section 11.1 of the ORF Act).

Table 26. Austria - Main features of the quota for broadcasters – EU works

| Feature | Description |
|---|---|
| Legal basis of the obligation | Private broadcasters: Audiovisual Media Services Act. Public broadcaster: ORF Act. |
| Level of the quota | 50% of the transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | Yes. |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Austrian response to European Audiovisual Observatory standardised survey

4.1.5.2. Quotas for linear AVMS providers (broadcasters) – independent works

Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping services), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters (section 51 of the Audiovisual Media Services Act and section 11.2 of the ORF Act).

However, for private broadcasters, this obligation only applies “*where practicable and by appropriate means.*”

Table 27. Austria - Main features of the quota for broadcasters – independent works

| Feature | Description |
|-------------------------------|---|
| Legal basis of the obligation | Private broadcasters: Audiovisual Media Services Act. |



| | |
|--|--|
| | Public broadcaster: ORF Act. |
| Level of the quota | 10% of the transmission time or 10% of the programming budget. |
| Flexibility in achieving the quota (“where practicable...”) | Yes, for private broadcasters. |
| Distinction between public or private broadcasters | Yes. |
| Derogations available for certain types of broadcasters | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Austrian response to European Audiovisual Observatory standardised survey

4.1.5.3. Quotas for non-linear AVMS providers (VOD services)

The public service media ORF shall reserve in the catalogue of its VOD services, where practicable and by appropriate means, a majority proportion for European works (section 12 of the ORF Act).

Table 28. Austria - Main features of the quota for VOD services – EU works

| Feature | Description |
|--|-----------------------|
| Legal basis of the obligation | ORF Act. |
| Level of the quota | 50% of the catalogue. |
| Flexibility in achieving the quota (“where appropriate...”) | Yes. |
| Distinction between public or private VOD services | Yes. |
| Derogations available for certain types of VOD services | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Austrian response to European Audiovisual Observatory standardised survey



4.1.6. Prominence obligations

Private VOD services shall promote European works in the presentation of their catalogue of programmes by giving due prominence to or appropriately designating such works (section 40.1 of the Audiovisual Media Services Act).

Table 29. Austria - Main features of the prominence obligation for VOD services

| Feature | Description |
|---|---|
| Legal basis of the obligation | Audiovisual Media Services Act. |
| Means of giving prominence imposed | Due prominence. Designation of EU works. |
| Distinction between public or private VOD services | Yes. |
| Derogations available for certain types of VOD services | No. |
| Prominence to give to specific genres | No. |
| Prominence to give to national works or works in a national language | No. |
| Prominence to give to non-national EU works | No. |

Source: Austrian response to European Audiovisual Observatory standardised survey

4.1.7. Envisaged amendments to the regulatory framework

N/A.

4.1.8. Studies, reports and researches

N/A.

4.1.9. Applicable regulatory framework

- Primary legislation:
 - In German – Bundesgesetz über audiovisuelle Mediendienste / Audiovisuelle Mediendienste-Gesetz AMD-G (Audiovisual Media Services Act):



<https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20001412>

- In German – Bundesgesetz über den Österreichischen Rundfunk / ORF-Gesetz ORF-G, (ORF Act):
<https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10000785>
- In German – Bundesgesetz, mit dem eine Abgabe auf Werbeleistungen eingeführt wird - Werbeabgabegesetz 2000 (Advertising Act):
<https://www.ris.bka.gv.at/Dokument.wxe?ResultFunctionToken=bba8c4c1-7a13-44da-b489-a55d5fc7dfee&Position=1&Abfrage=Bundesnormen&Kundmachungsorgan=&Index=&Titel=&Gesetzesnummer=&VonArtikel=&BisArtikel=&VonParagraf=&BisParagraf=&VonAnlage=&BisAnlage=&Typ=&Kundmachungsnummer=&Unterzeichnungsdatum=&FassungVom=19.09.2018&VonInkrafttritedatum=&BisInkrafttritedatum=&VonAusserkrafttritedatum=&BisAusserkrafttritedatum=&NormabschnittnummerKombination=Und&ImRisSeitVonDatum=&ImRisSeitBisDatum=&ImRisSeit=Undefined&ResultPageSize=100&Suchworte=Werbeabgabegesetz+2000&Dokumentnummer=NOR30000728>
- In English – Audiovisual Media Services Act:
https://www.ris.bka.gv.at/Dokumente/ErV/ERV_2001_1_84/ERV_2001_1_84.html
- In English – ORF Act:
https://www.ris.bka.gv.at/Dokumente/ErV/ERV_1984_379/ERV_1984_379.html

4.1.10. Data compilation

This factsheet was produced based on data compiled by Prof. Dr. Josef Trappel, Professor of Media Policy and Media Economics and Head of Department of Communication Studies at the University of Salzburg, and Mag. Dr. Corinna Gerard-Wenzel, Lecturer at the University of Salzburg and Senior Lecturer at the Johannes Kepler University of Linz.



4.2. BE – Belgium (French speaking Community) – National legal summary⁵

4.2.1. Summary

Table 30. Belgium (FR) - Summary of the existing obligations – by type and player

| Obligation | Player | Main feature |
|----------------------------------|-----------------------|---|
| Financial investment obligations | Linear AVMS providers | <p>The public service media RTBF must invest a yearly amount of at least EUR 7 200 000 in contracts with independent producers from the French Community.</p> <p>The amount of the yearly contribution by private broadcasters depends on their turnover for the previous year. The turnover is defined as the amount of gross receipts, commissions and overpayments not deducted, linked to the insertion of advertising and sponsorship in the services, and all other gross revenues, without deduction, resulting from the provision of television services for remuneration, including gross revenues from any distributor of services or third parties for obtaining the television services and those generated by the content of the programmes. For 2018, the different levels of contribution are as follows:</p> <ul style="list-style-type: none"> ▪ 0% if the turnover is below EUR 394 989 86; ▪ 1.4% if between EUR 394 989.87 and EUR 6 583 164.30; ▪ 1.6% if between EUR 6 583 164.31 and EUR 13 166 328.60; ▪ 1.8% if between EUR 13 166 328.61 and EUR 19 749 492.90; ▪ 2% if between EUR 19 749 492.91 and EUR 26 332 657.20; ▪ 2.2% if above EUR 26 332 657.21. <p>This obligation is optional: private broadcasters have the possibility of choosing between the financial investment (direct contribution) and a levy (indirect contribution) to the CCA film fund.</p> |

⁵ The factsheet on Belgium (French speaking Community) incorporates the feedback received from Jeanne Brunfaut (Centre du Cinéma et de l'Audiovisuel) during the checking round with the national film funds.



| | | |
|------------------|---|--|
| | Non-linear AVMS providers | Same as for linear AVMS providers. |
| | Distributors | <p>Either EUR 2.57 (amount for 2018) per subscriber in the previous year or 2.5% of the gross receipts for the previous year (without VAT and copyright fees) related to the users' payment for the AVMS offered by the distributor.</p> <p>This obligation is optional: distributors have the possibility of choosing between the financial investment (direct contribution) and a levy (indirect contribution) to the CCA film fund.</p> |
| Levies | Linear AVMS providers | <p>Private broadcasters have the possibility of choosing between financial investment obligations (direct contribution) described under section 4.2.3.1 and a levy (indirect contribution).</p> <p>The management contract of the public broadcaster RTBF can fix a higher quota. Under the current management contract, the quota is 55%.</p> |
| | Non-linear AVMS providers | Same as for linear AVMS providers. |
| | Distributors | Distributors have the possibility of choosing between financial investment obligations (direct contribution) described under section 4.2.3.3 and a levy (indirect contribution). |
| | Theatres | No obligation. |
| | Video industry | No obligation. |
| | Other | No obligation. |
| Promotion | Quotas European works linear AVMS providers | Broadcasters shall reserve a majority proportion of their transmission time (excluding the time allotted to news, sports events, games, advertising, self-promotion and teleshopping) for European works. |
| | Quotas independent works linear AVMS providers | Broadcasters shall reserve 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, self-promotion and teleshopping) for European works created by producers who are independent from broadcasters. |
| | Quotas non-linear AVMS providers | No obligation. |
| | Prominence non-linear AVMS providers | VOD services shall promote the European works included in their catalogue, including original works by authors from the French Community, by highlighting, by way of an attractive presentation, the list of available European works. |

Source: Belgian (French community) response to European Audiovisual Observatory standardised survey



4.2.2. Definitions

Article 1, paragraph 26, of the Coordinated Act on Audiovisual Media Services (no official English translation) defines a European work as follows:

“A European work is:

- (a) works originating in Member States of the European Union which are carried out essentially with the assistance of authors and workers residing in one or more of these States and which meet one of the following three conditions: they are carried out by one or more producers established in one or more of these States; the production of the work is supervised and actually controlled by one or more producers established in one or more of these States; the contribution of the co-producers of these States to the total cost of the co-production is preponderant, and this co-production is not controlled by one or more producers established outside those States;*
- (b) works originating in European third States party to the Council of Europe Convention on Transfrontier Television which are carried out essentially with the assistance of authors and workers residing in one or more of those States and which meet one of the following three conditions: they are carried out by one or more producers established in one or more of these States; the production of this work is supervised and actually controlled by one or more producers established in one or more of these States; the contribution of the co-producers of these States to the total cost of the co-production is preponderant and the co-production is not controlled by one or more producers established outside these States. Works originating in European third States party to the Council of Europe's European Convention on Transfrontier Television are, however, only deemed European works if the works originating from the member States of the European Union are not the subject of discriminatory measures in the third States concerned.*
- (c) works co-produced in the framework of agreements concerning the audiovisual sector concluded between the European Union and third countries and fulfilling the conditions laid down in each of those agreements, provided that works originating in the member States of the Union are not the subject of discriminatory measures in the third country concerned;*
- (d) works produced in the framework of bilateral co-production agreements concluded between Member States and third countries, provided that the co-producers from the Member States supply a majority share of the total cost of production and that production is not controlled by one or more producers established outside the territory of the Member States.”*

Article 1, paragraph 34, of the Coordinated Act on Audiovisual Media Services (no official English translation) defines an independent producer as follows:

“An independent producer:

- has a separate legal personality from that of an AVMS provider;*
- does not have a direct or indirect share of more than 15% of the capital of an AVMS provider;*



- *does not make more than 90% of its turnover during a period of three years from the sale of its productions to the same AVMS provider;*
- *does not have more than 15% of its capital held directly or indirectly by an AVMS provider,*
- *does not have more than 15% of its capital held by a company which directly or indirectly owns more than 15% of the capital of an AVMS provider.*

An independent producer from the French Community is one which is established in the French-language region or in the bilingual region of Brussels-Capital and that meets the criteria of the previous paragraph.”

Table 31. Belgium (FR) - Definition of the main concepts in terms of the promotion of EU works

| Concept | Definition |
|----------------------|------------|
| European works | Yes. |
| Independent producer | Yes. |
| Prominence | No. |

Source: Belgian (French community) response to European Audiovisual Observatory standardised survey

4.2.3. Financial investment obligations

4.2.3.1. Financial investment obligations by linear AVMS providers (broadcasters)

The public service media RTBF must invest a yearly amount of at least EUR 7 200 000 in contracts with independent producers from the French Community (Article 12.3 of the management contract).

Pursuant to its management contract, the RTBF shall invest 70% of its yearly obligation in scripted programmes (fiction, documentaries, etc.), with a specific sub-quota (25% of its yearly obligation) in TV series.

The amount of the yearly contribution by private broadcasters depends on their turnover for the previous year. The turnover is defined as the amount of gross receipts, commissions and overpayments not deducted, linked to the insertion of advertising and sponsorship in the services, and all other gross revenues, without deduction, resulting from the provision of television services for remuneration, including gross revenues from any distributor of services or third parties for obtaining the television services and those generated by the content of the programmes (Article 41 of the Coordinated Act on Audiovisual Media Services). For 2018, the different levels of contribution are as follows:

- 0% if the turnover is below EUR 394 989.86;
- 1,4% if between EUR 394 989.87 and EUR 6 583 164.30;
- 1,6% if between EUR 6 583 164.31 and EUR 13 166 328.60;



- 1,8% if between EUR 13 166 328.61 and EUR 19 749 492.90;
- 2% if between EUR 19 749 492.91 and EUR 26 332 657.20;
- 2.2% if above EUR 26 332 657.21.

This obligation is optional: private broadcasters have the possibility of choosing between financial investment (direct contribution) and a levy (indirect contribution) to the CCA film fund.

Table 32. Belgium (FR) - Main features of the financial investment scheme for broadcasters

| Feature | Description |
|---|--|
| Legal basis for the investment | Coordinated Act on Audiovisual Media Services. Government order approving the method for the AVMS providers' indirect contribution to the CCA film fund. Government order approving the method for the AVMS providers' direct contribution to film funding. Government order approving the public service media RTBF's management contract. |
| Level of investment | The public service media RTBF must invest a yearly amount of at least EUR 7 200 000 in contracts with independent producers. The amount of the yearly contribution by private broadcasters depends on their turnover for the previous year (between 0% and 2.2% of the turnover). |
| Mandatory, optional or voluntary investment | Mandatory for the RTBF. Optional for private broadcasters. Local public broadcasters are exempt, as well as private broadcasters under a certain threshold in terms of turnover. |
| Nature of the investment | Pre-acquisition or co-production (or also production order for RTBF). |
| Distinction between genres in which to invest | Yes, for RTBF. |
| Distinction between public or private broadcasters | Yes. |
| Level of investment in European works | Yes |
| Level of investment in independent works | Yes. |
| Level of investment in works in a national language | No. |
| Investment scheme applicable to foreign broadcasters | No. |
| Other type of investment | No. |

Source: Belgian (French community) response to European Audiovisual Observatory standardised survey



4.2.3.2. Financial investment obligations by non-linear AVMS (VOD) providers

The scheme does not differ between broadcasters and VOD providers.

4.2.3.3. Financial investment obligations by distributors

Distributors shall invest either EUR 2.57 (amount for 2018) per subscriber in the previous year or 2.5% of the gross receipts for the previous year (without VAT and copyright fees) related to the users' payment for the AVMS offered by the distributor.

This obligation is optional: distributors have the possibility of choosing between financial investment (direct contribution) and a levy (indirect contribution) to the CCA film fund.

Table 33. Belgium (FR) - Main features of the investment scheme for distributors

| Feature | Description |
|--|---|
| Legal basis for the investment | Coordinated Act on Audiovisual Media Services. Government order approving the method for the distributors' direct contribution to film funding. |
| Level of the investment | Either EUR 2.57 (amount for 2018) per subscriber in the previous year or 2.5% of the gross receipts for the previous year (without VAT and copyright fees) related to the users' payment for the AVMS offered by the distributor. |
| Mandatory, optional or voluntary investment | Optional. |
| Nature of the investment | Pre-acquisition or co-production |
| Distinction between genres in which to invest | No. |
| Level of investment in European works | Yes. |
| Level of investment in independent works | Yes |
| Level of investment in works in a national language | No. |
| Other type of investment | No. |

Source: Belgian (French community) response to European Audiovisual Observatory standardised survey

4.2.4. Levies

4.2.4.1. Levies on linear AVMS providers (broadcasters)

Private broadcasters have the possibility of choosing between financial investment obligations (direct contribution) described under section 4.2.3.1 and a levy (indirect contribution).



There is no levy on the public service media RTBF (which has only financial investment obligations).

Table 34. Belgium (FR) - Main features of the levies on broadcasters

| Feature | Description |
|--|---|
| Legal basis of the levy | Coordinated Act on Audiovisual Media Services. Government order approving the method for the AVMS providers' indirect contribution to the CCA film fund. |
| Criteria used to determine the levy | The amount of the private broadcasters' yearly contribution depends on their turnover for the previous year (between 0% and 2.2% of the turnover). |
| Mandatory or optional obligation | Optional. Local public broadcasters are exempt, as well as private broadcasters under a certain threshold in terms of turnover. |
| Ceiling to the levy imposed | No. |
| Distinction between genres on which to spend the levy | No. |
| Distinction between public and private broadcasters | Yes. |
| Authority gathering and controlling the amount due | Authority gathering: film fund (CCA – Centre du cinéma et de l'audiovisuel). Authorities controlling: both film fund (CCA – Centre du cinéma et de l'audiovisuel) and regulatory authority (CSA – Conseil supérieur de l'audiovisuel). |
| Authority benefiting from the amount due | CCA – Centre du cinéma et de l'audiovisuel. |
| Levy applicable to foreign broadcasters | No. |

Source: Belgian (French community) response to European Audiovisual Observatory standardised survey

4.2.4.2. Levies on non-linear AVMS providers (VOD services)

The scheme does not differ between broadcasters and VOD providers.

Table 35. Belgium (FR) - Main features of the levies on VOD services

| Feature | Description |
|--|---|
| Legal basis of the levy | Coordinated Act on Audiovisual Media Services. Government order approving the method for the AVMS providers' indirect contribution to the CCA film fund. |
| Criteria used to determine the levy | The amount of the private broadcasters' yearly contribution depends on their turnover for the previous year (between 0% and 2.2% of the turnover). |



| | |
|--|---|
| Mandatory or optional obligation | Optional. |
| Ceiling to the levy imposed | No. |
| Distinction between genres on which to spend the levy | No. |
| Distinction between public and private VOD services | Yes. |
| Authority gathering and controlling the amount due | Authority gathering: film fund (CCA – Centre du cinéma et de l’audiovisuel). Authorities controlling: both film fund (CCA – Centre du cinéma et de l’audiovisuel) and regulatory authority (CSA – Conseil supérieur de l’audiovisuel). |
| Authority benefiting from the amount due | CCA – Centre du cinéma et de l’audiovisuel. |
| Levy applicable to foreign VOD services | No. |

Source: Belgian (French community) response to European Audiovisual Observatory standardised survey

4.2.4.3. Levies on distributors

Distributors have the possibility of choosing between financial investment obligations (direct contribution) described under section 4.2.3.3 and a levy (indirect contribution).

Table 36. Belgium (FR) - Main features of the levies on distributors

| Feature | Description |
|--|---|
| Legal basis of the levy | Coordinated Act on Audiovisual Media Services. |
| Criteria used to determine the levy | Either EUR 2.57 (amount for 2018) per subscriber in the previous year or 2.5% of the gross receipts for the previous year (without VAT and copyright fees) related to the users’ payment for the AVMS offered by the distributor. |
| Mandatory or optional obligation | Optional. |
| Ceiling to the levy imposed | No. |
| Distinction between genres on which to spend the levy | No. |
| Authority gathering and controlling the amount due | Authority gathering: film fund (CCA – Centre du cinéma et de l’audiovisuel). Authorities controlling: both film fund (CCA – Centre du cinéma et de l’audiovisuel) and regulatory authority (CSA – Conseil supérieur de l’audiovisuel). |
| Authority benefiting from the amount due | CCA – Centre du cinéma et de l’audiovisuel. |

Source: Belgian (French community) response to European Audiovisual Observatory standardised survey



4.2.4.4. Levies on theatres (cinema tickets)

Table 37. Belgium (FR) - Main features of the levies on theatres (cinema tickets)

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Belgian (French community) response to European Audiovisual Observatory standardised survey

4.2.4.5. Levies on the video industry

Table 38. Belgium (FR) - Main features of the levies on the video industry

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Belgian (French community) response to European Audiovisual Observatory standardised survey

4.2.4.6. Other levies

N/A.

4.2.5. Quota obligations

4.2.5.1. Quotas for linear AVMS providers (broadcasters) – EU works

Broadcasters shall reserve a majority proportion of their transmission time (excluding the time allotted to news, sports events, games, advertising, self-promotion and teleshopping) for European works (Article 44 of the Coordinated Act on Audiovisual Media Services).



The following broadcasters are exempt:

- local broadcasters;
- broadcasters that by nature do not air European works (at least 80% of their airtime is not dedicated to European works).
- broadcasters that use languages other than those used in EU member states and which are not intended for the public of EU member states.

The RTBF management contract can fix a higher quota. Under the current management contract, the quota is 55% (Article 19 of the management contract).

Specific quotas also apply to works in the French language: 35% of transmission time for the RTBF and 20% for private broadcasters.

Table 39. Belgium (FR) - Main features of the quota for broadcasters – EU works

| Feature | Description |
|--|---|
| Legal basis of the obligation | Coordinated Act on Audiovisual Media Services. Government order approving the public service media RTBF's management contract. |
| Level of the quota | 50% of the transmission time. |
| Flexibility in achieving the quota ("where appropriate...") | No. |
| Distinction between public or private broadcasters | Yes. |
| Derogations available for certain types of broadcasters | Yes. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | Yes. |
| Quotas for non-national EU works | No. |

Source: Belgian (French community) response to European Audiovisual Observatory standardised survey

4.2.5.2. Quotas for linear AVMS providers (broadcasters) – independent works

Broadcasters shall reserve 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, self-promotion and teleshopping) for European works created by producers who are independent from broadcasters. This proportion shall include independent works from producers from the French Community (Article 44 of the Coordinated Act on Audiovisual Media Services).

The following broadcasters are exempt:

- local broadcasters;



- broadcasters that by nature do not air European works (at least 80% of their airtime is not dedicated to European works).
- broadcasters that use languages other than those used in the EU member states and which are not intended for the public of EU member states.
- broadcasters whose transmission time consists of at least 80% of their own production.

Table 40. Belgium (FR) - Main features of the quota for broadcasters – independent works

| Feature | Description |
|--|--|
| Legal basis of the obligation | Coordinated Act on Audiovisual Media Services. |
| Level of the quota | 10% of the transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | No. |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | Yes. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Belgian (French community) response to European Audiovisual Observatory standardised survey

4.2.5.3. Quotas for non-linear AVMS providers (VOD services)

Table 41. Belgium (FR) - Main features of the quota for VOD services – EU works

| Feature | Description |
|--|-------------|
| Legal basis of the obligation | N/A. |
| Level of the quota | N/A. |
| Flexibility in achieving the quota (“where practicable...”) | N/A. |
| Distinction between public or private VOD services | N/A. |
| Derogations available for certain types of VOD services | N/A. |
| Quotas for specific genres | N/A. |
| Quotas for national works or works in a national language | N/A. |



| | |
|---|------|
| Quotas for non-national EU works | N/A. |
|---|------|

Source: Belgian (French community) response to European Audiovisual Observatory standardised survey

4.2.6. Prominence obligations

VOD services shall promote the European works included in their catalogue, including original works by authors from the French Community, by highlighting, by way of an attractive presentation, the list of available European works.

Table 42. Belgium (FR) - Main features of the prominence obligation for VOD services

| Feature | Description |
|---|---|
| Legal basis of the obligation | Coordinated Act on Audiovisual Media Services (Article 44). |
| Means of giving prominence imposed | Attractive presentation. |
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of VOD services | No. |
| Prominence to give to specific genres | No. |
| Prominence to give to national works or works in a national language | No. |
| Prominence to give to non-national EU works | No. |

Source: Belgian (French community) response to European Audiovisual Observatory standardised survey

4.2.7. Envisaged amendments to the regulatory framework

The possibility, created by the new AVMS Directive, of imposing obligations on foreign AVMS targeting the public of the French Community is expected and could perhaps be implemented in the French Community before the complete transposition of the revised AVMS Directive.

4.2.8. Studies, reports and researches

The yearly reports of the film fund (CCA) provide useful date on issues related to the present mapping (the last yearly report is available at http://www.audiovisuel.cfwb.be/index.php?id=avm_detail&no_cache=1&tx_ttnews%5Btt_news%5D=2648&tx_ttnews%5BbackPid%5D=6746&cHash=c84f32d9358ec4891981ec77447e7536



The regulatory authority has produced several recommendations and evaluations on the issue of the promotion of European works on VOD (available at <http://csa.be/breves/622>), as well as a contribution to a publication of the European Audiovisual Observatory (Iris special “*Video on Demand and the Promotion of European Works*”, available at <https://rm.coe.int/1680783dc7>).

4.2.9. Applicable regulatory framework

- Primary legislation:
 - In French – Décret coordonné sur les services de médias audiovisuels (Coordinated Act on Audiovisual Media Services): http://www.galilex.cfwb.be/document/pdf/34341_017.pdf (coordinated)
 - In French – Décret du 14 juillet 1997 portant statut de la Radio-Télévision belge de la Communauté française – RTBF (Act on the RTBF): http://www.galilex.cfwb.be/document/pdf/20355_004.pdf (coordinated)
- Secondary legislation:
 - In French – Arrêté du Gouvernement de la Communauté française portant approbation du quatrième contrat de gestion de la Radio-Télévision belge de la Communauté française pour les années 2013 à 2017 incluses (Government order approving the management contract of the public service media RTBF): http://www.galilex.cfwb.be/document/pdf/38527_002.pdf (coordinated)
 - In French – Arrêté du Gouvernement de la Communauté française fixant les modalités de versement de la contribution des éditeurs de services de radiodiffusion télévisuelle au Centre du cinéma et de l'audiovisuel (Government order approving the method for the direct contribution of AVMS providers to the CCA film fund): http://www.galilex.cfwb.be/document/pdf/29309_000.pdf
 - In French – Arrêté du Gouvernement de la Communauté française fixant les modalités de la contribution des éditeurs de services de radiodiffusion télévisuelle à la production d'œuvres audiovisuelles sous forme de coproduction ou de pré-achat (Government order approving the method for the indirect contribution of AVMS providers to film funding): http://www.galilex.cfwb.be/document/pdf/33617_000.pdf
 - In French – Arrêté du Gouvernement de la Communauté française fixant les modalités de la contribution des distributeurs de services de radiodiffusion télévisuelle à la production d'œuvres audiovisuelles sous forme de coproduction ou de pré-achat (Government order approving the method for the indirect contribution of distributors to film funding): http://www.galilex.cfwb.be/document/pdf/33616_000.pdf



4.2.10. Data compilation

This factsheet was produced based on data compiled by Thibaut Mulatin, Directeur de la direction des Médias et de l'Aide à la presse, Service général de l'Audiovisuel et des Médias, Administration générale de la Culture du Ministère de la Fédération Wallonie-Bruxelles (Communauté française de Belgique).

4.3. BE – Belgium (Flemish speaking Community) – National legal summary⁶

4.3.1. Summary

Table 43. Belgium (NL) - Summary of the existing obligations – by type and player

| Obligation | Player | Main feature |
|---|----------------------------------|--|
| Financial investment obligations | Linear AVMS providers | The public service media VRT shall invest a minimum of 15% of its total income (excluding exchange deals, the Brussels Philharmonic and restructuring costs) in external production. This percentage shall evolve from 15% in 2016 to a minimum of 18.25% by 2020. |
| | Non-linear AVMS providers | An amendment to the Radio and Television Act was adopted in June 2018 and has come into force in January 2019, creating an optional obligation: private VOD providers will have the possibility of choosing between financial investment obligations (direct contribution) and a levy (indirect contribution) to the Flanders Audiovisual Fund. The Flemish government has, however, yet to determine the criteria, conditions and procedures for said financial investment obligations/levy |
| | Distributors | Distributors shall invest either EUR 1.30 per subscriber (indexed every year since 2015) or a lump sum of EUR 3 000 000 yearly in co-production. This obligation takes the form of co-production projects which are presented to the regulatory authority (VRM) for the purposes of evaluating admissibility and accreditation. The obligation is optional: distributors have the possibility of choosing between the financial investment obligations (direct contribution) and a levy (indirect contribution) to the Flanders Audiovisual Fund. |
| Levies | Linear AVMS providers | No obligation. |
| | Non-linear AVMS providers | An amendment to the Radio and Television Act was adopted in June 2018 and has come into force in January 2019, creating an optional obligation: private VOD services will have the possibility of choosing |

⁶ The factsheet on Belgium (Flemish speaking Community) incorporates the feedback received from Koen Salmon (Flanders Audiovisual Fund) during the checking round with the national film funds.



| | | |
|------------------|---|---|
| | | between financial investment obligations (direct contribution) and a levy (indirect contribution) to the Flanders Audiovisual Fund. The Flemish government has, however, yet to determine the criteria, conditions and procedures for said financial investment obligations/levy |
| | Distributors | Distributors have the possibility of choosing between the financial investment (direct contribution) described under section 4.3.3.3 and a levy (indirect contribution). |
| | Theatres | No obligation. |
| | Video industry | No obligation. |
| | Other | No obligation. |
| Promotion | Quotas European works linear AVMS providers | Broadcasters shall reserve a majority proportion of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping services) for European works. |
| | Quotas independent works linear AVMS providers | Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping services) for European works created by producers who are independent from broadcasters. |
| | Quotas non-linear AVMS providers | An amendment to the Radio and Television Act was adopted in June 2018 and has come into force in January 2019, creating an obligation to reserve 30% of the catalogue for European works. |
| | Prominence non-linear AVMS providers | VOD services, where practicable and by appropriate means, shall promote the production of and access to European works. Such promotion could relate, <i>inter alia</i> , to the financial contribution made by VOD providers to the production and rights acquisition of European works or to the share and/or prominence of European works in the catalogue. |

Source: Belgian (Flemish community) response to European Audiovisual Observatory standardised survey

4.3.2. Definitions

Article 2, paragraph 11, of the Radio and Television Broadcasting Act defines European works as follows:

“Paragraph 11 European productions means:

a) the following productions:

1) productions created in the Member States of the European Union;



- 2) productions from third-party European States that have signed the Council of Europe's Treaty as regards cross-border television and which comply with the conditions, as set out in item b);
- 3) co-productions produced within the scope of the agreements between the European Union and third-party countries concerning the audiovisual sector and which comply with the conditions of the aforementioned agreements. A condition for the application of items 2) and 3) is that productions made in Member States are not affected by discriminatory measures in the third-party countries concerned;
- b) the productions, referred to in items a), 1), and a), 2), are productions that were mainly produced with the help of authors and collaborators who reside in one or more of the Member States mentioned in items a), 1), and a), 2), and meet one of the three following conditions :
- 1) the productions were created by one or more producers, established in one or more of these Member States;
- 2) their creation came about under the supervision and actual control of one or more producers established in these Member States;
- 3) the contribution of the co-producers of these States to the total cost of the co-production is significant and the co-production is not controlled by one or more producers established outside of these Member States;
- c) productions that are not European productions as referred to under item a), but which are created within the framework of co-production agreements concluded between the Member States and third-party countries, are considered to be European products as long as the European Union co-producers hold a majority share in the total product costs and the production is not controlled by one or more producers established outside of the Member States.”

Article 2, paragraph 11, of the Radio and Television Broadcasting Act defines an independent producer as follows:

“Independent producer: the producer:

- a) of whom the legal personality is separate from that of a broadcaster;
- b) who does not own (directly or indirectly) more than 15% of the capital of a Flemish broadcaster;
- c) whose capital is not owned (directly or indirectly) for more than 15% by a company that owns (directly or indirectly) more than 15% of the capital of a Flemish broadcaster.”

**Table 44. Belgium (NL) - Definition of the main concepts in terms of the promotion of EU works**

| Concept | Definition |
|----------------------|------------|
| European works | Yes. |
| Independent producer | Yes. |
| Prominence | No. |

Source: Belgian (Flemish community) response to European Audiovisual Observatory standardised survey

4.3.3. Financial investment obligations

4.3.3.1. Financial investment obligations by linear AVMS providers (broadcasters)

The public service media VRT shall invest a minimum of 15% of its total income (excluding exchange deals, the Brussels Philharmonic and restructuring costs) in external production (defined broadly and includes both AV/radio/digital production, as well as the facilitary sector). This percentage shall evolve from 15% in 2016 to a minimum of 18.25% by 2020, according to the management contract for 2016-2020 (“Beheersovereenkomst”) concluded between the Government and the VRT.

The investment obligation only applies to television production (TV fiction and non-fiction), not to cinema films.

Table 45. Belgium (NL) - Main features of the financial investment scheme for broadcasters

| Feature | Description |
|--|--|
| Legal basis for the investment | Radio and Television Broadcasting Act. VRT management contract for 2016-2020. |
| Level of investment | 15% of the total income (public broadcaster only). |
| Mandatory, optional or voluntary investment | Mandatory. |
| Nature of the investment | Pre-acquisition, co-production or production. |
| Distinction between genres in which to invest | Yes. |
| Distinction between public or private broadcasters | Yes. |
| Level of investment in European works | No. |
| Level of investment in independent works | Yes. |
| Level of investment in works in a national language | No. |
| Investment scheme applicable to foreign broadcasters | No. |



| | |
|---------------------------------|-----|
| Other type of investment | No. |
|---------------------------------|-----|

Source: Belgian (Flemish community) response to European Audiovisual Observatory standardised survey

4.3.3.2. Financial investment obligations by non-linear AVMS (VOD) providers

An amendment to the Radio and Television Act was adopted in June 2018 and has come into force in January 2019, creating an optional obligation: private VOD providers will have the possibility of choosing between financial investment obligations (direct contribution) and a levy (indirect contribution) to the Flanders Audiovisual Fund (Article 157 of the Radio and Television Broadcasting Act).

The Flemish government has, however, yet to determine the criteria, conditions and procedures for said financial investment obligations/levy

The obligation will apply to VOD services under the jurisdiction of an EU member state who target the public of the Flemish Community.

Table 46. Belgium (NL) - Main features of the investment scheme for VOD providers

| Feature | Description |
|--|--|
| Legal basis for the investment | Radio and Television Broadcasting Act. |
| Level of the investment | To be determined. |
| Mandatory, optional or voluntary investment | Optional. |
| Nature of the investment | To be determined. |
| Distinction between genres in which to invest | To be determined. |
| Distinction between public or private services | Yes. |
| Level of investment in European works | To be determined. |
| Level of investment in independent works | To be determined. |
| Level of investment in works in a national language | To be determined. |
| Investment scheme applicable to foreign VOD providers | Yes. |
| Other type of investment | No. |

Source: Belgian (Flemish community) response to European Audiovisual Observatory standardised survey

4.3.3.3. Financial investment obligations by distributors

Distributors shall invest either EUR 1.30 per subscriber (indexed every year since 2015) or a yearly lump sum of EUR 3 000 000 in co-production.



This obligation takes the form of co-production projects which are presented to the regulatory authority (VRM) for the purposes of evaluating admissibility and accreditation. The obligation is optional: distributors have the possibility of choosing between financial investment obligations (direct contribution) and a levy (indirect contribution) to the Flanders Audiovisual Fund (Article 184/1 of the Radio and Television Broadcasting Act).

Table 47. Belgium (NL) - Main features of the investment scheme for distributors

| Feature | Description |
|--|---|
| Legal basis for the investment | Radio and Television Broadcasting Act. Decision of the Flemish Government regarding the stimulation regulation for the audiovisual sector. |
| Level of the investment | Either EUR 1.30 per subscriber or a lump sum of EUR 3 000 000. |
| Mandatory, optional or voluntary investment | Optional. |
| Nature of the investment | Co-production. |
| Distinction between genres in which to invest | No. |
| Level of investment in European works | No. |
| Level of investment in independent works | No. |
| Level of investment in works in a national language | No. |
| Other type of investment | No. |

Source: Belgian (Flemish community) response to European Audiovisual Observatory standardised survey

4.3.4. Levies

4.3.4.1. Levies on linear AVMS providers (broadcasters)

Table 48. Belgium (NL) - Main features of the levies on broadcasters

| Feature | Description |
|--|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private | N/A. |



| | |
|---|------|
| broadcasters | |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign broadcasters | N/A. |

Source: Belgian (Flemish community) response to European Audiovisual Observatory standardised survey

4.3.4.2. Levies on non-linear AVMS providers (VOD services)

An amendment to the Radio and Television Act was adopted in June 2018 and has come into force in January 2019, creating an optional obligation: private VOD services will have the possibility of choosing between financial investment obligations (direct contribution) and a levy (indirect contribution) to the Flanders Audiovisual Fund (Article 157 of the Radio and Television Broadcasting Act).

The Flemish government has, however, yet to determine the criteria, conditions and procedures for said financial investment obligations/levy

The obligation will apply to VOD providers under the jurisdiction of an EU member State who target the public of the Flemish Community.

Table 49. Belgium (NL) - Main features of the levies on VOD services

| Feature | Description |
|--|--|
| Legal basis of the levy | Radio and Television Broadcasting Act. |
| Criteria used to determine the levy | To be determined. |
| Mandatory or optional obligation | Optional. |
| Ceiling to the levy imposed | To be determined. |
| Distinction between genres on which to spend the levy | To be determined. |
| Distinction between public and private VOD services | Yes. |
| Authority gathering and controlling the amount due | To be determined. |
| Authority benefiting from the amount due | Flanders Audiovisual Fund. |
| Levy applicable to foreign VOD services | Yes. |

Source: Belgian (Flemish community) response to European Audiovisual Observatory standardised survey

4.3.4.3. Levies on distributors

Distributors have the possibility of choosing between the financial investment (direct contribution) described under section 4.3.3.3 and a levy (indirect contribution). (Article 184/1 of the Radio and Television Broadcasting Act).

**Table 50. Belgium (NL) - Main features of the levies on distributors**

| Feature | Description |
|---|--|
| Legal basis of the levy | Radio and Television Broadcasting Act. |
| Criteria used to determine the levy | Either EUR 1.30 per subscriber or a lump sum of EUR 3 000 000. |
| Mandatory or optional obligation | Optional. |
| Ceiling to the levy imposed | No. |
| Distinction between genres on which to spend the levy | No. |
| Authority gathering and controlling the amount due | Flemish Regulator for the Media (VRM) |
| Authority benefiting from the amount due | Flanders Audiovisual Fund. |

Source: Belgian (Flemish community) response to European Audiovisual Observatory standardised survey

4.3.4.4. Levies on theatres (cinema tickets)

Table 51. Belgium (NL) - Main features of the levies on theatres (cinema tickets)

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Belgian (Flemish community) response to European Audiovisual Observatory standardised survey

4.3.4.5. Levies on the video industry

Table 52. Belgium (NL) - Main features of the levies on the video industry

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |



| | |
|---|------|
| Authority benefiting from the amount due | N/A. |
|---|------|

Source: Belgian (Flemish community) response to European Audiovisual Observatory standardised survey

4.3.4.6. Other levies

N/A.

4.3.5. Quota obligations

4.3.5.1. Quotas for linear AVMS providers (broadcasters) – EU works

Broadcasters shall reserve a majority proportion of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping services) for European works (Article 154 of the Radio and Television Broadcasting Act).

A significant proportion of this majority must be devoted to Dutch-language European productions, but the percentage is not further defined.

Specific additional obligations are imposed on the public service media VRT by its management contract: it shall invest in a minimum of 15 episode documentaries (of which at least 50% shall be author documentaries) and the share of Flemish works shall be of at least 65% of the transmission time during prime time (between 6 p.m. and 11 p.m. on the first channel and 7 p.m. and 11 p.m. on the second channel).

Table 53. Belgium (NL) - Main features of the quota for broadcasters – EU works

| Feature | Description |
|--|--|
| Legal basis of the obligation | Radio and Television Broadcasting Act. |
| Level of the quota | Larger part of the transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | No. |
| Distinction between public or private broadcasters | Yes. |
| Derogations available for certain types of broadcasters | No. |
| Quotas for specific genres | Yes. |
| Quotas for national works or works in a national language | Yes. |
| Quotas for non-national EU works | No. |

Source: Belgian (Flemish community) response to European Audiovisual Observatory standardised survey



4.3.5.2. Quotas for linear AVMS providers (broadcasters) – independent works

Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping services) for European works created by producers who are independent from broadcasters (Article 155 of the Radio and Television Broadcasting Act).

A significant proportion of this majority must be devoted to Dutch-language European productions, but the percentage is not further defined.

Table 54. Belgium (NL) - Main features of the quota for broadcasters – independent works

| Feature | Description |
|---|--|
| Legal basis of the obligation | Radio and Television Broadcasting Act. |
| Level of the quota | 10% of the transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | No. |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | Yes. |
| Quotas for non-national EU works | No. |

Source: Belgian (Flemish community) response to European Audiovisual Observatory standardised survey

4.3.5.3. Quotas for non-linear AVMS providers (VOD services)

An amendment to the Radio and Television Act was adopted in June 2018 and has come into force in January 2019, creating an obligation to reserve 30% of the catalogue for European works (Article 157 of the Radio and Television Broadcasting Act).

VOD services with a low turnover or a small audience and small and micro enterprises are exempt.

Table 55. Belgium (NL) - Main features of the quota for VOD services – EU works

| Feature | Description |
|---|--|
| Legal basis of the obligation | Radio and Television Broadcasting Act. |
| Level of the quota | 30% of the catalogue. |
| Flexibility in achieving the quota (“where appropriate...”) | No. |



| | |
|--|------|
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of VOD services | Yes. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Belgian (Flemish community) response to European Audiovisual Observatory standardised survey

4.3.6. Prominence obligations

VOD services shall ensure a prominent place for European works in the programme catalogue (Article 157 of the Radio and Television Broadcasting Act).

A significant part of the means of promotion shall be dedicated to works in the Dutch language.

Table 56. VOD services with a low turnover or a small audience and small and micro enterprises are exempt. Belgium (NL) - Main features of the prominence obligation for VOD services

| Feature | Description |
|---|--|
| Legal basis of the obligation | Radio and Television Broadcasting Act. |
| Means of giving prominence imposed | No. |
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of VOD services | Yes. |
| Prominence to give to specific genres | No. |
| Prominence to give to national works or works in a national language | Yes. |
| Prominence to give to non-national EU works | No. |

Source: Belgian (Flemish community) response to European Audiovisual Observatory standardised survey

4.3.7. Envisaged amendments to the regulatory framework

In order to execute the amendment made to the Radio and Television Act concerning a new obligation and quota for VOD-providers (Article 157), there will be an Implementing



Decision to set out the precise regulatory framework and conditions of this obligation. The Decision is to be expected in the next 6 to 12 months.

4.3.8. Studies, reports and researches

N/A.

4.3.9. Applicable regulatory framework

- Primary legislation:
 - In Dutch – Decreet betreffende Radio-omroep en Televisie van 27 maart 2009 (Radio and Television Broadcasting Act): http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&table_name=wet&cn=2009032749 and https://www.vlaamseregulatormedia.be/sites/default/files/mediadecreet_27_maart_2009_11.pdf
 - In Dutch – recent amendment to the Radio and Television Broadcasting Act: http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&cn=2018062913&table_name=wet
 - In English – Radio and Television Broadcasting Act: http://www.vlaamseregulatormedia.be/sites/default/files/act_on_radio_and_television_broadcasting.pdf
- Secondary legislation:
 - In Dutch – Besluit van de Vlaamse Regering van 21 maart 2014 betreffende de stimuleringsregeling voor de audiovisuele sector (Decision of the Flemish Government regarding the stimulation regulation for the audiovisual sector): <http://reflex.raadvst-consetat.be/reflex/pdf/Mbbs/2014/04/03/127185.pdf>
 - In Dutch – Beheersovereenkomst 2016–2020 tussen de Vlaamse Gemeenschap & VRT (VRT Management contract 2016–2020): <https://www.vrt.be/content/dam/vrtbe/over-de-vrt/opdrachten/opdrachten/Beheersovereenkomst%202016-2020.pdf>

4.3.10. Data compilation

This factsheet was produced based on data compiled by An Jacobs, Attorney at Law and Managing Director of the Association of Flemish Independent Film & Television Producers.

4.4. BG – Bulgaria – National legal summary⁷

4.4.1. Summary

Table 57. Bulgaria - Summary of the existing obligations – by type and player

| Obligation | Player | Main feature |
|----------------------------------|--|--|
| Financial investment obligations | Linear AVMS providers | Only the public service media BNT has financial investment obligations: one pursuant to the Radio and Television Act (10% of its subsidies) and another one pursuant to the Act on the Protection and Promotion of Culture (amount not publicly available). |
| | Non-linear AVMS providers | No obligation. |
| | Distributors | No obligation. |
| Levies | Linear AVMS providers | No obligation. |
| | Non-linear AVMS providers | No obligation. |
| | Distributors | No obligation. |
| | Theatres | No obligation. |
| | Video industry | No obligation. |
| | Other | No obligation. |
| Promotion | Quotas European works linear AVMS providers | Broadcasters shall reserve, where practicable, at least 50% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping services) for European works. |
| | Quotas independent works linear AVMS providers | Broadcasters shall reserve at least 12% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping services) for European works created by producers who are independent from broadcasters. |
| | Quotas non-linear AVMS providers | No obligation. |
| | Prominence non-linear AVMS providers | VOD services shall use hardware and software for the accessible and attractive presentation of European works in their catalogue. |

Source: Bulgarian response to European Audiovisual Observatory standardised survey

⁷ The factsheet on Bulgaria incorporates the feedback received from Jana Karaivanova (Bulgarian National Film) Center during the checking round with the national film funds.



4.4.2. Definitions

Section 1.7 of the supplementary provisions of the Radio and Television Act defines European works as follows:

“European works shall be:

(a) works originating in Member States of the European Union created mainly by authors and workers residents in one or more of these States, provided that they meet at least one of the following three conditions:

(aa) created by one or more producers established in one or more of these countries; or

(bb) the creation of the works is monitored and actually controlled by one or more producers established in one or more of the said countries;

(cc) co-producers from these countries make a major contribution to the costs of the overall co-production and are not controlled by one or more producers established outside those countries;

(b) works originating in third European countries which are parties to the European Convention on Transfrontier Television of the Council of Europe, adopted in Strasbourg on 5 May 1989 (ratified by law, SG 117/97) , SG 32/99), created mainly by authors and workers residing in one or more of these countries, provided they meet at least one of the following three conditions:

(aa) created by one or more producers established in one or more of these countries;

(bb) the creation of the works is monitored and actually controlled by one or more producers established in one or more of the said countries;

(cc) the co-producers of these countries make a major contribution to the costs of the overall co-production and are not controlled by one or more producers established outside those countries, provided that works originating in Member States of the European Union are not subject to discriminatory measures in the third countries concerned;

(c) works co-produced within the framework of audiovisual agreements concluded between the European Union and third countries and fulfilling the conditions laid down in each of these agreements, provided that works originating in Member States are not subject to discriminatory measures in these countries.

Works which are not European works within the meaning of points (a), (b) or (c) but which are produced under bilateral co-production contracts concluded between Member States of the European Union and third countries shall be considered as European provided that the co-producers in the European Union bear the bulk of the total cost of production and that production is not controlled by one or more producers established outside the territory of the Member States of the European Union.”



Section 1.24 of the supplementary provisions of the Radio and Television Act defines an independent producer as follows:

"Independent Producer means a producer registered under the Commerce Act or under the legislation of a Member State of the European Union or of another State party to the Agreement on the European Economic Area that is organizationally and economically independent in its activity of any broadcaster and is subject to the following requirements:

- 1. is not the owner of a radio or television operator or of a share of his property;*
- 2. a radio or television operator is not the owner of such a person or a share of his property."*

Table 58. Bulgaria - Definition of the main concepts in terms of the promotion of EU works

| Concept | Definition |
|----------------------|------------|
| European works | Yes. |
| Independent producer | Yes. |
| Prominence | No. |

Source: Bulgarian response to European Audiovisual Observatory standardised survey

4.4.3. Financial investment obligations

4.4.3.1. Financial investment obligations by linear AVMS providers (broadcasters)

Only the public service media BNT has financial investment obligations, one pursuant to the Radio and Television Act and another one pursuant to the Act on the Protection and Promotion of Culture:

- "The Bulgarian National Radio and the Bulgarian National Television shall support the creation and implementation of national audio and audiovisual production and shall devote themselves to the creation of new production as follows: 1. The Bulgarian National Radio shall allocate for the creation and performance of Bulgarian musical and radio-drama works not less than 5 per cent of the subsidy from the state budget and the Radio and Television Fund; 2. The Bulgarian National Television shall allocate for Bulgarian TV film production not less than 10 per cent of the subsidy from the state budget and the Radio and Television Fund" (Article 71 of the Radio and Television Act).
- "With a view to promoting and consolidating the spiritual values of the nation and the universal human moral standards, the Minister of Culture and the Directors-General of the Bulgarian National Radio and the Bulgarian National Television shall each year conclude contracts for



programmes and broadcasts in the field of culture, including television films, radio and television theatrical performances, in which the obligations of the Bulgarian National Radio and the Bulgarian National Television on the Creation, Presentation and Distribution of Cultural Values are envisaged giving priority to the Bulgarian production of high quality” (Article 20 of the Act on the Protection and Promotion of Culture). The amount is not known as these contracts are not publicly available.

Table 59. Bulgaria - Main features of the financial investment scheme for broadcasters

| Feature | Description |
|---|--|
| Legal basis for the investment | Radio and Television Act. Act on the Protection and Promotion of Culture. |
| Level of investment | 10% of the subsidies awarded to the Bulgarian National Television for Bulgarian TV film production. A yearly amount defined in a contract between the Ministry of Culture and the Bulgarian National Television giving priority to the Bulgarian production of high quality radio and television theatrical performances, including television films. |
| Mandatory, optional or voluntary investment | Mandatory. |
| Nature of the investment | Pre-acquisition, co-production or production. |
| Distinction between genres in which to invest | Yes. |
| Distinction between public or private broadcasters | Yes. |
| Level of investment in European works | No. |
| Level of investment in independent works | Yes. |
| Level of investment in works in a national language | Yes. |
| Investment scheme applicable to foreign broadcasters | No. |
| Other type of investment | No. |

Source: Bulgarian response to European Audiovisual Observatory standardised survey

4.4.3.2. Financial investment obligations by non-linear AVMS (VOD) providers

Table 60. Bulgaria - Main features of the investment scheme for VOD providers

| Feature | Description |
|---------------------------------------|-------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |



| | |
|--|------|
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Distinction between public or private services | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Investment scheme applicable to foreign VOD providers | N/A. |
| Other type of investment | N/A. |

Source: Bulgarian response to European Audiovisual Observatory standardised survey

4.4.3.3. Financial investment obligations by distributors

Table 61. Bulgaria - Main features of the investment scheme for distributors

| Feature | Description |
|--|--------------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Other type of investment | N/A. |

Source: Bulgarian response to European Audiovisual Observatory standardised survey



4.4.4. Levies

4.4.4.1. Levies on linear AVMS providers (broadcasters)

Table 62. Bulgaria - Main features of the levies on broadcasters

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private broadcasters | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign broadcasters | N/A. |

Source: Bulgarian response to European Audiovisual Observatory standardised survey

4.4.4.2. Levies on non-linear AVMS providers (VOD services)

Table 63. Bulgaria - Main features of the levies on VOD services

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private VOD services | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign VOD services | N/A. |

Source: Bulgarian response to European Audiovisual Observatory standardised survey



4.4.4.3. Levies on distributors

Table 64. Bulgaria - Main features of the levies on distributors

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Bulgarian response to European Audiovisual Observatory standardised survey

4.4.4.4. Levies on theatres (cinema tickets)

Table 65. Bulgaria - Main features of the levies on theatres (cinema tickets)

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Bulgarian response to European Audiovisual Observatory standardised survey

4.4.4.5. Levies on the video industry

Table 66. Bulgaria - Main features of the levies on the video industry

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |



| | |
|--|------|
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Bulgarian response to European Audiovisual Observatory standardised survey

4.4.4.6. Other levies

The Film Industry Act imposes a fee on several players in the audiovisual industry which is meant to allow their entry in the unified public register, but these fees are symbolic and not meant to finance sustainable film funding. The act states that the amounts charged for entry in the register are the following:

- Bulgarian film producer – BGN 240 (approximately EUR 122);
- distributor of films in the Republic of Bulgaria – BGN 240;
- a person displaying films on the territory of the Republic of Bulgaria – BGN 240;
- a cinema hall – BGN 240;
- film production, performed by foreign producers on the territory of the Republic of Bulgaria, including co-productions with Bulgarian producers:
 - Production of a documentary or cartoon – BGN 300;
 - production of a feature film with a term of production in the Republic of Bulgaria of up to one month – BGN 1500;
 - production of an animated series – BGN 1500;
 - production of a feature film with a term of production in the Republic of Bulgaria of over one month – BGN 3000.

A fee of BGN 24 is collected for the registration of changes to the data subject's registration.

The beneficiary is the National Film Centre Agency, but these fees are not meant to fund the Agency, they only cover administrative costs. The Agency is mainly financed by the state budget.

4.4.5. Quota obligations

4.4.5.1. Quotas for linear AVMS providers (broadcasters) – EU works

Broadcasters shall reserve, where practicable, a majority proportion of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping services) for European works (Article 19a.1 of the Radio and Television Act).

Services intended for local audiences and distributed by a broadcaster that does not form part of a national network are exempt.

**Table 67. Bulgaria - Main features of the quota for broadcasters – EU works**

| Feature | Description |
|---|-------------------------------|
| Legal basis of the obligation | Radio and Television Act. |
| Level of the quota | 50% of the transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | Yes. |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | Yes. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Bulgarian response to European Audiovisual Observatory standardised survey

4.4.5.2. Quotas for linear AVMS providers (broadcasters) – independent works

Broadcasters shall reserve at least 12% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping services) for European works created by producers who are independent from broadcasters (Article 19a.2 of the Radio and Television Act).

Services intended for local audiences and distributed by a broadcaster that does not form part of a national network are exempt.

Table 68. Bulgaria - Main features of the quota for broadcasters – independent works

| Feature | Description |
|---|-------------------------------|
| Legal basis of the obligation | Radio and Television Act. |
| Level of the quota | 12% of the transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | No. |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | Yes. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |



Source: Bulgarian response to European Audiovisual Observatory standardised survey

4.4.5.3. Quotas for non-linear AVMS providers (VOD services)

Table 69. Bulgaria - Main features of the quota for VOD services – EU works

| Feature | Description |
|---|-------------|
| Legal basis of the obligation | N/A. |
| Level of the quota | N/A. |
| Flexibility in achieving the quota (“where appropriate...”) | N/A. |
| Distinction between public or private VOD services | N/A. |
| Derogations available for certain types of VOD services | N/A. |
| Quotas for specific genres | N/A. |
| Quotas for national works or works in a national language | N/A. |
| Quotas for non-national EU works | N/A. |

Source: Bulgarian response to European Audiovisual Observatory standardised survey

4.4.6. Prominence obligations

VOD services shall use hardware and software for the accessible and attractive presentation of European works in their catalogue (Article 19.3 of the Radio and Television Act).

Table 70. Bulgaria - Main features of the prominence obligation for VOD services

| Feature | Description |
|--|---------------------------|
| Legal basis of the obligation | Radio and Television Act. |
| Means of giving prominence imposed | Attractive presentation. |
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of VOD services | No. |
| Prominence to give to specific genres | No. |
| Prominence to give to national works or works in a national language | No. |
| Prominence to give to non-national EU | No. |



works

Source: Bulgarian response to European Audiovisual Observatory standardised survey

4.4.7. Envisaged amendments to the regulatory framework

N/A.

4.4.8. Studies, reports and researches

- The future of the Bulgarian film production - <http://www.filmmakersbg.org/bg/novini/trevoga-za-bulgarskoto-kino/140-trevoga-za-bulgarskoto-kino.html>
- Approaches for funding of the Bulgarian film industry – the role of co-productions - <https://www.newmedia21.eu/analizi/danachnite-namaleniya-danachen-kredit-instrument-za-stimulirane-na-filmovata-industriya-predimstva-za-koproduksiite/>
- How the cinema industry develops in BG in recent years - https://www.capital.bg/biznes/kompanii/2016/07/16/2795654_silata_na_kinoto_se_probujda/
- The role of the Video on demand service providers for the promotion of European works - http://www.kultura.bg/bg/print_article/view/21157
- About a national strategy for the development of culture - http://mc.government.bg/files/1185_Project_Strategiq_30.11.2011.pdf
- The BNT and independent producers - <https://p.bnt.bg/p/r/pravila-za-vklyuchvane-v-programite-na-bnt-na-predavaniya-sa-zdadeni-ot-nezavisimi-ba-lgarski-produksenti-i-za-uchastieto-j-v-sa-vmestni-produksii-520.pdf>
- National strategy for the development of creative industries in Bulgaria - <https://bsc.smebg.net/redi/resources/National.pdf>
- Bulgarian film industry - European practices and Bulgarian context - http://artstudies.bg/konkursi%20files/AShoyleva_pdf/AShoyleva_Avtoreferat.pdf
- Development of entertainment and gaming industry in Bulgaria - <https://www.investor.bg/analizi/262/a/ima-li-bydeshte-geim-industriata-v-bylgariia--141286/>

4.4.9. Applicable regulatory framework

- Primary legislation:
 - In Bulgarian – Radio and Television Act: <https://lex.bg/bg/laws/ldoc/2134447616>
 - In Bulgarian – Act on the Protection and Promotion of Culture: <https://www.lex.bg/laws/ldoc/2134664704>



- In English - Radio and Television Act:
https://www.mtitc.government.bg/upload/docs/Radio_and_Television_Act_en.pdf

4.4.10. Data compilation

This factsheet was produced based on data compiled by Dr. Bissera Zankova, President of “Media 21” Foundation, and Dr. Ivo Indzhov, Associate Professor of Journalism at St. Cyril and St. Methodius University, Veliko Tarnovo.

4.5. CH – Switzerland – National legal summary⁸

4.5.1. Summary

Table 71. Switzerland - Summary of the existing obligations – by type and player

| Obligation | Player | Main feature |
|---|----------------------------------|--|
| Financial investment obligations | Linear AVMS providers | Private broadcasters showing films shall invest 4% of their gross income on the acquisition, production or co-production of national works. Small broadcasters with less than 1 million Swiss francs gross income are exempt (Article 7 RTVA and Article 6 RTVO). This obligation is optional: private broadcasters have the possibility of choosing between the financial investment (direct contribution) and a levy (indirect contribution) to the CCA film fund. The public broadcaster SRG SSR has a general legal obligation to support the national audiovisual industry in its licence. In 1997, SRG SSR and the independent audiovisual industry concluded an agreement (“Pacte de l’audiovisuel”) which regulates the annual amount of money reinvested by SRG SSR into the national audiovisual industry. Under the current pact covering the years 2016-2019, SRG SSR contributes 27.5 million Swiss francs each year to the production of films (including 14 million Swiss francs for television productions, 9 million Swiss francs for cinema projects and 1 million Swiss francs for animated films and other support for multimedia projects). |
| | Non-linear AVMS providers | No obligation. |
| | Distributors | No obligation. |
| Levies | Linear AVMS providers | Private broadcasters have the possibility of choosing between financial investment obligations (direct contribution) described under section 4.5.3.1. or a levy (indirect contribution). |
| | Non-linear AVMS providers | No obligation. |
| | Distributors | No obligation. |
| | Theatres | No obligation. |
| | Video industry | No obligation. |

⁸ The factsheet on Switzerland incorporates the feedback received from Laurent Steiert (Swiss Federal Office for Culture) during the checking round with the national film funds.



| | | |
|------------------|---|---|
| | Other | No obligation. |
| Promotion | Quotas European works linear AVMS providers | Broadcasters shall reserve, within a framework of practical feasibility and with appropriate resources, a majority proportion of their transmission time (excluding the time allotted to news, sports events, games, advertising and teletext services) for European works. |
| | Quotas independent works linear AVMS providers | Broadcasters shall reserve, within a framework of practical feasibility and with appropriate resources, at least 10% of their transmission time (excluding the time devoted to news, sports events, games, advertising and teletext services), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters. |
| | Quotas non-linear AVMS providers | No obligation. |
| | Prominence non-linear AVMS providers | No obligation. |

Source: Swiss response to European Audiovisual Observatory standardised survey

4.5.2. Definitions

Table 72. Switzerland - Definition of the main concepts in terms of the promotion of EU works

| Concept | Definition |
|-----------------------------|-------------------|
| European works | No. |
| Independent producer | No. |
| Prominence | No. |

Source: Swiss response to European Audiovisual Observatory standardised survey

4.5.3. Financial investment obligations

4.5.3.1. Financial investment obligations by linear AVMS providers (broadcasters)

Private broadcasters showing films shall invest 4% of their gross income on the acquisition, production or co-production of national works. Small broadcasters with less than 1 million Swiss francs gross income are exempt (Article 7 RTVA and Article 6 RTVO). This obligation is optional: private broadcasters have the possibility of choosing between financial investment (direct contribution) and a levy (indirect contribution) to the CCA film fund.



Indeed, Article 7 of the RTVA states that the obligation to invest 4% of the gross income also applies to broadcasters of a national or regional-language programme service window in a foreign television programme service which broadcasts films (that is, a specific programming or advertising window targeting the Swiss public), but following the judgment of the first Civil Court in the case “*Métropole Télévision vs Société suisse de radiodiffusion et télévision SSR*” (4A_203/2009 of 12 January 2010),⁹ this provision is not applied in practice.

Public broadcaster SRG SSR has a general legal obligation to support the national audiovisual industry in its licence. In 1997, SRG SSR and the independent audiovisual industry concluded an agreement (“Pacte de l’audiovisuel”) which regulates the annual amount of money reinvested by SRG SSR into the national audiovisual industry. Under the current pact covering the years 2016-2019, SRG SSR contributes 27.5 million Swiss francs each year to the production of films (including 14 million Swiss francs for television productions, 9 million Swiss francs for cinema projects and 1 million Swiss francs for animated films and other support for multimedia projects).

Table 73. Switzerland - Main features of the financial investment scheme for broadcasters

| Feature | Description |
|---|---|
| Legal basis for the investment | For private broadcasters: Federal Act on Radio and Television (RTVA) and Ordinance on Radio and Television (RTVO). For the public broadcaster SRG SSR: agreement with the industry (Audiovisual Pact). |
| Level of investment | Private broadcasters showing films shall invest 4% of their gross income or pay a levy. Public broadcaster SRG SSR has a general legal obligation to support the national audiovisual industry (currently 27.5 million Swiss francs yearly). |
| Mandatory, optional or voluntary investment | Optional. |
| Nature of the investment | Acquisition, co-production or production. |
| Distinction between genres in which to invest | No. |
| Distinction between public or private broadcasters | Yes. |
| Level of investment in European works | No. |
| Level of investment in independent works | 10% of the transmission time or 10% of the programming |

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http://relevancy.bger.ch/php/clir/http/index.php?lang=de&type=highlight_simple_query&page=1&from_date=&to_date=&from_year=1954&to_year=2018&sort=relevance&insertion_date=&from_date_push=&top_subcollection_clir=bge&query_words=m6+t%E9l%E9vision+publicit%E9&part=all&de_fr=&de_it=&fr_de=&fr_it=&it_de=&it_fr=&orig=&translation=&rank=1&highlight_docid=atf%3A%2F%2F136-III-232%3Ade&number_of_ranks=1977&azaclir=clir



| | |
|---|--------------------------------|
| | budget |
| Level of investment in works in a national language | No. |
| Investment scheme applicable to foreign broadcasters | In theory yes, in practice no. |
| Other type of investment | No. |

Source: Swiss response to European Audiovisual Observatory standardised survey

4.5.3.2. Financial investment obligations by non-linear AVMS (VOD) providers

Table 74. Switzerland - Main features of the investment scheme for VOD providers

| Feature | Description |
|--|-------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Distinction between public or private services | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Investment scheme applicable to foreign VOD providers | N/A. |
| Other type of investment | N/A. |

Source: Swiss response to European Audiovisual Observatory standardised survey

4.5.3.3. Financial investment obligations by distributors

Table 75. Switzerland - Main features of the investment scheme for distributors

| Feature | Description |
|--|-------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |



| | |
|--|------|
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Other type of investment | N/A. |

Source: Swiss response to European Audiovisual Observatory standardised survey

4.5.4. Levies

4.5.4.1. Levies on linear AVMS providers (broadcasters)

Private broadcasters have the possibility of choosing between financial investment obligations (direct contribution) described under section 4.5.3.1. or a levy (indirect contribution).

Table 76. Switzerland - Main features of the levies on broadcasters

| Feature | Description |
|--|---|
| Legal basis of the levy | For private broadcasters: Federal Act on Radio and Television (RTVA) and Ordinance on Radio and Television (RTVO). For the public broadcaster SRG SSR: agreement with the industry (Audiovisual Pact – see above). |
| Criteria used to determine the levy | Private broadcasters showing films shall invest 4% of their gross income or pay a levy. |
| Mandatory or optional obligation | Optional. |
| Ceiling to the levy imposed | No. |
| Distinction between genres on which to spend the levy | No. |
| Distinction between public and private broadcasters | Yes. |
| Authority gathering and controlling the amount due | Federal Office of Communication (OFCOM – BAKOM) |
| Authority benefiting from the amount due | Federal Office of Culture. |
| Levy applicable to foreign broadcasters | In theory yes, in practice no. |

Source: Swiss response to European Audiovisual Observatory standardised survey



4.5.4.2. Levies on non-linear AVMS providers (VOD services)

Table 77. Switzerland - Main features of the levies on VOD services

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private VOD services | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign VOD services | N/A. |

Source: Swiss response to European Audiovisual Observatory standardised survey

4.5.4.3. Levies on distributors

Table 78. Switzerland - Main features of the levies on distributors

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Swiss response to European Audiovisual Observatory standardised survey



4.5.4.4. Levies on theatres (cinema tickets)

Table 79. Switzerland - Main features of the levies on theatres (cinema tickets)

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Swiss response to European Audiovisual Observatory standardised survey

4.5.4.5. Levies on the video industry

Table 80. Switzerland - Main features of the levies on the video industry

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Swiss response to European Audiovisual Observatory standardised survey

4.5.4.6. Other levies

N/A.

4.5.5. Quota obligations

4.5.5.1. Quotas for linear AVMS providers (broadcasters) – EU works

Broadcasters shall reserve, within a framework of practical feasibility and with appropriate resources, a majority proportion of their transmission time (excluding the



time allotted to news, sports events, games, advertising and teletext services) for European works (Article 7 of the RTVA and Article 5 of the RTVO).

Table 81. Switzerland - Main features of the quota for broadcasters – EU works

| Feature | Description |
|--|--|
| Legal basis of the obligation | Federal Act on Radio and Television (RTVA) and Ordinance on Radio and Television (RTVO). |
| Level of the quota | 50% of the transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | Yes. |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Swiss response to European Audiovisual Observatory standardised survey

4.5.5.2. Quotas for linear AVMS providers (broadcasters) – independent works

Broadcasters shall reserve, within a framework of practical feasibility and with appropriate resources, at least 10% of their transmission time (excluding the time devoted to news, sports events, games, advertising and teletext services), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters (Article 7 of the RTVA and Article 5 of the RTVO).

Table 82. Switzerland - Main features of the quota for broadcasters – independent works

| Feature | Description |
|--|--|
| Legal basis of the obligation | Federal Act on Radio and Television – RTVA (Article 7) and Ordinance on Radio and Television – RTVO (Article 5). |
| Level of the quota | 10% of the transmission time or 10% of the programming budget. |
| Flexibility in achieving the quota (“where practicable...”) | Yes. |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | No. |



| | |
|--|-----|
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Swiss response to European Audiovisual Observatory standardised survey

4.5.5.3. Quotas for non-linear AVMS providers (VOD services)

Table 83. Switzerland - Main features of the quota for VOD services – EU works

| Feature | Description |
|--|--------------------|
| Legal basis of the obligation | N/A. |
| Level of the quota | N/A. |
| Flexibility in achieving the quota (“where appropriate...”) | N/A. |
| Distinction between public or private VOD services | N/A. |
| Derogations available for certain types of VOD services | N/A. |
| Quotas for specific genres | N/A. |
| Quotas for national works or works in a national language | N/A. |
| Quotas for non-national EU works | N/A. |

Source: Swiss response to European Audiovisual Observatory standardised survey

4.5.6. Prominence obligations

Table 84. Switzerland - Main features of the prominence obligation for VOD services

| Feature | Description |
|---|--------------------|
| Legal basis of the obligation | N/A. |
| Means of giving prominence imposed | N/A. |
| Distinction between public or private VOD services | N/A. |
| Derogations available for certain types of VOD services | N/A. |
| Prominence to give to specific genres | N/A. |
| Prominence to give to national works or works in a national language | N/A. |



| | |
|---|------|
| Prominence to give to non-national EU works | N/A. |
|---|------|

Source: Swiss response to European Audiovisual Observatory standardised survey

4.5.7. Envisaged amendments to the regulatory framework

The Federal Act on Radio and Television (RTVA) is about to be replaced by a new law on electronic media. The draft law was presented by OFCOM-BAKOM and has been open to consultation by all stakeholders since June 2018. A legislative proposal will then be submitted to parliament by the government (Federal Council). The material scope of media regulation might be extended to VOD AVMS providers.¹⁰

4.5.8. Studies, reports and researches

N/A.

4.5.9. Applicable regulatory framework

- Primary legislation:
 - In German – Bundesgesetz über Radio und Fernsehen (RTVG): <https://www.admin.ch/opc/de/classified-compilation/20001794/index.html>
 - In French – Loi fédérale sur la radio et la télévision (LRTV): <https://www.admin.ch/opc/fr/classified-compilation/20001794/index.html>
 - In English – Federal Act on Radio and Television (RTVA): <https://www.admin.ch/opc/en/classified-compilation/20001794/index.html>
 - In German – Bundesgesetz über Filmproduktion und Filmkultur (Filmgesetz, FiG): <https://www.admin.ch/opc/de/classified-compilation/20001389/index.html>
 - In French – Loi fédérale sur la culture et la production cinématographiques (Loi sur le cinéma, LCin): <https://www.admin.ch/opc/fr/classified-compilation/20001389/index.html>

¹⁰ <https://www.uvek.admin.ch/uvek/fr/home/communication/loi-sur-les-medias-electroniques.html>



- In English – Federal Act on Film Production and Film Culture (Film Act, FiA): <https://www.admin.ch/opc/en/classified-compilation/20001389/index.html>
- Secondary legislation:
 - In German – Radio- und Fernsehverordnung (RTVV): <https://www.admin.ch/opc/de/classified-compilation/20063007/index.html>
 - In French – Ordonnance sur la radio et la télévision (ORTV): <https://www.admin.ch/opc/fr/classified-compilation/20063007/index.html>
 - In English – Ordinance on Radio and Television (RTVO): <https://www.admin.ch/opc/en/classified-compilation/20063007/index.html>
- Contractual arrangement:
 - In German – Konzession für die SRG SSR idée suisse : <https://www.bakom.admin.ch/bakom/de/home/elektronische-medien/informationen-ueber-radio-und-fernsehveranstalter/srg-ssr/konzessionierung-und-technik-srg-ssr.html>
 - In French - Concession octroyée à SRG SSR idée suisse: <https://www.bakom.admin.ch/bakom/fr/page-daccueil/medias-electroniques/informations-concernant-les-diffuseurs-de-programmes/srg-ssr/octroi-de-concession-et-technique-srg-ssr.html>
 - In English – Licence for the SRG SSR idée Suisse: https://www.bakom.admin.ch/dam/bakom/de/dokumente/2013/06/licence_for_the_srgssrstatusasof1june2013.pdf.download.pdf/licence_for_the_srgssrstatusasof1june2013.pdf
 - In German – Vereinbarung – Pacte de l’audiovisuel: https://www.srgssr.ch/fileadmin/dam/documents/Kultur/Pacte_audiovisuel_2016-2019_Vereinbarung.pdf
 - In English – Pacte de l’audiovisuel: <https://www.srgssr.ch/en/what-we-do/culture/film/pacte-de-laudiovisuel/>

4.5.10. Data compilation

This factsheet was produced based on data compiled by Matthias Bürcher, Head of PICS and co-productions, Federal Office of Culture.



4.6. CY – Cyprus – National legal summary¹¹

4.6.1. Summary

Table 85. Cyprus - Summary of the existing obligations – by type and player

| Obligation | Player | Main feature |
|---|---|--|
| Financial investment obligations | Linear AVMS providers | Broadcasters shall reserve, where practicable and by appropriate means, at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters. |
| | Non-linear AVMS providers | VOD services shall promote, where practicable and by appropriate means, the production of and the access to European works. |
| | Distributors | No obligation. |
| Levies | Linear AVMS providers | No obligation. |
| | Non-linear AVMS providers | No obligation. |
| | Distributors | No obligation. |
| | Theatres | No obligation. |
| | Video industry | No obligation. |
| | Other | No obligation. |
| Promotion | Quotas European works linear AVMS providers | Broadcasters shall reserve at least 50% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping) for European works. |
| | Quotas independent works linear AVMS providers | Broadcasters shall reserve, where practicable and by appropriate means, at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters. |
| | Quotas non-linear AVMS providers | VOD services shall promote, where practicable and by appropriate means, the production of and the access to European works. |

¹¹ The factsheet on Cyprus incorporates the feedback received from Elena Christodoulidou (Cinema Advisory Committee of Cyprus) during the checking round with the national film funds.



| | | |
|--|---|---|
| | Prominence non-linear AVMS providers | VOD services shall promote, where practicable and by appropriate means, the production of and the access to European works. |
|--|---|---|

Source: Cypriot response to European Audiovisual Observatory standardised survey

4.6.2. Definitions

Article 28 of the Radio and Television Broadcasters Law defines European works as follows:

“(1) For purposes of this PART, the term “European works” shall mean:

(a) works originating in Member States;

(b) works originating in European third countries which are parties to the European Convention on Transfrontier Television of the Council of Europe and fulfil the conditions of subsection (2) of this section;

(c) works co-produced within the framework of agreements related to the audiovisual sector concluded between the European Community and third countries which fulfil the conditions defined in each of those agreements;

Provided that the application of the provisions of paragraphs (b) and (c) shall be conditional on works originating in Member States which are not subject to discriminatory measures in the third countries concerned.

(2) The works referred to in paragraphs (a) and (b) are works mainly made with creators and workers residing in one or more of the States referred to in paragraphs (a) and (b) of subsection (1), provided that they comply with one of the following three conditions:

(i) they are made by one or more producers established in one or more of those States; or

(ii) production of the works is supervised and actually controlled by one or more producers established in one or more of those States;

(iii) the contribution of co-producers of those States to the total co-production costs is preponderant and the co-production is not controlled by one or more producers established outside those States.

(3) Works that are not European works within the meaning of subsection (1) but are produced within the framework of bilateral co-production treaties concluded between Member States and third countries shall be deemed to be European works, provided that the co-producers from the European Union supply a majority share of the total cost of production and that the production is not controlled by one or more producers established outside the territory of the Member States.”

**Table 86. Cyprus - Definition of the main concepts in terms of the promotion of EU works**

| Concept | Definition |
|----------------------|------------|
| European works | Yes. |
| Independent producer | No. |
| Prominence | No. |

Source: Cypriot response to European Audiovisual Observatory standardised survey

4.6.3. Financial investment obligations

4.6.3.1. Financial investment obligations by linear AVMS providers (broadcasters)

Broadcasters shall reserve, where practicable and by appropriate means, at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters (Article 27(2) of the Radio and Television Broadcasters Law).

The following services are exempt:

- services that are intended for local audiences and do not form part of a national network;
- thematic services broadcasting sports or musical programmes.

Table 87. Cyprus - Main features of the financial investment scheme for broadcasters

| Feature | Description |
|---|--|
| Legal basis for the investment | Radio and Television Broadcasters Law. |
| Level of investment | 10% of the transmission time or 10% of the programming budget. |
| Mandatory, optional or voluntary investment | Optional. |
| Nature of the investment | Pre-acquisition, co-production or production. |
| Distinction between genres in which to invest | No. |
| Distinction between public or private broadcasters | No. |
| Level of investment in European works | No. |
| Level of investment in independent works | Yes. |
| Level of investment in works in a national language | No. |



| | |
|---|-----|
| Investment scheme applicable to foreign broadcasters | No. |
| Other type of investment | No. |

Source: Cypriot response to European Audiovisual Observatory standardised survey

4.6.3.2. Financial investment obligations by non-linear AVMS (VOD) providers

VOD services shall promote, where practicable and by appropriate means, the production of and the access to European works (Article 31A(2) of the Radio and Television Broadcasters Law).

Table 88. Cyprus - Main features of the investment scheme for VOD providers

| Feature | Description |
|--|---|
| Legal basis for the investment | Radio and Television Broadcasters Law. |
| Level of the investment | No specific level. |
| Mandatory, optional or voluntary investment | Optional. |
| Nature of the investment | Pre-acquisition, co-production or production. |
| Distinction between genres in which to invest | No. |
| Distinction between public or private services | No. |
| Level of investment in European works | No specific level. |
| Level of investment in independent works | No. |
| Level of investment in works in a national language | No. |
| Investment scheme applicable to foreign VOD providers | No. |
| Other type of investment | Yes. |

Source: Cypriot response to European Audiovisual Observatory standardised survey

4.6.3.3. Financial investment obligations by distributors

Table 89. Cyprus - Main features of the investment scheme for distributors

| Feature | Description |
|---|-------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |
| Mandatory, optional or voluntary | N/A. |



| | |
|--|------|
| investment | |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Other type of investment | N/A. |

Source: Cypriot response to European Audiovisual Observatory standardised survey

4.6.4. Levies

4.6.4.1. Levies on linear AVMS providers (broadcasters)

Table 90. Cyprus - Main features of the levies on broadcasters

| Feature | Description |
|--|--------------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private broadcasters | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign broadcasters | N/A. |

Source: Cypriot response to European Audiovisual Observatory standardised survey

4.6.4.2. Levies on non-linear AVMS providers (VOD services)

Table 91. Cyprus - Main features of the levies on VOD services

| Feature | Description |
|----------------|--------------------|
|----------------|--------------------|



| | |
|--|------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private VOD services | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign VOD services | N/A. |

Source: Cypriot response to European Audiovisual Observatory standardised survey

4.6.4.3. Levies on distributors

Table 92. Cyprus - Main features of the levies on distributors

| Feature | Description |
|--|--------------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Cypriot response to European Audiovisual Observatory standardised survey

4.6.4.4. Levies on theatres (cinema tickets)

Table 93. Cyprus - Main features of the levies on theatres (cinema tickets)

| Feature | Description |
|--|--------------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |



| | |
|---|------|
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Cypriot response to European Audiovisual Observatory standardised survey

4.6.4.5. Levies on the video industry

Table 94. Cyprus - Main features of the levies on the video industry

| Feature | Description |
|--|--------------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Cypriot response to European Audiovisual Observatory standardised survey

4.6.4.6. Other levies

N/A.

4.6.5. Quota obligations

4.6.5.1. Quotas for linear AVMS providers (broadcasters) – EU works

Broadcasters shall reserve at least 50% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping) for European works (Article 27(1) of the Radio and Television Broadcasters Law).

The following services are exempt:

- services that are intended for local audiences and do not form part of a national network;
- thematic services broadcasting sports or musical programmes.

Table 95. Cyprus - Main features of the quota for broadcasters – EU works

| Feature | Description |
|----------------|--------------------|
|----------------|--------------------|



| | |
|--|--|
| Legal basis of the obligation | Radio and Television Broadcasters Law. |
| Level of the quota | 50% of the transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | No. |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Cypriot response to European Audiovisual Observatory standardised survey

4.6.5.2. Quotas for linear AVMS providers (broadcasters) – independent works

Broadcasters shall reserve, where practicable and by appropriate means, at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters (Article 27(2) of the Radio and Television Broadcasters Law).

The following services are exempt:

- services that are intended for local audiences and do not form part of a national network;
- thematic services broadcasting sports or musical programmes.

Table 96. Cyprus - Main features of the quota for broadcasters – independent works

| Feature | Description |
|--|--|
| Legal basis of the obligation | Radio and Television Broadcasters Law. |
| Level of the quota | 10% of the transmission time or 10% of the programming budget. |
| Flexibility in achieving the quota (“where practicable...”) | Yes. |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | Yes. |
| Quotas for specific genres | Yes. |
| Quotas for national works or works in a national language | No. |



| | |
|---|-----|
| Quotas for non-national EU works | No. |
|---|-----|

Source: Cypriot response to European Audiovisual Observatory standardised survey

4.6.5.3. Quotas for non-linear AVMS providers (VOD services)

VOD services shall promote, where practicable and by appropriate means, the production of and the access to European works (Article 31A(2) of the Radio and Television Broadcasters Law).

In order to comply with this obligation, they shall include, at any moment, in the list of works accessible to consumers, titles of European works at a percentage of at least 20%. This percentage may be reviewed periodically by the regulatory authority (CRTA) after consultations with the VOD providers.

Table 97. Cyprus - Main features of the quota for VOD services – EU works

| Feature | Description |
|--|--|
| Legal basis of the obligation | Radio and Television Broadcasters Law. |
| Level of the quota | 20% of the catalogue. |
| Flexibility in achieving the quota (“where appropriate...”) | No. |
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of VOD services | Yes. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Cypriot response to European Audiovisual Observatory standardised survey

4.6.6. Prominence obligations

VOD services shall promote, where practicable and by appropriate means, the production of and the access to European works (Article 31A(2) of the Radio and Television Broadcasters Law).

Table 98. Cyprus - Main features of the prominence obligation for VOD services

| Feature | Description |
|--------------------------------------|--|
| Legal basis of the obligation | Radio and Television Broadcasters Law. |



| | |
|---|-----|
| Means of giving prominence imposed | No. |
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of VOD services | No. |
| Prominence to give to specific genres | No. |
| Prominence to give to national works or works in a national language | No. |
| Prominence to give to non-national EU works | No. |

Source: Cypriot response to European Audiovisual Observatory standardised survey

4.6.7. Envisaged amendments to the regulatory framework

N/A.

4.6.8. Studies, reports and researches

N/A.

4.6.9. Applicable regulatory framework

- Primary legislation:
 - In Greek – Radio and Television Broadcasters Law:
http://www.cylaw.org/nomoi/indexes/1998_1_7.html
 - In Greek – Cyprus Broadcasting Corporation Law (Cap. 300A):
http://www.cylaw.org/nomoi/enop/non-ind/0_300A/full.html
 - In English – Radio and Television Broadcasters Law:
<http://www.crta.org.cy/applications/assets/FINAL%20CONSOLIDATED%20LAW%2016.3.17.pdf>

4.6.10. Data compilation

This factsheet was produced based on data compiled by Yorgos Trillidis, Attorney at Law.



4.7. CZ – Czech Republic – National legal summary¹²

4.7.1. Summary

Table 99. Czech Republic – Summary of the existing obligations – by type and player

| Obligation | Player | Main feature |
|---|--|---|
| Financial investment obligations | Linear AVMS providers | Broadcasters shall reserve, where practicable, at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping services), or alternately shall invest at least 10% of their programming budget, for European works created by producers who are independent from broadcasters. |
| | Non-linear AVMS providers | VOD services shall reserve, where practicable, at least 10% of the total number of programmes in their catalogue for European works, or alternately shall invest at least 1% of the total revenues generated by the service in the production of European works or the acquisition of rights to use European works through the service. |
| | Distributors | No obligation. |
| Levies | Linear AVMS providers | Private broadcasters that are licensed for a nationwide and free-to-air coverage via the DTT platform and that show cinematographic works are subject to a levy of 2% of their advertising revenues. |
| | Non-linear AVMS providers | VOD services that have cinematographic works in their catalogue are subject to a levy of 0.5% of the revenues raised by the service. |
| | Distributors | Distributors are subject to a levy of 1% of the revenues raised from their subscribers. |
| | Theatres | Theatres are subject to a levy of 1% of the price of cinema tickets. |
| | Video industry | No obligation. |
| | Other | No obligation. |
| Promotion | Quotas European works linear AVMS providers | Broadcasters shall reserve, where practicable, a majority proportion of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping |

¹² The factsheet on the Czech Republic incorporates the feedback received from Helena Frankova (Czech Cinematography Fund) during the checking round with the national film funds.



| | | |
|--|---|---|
| | | services) for European works. |
| | Quotas independent works linear AVMS providers | Broadcasters shall reserve, where practicable, at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping services), or alternately shall invest at least 10% of their programming budget, for European works created by producers who are independent from broadcasters. |
| | Quotas non-linear AVMS providers | VOD services shall reserve, where practicable, 10% of the total number of programmes in their catalogue for European works, or alternatively shall invest at least 1% of the total revenues generated by the service in the production of European works or the acquisition of rights to use European works through the service. |
| | Prominence non-linear AVMS providers | No obligation. |

Source: Czech response to European Audiovisual Observatory standardised survey

4.7.2. Definitions

Section 46 of the Radio and Television Broadcasting Act defines European works as follows:

“(1) Treated as European works shall be:

- a) works originating from the Member States of the European Union,*
- b) works originating from States which are not Member States of the European Union but are parties to the European Convention on Transfrontier Television, and meeting the conditions specified in Paragraph 3 below, or*
- c) works co-produced within the framework of agreements related to the audiovisual sector concluded between the European Communities and third countries and fulfilling the conditions defined in each of those agreements.*

(2) Provisions of points b) and c) of Paragraph 1 above shall only be applied if works originating in the Member States of the European Union are not the subject of discriminatory measures in the third countries concerned.

(3) The works referred to in points a) and b) of Paragraph 1 above are works mainly made with authors and workers residing in one or more of the States referred to in those provisions, provided that:

- a) such works are made by one or more producers established in one or more of those States,*
- b) the production of such works is supervised and actually controlled by one or more producers established in one or more of those States, or*



c) the contribution of co-producers of those States to the total co-production costs is preponderant and the co-production is not controlled by one or more producers established outside those States.

(4) Works that are not European works within the meaning of Paragraph (1) above but that are produced within the framework of bilateral co-production agreements concluded between Member States and third countries shall be deemed to be European works, provided that the co-producers from the Member States of the European Union supply a majority share of the total cost of production and that the production is not controlled by one or more producers established outside the territory of the Member States of the European Union.”

Section 43 of the Radio and Television Broadcasting Act defines an independent producer as follows:

“(3) Treated as an independent producer shall be any legal person or natural person which or who is not a television broadcaster and is not interconnected with a television broadcaster in property terms, or whose supply of works to a single television broadcaster does not exceed 90% of its total production over 3 years. A person interconnected with a television broadcaster in property terms shall be understood to mean a person holding voting rights or an ownership interest in the television broadcaster or a person in which a television broadcaster holds voting rights or an ownership interest.”

Table 100. Czech Republic – Definition of the main concepts in terms of the promotion of EU works

| Concept | Definition |
|----------------------|------------|
| European works | Yes. |
| Independent producer | Yes. |
| Prominence | No. |

Source: Romanian response to European Audiovisual Observatory standardised survey

4.7.3. Financial investment obligations

4.7.3.1. Financial investment obligations by linear AVMS providers (broadcasters)

Broadcasters shall reserve, where practicable, at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping services), or alternately shall invest at least 10% of their programming budget, for European works created by producers who are independent from broadcasters (section 42 of the Radio and Television Broadcasting Act).

**Table 101. Czech Republic – Main features of the financial investment scheme for broadcasters**

| Feature | Description |
|--|---|
| Legal basis for the investment | Radio and Television Broadcasting Act. |
| Level of investment | 10% of the transmission time where practicable, or 10% of the programming budget. |
| Mandatory, optional or voluntary investment | Optional. |
| Nature of the investment | Pre-acquisition or co-production. |
| Distinction between genres in which to invest | No. |
| Distinction between public or private broadcasters | No. |
| Level of investment in European works | No. |
| Level of investment in independent works | Yes. |
| Level of investment in works in a national language | No. |
| Investment scheme applicable to foreign broadcasters | No. |
| Other type of investment | No. |

Source: Czech response to European Audiovisual Observatory standardised survey

4.7.3.2. Financial investment obligations by non-linear AVMS (VOD) providers

VOD providers shall reserve, where practicable, at least 10% of the total number of programmes in their catalogue for European works, or alternately shall invest at least 1% of the total revenues generated by the service in the production of European works or the acquisition of rights to use European works through the service (Article 7 of the On-demand Audiovisual Media Services Act).

Table 102. Czech Republic – Main features of the investment scheme for VOD providers

| Feature | Description |
|---|--|
| Legal basis for the investment | On-demand Audiovisual Media Services Act. |
| Level of the investment | 10% of the programmes in the catalogue or 1% of the revenues generated by the service. |
| Mandatory, optional or voluntary investment | Optional. |
| Nature of the investment | Pre-acquisition, co-production or production. |
| Distinction between genres in which to invest | No. |
| Distinction between public or private | No. |



| | |
|---|------|
| services | |
| Level of investment in European works | No. |
| Level of investment in independent works | No. |
| Level of investment in works in a national language | No. |
| Investment scheme applicable to foreign VOD providers | N/A. |
| Other type of investment | N/A. |

Source: Czech response to European Audiovisual Observatory standardised survey

4.7.3.3. Financial investment obligations by distributors

Table 103. Czech Republic – Main features of the investment scheme for distributors

| Feature | Description |
|---|-------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Other type of investment | N/A. |

Source: Czech response to European Audiovisual Observatory standardised survey

4.7.4. Levies

4.7.4.1. Levies on linear AVMS providers (broadcasters)

Private broadcasters that are licensed for a nationwide and free-to-air coverage via the DTT platform and that show cinematographic works are subject to a levy of 2% of their advertising revenues (sections 28a, 28b and 28c of the Act on Audiovisual Works and Support for Cinematography).

All other broadcasters (public, local and regional broadcasts without a conditional access system or broadcasts on a platform other than DTT) are exempt.



If the yearly amount raised by this levy is in excess of 150 000.000 Czech koruna (CZK), the respective contribution of each broadcaster is raised in an appropriate proportion in order to reach that amount.

Table 104. Czech Republic – Main features of the levies on broadcasters

| Feature | Description |
|---|---|
| Legal basis of the levy | Act on Audiovisual Works and Support for Cinematography |
| Criteria used to determine the levy | 2% of advertising revenues. |
| Mandatory or optional obligation | Mandatory. |
| Ceiling to the levy imposed | No. |
| Distinction between genres on which to spend the levy | No. |
| Distinction between public and private broadcasters | Yes. |
| Authority gathering and controlling the amount due | State Cinematography Fund. |
| Authority benefiting from the amount due | State Cinematography Fund. |
| Levy applicable to foreign broadcasters | No. |

Source: Czech response to European Audiovisual Observatory standardised survey

4.7.4.2. Levies on non-linear AVMS providers (VOD services)

VOD services that have cinematographic works in their catalogue are subject to a levy of 0.5% of the revenues raised by the service (section 27 of the Act on Audiovisual Works and Support for Cinematography).

Table 105. Czech Republic – Main features of the levies on VOD services

| Feature | Description |
|---|--|
| Legal basis of the levy | Act on Audiovisual Works and Support for Cinematography. |
| Criteria used to determine the levy | 0.5% of the revenues raised by the service. |
| Mandatory or optional obligation | Mandatory. |
| Ceiling to the levy imposed | No. |
| Distinction between genres on which to spend the levy | No. |
| Distinction between public and private VOD services | No. |
| Authority gathering and controlling the amount due | State Cinematography Fund. |
| Authority benefiting from the amount due | State Cinematography Fund. |



| | |
|--|-----|
| Levy applicable to foreign VOD services | No. |
|--|-----|

Source: Czech response to European Audiovisual Observatory standardised survey

4.7.4.3. Levies on distributors

Distributors are subject to a levy of 1% of the revenues raised from their subscribers (section 28 of the Act on Audiovisual Works and Support for Cinematography).

Table 106. Czech Republic – Main features of the levies on distributors

| Feature | Description |
|--|--|
| Legal basis of the levy | Act on Audiovisual Works and Support for Cinematography. |
| Criteria used to determine the levy | 1% of the revenues raised from the subscribers. |
| Mandatory or optional obligation | Mandatory. |
| Ceiling to the levy imposed | No. |
| Distinction between genres on which to spend the levy | No. |
| Authority gathering and controlling the amount due | State Cinematography Fund. |
| Authority benefiting from the amount due | State Cinematography Fund. |

Source: Czech response to European Audiovisual Observatory standardised survey

4.7.4.4. Levies on theatres (cinema tickets)

Theatres are subject to a levy of 1% of the price of cinema tickets (Article 26 of the Act on Audiovisual Works and Support for Cinematography).

Table 107. Czech Republic – Main features of the levies on theatres (cinema tickets)

| Feature | Description |
|--|--|
| Legal basis of the levy | Act on Audiovisual Works and Support for Cinematography. |
| Criteria used to determine the levy | 1% of the price of cinema tickets. |
| Distinction between genres on which to spend the levy | No. |
| Authority gathering and controlling the amount due | State Cinematography Fund. |
| Authority benefiting from the amount due | State Cinematography Fund. |

Source: Czech response to European Audiovisual Observatory standardised survey



4.7.4.5. Levies on the video industry

Table 108. Czech Republic – Main features of the levies on the video industry

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Czech response to European Audiovisual Observatory standardised survey

4.7.4.6. Other levies

N/A.

4.7.5. Quota obligations

4.7.5.1. Quotas for linear AVMS providers (broadcasters) – EU works

Broadcasters shall reserve, where practicable, a majority proportion of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping services) for European works (section 42 of the Radio and Television Broadcasting Act).

Normally, a lower proportion of European works is implemented in the licence. This lower proportion has to be justified by the broadcaster either during the licensing procedure or when it provides its report on the promotion of European works to the regulatory authority.

Table 109. Czech Republic – Main features of the quota for broadcasters – EU works

| Feature | Description |
|---|--|
| Legal basis of the obligation | Radio and Television Broadcasting Act. |
| Level of the quota | 50% of the transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | Yes. |
| Distinction between public or private | No. |



| | |
|--|-----|
| broadcasters | |
| Derogations available for certain types of broadcasters | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Czech response to European Audiovisual Observatory standardised survey

4.7.5.2. Quotas for linear AVMS providers (broadcasters) – independent works

Broadcasters shall reserve, where practicable, at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping services), or alternately shall invest at least 10% of their programming budget, for European works created by producers who are independent from broadcasters (section 42 of the Radio and Television Broadcasting Act).

Normally, a lower proportion of independent European works is implemented in the licence. This lower proportion has to be justified by the broadcaster either during the licensing procedure or when it provides its report on the promotion of European works to the regulatory authority.

Table 110. Czech Republic – Main features of the quota for broadcasters – independent works

| Feature | Description |
|--|---|
| Legal basis of the obligation | Radio and Television Broadcasting Act. |
| Level of the quota | 10% of the transmission time where practicable, or 10% of the programming budget. |
| Flexibility in achieving the quota (“where practicable...”) | Yes. |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Czech response to European Audiovisual Observatory standardised survey



4.7.5.3. Quotas for non-linear AVMS providers (VOD services)

VOD services shall reserve, where practicable, 10% of the programmes in their catalogue for European works, or alternatively shall invest at least 1% of the total revenues generated by the service in the production of European works or the acquisition of rights to use European works through the service (Article 7 of the On-demand Audiovisual Media Services Act).

Table 111. Czech Republic – Main features of the quota for VOD services – EU works

| Feature | Description |
|--|--|
| Legal basis of the obligation | On-demand Audiovisual Media Services Act |
| Level of the quota | 10% of the programmes in the catalogue or 1% of the revenues generated by the service. |
| Flexibility in achieving the quota (“where practicable...”) | Yes. |
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of VOD services | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Czech response to European Audiovisual Observatory standardised survey

4.7.6. Prominence obligations

Table 112. Czech Republic – Main features of the prominence obligation for VOD services

| Feature | Description |
|---|-------------|
| Legal basis of the obligation | N/A. |
| Means of giving prominence imposed | N/A. |
| Distinction between public or private VOD services | N/A. |
| Derogations available for certain types of VOD services | N/A. |
| Prominence to give to specific genres | N/A. |
| Prominence to give to national works or works in a national language | N/A. |



| | |
|---|------|
| Prominence to give to non-national EU works | N/A. |
|---|------|

Source: Czech response to European Audiovisual Observatory standardised survey

4.7.7. Envisaged amendments to the regulatory framework

N/A.

4.7.8. Studies, reports and researches

N/A.

4.7.9. Applicable regulatory framework

- Primary legislation:
 - In Czech – Zákon č. 496/2012 Sb., o audiovizuálních dílech a podpoře kinematografie a o změně některých zákonů (Act on Audiovisual Works and Support for Cinematography): <https://fondkinematografie.cz/assets/media/files/Honza/Z%C3%A1kon%20o%20audiovizi%20-%20platn%C3%A9%20zn%C4%9Bn%C3%AD.pdf>
 - In Czech – Zákon o provozování rozhlasového a televizního vysílání a o změně dalších zákonů (Radio and Television Broadcasting Act): <https://www.rrtv.cz/cz/static/cim-se-ridime/stavajici-pravni-predpisy/pdf/231-2001.pdf>
 - In Czech – Zákon o audiovizuálních mediálních službách na vyžádání a o změně některých zákonů (On-demand Audiovisual Media Services Act): <https://www.rrtv.cz/cz/static/cim-se-ridime/stavajici-pravni-predpisy/pdf/132-2010.pdf>
 - In English – Act on Audiovisual Works and Support for Cinematography: <https://fondkinematografie.cz/english/legislative.html>
 - In English – Radio and Television Broadcasting Act: <https://www.rrtv.cz/en/static/documents/act-231-2001/Act-on-RTV-broadcasting-reflecting-AVMSD.pdf>
 - In English – On-demand Audiovisual Media Services Act: <https://www.rrtv.cz/en/static/documents/act-231-2001/Act-on-RTV-broadcasting-reflecting-AVMSD.pdf>



4.7.10. Data compilation

This factsheet was produced based on data compiled by Antonín Hedrlín, Attorney at Law.



4.8. DE – Germany – National legal summary¹³

4.8.1. Summary

Table 113. Germany – Summary of the existing obligations – by type and player

| Obligation | Player | Main feature |
|----------------------------------|---------------------------|---|
| Financial investment obligations | Linear AVMS providers | The television broadcasters shall contribute to securing German and European film and television productions as a cultural asset and as part of the audiovisual heritage. (Article 6.1) Regarding the public service media, Article 6, section 4, of the Treaty states that “as part of its programming remit and taking into account the principles of efficiency and economy, public-service broadcasting is entitled to participate in film promotion in order to secure the quality and quantity of the programming procured, without any immediate return consideration being required.” This provision partly translates in practice by the conclusion of a voluntary agreement (“Film-Fernseh-Abkommen”) between ARD, ZDF and the German Federal Film Board (FFA – Filmförderungsanstalt) which details the ways in which ARD and ZDF can invest in audiovisual productions (pre-acquisition, co-production, production). |
| | Non-linear AVMS providers | The same as for linear AVMS providers applies to non-linear offers which consist of programmes which are each activated against individual payment. This concerns pay-per-view-offers which are excluded by definition (§ 2.3.5) as being television but are treated as television-like on demand services in a comparable way in terms of the obligations such as the ones concerning film production support. |
| | Distributors | No obligation. |
| Levies | Linear AVMS providers | Private free-to-air broadcasters whose transmission time contains at least 2% of feature films (with theatrical release) and whose yearly revenues from advertising exceed EUR 750 000, and pay TV broadcasters whose yearly subscription revenues exceed EUR 750 000 are subject to a levy. |

¹³ The factsheet on Germany incorporates the feedback received from Bénérice Honold (German Federal Film Board) during the checking round with the national film funds. The data provided covers only the federal level. In German law non-linear media service providers cannot be translated as VoD services.



| | | |
|------------------|---|--|
| | | <p>The levy for free-to-air broadcasters is between 0.15% and 0.95% of their turnover, depending on the volume of feature films in their total transmission time. The levy for pay TV broadcasters is 0.25% of their net subscription revenues.</p> <p>Public broadcasters are subject to a levy of 3% of the costs incurred for the transmission of feature films, including, <i>inter alia</i>, the costs of licences, distribution, co-production and administration.</p> |
| | Non-linear AVMS providers | <p>VOD providers (licence holders) that distribute feature films made for commercial purposes are subject to a levy of 1.8% of their yearly turnover (2.5% if their turnover exceeds EUR 20 million) if their turnover from the exploitation of feature films exceeds EUR 500 000 per year.</p> <p>The levy also applies to foreign VOD providers targeting the German public.</p> |
| | Distributors | The levy for distributors as defined in the present mapping is 0.25% of their net subscription revenues. |
| | Theatres | Theatres who exploit film over 58 minutes are subject to a levy if their yearly turnover with tickets exceeds EUR 100.000: 1.8% of their yearly turnover if it does not exceed EUR 200 000; 2.4% of their yearly turnover if it does not exceed EUR 300 000; and 3% of their yearly turnover if it exceeds EUR 300 000. |
| | Video industry | Video distributors (licence holders) who exploit films over 58 minutes long as licence holders on DVD or Blu-ray Disc by sell-through or rental are subject to a levy of 1.8% of their yearly turnover (2.5% if their turnover exceeds EUR 20 000 000) if their yearly net turnover is more than EUR 500.000 and at least 2% share of this turnover made with feature films. |
| | Other | No obligation. |
| Promotion | Quotas European works linear AVMS providers | Television broadcasters should reserve the majority proportion of the time devoted to the transmission of feature films, films made for television, series, documentaries and comparable productions overall for European works in accordance with European law. |
| | Quotas independent works linear AVMS providers | General television channels should comprise a significant proportion of own productions as well as commissioned and joint productions originating in the German-language regions and Europe as a whole. The same requirement relates to thematic channels as far as this is feasible regarding their focus in terms of content. |
| | Quotas non-linear AVMS providers | The same as for linear AVMS providers applies to non-linear offers which consist of programmes which are each activated against individual payment. This provision targets pay-per-view-offers which are excluded by definition as being television but are treated as television-like on demand services in a comparable way in terms of the obligations such as |



| | | |
|--|---|--|
| | | the ones concerning film production support. |
| | Prominence non-linear AVMS providers | No obligation. |

Source: German response to European Audiovisual Observatory standardised survey

4.8.2. Definitions

N/A.

Table 114. Germany – Definition of the main concepts in terms of the promotion of EU works

| Concept | Definition |
|-----------------------------|-----------------------|
| European works | No. |
| Independent producer | Not at federal level. |
| Prominence | No. |

Source: German response to European Audiovisual Observatory standardised survey

4.8.3. Financial investment obligations

4.8.3.1. Financial investment obligations by linear AVMS providers (broadcasters)

Television broadcasters shall contribute to securing German and European film and television productions as a cultural asset and as part of the audiovisual heritage.

Regarding the public service broadcasters, Article 6, section 4, of the Treaty states that “as part of its programming remit and taking into account the principles of efficiency and economy, public-service broadcasting is entitled to participate in film promotion in order to secure the quality and quantity of the programming procured, without any immediate return consideration being required.” This provision partly translates in practice by the conclusion of a voluntary agreement (“Film-Fernseh-Abkommen”) between ARD, ZDF and the German Federal Film Board (FFA – Filmförderungsanstalt) which details the ways in which ARD and ZDF can invest in audiovisual productions (pre-acquisition, co-production, production).

Table 115. Germany – Main features of the financial investment scheme for broadcasters

| Feature | Description |
|---|--|
| Legal basis for the investment | Interstate Treaty on Broadcasting and Telemedia. |
| Level of investment | No specific level. |
| Mandatory, optional or voluntary | Partly mandatory, partly voluntary. |



| | |
|--|---|
| investment | |
| Nature of the investment | Pre-acquisition, co-production or production. |
| Distinction between genres in which to invest | No. |
| Distinction between public or private broadcasters | No. |
| Level of investment in European works | No specific level. |
| Level of investment in independent works | No specific level. |
| Level of investment in works in a national language | No specific level. |
| Investment scheme applicable to foreign VOD providers | No. |
| Other type of investment | No. |

Source: German response to European Audiovisual Observatory standardised survey

4.8.3.2. Financial investment obligations by non-linear AVMS (VOD) providers

The same as for linear AVMS providers applies to non-linear offers which consist of programmes which are each activated against individual payment. This concerns pay-per-view-offers which are excluded by definition as being television (§ 2.3.5.) but are treated as television-like on demand services in a comparable way in terms of the obligations such as the ones concerning film production support.

Table 116. Germany – Main features of the investment scheme for VOD providers

| Feature | Description |
|---|--|
| Legal basis for the investment | Interstate Treaty on Broadcasting and Telemedia. |
| Level of the investment | No specific level. |
| Mandatory, optional or voluntary investment | Partly mandatory, partly voluntary. |
| Nature of the investment | Pre-acquisition, co-production or production. |
| Distinction between genres in which to invest | No. |
| Distinction between public or private services | No. |
| Level of investment in European works | No specific level. |
| Level of investment in independent works | No specific level. |
| Level of investment in works in a national language | No specific level. |
| Investment scheme applicable to foreign broadcasters | No. |



| | |
|---------------------------------|-----|
| Other type of investment | No. |
|---------------------------------|-----|

Source: German response to European Audiovisual Observatory standardised survey

4.8.3.3. Financial investment obligations by distributors

Table 117. Germany – Main features of the investment scheme for distributors

| Feature | Description |
|--|-------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Other type of investment | N/A. |

Source: German response to European Audiovisual Observatory standardised survey

4.8.4. Levies

4.8.4.1. Levies on linear AVMS providers (broadcasters)

Private free-to-air broadcasters whose transmission time contains at least 2% of feature films (with theatrical release) and whose yearly revenues from advertising exceed EUR 750 000, and pay TV broadcasters whose yearly subscription revenues exceed EUR 750 000 are subject to a levy (section 155 and section 156 of the German Film Law).

The levy for free-to-air broadcasters is between 0.15% and 0.95% of their turnover, depending on the volume of feature films in their total transmission time. The levy for pay TV broadcasters is 0.25% of their net subscription revenues.

Public broadcasters are subject to a levy of 3% of the costs incurred for the transmission of feature films, including, *inter alia*, the costs of licences, distribution, co-production and administration (section 154 of the German Film Law).

**Table 118. Germany – Main features of the levies on broadcasters**

| Feature | Description |
|---|---|
| Legal basis of the levy | German Film Law. |
| Criteria used to determine the levy | Private broadcasters: between 0.15% and 0.95% of their turnover. Pay TV broadcasters: 0.25% of their net subscription revenues. Public broadcasters: 3% of the costs of transmitting feature films. |
| Mandatory or optional obligation | Mandatory. |
| Ceiling to the levy imposed | No. |
| Distinction between genres on which to spend the levy | No. |
| Distinction between public and private broadcasters | Yes. |
| Authority gathering and controlling the amount due | German Federal Film Board. |
| Authority benefiting from the amount due | German Federal Film Board. |
| Levy applicable to foreign broadcasters | No. |

Source: German response to European Audiovisual Observatory standardised survey

4.8.4.2. Levies on non-linear AVMS providers (VOD services)

VOD providers (licence holders) that distribute feature films made for commercial purposes are subject to a levy of 1.8% of their yearly turnover (2.5% if their turnover exceeds EUR 20 million) if their turnover through feature films exceeds EUR 500 000/year (section 153 of the German Film Law).

The levy also applies to foreign VOD providers targeting the German public.

Table 119. Germany – Main features of the levies on VOD services

| Feature | Description |
|---|--|
| Legal basis of the levy | German Film Law. |
| Criteria used to determine the levy | Between 1.8% and 2.5% of the turnover. |
| Mandatory or optional obligation | Mandatory. |
| Ceiling to the levy imposed | No. |
| Distinction between genres on which to spend the levy | No. |
| Distinction between public and private VOD services | No. |
| Authority gathering and controlling the | German Federal Film Board. |



| | |
|---|----------------------------|
| amount due | |
| Authority benefiting from the amount due | German Federal Film Board. |
| Levy applicable to foreign VOD services | Yes. |

Source: German response to European Audiovisual Observatory standardised survey

4.8.4.3. Levies on distributors

The levy for distributors as defined in the present mapping is 0.25% of their net subscription revenues.

Table 120. Germany – Main features of the levies on distributors

| Feature | Description |
|--|---|
| Legal basis of the levy | German Film Law. |
| Criteria used to determine the levy | 0.25% of the net subscription revenues. |
| Mandatory or optional obligation | Mandatory. |
| Ceiling to the levy imposed | No. |
| Distinction between genres on which to spend the levy | No. |
| Authority gathering and controlling the amount due | German Federal Film Board. |
| Authority benefiting from the amount due | German Federal Film Board. |

Source: German response to European Audiovisual Observatory standardised survey

4.8.4.4. Levies on theatres (cinema tickets)

Theatres which exploit films of over 58 minutes are subject to a levy if their yearly turnover with tickets exceeds EUR 100.000:

- 1.8% of their yearly turnover if it does not exceed EUR 200 000;
- 2.4% of their yearly turnover if it does not exceed EUR 300 000;
- 3% of their yearly turnover if it exceeds EUR 300 000 (section 151 of the German Film Law).

Table 121. Germany – Main features of the levies on theatres (cinema tickets)

| Feature | Description |
|--|-------------------------------------|
| Legal basis of the levy | German Film Law. |
| Criteria used to determine the levy | Between 1.8 and 3% of the turnover. |
| Distinction between genres on which to spend the levy | No. |



| | |
|---|----------------------------|
| Authority gathering and controlling the amount due | German Federal Film Board. |
| Authority benefiting from the amount due | German Federal Film Board. |

Source: German response to European Audiovisual Observatory standardised survey

4.8.4.5. Levies on the video industry

Video distributors (licence holders) who exploit films over 58 minutes long on DVD or Blu-ray Disc by sell-through or rental are subject to a levy of 1.8% of their yearly turnover (2.5% if their turnover exceeds EUR 20 000 000) if their yearly net turnover is more than EUR 500 000 and at least 2% share of this turnover made with feature films (§152 of the German Film Law).

Table 122. Germany – Main features of the levies on the video industry

| Feature | Description |
|--|---------------------------------------|
| Legal basis of the levy | German Film Law. |
| Criteria used to determine the levy | Between 1.8 and 2.5% of the turnover. |
| Distinction between genres on which to spend the levy | No. |
| Authority gathering and controlling the amount due | German Federal Film Board. |
| Authority benefiting from the amount due | German Federal Film Board. |

Source: German response to European Audiovisual Observatory standardised survey

4.8.4.6. Other levies

N/A.

4.8.5. Quota obligations

4.8.5.1. Quotas for linear AVMS providers (broadcasters) – EU works

Television broadcasters should reserve the majority proportion of the time devoted to the transmission of feature films, films made for television, TV series, documentaries and comparable productions overall for European works in accordance with European law (Article 6(2), of the Interstate Treaty on Broadcasting and Telemedia).

**Table 123. Germany – Main features of the quota for broadcasters – EU works**

| Feature | Description |
|--|---|
| Legal basis of the obligation | Interstate Treaty on Broadcasting and Telemedia. |
| Level of the quota | 50% of the transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | No. |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | No. |
| Quotas for specific genres | The quota is directed to feature films, films made for television, TV series, documentaries and comparable productions. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: German response to European Audiovisual Observatory standardised survey

4.8.5.2. Quotas for linear AVMS providers (broadcasters) – independent works

General television channels should comprise a significant proportion of own productions as well as commissioned and joint productions originating in the German-language regions and Europe as a whole. The same requirement relates to thematic channels as far as this is feasible regarding their focus in terms of content (Article 6(3) of the Interstate Treaty on Broadcasting and Telemedia).

The obligation only applies to general television channels which are defined as broadcasting services of varied content with information, education, advice and entertainment forming a major part of the programming overall, and not special-interest channels.

Table 124. Germany – Main features of the quota for broadcasters – independent works

| Feature | Description |
|--|---|
| Legal basis of the obligation | Interstate Treaty on Broadcasting and Telemedia |
| Level of the quota | No specific level - "a significant proportion". |
| Flexibility in achieving the quota (“where practicable...”) | N/A. |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | Yes. |



| | |
|--|-----|
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: German response to European Audiovisual Observatory standardised survey

4.8.5.3. Quotas for non-linear AVMS providers (VOD services)

The same as for linear AVMS providers applies to non-linear offers which consist of programmes which are each activated against individual payment (Article 58 (3) in conjunction with Article 2 (3) no. 5 Interstate Treaty on Broadcasting and Telemedia). This provision targets pay-per-view-offers which are excluded by definition as being television (§ 2.3.5) but are treated as television-like on demand services in a comparable way in terms of the obligations such as the ones concerning film production support.

Table 125. Germany – Main features of the quota for VOD services – EU works

| Feature | Description |
|--|--|
| Legal basis of the obligation | Interstate Treaty on Broadcasting and Telemedia. |
| Level of the quota | No specific level. |
| Flexibility in achieving the quota (“where appropriate...”) | No. |
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of VOD services | Articles 6(1) and 6(3) only apply to non-linear offers which consist of programmes elements which are each activated against individual payment. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: German response to European Audiovisual Observatory standardised survey

4.8.6. Prominence obligations

Table 126. Germany – Main features of the prominence obligation for VOD services

| Feature | Description |
|---|--------------------|
| Legal basis of the obligation | N/A. |
| Means of giving prominence imposed | N/A. |



| | |
|---|------|
| Distinction between public or private VOD services | N/A. |
| Derogations available for certain types of VOD services | N/A. |
| Prominence to give to specific genres | N/A. |
| Prominence to give to national works or works in a national language | N/A. |
| Prominence to give to non-national EU works | N/A. |

Source: German response to European Audiovisual Observatory standardised survey

4.8.7. Envisaged amendments to the regulatory framework

The Interstate Treaty on Broadcasting and Telemedia (Rundfunkstaatsvertrag) is currently in the process of being amended; there are plans to convert it and shall be transformed into an Interstate Treaty on Media (Medienstaatsvertrag) in the process.

4.8.8. Studies, reports and researches

N/A.

4.8.9. Applicable regulatory framework

- Primary legislation:
 - In German – Staatsvertrag für Rundfunk und Telemedien (Interstate Treaty on Broadcasting and Telemedia):
https://www.die-medienanstalten.de/fileadmin/user_upload/Rechtsgrundlagen/Rundfunkstaatsvertrag_RStV.pdf
 - In German – Filmförderungsgesetz (German Film Law):
<https://www.ffa.de/download.php?f=a8aa7d2a4a9f9c74f714bc64b7d7e218&target=0>
 - In German – Abkommen zwischen FFA und ARD und ZDF “Film-Fernseh-Abkommen“ (Film Agreement):
<https://www.ffa.de/download.php?f=52e4292973874b2b3a4e1b3acb22f27b&target=0>
 - In English – Interstate Treaty on Broadcasting and Telemedia:
https://www.die-medienanstalten.de/fileadmin/user_upload/Rechtsgrundlagen/Gesetze_Staatsvertraege/Rundfunkstaatsvertrag_RStV_20_english_version.pdf



4.8.10. Data compilation

This factsheet was produced based on data compiled by Bérénice Honold and Julia Piaseczny, International and European Affairs, Filmförderungsanstalt – FFA.



4.9. DK – Denmark – National legal summary¹⁴

4.9.1. Summary

Table 127. Denmark – Summary of the existing obligations – by type and player

| Obligation | Player | Main feature |
|----------------------------------|---------------------------|--|
| Financial investment obligations | Linear AVMS providers | <p>The Danish Broadcasting Corporation (DR) and TV 2 shall each invest 65 000 000 Danish krone (DKK) (approximately EUR 9 000 000) per year on Danish films (Media Agreement 2015–2018).</p> <p>Moreover, DR shall delegate production to independent producers for an average of DKK 300 000 000 (approximately EUR 40 000 000) per year within the period of the Media Agreement.</p> <p>The new DR public service contract (2019–2023), negotiated in application of the new Media Agreement for the same period, imposes on DR the obligation to engage in Danish-language short films, documentaries and feature films produced by independent producers at a rate which corresponds to the current investment in terms of the number of titles, that is, 14 fiction films and 23 short films/documentaries per year. The new contract also states that DR shall delegate production to the external market, equalling 14% of DR's public financing over the agreement period.</p> <p>Also, broadcasters shall endeavour to ensure that more than 10% of their transmission time (excluding the time allotted to news, sports events, competitions and teletext services) is reserved for European works.</p> |
| | Non-linear AVMS providers | <p>From 2020, streaming service providers are required to invest 2% of their turnover in Denmark in the form of direct investments in new Danish-language content. The obligation shall apply to all streaming services in the Danish market, including foreign services that target the Danish public. A limit is set so that companies with a turnover of less than DKK 375 000 (approximately EUR 50 000) in Denmark are exempt. The detailed implementation of the arrangement will be agreed between the parties</p> |

¹⁴ The factsheet on Denmark incorporates the feedback received from Palle Dam Leegaard (Danish Film Institute) during the checking round with the national film funds.



| | | |
|------------------|---|--|
| | | to the Media Agreement in the autumn of 2018. |
| | Distributors | No obligation. |
| Levies | Linear AVMS providers | No obligation. |
| | Non-linear AVMS providers | No obligation. |
| | Distributors | No obligation. |
| | Theatres | No obligation. |
| | Video industry | No obligation. |
| | Other | No obligation. |
| Promotion | Quotas European works linear AVMS providers | Broadcasters shall endeavour to ensure that more than half of their transmission time (excluding the time allotted to news, sports events, competitions and teletext services) is reserved for European works. |
| | Quotas independent works linear AVMS providers | Broadcasters shall endeavour to ensure that more than 10% of their transmission time (excluding the time allotted to news, sports events, competitions and teletext services), or alternately 10% of their programming budget, is reserved for European works. |
| | Quotas non-linear AVMS providers | VOD services shall promote, where practicable and by appropriate means, the production of and access to European works. |
| | Prominence non-linear AVMS providers | VOD services shall promote, where practicable and by appropriate means, the production of and access to European works. |

Source: Danish response to European Audiovisual Observatory standardised survey

4.9.2. Definitions

Annex 1 of the Executive Order on programme production based on registration and on-demand audiovisual programme services defines European works as follows:

“1. In this Executive Order, European works shall mean:

- 1) works originating in EU Member States,*
- 2) works originating in European third States party to the European Convention on Transfrontier Television of the Council of Europe and fulfilling the conditions of point 3, and*
- 3) works co-produced within the framework of agreements related to the audiovisual sector concluded between the Community and third countries and fulfilling the conditions defined in each of those agreements.*

2. The application of the provisions of point 1, Nos. 2 and 3, shall be conditional on works originating in Member States not being the subject of discriminatory measures in the third country concerned.



3. The works referred to in point 1, Nos. 1 and 2, are works mainly made with authors and workers residing in one or more of the States referred to in point 1, Nos. 1 and 2, provided that they comply with one of the following three conditions:

1) They are made by one or more producers established in one or more of those States.

2) The production of the works is supervised and actually controlled by one or more producers established in one or more of those States.

3) The contribution of co-producers of those States to the total co-production costs is preponderant and the co-production is not controlled by one or more producers established outside those States.

4. Furthermore, in this Executive Order, works that are not European works as defined in point 1, cf. points 2 and 3, but produced within the framework of bilateral co-production agreements concluded between Member States and third countries shall be deemed to be European works, provided that the co-producers from the Union supply a majority share of the total cost of production and production is not controlled by one or more producers established outside the territory of the Member States.”

In addition, chapter 1 of the Film Act defines film as follows:

“film shall mean motion pictures of any kind, irrespective of their mode of creation or showing, including photographic films and videogrammes, with the exception of television broadcasts.”

Table 128. Denmark – Definition of the main concepts in terms of the promotion of EU works

| Concept | Definition |
|----------------------|------------|
| European works | Yes. |
| Independent producer | No. |
| Prominence | No. |

Source: Danish response to European Audiovisual Observatory standardised survey

4.9.3. Financial investment obligations

4.9.3.1. Financial investment obligations by linear AVMS providers (broadcasters)

The Danish Broadcasting Corporation (DR) and TV2 shall each invest 65 000 000 Danish krone (DKK) (approximately EUR 9 000 000) per year on Danish films (Media Agreement 2015–2018).



Moreover, the DR shall delegate production to independent producers for an average of DKK 300 000 000 (approximately EUR 40 000 000) per year within the period of the Media Agreement. In consideration of DR's planning schedule, fluctuations are acceptable within the given years.

The new DR public service contract (2019–2023), negotiated in application of the new Media Agreement for the same period, imposes on DR the obligation to engage in Danish-language short films, documentaries and feature films produced by independent producers at a rate which corresponds to the current investment in terms of the number of titles, that is, 14 fiction films and 23 short films/documentaries per year. The new contract also states that the DR shall delegate production to the external market, equalling 14% of the DR's public financing over the agreement period. This corresponds to 507.9 million Danish krone (approximately EUR 68 000 000) in 2019, 489.1 million Danish krone (approximately EUR 65 000 000) in 2020, 473.4 million Danish krone (approximately EUR 63 400 000) in 2021, 456.7 million Danish krone (approximately EUR 61 200 000) in 2022 and 437.3 million Danish krone (approximately EUR 58 600 000) in 2023. This totals a combined delegation of 2.364 million Danish krone (approximately EUR 316 710 000) over the agreement period (averaging EUR 63 340 000 per year). In consideration of DR's planning schedule, fluctuations are acceptable within the given years.

Also, broadcasters shall endeavour to ensure that more than 10% of their transmission time (excluding the time allotted to news, sports events, competitions and teletext services) is reserved for European works (section 7 of the Executive Order on programme production based on registration and on-demand audiovisual programme services and section 7 of the DR public service contract).

Table 129. Denmark – Main features of the financial investment scheme for broadcasters

| Feature | Description |
|---|--|
| Legal basis for the investment | Media Agreement between the political parties and the actors of the broadcasting and film sectors ("Medieaftale 2015-2018"), to be replaced by the "Medieaftale 2019-2023". |
| Level of investment | All broadcasters: 10% of the transmission time or 10% of the programming budget. The public service media DR: additional obligations in production or delegated production. |
| Mandatory, optional or voluntary investment | Mandatory. |
| Nature of the investment | Pre-acquisition, co-production, production or production order. |
| Distinction between genres in which to invest | Yes. |
| Distinction between public or private broadcasters | Yes. |
| Level of investment in European works | No. |
| Level of investment in independent works | Yes. |



| | |
|---|-----|
| Level of investment in works in a national language | No. |
| Investment scheme applicable to foreign broadcasters | No. |
| Other type of investment | No. |

Source: Danish response to European Audiovisual Observatory standardised survey

4.9.3.2. Financial investment obligations by non-linear AVMS (VOD) providers

From 2020, streaming service providers are required to invest 2% of their turnover in Denmark in the form of direct investments in new Danish-language content. The obligation shall apply to all streaming services in the Danish market, including foreign services that target the Danish public. A limit is set so that companies with a turnover of less than DKK 375 000 (approximately EUR 50 000) in Denmark are exempt. The detailed implementation of the arrangement will be agreed between the parties to the Media Agreement in the autumn of 2018.

Table 130. Denmark – Main features of the investment scheme for VOD providers

| Feature | Description |
|--|---|
| Legal basis for the investment | Media Agreement between the political parties and the actors of the broadcasting and film sectors (“Mediaaftale 2015-2018”), to be replaced by the “Mediaaftale 2019-2023”. |
| Level of the investment | 2% of the turnover. |
| Mandatory, optional or voluntary investment | Mandatory. |
| Nature of the investment | Production. |
| Distinction between genres in which to invest | No. |
| Distinction between public or private services | No. |
| Level of investment in European works | No. |
| Level of investment in independent works | No. |
| Level of investment in works in a national language | Yes. |
| Investment scheme applicable to foreign VOD providers | Yes. |
| Other type of investment | No. |

Source: Danish response to European Audiovisual Observatory standardised survey



4.9.3.3. Financial investment obligations by distributors

Table 131. Denmark – Main features of the investment scheme for distributors

| Feature | Description |
|---|-------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Other type of investment | N/A. |

Source: Danish response to European Audiovisual Observatory standardised survey

4.9.4. Levies

4.9.4.1. Levies on linear AVMS providers (broadcasters)

Table 132. Denmark – Main features of the levies on broadcasters

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private broadcasters | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign broadcasters | N/A. |



Source: Danish response to European Audiovisual Observatory standardised survey

4.9.4.2. Levies on non-linear AVMS providers (VOD services)

Table 133. Denmark – Main features of the levies on VOD services

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private VOD services | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign VOD services | N/A. |

Source: Danish response to European Audiovisual Observatory standardised survey

4.9.4.3. Levies on distributors

Table 134. Denmark – Main features of the levies on distributors

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Danish response to European Audiovisual Observatory standardised survey



4.9.4.4. Levies on theatres (cinema tickets)

Table 135. Denmark – Main features of the levies on theatres (cinema tickets)

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Danish response to European Audiovisual Observatory standardised survey

4.9.4.5. Levies on the video industry

Table 136. Denmark – Main features of the levies on the video industry

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Danish response to European Audiovisual Observatory standardised survey

4.9.4.6. Other levies

N/A.

4.9.5. Quota obligations

4.9.5.1. Quotas for linear AVMS providers (broadcasters) – EU works

Broadcasters shall endeavour to ensure that more than half of their transmission time (excluding the time allotted to news, sports events, competitions and teletext services) is reserved for European works (section 7 of the Executive Order on programme production



based on registration and on-demand audiovisual programme services and section 3 of the Executive Order on DR).

There are no per se quotas for specific genres, but DR has an obligation to focus on drama for children (section 7 of the DR public service contract).

Pursuant to the Executive Order on TV 2 activity and the TV 2 public service licence, the TV 2 channels TV 2|Zulu, TV 2|Charlie, TV 2|Film, TV 2|News and TV 2|Fri are not included in the TV 2 public service licence and are therefore exempt from the quotas that the main channel TV 2 has to fulfil. They are, however, obliged to follow the general rules for broadcasting found in the Executive Order on programme production based on registration and on-demand audiovisual programme services, including quotas for European programmes, etc.

DR shall air a yearly minimum of 20 hours of recently produced Danish drama on TV and make a minimum of 30 hours of recently produced Danish drama available on the Internet. TV 2 shall air a minimum of 42 hours of Danish drama.

Table 137. Denmark – Main features of the quota for broadcasters – EU works

| Feature | Description |
|--|--|
| Legal basis of the obligation | Executive Order on programme production based on registration and on-demand audiovisual programme services. Executive Order on Danish Broadcasting Corporations (DR) and the DR public service contract. Executive order on TV 2 activity and the TV 2 public service licence. |
| Level of the quota | 50% of the transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | Yes (“endeavour to ensure”). |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | Yes. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | Yes. |
| Quotas for non-national EU works | No. |

Source: Danish response to European Audiovisual Observatory standardised survey

4.9.5.2. Quotas for linear AVMS providers (broadcasters) – independent works

Broadcasters shall endeavour to ensure that more than 10% of their transmission time (excluding the time allotted to news, sports events, competitions and teletext services), or alternately 10% of their programming budget, is reserved for European works (section 7 of



the Executive Order on programme production based on registration and on-demand audiovisual programme services and section 7 of the DR public service contract).

Pursuant to the Executive Order on TV 2 activity and the TV 2 public service licence, the TV 2 channels TV 2|Zulu, TV 2|Charlie, TV 2|Film, TV 2|News and TV 2|Fri are not included in TV2 public service-licence and are therefore exempt from these quotas.

Table 138. Denmark – Main features of the quota for broadcasters – independent works

| Feature | Description |
|--|---|
| Legal basis of the obligation | Danish Broadcasting Corporations (DR) public service contract. Executive Order on TV 2 activity (section 3) and the TV 2 public service licence. |
| Level of the quota | 10% of the transmission time or 10% of the programming budget. |
| Flexibility in achieving the quota (“where practicable...”) | Yes (“endeavour to ensure”). |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | Yes. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Danish response to European Audiovisual Observatory standardised survey

4.9.5.3. Quotas for non-linear AVMS providers (VOD services)

VOD services shall promote, where practicable and by appropriate means, the production of and access to European works (section 10 of the Executive Order on programme production based on registration and on-demand audiovisual programme services).

Table 139. Denmark – Main features of the quota for VOD services – EU works

| Feature | Description |
|--|---|
| Legal basis of the obligation | Executive Order on programme production based on registration and on-demand audiovisual programme services. |
| Level of the quota | No specific quota. |
| Flexibility in achieving the quota (“where appropriate...”) | Yes. |
| Distinction between public or private VOD services | No |



| | |
|--|-----|
| Derogations available for certain types of VOD services | No |
| Quotas for specific genres | No |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Danish response to European Audiovisual Observatory standardised survey

4.9.6. Prominence obligations

VOD services shall promote, where practicable and by appropriate means, the production of and access to European works (section 10 of the Executive Order on programme production based on registration and on-demand audiovisual programme services).

Table 140. Denmark – Main features of the prominence obligation for VOD services

| Feature | Description |
|---|---|
| Legal basis of the obligation | Executive Order on programme production based on registration and on-demand audiovisual programme services. |
| Means of giving prominence imposed | No. |
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of VOD services | No. |
| Prominence to give to specific genres | No. |
| Prominence to give to national works or works in a national language | No. |
| Prominence to give to non-national EU works | No. |

Source: Danish response to European Audiovisual Observatory standardised survey

4.9.7. Envisaged amendments to the regulatory framework

The current four-year Media Agreement between the broadcasting and the film sectors will be replaced by a five-year Media Agreement (2019-2023). The obligation in terms of financial investment obligations will be replaced by an obligation to invest in a certain amount of films, but should, in practice, stay at a relatively similar level. This Media Agreement still has to be finalised.



The negotiation of a Film Agreement (for the period 2019-2022) is also expected to be finalised in autumn 2018.

4.9.8. Studies, reports and researches

- Financing of National Digital Creative Content. A European mapping of initiatives and perspectives ved Wagner Hatfield, august 2017
https://kum.dk/fileadmin/KUM/Documents/Publikationer/2017/Fremtidens_danske_indholdsproduktion/Fremtidens_danske_indholdsproduktion_2017_Bilag.pdf

4.9.9. Applicable regulatory framework

- Primary legislation:
 - In Danish – Lov om film (Film Act) :
<https://www.retsinformation.dk/forms/r0710.aspx?id=83975>
 - In Danish – Bekendtgørelse af lov om radio- og fjernsynsvirksomhed (Radio and Television Broadcasting Act):
<https://www.retsinformation.dk/Forms/R0710.aspx?id=201151>
 - In English – Film Act:
<https://kum.dk/english/Services/Legislation/Film/The-Film-Act/>
 - In English – Radio and Television Broadcasting Act:
<http://english.slks.dk/index.php?id=21551>
- Secondary legislation:
 - In Danish – Filmaftalen (Film Agreement 2015-2018):
https://kum.dk/fileadmin/KUM/Documents/Kulturpolitik/Kunstarterne/Film/Filmaftale_2015-2018.pdf
 - In Danish – Mediaaftalen 2015-2018 (Media Agreement 2015-2018):
https://kum.dk/fileadmin/KUM/Documents/Kulturpolitik/medier/Mediaaftalen/Mediaftale_2014/Mediaftale_af_26_juni_2014endelig1.pdf
 - In Danish – Mediaaftalen 2019-2023 (Media Agreement 2019-2023):
<https://www.regeringen.dk/media/5470/29062018endelig-mediaaftale-2019-2023.pdf>
 - In Danish – Bekendtgørelse om programvirksomhed på grundlag af registrering samt on-demand audiovisuel programvirksomhed (Executive Order on programme production based on registration and on-demand audiovisual programme services):
https://www.en.uni.lu/content/download/31259/371386/file/Denmark_translation.pdf
 - In Danish – Executive order on DR:
<https://www.retsinformation.dk/Forms/R0710.aspx?id=130040>
 - In Danish – DR public service contract 2015-2018:
https://kum.dk/fileadmin/KUM/Documents/Kulturpolitik/medier/DR/Public_Serviceaftale_2015-18/DR_public_service-kontrakt_for_2015-2018.pdf



- In Danish – DR public service contract 2019-2023: <https://www.dr.dk/om-dr/detnyedr/public-service-kontrakten>
- In Danish – TV2 public service contract: https://slks.dk/fileadmin/user_upload/dokumenter/KS/medier/tv/TV_2/Tilladelse/TV2_tilladelse_og_bilag_2015-2018/Tilladelse_til_TV_2_DANMARK_til_at_udoeve_public_service-programvirksomhed.pdf

4.9.10. Data compilation

This factsheet was produced based on data compiled by Palle Dam Leegaard, Special Advisor, The Danish Film Institute.

4.10. EE – Estonia – National legal summary¹⁵

4.10.1. Summary

Table 141. Estonia – Summary of the existing obligations – by type and player

| Obligation | Player | Main feature |
|----------------------------------|--|--|
| Financial investment obligations | Linear AVMS providers | There is no financial investment scheme in Estonia, but when the regulatory authority (TJA – Technical Regulatory Authority) launches a tender for issuing a licence, “a minimum amount in the programme service of the works of the Estonian authors and audiovisual works completed with the financial support of the Estonian State, the proportion of musical and verbal broadcasts in the programme service, including the proportion of the news programmes, the amount of programmes in the programme service reflecting the life in the coverage area, the requirement for the coverage area, main target audience and the language of verbal broadcasts may be established as secondary conditions of the activity licence for the provision of free access television service, conditional access television service and radio service.” |
| | Non-linear AVMS providers | No obligation. |
| | Distributors | No obligation. |
| Levies | Linear AVMS providers | No obligation. |
| | Non-linear AVMS providers | No obligation. |
| | Distributors | No obligation. |
| | Theatres | No obligation. |
| | Video industry | No obligation. |
| Promotion | Quotas European works linear AVMS providers | Broadcasters shall reserve at least 51% of their transmission time (excluding the time allotted to news, sports events, competitive entertainment programmes, advertising, teleshopping and teletext services) for European works. |
| | Quotas independent works linear AVMS providers | Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, competitive entertainment |

¹⁵ The factsheet on Estonia incorporates the feedback received from Edith Sepp (Estonian Film Institute) during the checking round with the national film funds.



| | | |
|--|---|---|
| | | programmes, advertising, teleshopping and teletext services) for European works created by producers who are independent from broadcasters. |
| | Quotas non-linear AVMS providers | No obligation. |
| | Prominence non-linear AVMS providers | No obligation. |

Source: Estonian response to European Audiovisual Observatory standardised survey

4.10.2. Definitions

Section 11 of the Media Services Act defines European works as follows:

“(1) An audiovisual work of the European origin (hereinafter European work) is:

- 1) a work originating in a Member State of the European Union;
- 2) a work originating in a European third State party to the European Convention on Transfrontier Television;
- 3) a work which is co-produced within the framework of an agreement of cooperation concluded between a Member State of the European Union and a third State and is fulfilling the conditions specified in the agreement.

(2) A work originating in a Member State of the European Union or a third State party to the European Convention on Transfrontier Television that has been mainly made in cooperation with the authors and workers residing in one or more of the States referred to is a European work provided that the work complies with one of the following conditions:

- 1) *a work has been made by at least one producer established in at least one of the States referred to;*
- 2) *the production of the work is organised and controlled by one or more producers established in one or more of the States referred to;*
- 3) *the contribution of co-producers of those States to the total co-production costs is preponderant and the co-production is not controlled by any of the producers established outside those States.*

(3) Application of clauses 1) 2) and 3) of this section shall be conditional on works originating in Member States of the European Union not being subject to discriminatory measures in the third country concerned.

(4) Works that are not European works within the meaning of subsection (1) of this section but are produced within the framework of a bilateral co-production agreement concluded between a Member State of the European Union and a third State shall be deemed to be European works provided that the co-producers from a Member State of the European Union supply a majority share of the total cost of production and the



production is not controlled by any of the producers established outside the territory of the Member States of the European Union.”

Section 12 of the Media Services Act defines an independent producer as follows:

“A European independent producer is:

- 1) a producer that holds the majority of shares or the majority of votes determined by the shares of a legal or natural person of a Member State or State party to the Convention;*
- 2) a producer whose copyrights or the rights related to the copyrights for the production transferred on the basis of the law or agreement are held by a legal or natural person of a Member State or State party to the Convention;*
- 3) a producer that has produced its own audiovisual production for at least two audiovisual media providers during the last two years.”*

Table 142. Estonia – Definition of the main concepts in terms of the promotion of EU works

| Concept | Definition |
|----------------------|------------|
| European works | Yes. |
| Independent producer | Yes. |
| Prominence | No. |

Source: Estonian response to European Audiovisual Observatory standardised survey

4.10.3. Financial investment obligations

4.10.3.1. Financial investment obligations by linear AVMS providers (broadcasters)

There is no financial investment scheme in Estonia, but when the regulatory authority (TJA – Technical Regulatory Authority) launches a tender for issuing a licence, *“a minimum amount in the programme service of the works of the Estonian authors and audiovisual works completed with the financial support of the Estonian State, the proportion of musical and verbal broadcasts in the programme service, including the proportion of the news programmes, the amount of programmes in the programme service reflecting the life in the coverage area, the requirement for the coverage area, main target audience and the language of verbal broadcasts may be established as secondary conditions of the activity licence for the provision of free access television service, conditional access television service and radio service”* (section 40.3 of the Media Services Act).

Table 143. Estonia – Main features of the financial investment scheme for broadcasters

| Feature | Description |
|---------|-------------|
|---------|-------------|



| | |
|---|------|
| Legal basis for the investment | N/A. |
| Level of investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Distinction between public or private broadcasters | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Investment scheme applicable to foreign broadcasters | N/A. |
| Other type of investment | N/A. |

Source: Estonian response to European Audiovisual Observatory standardised survey

4.10.3.2. Financial investment obligations by non-linear AVMS (VOD) providers

Table 144. Estonia – Main features of the investment scheme for VOD providers

| Feature | Description |
|--|--------------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Distinction between public or private services | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Investment scheme applicable to foreign VOD providers | N/A. |
| Other type of investment | N/A. |

Source: Estonian response to European Audiovisual Observatory standardised survey



4.10.3.3. Financial investment obligations by distributors

Table 145. Estonia – Main features of the investment scheme for distributors

| Feature | Description |
|---|-------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Other type of investment | N/A. |

Source: Estonian response to European Audiovisual Observatory standardised survey

4.10.4. Levies

4.10.4.1. Levies on linear AVMS providers (broadcasters)

Table 146. Estonia – Main features of the levies on broadcasters

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private broadcasters | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign broadcasters | N/A. |



Source: Estonian response to European Audiovisual Observatory standardised survey

4.10.4.2. Levies on non-linear AVMS providers (VOD services)

Table 147. Estonia – Main features of the levies on VOD services

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private VOD services | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign VOD services | N/A. |

Source: Estonian response to European Audiovisual Observatory standardised survey

4.10.4.3. Levies on distributors

Table 148. Estonia – Main features of the levies on distributors

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Estonian response to European Audiovisual Observatory standardised survey



4.10.4.4. Levies on theatres (cinema tickets)

Table 149. Estonia – Main features of the levies on theatres (cinema tickets)

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Estonian response to European Audiovisual Observatory standardised survey

4.10.4.5. Levies on the video industry

Table 150. Estonia – Main features of the levies on the video industry

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Estonian response to European Audiovisual Observatory standardised survey

4.10.4.6. Other levies

N/A.

4.10.5. Quota obligations

4.10.5.1. Quotas for linear AVMS providers (broadcasters) – EU works

Broadcasters shall reserve at least 51% of their transmission time (excluding the time allotted to news, sports events, competitive entertainment programmes, advertising,



teleshopping and teletext services) for European works (section 8.3. of the Media Services Act).

Services intended for local viewers and which are transmitted on the basis of a licence for the provision of a regional television service are exempt.

There are no specific quotas for national works or works in a national language, but broadcasters have certain legal obligations in terms of self-production (10% of the monthly transmission time, half of which must be transmitted in prime time (between 7 p.m. and 11 p.m.).

Table 151. Estonia – Main features of the quota for broadcasters – EU works

| Feature | Description |
|---|-------------------------------|
| Legal basis of the obligation | Media Services Act. |
| Level of the quota | 51% of the transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | No. |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | Yes. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Estonian response to European Audiovisual Observatory standardised survey

4.10.5.2. Quotas for linear AVMS providers (broadcasters) – independent works

Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, competitive entertainment programmes, advertising, teleshopping and teletext services) for European works created by producers who are independent from broadcasters (section 8.4 of the Media Services Act).

Services intended for local viewers and which are transmitted on the basis of a licence for the provision of a regional television service are exempt.

Table 152. Estonia – Main features of the quota for broadcasters – independent works

| Feature | Description |
|--|-------------------------------|
| Legal basis of the obligation | Media Services Act. |
| Level of the quota | 10% of the transmission time. |
| Flexibility in achieving the quota (“where | No. |



| | |
|--|------|
| practicable...") | |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | Yes. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Estonian response to European Audiovisual Observatory standardised survey

4.10.5.3. Quotas for non-linear AVMS providers (VOD services)

Table 153. Estonia – Main features of the quota for VOD services – EU works

| Feature | Description |
|--|-------------|
| Legal basis of the obligation | N/A. |
| Level of the quota | N/A. |
| Flexibility in achieving the quota ("where appropriate...") | N/A. |
| Distinction between public or private VOD services | N/A. |
| Derogations available for certain types of VOD services | N/A. |
| Quotas for specific genres | N/A. |
| Quotas for national works or works in a national language | N/A. |
| Quotas for non-national EU works | N/A. |

Source: Estonian response to European Audiovisual Observatory standardised survey

4.10.6. Prominence obligations

Table 154. Estonia – Main features of the prominence obligation for VOD services

| Feature | Description |
|---|-------------|
| Legal basis of the obligation | N/A. |
| Means of giving prominence imposed | N/A. |
| Distinction between public or private VOD services | N/A. |



| | |
|---|------|
| Derogations available for certain types of VOD services | N/A. |
| Prominence to give to specific genres | N/A. |
| Prominence to give to national works or works in a national language | N/A. |
| Prominence to give to non-national EU works | N/A. |

Source: Estonian response to European Audiovisual Observatory standardised survey

4.10.7. Envisaged amendments to the regulatory framework

N/A.

4.10.8. Studies, reports and researches

- Eesti loomemajanduse olukorra uuring ja kaardistus (Study and mapping of the Estonian creative industries - <https://www.kul.ee/et/uudised/uuringud> (in Estonian, English summary available at <https://www.kul.ee/sites/kulminn/files/luhikokkuvote-summary.pdf>))

4.10.9. Applicable regulatory framework

- Primary legislation:
 - In Estonian – Meediateenuste seadus (Media Services Act): <https://www.riigiteataja.ee/akt/106012011001>
 - In English – Media Services Act: <https://www.riigiteataja.ee/en/eli/ee/511052015002/consolide/current>

4.10.10. Data compilation

This factsheet was produced based on data compiled by Andres Jõesaar, Associate Professor of Media Policy, Tallinn University.

4.11. ES – Spain – National legal summary¹⁶

4.11.1. Summary

Table 155. Spain – Summary of the existing obligations – by type and player

| Obligation | Player | Main feature |
|----------------------------------|--|--|
| Financial investment obligations | Linear AVMS providers | Broadcasters with State or Autonomous Community coverage shall make an annual contribution to the pre-financing of European cinematographic films, films and series made for television, documentaries and animated films and series, amounting to 5% (6% for public broadcasters) of the revenues raised in the previous financial year according to the profit-and-loss account and corresponding to the channels on which those audiovisual products were broadcast less than seven years from when they were first produced. |
| | Non-linear AVMS providers | Same as for linear AVMS providers. |
| | Distributors | No obligation. |
| Levies | Linear AVMS providers | No obligation. |
| | Non-linear AVMS providers | No obligation. |
| | Distributors | No obligation. |
| | Theatres | No obligation. |
| | Video industry | No obligation. |
| | Other | No obligation. |
| Promotion | Quotas European works linear AVMS providers | Broadcasters shall reserve at least 51% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping) for European works. |
| | Quotas independent works linear AVMS providers | Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping) for European works created by producers who are independent from broadcasters. |
| | Quotas non-linear AVMS providers | VOD services shall reserve 30% of their catalogue for European works. |

¹⁶ The factsheet on Spain incorporates the feedback received from Jacobo Martín Fernández (Spanish film Institute) during the checking round with the national film funds.



| | | |
|--|---|----------------|
| | Prominence non-linear AVMS providers | No obligation. |
|--|---|----------------|

Source: Spanish response to European Audiovisual Observatory standardised survey

4.11.2. Definitions

Article 2.12 of the Law on Audiovisual Communication defines European works as follows:

- a) “Works originating in Member States and works originating in European third States party to the European Convention on Transfrontier Television of the Council of Europe, provided that the works of the Member States are not the subject of discriminatory measures in the third country in question. Original works means works which are mainly made with authors and workers residing in one or more of the States referred to in the previous sub-paragraph, provided that, in addition, they comply with one of the following three conditions: the works are made by one or more producers established in one or more of those States, or production of the works is supervised and actually controlled by one or more producers established in one or more of those States, or the contribution of co-producers of those States to the total co-production costs is preponderant and the co-production is not controlled by one or more producers established outside those States.
- b) Works co-produced in the framework of agreements related to the audiovisual sector concluded between the European Union and third countries and fulfilling the conditions defined within each of these agreements, provided that Member States’ works are not under discriminatory measures in the third countries concerned.
- c) Works that are not European works within the meaning of paragraph a) but that are produced within the framework of bilateral co-production treaties concluded between Member States and third countries provided that the co-producers from the Community supply a majority share of the total cost of production and that the production is not controlled by one or more producers established outside the territory of the Member States.”

Article 2.22 of the Law on Audiovisual Communication defines an independent producer as follows:

“A producer is someone, either a natural or legal person, who assumes the initiative, coordination and the economic risks for making audiovisual content. An independent producer is someone, either a natural or legal person, that generates that content, on its own initiative or by request, and, in exchange for compensation, makes it available to an audiovisual service provider with which it is not stably linked in a common business strategy.

It is presumed to be stably linked when they are both part of the same group of companies, according to Article 42 of the Code of Commerce, or when there are stable



agreements of exclusivity that restrict their freedom to enter into contracts with third parties.”

Table 156. Spain – Definition of the main concepts in terms of the promotion of EU works

| Concept | Definition |
|----------------------|------------|
| European works | Yes. |
| Independent producer | Yes. |
| Prominence | No. |

Source: Spanish response to European Audiovisual Observatory standardised survey

4.11.3. Financial investment obligations

4.11.3.1. Financial investment obligations by linear AVMS providers (broadcasters)

Broadcasters with State or Autonomous Community coverage shall make an annual contribution to the pre-financing of European cinematographic films, films and series made for television, documentaries and animated films and series, amounting to 5% (6% for public broadcasters) of the revenues raised in the previous financial year according to the profit-and-loss account and corresponding to the channels on which those audiovisual products were broadcast less than seven years from when they were first produced (Article 5.3 of the Law on Audiovisual Communication).

The funding of these audiovisual works may take the form of direct participation in their production or the acquisition of the rights to exploit such works.

At least 60% of this funding obligation (75% for public broadcasters) shall be allocated to cinematographic films of any kind. Within those percentages, at least 50% shall be invested in the works of independent producers. In case of co-productions, the contribution of the independent producer shall not be taken into account for this purpose.

Broadcasters shall allocate at least 40% of their total funding obligation (25% in the case of public service media) to films, series or mini-series made for television. Within those percentages, public service media shall allocate at least 50% to films or mini-series made for television.

Broadcasters whose investment obligation derives from broadcasts exclusively, or, for over 70% of their total annual transmission time, from a single type of content, whether cinematographic films, television series, animated productions or documentaries, may comply with this obligation by investing purely in this type of content, provided that it is produced in a photo-chemical or high-definition digital format.

Sixty per cent of the aforementioned obligations shall be assigned to the production of works in any of Spain’s official languages.



Local television broadcasters that do not form part of a national network are excluded from these obligations

Table 157. Spain – Main features of the financial investment scheme for broadcasters

| Feature | Description |
|--|---|
| Legal basis for the investment | Law on Audiovisual Communication. |
| Level of investment | 5% of the revenues (6% for public service media). |
| Mandatory, optional or voluntary investment | Mandatory. |
| Nature of the investment | Pre-acquisition. |
| Distinction between genres in which to invest | No. |
| Distinction between public or private broadcasters | Yes. |
| Level of investment in European works | Yes. |
| Level of investment in independent works | Yes. |
| Level of investment in works in a national language | Yes. |
| Investment scheme applicable to foreign broadcasters | No. |
| Other type of investment | No. |

Source: Spanish response to European Audiovisual Observatory standardised survey

4.11.3.2. Financial investment obligations by non-linear AVMS (VOD) providers

The scheme does not differ between broadcasters and VOD providers.

Table 158. Spain – Main features of the investment scheme for VOD providers

| Feature | Description |
|--|---|
| Legal basis for the investment | Law on Audiovisual Communication. |
| Level of the investment | 5% of the revenues (6% for public service media). |
| Mandatory, optional or voluntary investment | Mandatory. |
| Nature of the investment | Pre-acquisition. |
| Distinction between genres in which to invest | No. |
| Distinction between public or private services | Yes. |
| Level of investment in European works | Yes. |



| | |
|--|------|
| Level of investment in independent works | Yes. |
| Level of investment in works in a national language | Yes. |
| Investment scheme applicable to foreign VOD providers | No. |
| Other type of investment | No. |

Source: Spanish response to European Audiovisual Observatory standardised survey

4.11.3.3. Financial investment obligations by distributors

Table 159. Spain – Main features of the investment scheme for distributors

| Feature | Description |
|--|--------------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Other type of investment | N/A. |

Source: Spanish response to European Audiovisual Observatory standardised survey

4.11.4. Levies

4.11.4.1. Levies on linear AVMS providers (broadcasters)

Table 160. Spain – Main features of the levies on broadcasters

| Feature | Description |
|--|--------------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |



| | |
|--|------|
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private broadcasters | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign broadcasters | N/A. |

Source: Spanish response to European Audiovisual Observatory standardised survey

4.11.4.2. Levies on non-linear AVMS providers (VOD services)

Table 161. Spain – Main features of the levies on VOD services

| Feature | Description |
|--|--------------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private VOD services | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign VOD services | N/A. |

Source: Spanish response to European Audiovisual Observatory standardised survey

4.11.4.3. Levies on distributors

Table 162. Spain – Main features of the levies on distributors

| Feature | Description |
|--|--------------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |



| | |
|--|------|
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Spanish response to European Audiovisual Observatory standardised survey

4.11.4.4. Levies on theatres (cinema tickets)

Table 163. Spain – Main features of the levies on theatres (cinema tickets)

| Feature | Description |
|--|--------------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Spanish response to European Audiovisual Observatory standardised survey

4.11.4.5. Levies on the video industry

Table 164. Spain – Main features of the levies on the video industry

| Feature | Description |
|--|--------------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Spanish response to European Audiovisual Observatory standardised survey

4.11.4.6. Other levies

N/A.



4.11.5. Quota obligations

4.11.5.1. Quotas for linear AVMS providers (broadcasters) – EU works

Broadcasters shall reserve at least 51% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping) for European works (Article 5.2 of the Law on Audiovisual Communication).

Fifty per cent of this quota shall be assigned to European works in any of Spain's official languages.

Table 165. Spain – Main features of the quota for broadcasters – EU works

| Feature | Description |
|---|----------------------------------|
| Legal basis of the obligation | Law on Audiovisual Communication |
| Level of the quota | 51% of the transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | No. |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | Yes. |
| Quotas for non-national EU works | No. |

Source: Spanish response to European Audiovisual Observatory standardised survey

4.11.5.2. Quotas for linear AVMS providers (broadcasters) – independent works

Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping) for European works created by producers who are independent from broadcasters (Article 5.2 of the Law on Audiovisual Communication).

Table 166. Spain – Main features of the quota for broadcasters – independent works

| Feature | Description |
|---|-------------------------------------|
| Legal basis of the obligation | Law on Audiovisual Communication. |
| Level of the quota | 10% of the TOTAL transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | No. |



| | |
|--|--|
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | Yes, but only deriving from the quotas for European works. |
| Quotas for non-national EU works | No. |

Source: Spanish response to European Audiovisual Observatory standardised survey

4.11.5.3. Quotas for non-linear AVMS providers (VOD services)

VOD services shall reserve 30% of their catalogue for European works (Article 5.2 of the Law on Audiovisual Communication).

Fifty per cent of this quota shall be assigned to European works in any of Spain's official languages.

Table 167. Spain – Main features of the quota for VOD services – EU works

| Feature | Description |
|--|----------------------------------|
| Legal basis of the obligation | Law on Audiovisual Communication |
| Level of the quota | 30% of the catalogue. |
| Flexibility in achieving the quota (“where appropriate...”) | No. |
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of VOD services | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | Yes. |
| Quotas for non-national EU works | N/A. |

Source: Spanish response to European Audiovisual Observatory standardised survey

4.11.6. Prominence obligations

Table 168. Spain – Main features of the prominence obligation for VOD services

| Feature | Description |
|----------------|--------------------|
|----------------|--------------------|



| | |
|---|------|
| Legal basis of the obligation | N/A. |
| Means of giving prominence imposed | N/A. |
| Distinction between public or private VOD services | N/A. |
| Derogations available for certain types of VOD services | N/A. |
| Prominence to give to specific genres | N/A. |
| Prominence to give to national works or works in a national language | N/A. |
| Prominence to give to non-national EU works | N/A. |

Source: Spanish response to European Audiovisual Observatory standardised survey

4.11.7. Envisaged amendments to the regulatory framework

The possibility, engendered by the new AVMS Directive, of imposing obligations on foreign AVMS targeting the Spanish public is expected to be implemented, as are prominence obligations for VOD providers.

4.11.8. Studies, reports and researches

The yearly reports of the regulatory authority (CNMC) provide useful date on issues related to the present mapping and are available at <https://www.cnmc.es/expedientes/infdtsa16017>

4.11.9. Applicable regulatory framework

- Primary legislation:
 - In Spanish – Ley 7/2010, de 31 de marzo, General de Comunicación Audiovisual (Law on Audiovisual Communication): <https://www.boe.es/buscar/act.php?id=BOE-A-2010-5292&p=20150501&tn=2>
 - In English – Law on Audiovisual Communication: https://www.en.uni.lu/research/fdef/media_law/audiovisual_media_services_directive/national_execution_measures/spain
- Secondary legislation:
 - In Spanish – Real Decreto 988/2015, de 30 de octubre, por el que se regula el régimen jurídico de la obligación de financiación anticipada de determinadas obras audiovisuales europeas (Royal Decree that regulates the specific legal regime of the pre-financing obligation for European



works): <https://www.boe.es/buscar/act.php?id=BOE-A-2010-5292&p=20150501&tn=2>

4.11.10. Data compilation

This factsheet was produced based on data compiled by Araceli Gozalo, Technical Counsellor, Spanish Film and Audio-visual Arts Institute (ICAA).



4.12. FI – Finland – National legal summary¹⁷

4.12.1. Summary

Table 169. Finland – Summary of the existing obligations – by type and player

| Obligation | Player | Main feature |
|---|---|---|
| Financial investment obligations | Linear AVMS providers | Broadcasters shall reserve 19% of their transmission time (excluding the time allotted to news, sports events, competitive entertainment programmes, advertising, teletext services and teleshopping) or alternately 19% of their programming budget, for European works created by producers who are independent from broadcasters. Half of the programmes included in the said share shall have been produced within the past five years. |
| | Non-linear AVMS providers | VOD services shall promote the production and distribution of European works with the help of financial contributions to productions, programme acquisitions, the enhanced visibility of European works or by similar means. |
| | Distributors | No obligation. |
| Levies | Linear AVMS providers | No obligation. |
| | Non-linear AVMS providers | No obligation. |
| | Distributors | No obligation. |
| | Theatres | No obligation. |
| | Video industry | No obligation. |
| | Other | No obligation. |
| Promotion | Quotas European works linear AVMS providers | Broadcasters shall reserve a majority proportion of their transmission time (excluding the time allotted to news, sports events, competitive entertainment programmes, advertising, teletext services and teleshopping) for European works. |
| | Quotas independent works linear AVMS providers | Broadcasters shall reserve 19% of their transmission time (excluding the time allotted to news, sports events, competitive entertainment programmes, advertising, teletext services and teleshopping) or alternately 19% of their programming budget, for European works created by producers who are |

¹⁷ The factsheet on Finland incorporates the feedback received from Lasse Saarinen (Finnish Film Foundation) during the checking round with the national film funds.



| | | |
|--|---|--|
| | | independent from broadcasters. |
| | Quotas non-linear AVMS providers | VOD services shall promote the production and distribution of European works with the help of financial contributions to productions, programme acquisitions, the enhanced visibility of European works or by similar means. |
| | Prominence non-linear AVMS providers | VOD services shall promote the production and distribution of European works with the help of financial contributions to productions, programme acquisitions, the enhanced visibility of European works or by similar means. |

Source: Finnish response to European Audiovisual Observatory standardised survey

4.12.2. Definitions

Articles 3 to 5 of the Government Decree 1245/2014 on radio and television broadcasting (no official English translation) defines a European work as follows:

“An audiovisual work is considered European when the majority of workers that have taken part in the production live in European countries and 1) at least one of the producers is located in Europe or 2) the producer located in Europe has controlled the production or 3) in a co-production, the bulk of the production costs are borne by European co-producers. In joint productions with third European countries, the work is considered European if it has been produced in accordance with the relevant treaties on European audiovisual productions.”

Section 210 of the Act on Services of Electronic Communications 917/2014 defines an independent producer as follows:

“An independent producer means a producer of audiovisual programmes whose share capital cannot be controlled for more than 25% by an individual audiovisual content service provider or for more than 50% by several providers, and who, during the past three years, has produced no more than 90% of its programmes for the same provider.”

Table 170. Finland – Definition of the main concepts in terms of the promotion of EU works

| Concept | Definition |
|-----------------------------|------------|
| European works | Yes. |
| Independent producer | Yes. |
| Prominence | No. |

Source: Finnish response to European Audiovisual Observatory standardised survey



4.12.3. Financial investment obligations

4.12.3.1. Financial investment obligations by linear AVMS providers (broadcasters)

Broadcasters shall reserve 19% of their transmission time (excluding the time allotted to news, sports events, competitive entertainment programmes, advertising, teletext services and teleshopping) or alternately 19% of their programming budget, for European works created by producers who are independent from broadcasters (section 210 of the Act on Services of Electronic Communications 917/2014).

Table 171. Finland – Main features of the financial investment scheme for broadcasters

| Feature | Description |
|---|--|
| Legal basis for the investment | Act on Services of Electronic Communications 917/2014. |
| Level of investment | 19% of the transmission time or 19% of the programming budget. |
| Mandatory, optional or voluntary investment | Optional. |
| Nature of the investment | Pre-acquisition or co-production. |
| Distinction between genres in which to invest | No. |
| Distinction between public or private broadcasters | No. |
| Level of investment in European works | No. |
| Level of investment in independent works | Yes. |
| Level of investment in works in a national language | No. |
| Investment scheme applicable to foreign broadcasters | No. |
| Other type of investment | No. |

Source: Finnish response to European Audiovisual Observatory standardised survey

4.12.3.2. Financial investment obligations by non-linear AVMS (VOD) providers

VOD services shall promote the production and distribution of European works with the help of financial contributions to productions, programme acquisitions, the enhanced visibility of European works or by similar means (section 209 of the Act on Services of Electronic Communications 917/2014). The possibility is left open to choose between the various means mentioned under section 210.

**Table 172. Finland – Main features of the investment scheme for VOD providers**

| Feature | Description |
|---|--|
| Legal basis for the investment | Act on Services of Electronic Communications 917/2014. |
| Level of the investment | No specific level. |
| Mandatory, optional or voluntary investment | Optional. |
| Nature of the investment | Pre-acquisition, co-production or production. |
| Distinction between genres in which to invest | No. |
| Distinction between public or private services | No. |
| Level of investment in European works | No specific level. |
| Level of investment in independent works | No. |
| Level of investment in works in a national language | No. |
| Investment scheme applicable to foreign VOD providers | No. |
| Other type of investment | No. |

Source: Finnish response to European Audiovisual Observatory standardised survey

4.12.3.3. Financial investment obligations by distributors

Table 173. Finland – Main features of the investment scheme for distributors

| Feature | Description |
|---|-------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Other type of investment | N/A. |

Source: Finnish response to European Audiovisual Observatory standardised survey



4.12.4. Levies

4.12.4.1. Levies on linear AVMS providers (broadcasters)

Table 174. Finland – Main features of the levies on broadcasters

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private broadcasters | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign broadcasters | N/A. |

Source: Finnish response to European Audiovisual Observatory standardised survey

4.12.4.2. Levies on non-linear AVMS providers (VOD services)

Table 175. Finland – Main features of the levies on VOD services

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private VOD services | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign VOD services | N/A. |

Source: Finnish response to European Audiovisual Observatory standardised survey



4.12.4.3. Levies on distributors

Table 176. Finland – Main features of the levies on distributors

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Finnish response to European Audiovisual Observatory standardised survey

4.12.4.4. Levies on theatres (cinema tickets)

Table 177. Finland – Main features of the levies on theatres (cinema tickets)

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Finnish response to European Audiovisual Observatory standardised survey

4.12.4.5. Levies on the video industry

Table 178. Finland – Main features of the levies on the video industry

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |



| | |
|---|------|
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Finnish response to European Audiovisual Observatory standardised survey

4.12.4.6. Other levies

The Finnish Film Foundation (SES)¹⁸ is financed through a state gambling monopoly (“Veikkaus”).¹⁹ It is therefore independent of any levies or financial obligations from the audiovisual value chain itself.

4.12.5. Quota obligations

4.12.5.1. Quotas for linear AVMS providers (broadcasters) – EU works

Broadcasters shall reserve a majority proportion of their transmission time (excluding the time allotted to news, sports events, competitive entertainment programmes, advertising, teletext services and teleshopping) for European works (section 209 of the Act on Services of Electronic Communications 917/2014).

Table 179. Finland – Main features of the quota for broadcasters – EU works

| Feature | Description |
|--|--|
| Legal basis of the obligation | Act on Services of Electronic Communications 917/2014. |
| Level of the quota | 50% of the transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | No. |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Finnish response to European Audiovisual Observatory standardised survey

¹⁸ <http://ses.fi/etusivu/>

¹⁹ <https://www.veikkaus.fi/>



4.12.5.2. Quotas for linear AVMS providers (broadcasters) – independent works

Broadcasters shall reserve 19% of their transmission time (excluding the time allotted to news, sports events, competitive entertainment programmes, advertising, teletext services and teleshopping) or alternately 19% of their programming budget, for European works created by producers who are independent from broadcasters (section 210 of the Act on Services of Electronic Communications 917/2014).

Table 180. Finland – Main features of the quota for broadcasters – independent works

| Feature | Description |
|--|--|
| Legal basis of the obligation | Act on Services of Electronic Communications 917/2014. |
| Level of the quota | 19% of the transmission time or 19% of the programming budget. |
| Flexibility in achieving the quota (“where practicable...”) | No. |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Finnish response to European Audiovisual Observatory standardised survey

4.12.5.3. Quotas for non-linear AVMS providers (VOD services)

VOD services shall promote the production and distribution of European works with the help of financial contributions to productions, programme acquisitions, the enhanced visibility of European works or by similar means (section 209 of the Act on Services of Electronic Communications 917/2014). The possibility is left open to choose between the various means mentioned under section 210.

Table 181. Finland – Main features of the quota for VOD services – EU works

| Feature | Description |
|--|--|
| Legal basis of the obligation | Act on Services of Electronic Communications 917/2014. |
| Level of the quota | No specific level. |
| Flexibility in achieving the quota (“where practicable...”) | N/A. |
| Distinction between public or private VOD | No. |



| | |
|---|-----|
| services | |
| Derogations available for certain types of VOD services | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Finnish response to European Audiovisual Observatory standardised survey

4.12.6. Prominence obligations

VOD services shall promote the production and distribution of European works with the help of financial contributions to productions, programme acquisitions, the enhanced visibility of European works or by similar means (section 209 of the Act on Services of Electronic Communications 917/2014). The possibility is left open to choose between the various means mentioned under section 210.

Table 182. Finland – Main features of the prominence obligation for VOD services

| Feature | Description |
|--|--|
| Legal basis of the obligation | Act on Services of Electronic Communications 917/2014. |
| Means of giving prominence imposed | No specific means imposed. |
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of VOD services | No. |
| Prominence to give to specific genres | No. |
| Prominence to give to national works or works in a national language | No. |
| Prominence to give to non-national EU works | No. |

Source: Finnish response to European Audiovisual Observatory standardised survey

4.12.7. Envisaged amendments to the regulatory framework

N/A.



4.12.8. Studies, reports and researches

N/A.

4.12.9. Applicable regulatory framework

- Primary legislation:
 - In Finnish – Laki sähköisen viestinnän palveluista (Act on Services of Electronic Communications 917/2014):
<https://www.finlex.fi/fi/laki/ajantasa/2014/20140917>
 - In English – Act on Services of Electronic Communications 917/2014 (not consolidated and now renamed Act on services of electronic communications):
<http://www.finlex.fi/fi/laki/kaannokset/2014/en20140917.pdf>
- Secondary legislation:
 - In Finnish – Valtioneuvoston asetus televisio- ja radiotoiminnasta (Government Decree 1245/2014 on radio and television broadcasting):
<https://www.finlex.fi/fi/laki/alkup/2014/20141245>

4.12.10. Data compilation

This factsheet was produced based on data compiled by Mikko Hoikka, Sector Director of the Federation of Finnish Media Industry and CEO of the Finnish Periodical Publishers' Association.



4.13. FR – France – National legal summary²⁰

4.13.1. Summary

Table 183. France – Summary of the existing obligations – by type and player

| Obligation | Player | Main feature |
|---|------------------------------|---|
| Financial investment obligations | Linear AVMS providers | <p>Broadcasters shall invest at least 3.2% (3.5% for public broadcasters) of their previous year's turnover in the development of the production of European cinematographic works, including at least 2.5% in works whose original language is French. This applies to broadcasters who broadcast more than 52 films, or more than 104 broadcasts of films, with a maximum of 192 per year.</p> <p>Thematic broadcasters focused on cinema that are allowed to broadcast up to 500 films per year shall, depending on the service, invest a minimum of between 12.5% and 27% of their yearly turnover in the development of the production of European cinematographic works, including a minimum of between 9.5% and 22% in works whose original language is French. These percentages are subject to guaranteed minima per subscriber.</p> <p>Broadcasters shall also invest at least 15% of their yearly turnover (14% for broadcasters not distributed via DTT) in the development of the production of European audiovisual works or works whose original language is French. Services that reserve less than 20% of their transmission time for audiovisual works are exempt, except if their yearly turnover exceeds EUR 350 000 000.</p> <p>Thematic broadcasters focused on cinema shall invest at least 3.6% of their yearly turnover (6% for broadcasters not distributed via DTT) in the development of the production of European audiovisual works or whose original language is French.</p> |

²⁰ The factsheet on France incorporates the feedback received from Julie-Jeanne Régnault (Centre National du Cinéma) during the checking round with the national film funds.

When it is referred to VOD services, this should be considered as including catch-up TV.



| | | |
|----------------------|---|---|
| | <p>Non-linear AVMS providers</p> | <p>The following obligations are applicable only to providers with a turnover above 10M€ per year, offering more than 10 cinematographic or audiovisual works</p> <p>Transaction VOD providers shall invest at least 15% of their previous year's turnover in the development of the production of European cinematographic works, including 12% in works whose original language is French. They shall also invest, under the same financial conditions, in the development of the production of European audiovisual works.</p> <p>Subscription VOD providers shall invest at least 26% of their turnover in the development of the production of European cinematographic works, including 22% in works whose original language is French, when the service includes at least 10 cinema films released in theatres in the previous 22 months. These percentages are lower (between 21% and 17%) when the service includes at least 10 cinema films released in theatres in the previous 22-36 months and similar to the percentages applicable to transaction VOD providers (between 15% and 12%) in other cases. They shall also invest, under the same financial conditions, in the development of the production of European audiovisual works.</p> |
| | <p>Distributors</p> | <p>No obligation.</p> |
| <p>Levies</p> | <p>Linear AVMS providers</p> | <p>Broadcasters are subject to a levy of 5.65% of their yearly turnover, with an abatement of EUR 11 000 000, or EUR 16 000 000 for broadcasters who do not have revenues from the transmission of commercial communications.</p> |
| | <p>Non-linear AVMS providers</p> | <p>Since 1 January 2018, a 2% tax on the yearly turnover (increased to 10% when the transaction concerns pornographic or violent works) has been payable for making available services to the French public which give them access to cinematographic or audiovisual works, upon individual request, and by means of an electronic communication process, whether or not the VOD provider is established in France. An abatement of 66% or EUR 100 000 applies to free services.</p> |
| | <p>Distributors</p> | <p>Distributors are subject to a levy whose percentage varies depending on their turnover: 0.5% of the turnover between EUR 10 000 000 and EUR 250 000 000; 2.10% of the turnover between EUR 250 000 000 and EUR 500 000 000; 2.80% of the turnover between EUR 500 000 000 and EUR 750 000 000; 3.5% of the turnover over EUR 750 000 000.</p> |
| | <p>Theatres</p> | <p>Theatres are subject to a levy of 10.72% of the price of an admission ticket including VAT (multiplied by 1.5 if the film contains pornography or incitement to violence) and another levy of 0.232% of the price of an admission ticket excluding VAT and the aforementioned levy.</p> |



| | | |
|------------------|---|---|
| | Video industry | Video retailers are subject to a 2% tax on its yearly turnover, which is increased to 10% where the transaction concerns pornographic works. |
| | Other | <p>The following players of the cinematographic and audiovisual industry are subject to a levy, of which the CNC is the beneficiary:</p> <ul style="list-style-type: none"> ■ producers of cinematographic works: 0.58% of the revenues generated by the transfer of the exploitation rights of the works they produce; ■ distributors of cinematographic works: 0.58% of the revenues generated by the exploitation of the works they distribute (0.68% for distributors of pornographic works); ■ Exporters of cinematographic works: 0.55% of the turnover generated by the exportation of the works. |
| Promotion | Quotas European works linear AVMS providers | <p>Broadcasters shall reserve at least 60% of the transmission time they dedicate to cinematographic works for European works, including at least 40% for works whose original language is French. They shall also reserve at least 60% of the transmission time they dedicate to audiovisual works for European works, including at least 40% for works whose original language is French.</p> <p>These quotas are higher for the public broadcaster France Télévisions: respectively 70% and 50%.</p> |
| | Quotas independent works linear AVMS providers | No obligation. |
| | Quotas non-linear AVMS providers | VOD services shall reserve, at any moment, at least 60% of the cinematographic and audiovisual works present in their catalogue (except for pornographic and extremely violent works), for European works, and at least 40% for works whose original language is French. These quotas are reduced to 50% and 35% during the first 3 years of application. |
| | Prominence non-linear AVMS providers | VOD services shall, at any moment, reserve a substantial portion of their homepage to spotlight European works or works whose original language is French, including by displaying images and making trailers available. |

Source: French response to European Audiovisual Observatory standardised survey

4.13.2. Definitions

Article 6 of Decree No. 90-66 defines European works as follows:

“1. European audiovisual works and European cinema films are:

a) Works from members of the European Union;



b) Works from countries who signed the European Convention on Transfrontier Television of the Council of Europe,

Who respect these conditions:

1. On the one hand, the works must have been principally done by authors, performers, technicians and creators who live in one or several of these States and with the use of studios for shooting and sound studios located in these same States. The proportion of the part of the works is fixed by a decree.

2. On the other hand:

a) The works must have been either produced by a company with its head office in these States or the CEO and the majority of the directors must be citizens of one of these States, on the condition that the company which oversees the production of these works has financial responsibility.

b) Or be mostly financed by co-producers from these States, on the condition that the co-production is not controlled by one or several producers from outside these States.

II. Furthermore, works co-produced as part of an agreement between the European Union and other countries outside the Union can be considered European works.

III. Works co-produced as part of bilateral agreements between the European Union and countries outside the Union, financed mostly by co-producers of the Union, on the condition that the co-production is not controlled by a producer from outside the Union.”

Article 6 of Decree No. 2010-747 defines an independent producer as follows:

“An independent producer is independent from a broadcaster if:

- 4) The broadcaster does not directly or indirectly hold more than 15% of the share capital or of the voting rights.*
- 5) The independent producer does not directly or indirectly hold more than 15% of the capital share or voting rights of the broadcaster.*
- 6) A shareholder or a group of shareholders do not control the broadcaster and the producer at the same time.”*

Furthermore, Articles 15, 31 and 34 (for audiovisual works) and 8 and 23 (for cinematographic works) of Decree No. 2010-416 and Articles 15, 30 and 42 (for audiovisual works) and 6 and 36 (for cinematographic works) of Decree No. 2010-747 provide details on the specific conditions under which a cinematographic or an audiovisual work can be eligible as an independent work.

Table 184. France – Definition of the main concepts in terms of the promotion of EU works

| Concept | Definition |
|---------|------------|
|---------|------------|



| | |
|-----------------------------|------|
| European works | Yes. |
| Independent producer | Yes. |
| Prominence | No. |

Source: French response to European Audiovisual Observatory standardised survey

4.13.3. Financial investment obligations

4.13.3.1. Financial investment obligations by linear AVMS providers (broadcasters)

Broadcasters shall invest at least 3.2% (3.5% for public broadcasters) of their previous year's turnover in the development of the production of European cinematographic works, including at least 2.5% in works whose original language is French (Article 6 of Decree No. 2010-416 and Article 3 of Decree No. 2010-747). This applies to broadcasters who broadcast more than 52 films, or more than 104 broadcasts of films, with a maximum of 192 per year.

Thematic broadcasters focused on cinema who are allowed to broadcast up to 500 films per year shall, depending on the service, invest a minimum of between 12.5% and 27% of their yearly turnover in the development of the production of European cinematographic works, including a minimum of between 9.5% and 22% in works whose original language is French. These percentages are subject to guaranteed minima per subscriber (Article 21 of Decree No. 2010-416 and Article 35 of Decree No. 2010-747).

Broadcasters shall also invest at least 15% of their yearly turnover (14% for broadcasters not distributed via DTT) in the development of the production of European audiovisual works or works whose original language is French (Article 11 of Decree No. 2010-416 and Article 9 of Decree No. 2010-747). Services that reserve less than 20% of their transmission time for audiovisual works are exempt, except if their yearly turnover exceeds EUR 350 000 000.

Thematic broadcasters focused on cinema shall invest at least 3.6% of their yearly turnover (6% for broadcasters not distributed via DTT) in the development of the production of European audiovisual works or works whose original language is French (Article 27 of Decree No. 2010-416 and Article 40 of Decree No. 2010-747).

These percentages are a minimum. Higher percentages are mainly set in professional agreements negotiated between producers and broadcasters and then transposed in conventions. On the basis of these two decrees, broadcasters can negotiate a convention with the regulatory authority (CSA – Conseil supérieur de l'audiovisuel), who can set higher percentages whose level depends on the way they use media chronology (that is to say, the timeframe within which works are distributed on cinema screens, DVD, VOD or television): the sooner a service broadcasts a film, the higher its investment obligations are.

The eligible funds are not only the traditional ones for such an obligation (pre-acquisition, acquisition, co-production or production) but can also be used to fund screenwriting and



the development (for television works) or the adaptation of works for blind or deaf audiences (for cinematographic and audiovisual works).

Table 185. France – Main features of the financial investment scheme for broadcasters

| Feature | Description |
|---|--|
| Legal basis for the investment | Law No. 86-1067 on Freedom of Communication. Decree No. 2010-416. Decree No. 2010-747. |
| Level of investment | 3.2% (3.5% for public broadcasters) of the previous year's turnover in European cinematographic works (higher percentages, from 12.5% to 27% of the yearly turnover for cinema broadcasters). However, this higher quota for PSB is not introduced by law, but due to a professional agreement involving the French public broadcaster. 14% or 15% of the previous year's turnover in audiovisual works (lesser percentage, from 3.6% to 6% for cinema broadcasters). |
| Mandatory, optional or voluntary investment | Mandatory |
| Nature of the investment | Pre-acquisition, acquisition, co-production, production, funding of screenwriting and development or adaptation for blind and deaf audiences. |
| Distinction between genres in which to invest | Yes. |
| Distinction between public or private broadcasters | Yes. |
| Level of investment in European works | Yes |
| Level of investment in independent works | Yes (75% of the mandatory investment in most cases). |
| Level of investment in works in a national language | Yes. |
| Investment scheme applicable to foreign broadcasters | No. |
| Other type of investment | No. |

Source: French response to European Audiovisual Observatory standardised survey

4.13.3.2. Financial investment obligations by non-linear AVMS (VOD) providers

The following obligations are applicable only to providers with a turnover above 10M€ per year, offering more than 10 cinematographic or audiovisual works.

Transaction VOD providers shall invest at least 15% of their previous year's turnover in the development of the production of European cinematographic works, including 12% in works whose original language is French (Article 5 of Decree No. 2010-1379). They shall



also invest, under the same financial conditions, in the development of the production of European audiovisual works.

Subscription VOD providers shall invest at least 26% of their turnover in the development of the production of European cinematographic works, including 22% in works whose original language is French, when the service includes at least 10 cinema films released in theatres in the previous 22 months. These percentages are lower (between 21% and 17%) when the service includes at least 10 cinema films released in theatres in the previous 22-36 months and are similar to the percentages applicable to transaction VOD providers (between 15% and 12%) in others cases (Article 4 of Decree No. 2010-1379). They shall also invest, under the same financial conditions, in the development of the production of European audiovisual works.

The eligible funds are not only the traditional ones for such an obligation (pre-acquisition, co-production or production) but can also be used for the adaptation of works for blind or deaf audiences, or financial fees paid to rightsholders such as producers, distributors and authors (Article 7 of Decree No. 2010-1379).

Table 186. France – Main features of the investment scheme for VOD providers

| Feature | Description |
|---|--|
| Legal basis for the investment | Law on Freedom of Communication. Decree No. 2010-1379. |
| Level of the investment | TVOD: 15% of the previous year's turnover in European cinematographic works and 15% of the previous year's turnover in European audiovisual works. SVOD: 26%, 21% or 15% of the previous year's turnover in European cinematographic works and 15% of the previous year's turnover in European audiovisual works. |
| Mandatory, optional or voluntary investment | Mandatory. |
| Nature of the investment | Pre-acquisition, acquisition, co-production, production, adaptation for blind and deaf audiences or financial fees paid to rightsholders such as producers, distributors and authors. |
| Distinction between genres in which to invest | Yes. |
| Distinction between public or private services | No. |
| Level of investment in European works | Yes. |
| Level of investment in independent works | Yes (75% of the mandatory investments). |
| Level of investment in works in a national language | Yes. |
| Investment scheme applicable to foreign broadcasters | No. |
| Other type of investment | No. |



Source: French response to European Audiovisual Observatory standardised survey

4.13.3.3. Financial investment obligations by distributors

Table 187. France – Main features of the investment scheme for distributors

| Feature | Description |
|---|-------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Other type of investment | N/A. |

Source: French response to European Audiovisual Observatory standardised survey

4.13.4. Levies

4.13.4.1. Levies on linear AVMS providers (broadcasters)

Broadcasters are subject to a levy of 5.65% of their yearly turnover, with an abatement of EUR 11 000 000, or EUR 16 000 000 for broadcasters who do not have revenues from the transmission of commercial communications (Article 115-6 to 115-13 of the Cinema Code).

Table 188. France – Main features of the levies on broadcasters

| Feature | Description |
|-------------------------------------|--|
| Legal basis of the levy | Cinema Code |
| Criteria used to determine the levy | 5.65% of the yearly turnover. |
| Mandatory or optional obligation | Mandatory. |
| Ceiling to the levy imposed | No, but abatement of EUR 11 000 000, or EUR 16 000 000 for broadcasters who do not have revenues from the transmission of commercial communications. |



| | |
|--|---|
| Distinction between genres on which to spend the levy | No. |
| Distinction between public and private broadcasters | No. |
| Authority gathering and controlling the amount due | Centre national du cinéma et de l'image animée (CNC). |
| Authority benefiting from the amount due | Centre national du cinéma et de l'image animée (CNC). |
| Levy applicable to foreign broadcasters | No. |

Source: French response to European Audiovisual Observatory standardised survey

4.13.4.2. Levies on non-linear AVMS providers (VOD services)

Since 1 January 2018, a 2% tax on the yearly turnover (increased to 10% when the transaction concerns pornographic or violent works) has been payable for making available services to the French public which give them access to cinematographic or audiovisual works, upon individual request and by means of an electronic communication process, whether or not the VOD provider is established in France (Article 1069eB of the Tax Code). An abatement of 66% or EUR 100 000 applies to free services.

Table 189. France – Main features of the levies on VOD services

| Feature | Description |
|--|---|
| Legal basis of the levy | Tax Code. |
| Criteria used to determine the levy | 2% of the yearly turnover. |
| Mandatory or optional obligation | Mandatory. |
| Ceiling to the levy imposed | No. |
| Distinction between genres on which to spend the levy | No. |
| Distinction between public and private VOD services | No. |
| Authority gathering and controlling the amount due | Tax administration. |
| Authority benefiting from the amount due | Centre national du cinéma et de l'image animée (CNC). |
| Levy applicable to foreign VOD services | Yes. |

Source: French response to European Audiovisual Observatory standardised survey

4.13.4.3. Levies on distributors

Distributors are subject to a levy whose percentage varies depending on their turnover: 0.5% of the turnover between EUR 10 000 000 and EUR 250 000 000; 2.10% of the turnover between EUR 250 000 000 and EUR 500 000 000; 2.80% of the turnover



between EUR 500 000 000 and EUR 750 000 000; and 3.5% of the turnover over EUR 750 000 000 (Article 115 of the Cinema Code).

Table 190. France – Main features of the levies on distributors

| Feature | Description |
|---|---|
| Legal basis of the levy | Cinema Code. |
| Criteria used to determine the levy | Between 0.5 and 3.5% of the turnover. |
| Mandatory or optional obligation | Mandatory. |
| Ceiling to the levy imposed | No. |
| Distinction between genres on which to spend the levy | No. |
| Authority gathering and controlling the amount due | Centre national du cinéma et de l'image animée (CNC). |
| Authority benefiting from the amount due | Centre national du cinéma et de l'image animée (CNC). |

Source: French response to European Audiovisual Observatory standardised survey

4.13.4.4. Levies on theatres (cinema tickets)

Theatres are subject to a levy of 10.72% of the price of the admission ticket including VAT (multiplied by 1.5 if the film contains pornography or incitement to violence) and another levy of 0.232% of the price of the admission ticket excluding VAT and the aforementioned levy (Article 115-1 to 5 and Article 115-14 4° of the Cinema Code).

Table 191. France – Main features of the levies on theatres (cinema tickets)

| Feature | Description |
|---|--|
| Legal basis of the levy | Cinema Code. |
| Criteria used to determine the levy | 10.72% of the price of tickets including VAT. 0.232% of the price of tickets excluding VAT and the 10.72% levy. |
| Distinction between genres on which to spend the levy | No. |
| Authority gathering and controlling the amount due | Centre national du cinéma et de l'image animée (CNC). |
| Authority benefiting from the amount due | Centre national du cinéma et de l'image animée (CNC). |

Source: French response to European Audiovisual Observatory standardised survey



4.13.4.5. Levies on the video industry

Video retailers are subject to a 2% tax on its yearly turnover, which is increased to 10% when the transaction concerns pornographic works (Article 1069eB of the Tax Code).

Table 192. France – Main features of the levies on the video industry

| Feature | Description |
|---|---|
| Legal basis of the levy | Tax Code. |
| Criteria used to determine the levy | 2% of the yearly turnover. |
| Distinction between genres on which to spend the levy | No. |
| Authority gathering and controlling the amount due | Tax administration. |
| Authority benefiting from the amount due | Centre national du cinéma et de l'image animée (CNC). |

Source: French response to European Audiovisual Observatory standardised survey

4.13.4.6. Other levies

The following players of the cinematographic and audiovisual industry are subject to a levy, of which the CNC is the beneficiary:

- producers of cinematographic works: 0.58% of the revenues generated by the transfer of the exploitation rights of the works they produce;
- distributors of cinematographic works: 0.58% of the revenues generated by the exploitation of the works they distribute (0.68% for distributors of pornographic works);
- Exporters of cinematographic works: 0.55% of the turnover generated by the exportation of the works (Article 155-14 of the Cinema Code).

4.13.5. Quota obligations

4.13.5.1. Quotas for linear AVMS providers (broadcasters) – EU works

Broadcasters shall reserve at least 60% of their transmission time dedicated to cinematographic works for European works, including at least 40% for works whose original language is French. They shall also reserve at least 60% of their transmission time dedicated to audiovisual works for European works, including at least 40% for works whose original language is French (Articles 7 and 13 of Decree No. 90-66).

These quotas are higher for the public broadcaster France Télévisions: respectively 70% and 50% (Decree establishing the remit of France Télévisions).



The quotas for cinematographic works shall also be met during peak time (between 6 p.m. and 2 a.m. for cinema and pay-per-view services and 8.30 p.m. and 10.30 p.m. for other services).

Derogations to the quotas for cinematographic works can be granted by the CSA to services dedicated to the primary transmission of cinematographic works. However, the quotas cannot be lower than 50% and 35%, respectively.

Derogations to the quotas for audiovisual works can be granted by the CSA to services making specific commitments in terms of investing in audiovisual works whose original language is French and which have been created by producers who are independent from broadcasters. However, the European quota cannot be lower than 50%.

Table 193. France – Main features of the quota for broadcasters – EU works

| Feature | Description |
|---|--|
| Legal basis of the obligation | Law on Freedom of Communication. Decree No. 90-66. |
| Level of the quota | 60% of the transmission time dedicated to cinematographic works for European works, including 40% for works whose original language is French. 60% of the transmission time dedicated to audiovisual works for European works, including 40% for works whose original language is French. |
| Flexibility in achieving the quota (“where practicable...”) | No. |
| Distinction between public or private broadcasters | Yes. |
| Derogations available for certain types of broadcasters | Yes. |
| Quotas for specific genres | Yes. |
| Quotas for national works or works in a national language | Yes. |
| Quotas for non-national EU works | No. |

Source: French response to European Audiovisual Observatory standardised survey

4.13.5.2. Quotas for linear AVMS providers (broadcasters) – independent works

N/A.

Table 194. France – Main features of the quota for broadcasters – independent works

| Feature | Description |
|-------------------------------|-------------|
| Legal basis of the obligation | N/A. |



| | |
|--|------|
| Level of the quota | N/A. |
| Flexibility in achieving the quota (“where practicable...”) | N/A. |
| Distinction between public or private broadcasters | N/A. |
| Derogations available for certain types of broadcasters | N/A. |
| Quotas for specific genres | N/A. |
| Quotas for national works or works in a national language | N/A. |
| Quotas for non-national EU works | N/A. |

Source: French response to European Audiovisual Observatory standardised survey

4.13.5.3. Quotas for non-linear AVMS providers (VOD services)

VOD services (on-demand includes catch-up TV) shall reserve, at any moment, at least 60% of the cinematographic and audiovisual works present in their catalogue (except pornographic and extremely violent works), for European works and at least 40% for works whose original language is French (Article 12 of Decree No. 2010-1379).

These quotas are reduced to 50% and 35% during the first 3 years of application.

The following services are exempt:

- services with less than 20 cinematographic works and 20 audiovisual works in their catalogue;
- services dedicated to pornographic works.

Table 195. France – Main features of the quota for VOD services – EU works

| Feature | Description |
|--|---|
| Legal basis of the obligation | Law on Freedom of Communication. Decree No. 2010-1379. |
| Level of the quota | 60% of the cinematographic and audiovisual works shall be European. |
| Flexibility in achieving the quota (“where appropriate...”) | No. |
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of VOD services | Yes. |
| Quotas for specific genres | Yes. |
| Quotas for national works or works in a national language | Yes. |



| | |
|---|-----|
| Quotas for non-national EU works | No. |
|---|-----|

Source: French response to European Audiovisual Observatory standardised survey

4.13.6. Prominence obligations

VOD services (on-demand includes catch-up TV) shall, at any moment, reserve a substantial portion of their homepage for the exposure of European works or works whose original language is French, including by displaying images and making trailers available (Article 13 of Decree No. 2010-1379).

The following services are exempt:

- services with less than 20 cinematographic works and 20 audiovisual works in their catalogue;
- services dedicated to pornographic works.

Table 196. France – Main features of the prominence obligation for VOD services

| Feature | Description |
|---|---|
| Legal basis of the obligation | Law on Freedom of Communication. Decree No. 2010-1379. |
| Means of giving prominence imposed | Displaying images. Making trailers available. |
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of VOD services | Yes. |
| Prominence to give to specific genres | Yes. |
| Prominence to give to national works or works in a national language | Yes. |
| Prominence to give to non-national EU works | No. |

Source: French response to European Audiovisual Observatory standardised survey

4.13.7. Envisaged amendments to the regulatory framework

A review of the Law on Freedom of Communication is expected in the coming months, focused mainly on reviewing the remit of the public service media and on the implementation of the new provisions stemming from the revised AVMS Directive, with regard to the promotion and production of audiovisual works.



4.13.8. Studies, reports and researches

- CNC (2016) Impact économique et social du périmètre d'intervention du CNC – https://www.cnc.fr/cinema/etudes-et-rapports/etudes-prospectives/impact-economique-et-social-du-perimetre-dintervention-du-cnc_236657
- CNC (2018) Cinéma et audiovisuel : les liens financiers – https://www.cnc.fr/cinema/etudes-et-rapports/bilans/cinema-et-audiovisuel--les-liens-financiers--mai-2018_556112
- Yearly reports of the CNC – <https://www.cnc.fr/cinema/etudes-et-rapports/rapports-d-activite>
- Yearly and regular other assessments of the CNC – <https://www.cnc.fr/cinema/etudes-et-rapports/bilans>

4.13.9. Applicable regulatory framework

- Primary legislation:
 - In French – Loi n°86-1067 du 30 septembre 1986 relative à la liberté de communication (Law on Freedom of Communication): <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000006068930>
 - In French – Code du cinéma et de l'image animée (Cinema Code): <https://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT00020908868&idArticle=LEGIARTI000020907761&dateTexte=&categorieLien=cidand> https://www.cnc.fr/professionnels/code-du-cinema-et-de-limage-animee-et-reglement-general-des-aides-financieres-du-centre-national-du-cinema-et-de-limage-animee-rga_124252
 - In French – Code général des impôts (Tax Code) : https://www.legifrance.gouv.fr/affichCode.do;jsessionid=492D9F3767B1F3FB3844B50950D8C70E.tplqfr42s_2?idSectionTA=LEGISCTA000033816267&cidTexte=LEGITEXT000006069577&dateTexte=20181010
- Secondary legislation:
 - In French – Décret n°90-66 du 17 janvier 1990 pris pour l'application de la loi n°86-1067 du 30 septembre 1986 et fixant les principes généraux concernant la diffusion des œuvres cinématographiques et audiovisuelles par les éditeurs de services de télévision (Decree on the principles for the transmission of cinematographic and audiovisual works by audiovisual media services): <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000342173&dateTexte=20181009>
 - In French – Décret n°2010-416 du 27 avril 2010 relatif à la contribution cinématographique et audiovisuelle des éditeurs de services de télévision et aux éditeurs de services de radio distribués par les réseaux n'utilisant pas des fréquences assignées par le Conseil supérieur de l'audiovisuel (Decree on the contribution to the production of cinematographic and audiovisual works by audiovisual media services that do not use



frequencies assigned by the
CSA) :<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000022146189&dateTexte=20181009>

- In French – Décret n°2010-747 du 2 juillet 2010 relatif à la contribution à la production d'œuvres cinématographiques et audiovisuelles des services de télévision diffusés par voie hertzienne terrestre (Decree on the contribution to the production of cinematographic and audiovisual works by audiovisual media services distributed via terrestrial means):<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000022423813&dateTexte=20181009>
- In French – Décret n°2010-1379 du 12 novembre 2010 relatif aux services de médias audiovisuels à la demande (Decree on on-demand audiovisual media services) :<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000023038244&dateTexte=20181009>
- In French - Décret n° 2009-796 du 23 juin 2009 fixant le cahier des charges de la société nationale de programme France Télévisions (Decree establishing the remit of France Télévisions) :
<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000020788471&dateTexte=20181009>

4.13.10. Data compilation

This factsheet was produced based on data compiled by Marc Le Roy, PHD in law.



4.14. GB – United Kingdom – National legal summary²¹

4.14.1. Summary

Table 197. United Kingdom – Summary of the existing obligations – by type and player

| Obligation | Player | Main feature |
|---|---|--|
| Financial investment obligations | Linear AVMS providers | Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping programmes), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters. |
| | Non-linear AVMS providers | No obligation. |
| | Distributors | No obligation. |
| Levies | Linear AVMS providers | No obligation. |
| | Non-linear AVMS providers | No obligation. |
| | Distributors | No obligation. |
| | Theatres | No obligation. |
| | Video industry | No obligation. |
| | Other | No obligation. |
| Promotion | Quotas European works linear AVMS providers | Broadcasters shall reserve a majority proportion of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping programmes) for European works. |
| | Quotas independent works linear AVMS providers | Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping programmes), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters. |
| | Quotas non-linear AVMS providers | No obligation. |
| | Prominence non-linear AVMS | No obligation. |

²¹ The factsheet on the UK incorporates the feedback received from Carol Comley (British Film Institute) during the checking round with the national film funds.



| | | |
|--|-----------|--|
| | providers | |
|--|-----------|--|

Source: British response to European Audiovisual Observatory standardised survey

4.14.2. Definitions

Article 3(4) of the Broadcasting (Independent Productions) Order 1991 defines an independent producer as follows:

“a producer who:

- is not an employee of a broadcaster;
- does not have a shareholding greater than 25% in a broadcaster;
- is not a body corporate in which a broadcaster has a shareholding greater than 25% or in which any two or more broadcasters together have an aggregate shareholding greater than 50%.”

Table 198. United Kingdom – Definition of the main concepts in terms of the promotion of EU works

| Concept | Definition |
|----------------------|------------|
| European works | No. |
| Independent producer | Yes. |
| Prominence | No. |

Source: British response to European Audiovisual Observatory standardised survey

4.14.3. Financial investment obligations

4.14.3.1. Financial investment obligations by linear AVMS providers (broadcasters)

Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping programmes), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters (Article 1 of the Guidance on compliance with Articles 16 and 17 of the AVMS Directive).²²

²² Section 335 of the Communications Act 2003 empowers the Secretary of State to notify Ofcom of international obligations, which in turn creates a duty for Ofcom to amend licences to insert conditions securing compliance with them. In reliance on this power, Ofcom has inserted conditions in broadcast licences requiring licensees to comply with the obligations set out in the AVMSD, and has interpreted these

**Table 199. United Kingdom – Main features of the financial investment scheme for broadcasters**

| Feature | Description |
|--|--|
| Legal basis for the investment | Guidance on compliance with Articles 16 and 17 of the AVMS Directive, based on section 335 of the Communications Act 2003. |
| Level of investment | 10% of the transmission time or 10% of the programming budget. |
| Mandatory, optional or voluntary investment | Optional. |
| Nature of the investment | Acquisition, co-production or production. |
| Distinction between genres in which to invest | No. |
| Distinction between public or private broadcasters | No. |
| Level of investment in European works | No. |
| Level of investment in independent works | Yes. |
| Level of investment in works in a national language | No. |
| Investment scheme applicable to foreign broadcasters | No. |
| Other type of investment | No. |

Source: British response to European Audiovisual Observatory standardised survey

4.14.3.2. Financial investment obligations by non-linear AVMS (VOD) providers

Table 200. United Kingdom – Main features of the investment scheme for VOD providers

| Feature | Description |
|---|-------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Distinction between public or private | N/A. |

obligations having regard to the obligations set out in its Guidance on compliance with Articles 16 and 17 of the AVMS Directive.



| | |
|---|------|
| services | |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Investment scheme applicable to foreign VOD providers | N/A. |
| Other type of investment | N/A. |

Source: British response to European Audiovisual Observatory standardised survey

4.14.3.3. Financial investment obligations by distributors

Table 201. United Kingdom – Main features of the investment scheme for distributors

| Feature | Description |
|---|-------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Other type of investment | N/A. |

Source: British response to European Audiovisual Observatory standardised survey

4.14.4. Levies

4.14.4.1. Levies on linear AVMS providers (broadcasters)

Table 202. United Kingdom – Main features of the levies on broadcasters

| Feature | Description |
|-------------------------|-------------|
| Legal basis of the levy | N/A. |



| | |
|---|------|
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private broadcasters | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign broadcasters | N/A. |

Source: British response to European Audiovisual Observatory standardised survey

4.14.4.2. Levies on non-linear AVMS providers (VOD services)

Table 203. United Kingdom – Main features of the levies on VOD services

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private VOD services | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign VOD services | N/A. |

Source: British response to European Audiovisual Observatory standardised survey

4.14.4.3. Levies on distributors

Table 204. United Kingdom – Main features of the levies on distributors

| Feature | Description |
|-------------------------------------|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |



| | |
|--|------|
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: British response to European Audiovisual Observatory standardised survey

4.14.4.4. Levies on theatres (cinema tickets)

Table 205. United Kingdom – Main features of the levies on theatres (cinema tickets)

| Feature | Description |
|--|--------------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: British response to European Audiovisual Observatory standardised survey

4.14.4.5. Levies on the video industry

Table 206. United Kingdom – Main features of the levies on the video industry

| Feature | Description |
|--|--------------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: British response to European Audiovisual Observatory standardised survey



4.14.4.6. Other levies

Although it cannot be considered as a levy, given that it is a voluntary contribution, it is worth mentioning the existence of ScreenSkills,²³ an industry-led skills charity for the screen industries whose goal is to provide insight, career development and other opportunities to help grow and sustain a skilled and inclusive workforce in the United Kingdom. ScreenSkills is funded by the British Film Institute, Arts Council England, AVMS providers and production companies.

4.14.5. Quota obligations

4.14.5.1. Quotas for linear AVMS providers (broadcasters) – EU works

Broadcasters shall reserve a majority proportion of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping programmes) for European works (Article 1 of the Guidance on compliance with Articles 16 and 17 of the AVMS Directive).

The Guidance does not mention the formulation “*where practicable and by appropriate means*”, yet OFCOM’s licence conditions state that “*the requirements of the Audiovisual Media Services Directive are complied with where practicable, having regard to the provisions set out in Articles 16, 17 and 18 of the Directive and any guidance issued and from time to time revised by Ofcom for the purpose of giving effect to those provisions*”.

Broadcasters launching new services are required to meet the quota within five years of the launch of the service and should demonstrate progress towards those targets during the five-year transitional period. Broadcasters who consider that it would not be practicable to meet the quota can explain why to the regulatory authority Ofcom, which will advise whether any remedial measures are necessary (Article 2 of the Guidance on compliance with Articles 16 and 17 of the AVMS Directive).

Exempt services are those that:

- are not receivable in the European Union;
- comprise programming broadcast in a language other than a language of the European Union;
- serve a local or regional audience, and do not form part of a national network;
- are comprised wholly of news or sports event programming, games, teletext services or teleshopping.

²³ <https://www.screenskills.com/>

**Table 207. United Kingdom – Main features of the quota for broadcasters – EU works**

| Feature | Description |
|--|--|
| Legal basis of the obligation | Guidance on compliance with Articles 16 and 17 of the AVMS Directive, based on section 335 of the Communications Act 2003. |
| Level of the quota | The majority proportion of the transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | Yes. |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | Yes. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: British response to European Audiovisual Observatory standardised survey

4.14.5.2. Quotas for linear AVMS providers (broadcasters) – independent works

Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping programmes), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters (Article 1 of the Guidance on compliance with Articles 16 and 17 of the AVMS Directive).

The license conditions, flexibility and exemption measures detailed in the previous section also apply to this quota.

Table 208. United Kingdom – Main features of the quota for broadcasters – independent works

| Feature | Description |
|--|--|
| Legal basis of the obligation | Guidance on compliance with Articles 16 and 17 of the AVMS Directive, based on section 335 of the Communications Act 2003. |
| Level of the quota | 10% of the transmission time or 10% of the programming budget. |
| Flexibility in achieving the quota (“where practicable...”) | Yes. |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | Yes. |



| | |
|--|-----|
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: British response to European Audiovisual Observatory standardised survey

4.14.5.3. Quotas for non-linear AVMS providers (VOD services)

Table 209. United Kingdom – Main features of the quota for VOD services – EU works

| Feature | Description |
|--|--------------------|
| Legal basis of the obligation | N/A. |
| Level of the quota | N/A. |
| Flexibility in achieving the quota (“where appropriate...”) | N/A. |
| Distinction between public or private VOD services | N/A. |
| Derogations available for certain types of VOD services | N/A. |
| Quotas for specific genres | N/A. |
| Quotas for national works or works in a national language | N/A. |
| Quotas for non-national EU works | N/A. |

Source: British response to European Audiovisual Observatory standardised survey

4.14.6. Prominence obligations

Table 210. United Kingdom – Main features of the prominence obligation for VOD services

| Feature | Description |
|---|--------------------|
| Legal basis of the obligation | N/A. |
| Means of giving prominence imposed | N/A. |
| Distinction between public or private VOD services | N/A. |
| Derogations available for certain types of VOD services | N/A. |
| Prominence to give to specific genres | N/A. |
| Prominence to give to national works or works in a national language | N/A. |



| | |
|---|------|
| Prominence to give to non-national EU works | N/A. |
|---|------|

Source: British response to European Audiovisual Observatory standardised survey

4.14.7. Envisaged amendments to the regulatory framework

N/A.

4.14.8. Studies, reports and researches

N/A.

4.14.9. Applicable regulatory framework

- Primary legislation:
 - In English – Communications Act 2003:
<https://www.legislation.gov.uk/ukpga/2003/21/contents>
- Secondary legislation:
 - In English – OFCOM Guidance on compliance with articles 16 and 17 of the AVMS Directive:
https://www.ofcom.org.uk/_data/assets/pdf_file/0018/12942/av-media-services.pdf
 - In English - Broadcasting (Independent Productions) Order 1991:
<http://www.legislation.gov.uk/uksi/1991/1408/made>
 - In English – OFCOM Licence conditions:
https://www.ofcom.org.uk/_data/assets/pdf_file/0032/96926/TLCS-Standard-Form-Licence.pdf

4.14.10. Data compilation

This factsheet was produced based on data compiled by the British Film Institute.



4.15. GR – Greece – National legal summary²⁴

4.15.1. Summary

The following table, which is identical for each country factsheet, summarises the obligations which are the most common in Europe.

In Greece however, besides these obligations, there is also a specific promotion obligation imposed on satellite distributors: pursuant to Article 10, section 4, of Law 2644/1998, the licensee (a satellite platform) must ensure in its first year of operation that 25% of the total yearly transmission time (excluding the time allotted to news, advertising and teleshopping) of the AVMS it distributes consists of European works. This percentage increases by 5% for each subsequent year, up to a rate of 45%. There is, however, no evidence of the compliance of satellite distributors with this obligation.

Table 211. Greece – Summary of the existing obligations – by type and player

| Obligation | Player | Main feature |
|---|----------------------------------|---|
| Financial investment obligations | Linear AVMS providers | Each year, the public broadcaster ERT shall allocate 1.5% of its yearly turnover and private broadcasters shall allocate 1.5% of their yearly advertising revenues to the production of Greek cinematographic works. |
| | Non-linear AVMS providers | Same as for linear AVMS providers. Additionally, VOD services shall promote, where practicable and by appropriate means, the production of and access to European works. |
| | Distributors | Satellite operators distributing pay TV services and telecommunications operators distributing AVMS via the Internet or mobile telephony shall allocate each year 1.5% of their yearly turnover to the production of Greek cinematographic works. |
| Levies | Linear AVMS providers | No obligation. |
| | Non-linear AVMS providers | No obligation. |
| | Distributors | No obligation. |
| | Theatres | No obligation. |
| | Video industry | No obligation. |

²⁴ The factsheet on Greece incorporates the feedback received from Vassilis Kosmopoulos (Greek Film Centre) during the checking round with the national film funds.



| | | |
|------------------|---|--|
| | Other | No obligation. |
| Promotion | Quotas European works linear AVMS providers | Broadcasters shall reserve at least 51% of their yearly transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping) for European works. |
| | Quotas independent works linear AVMS providers | Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping) for European works created by producers who are independent from broadcasters. |
| | Quotas non-linear AVMS providers | VOD services shall promote, where practicable and by appropriate means, the production of and access to European works. |
| | Prominence non-linear AVMS providers | VOD services shall promote, where practicable and by appropriate means, the production of and access to European works. |

Source: Greek response to European Audiovisual Observatory standardised survey

4.15.2. Definitions

Article 2, section 14, of Presidential Decree No. 109/2010 defines European works as follows:

“(1) European works:

- (i) works originating in EU Member States;*
- (ii) works originating in European third States party to the European Convention on Transfrontier Television of the Council of Europe and fulfilling the conditions of paragraph 3;*
- (iii) works co-produced within the framework of agreements related to the audiovisual sector concluded between the European Union and third countries and fulfilling the conditions defined in each of those agreements.*

(2) The application of the provisions of points (ii) and (iii) of paragraph 1 shall be conditional on works originating in Member States not being the subject of discriminatory measures in the third country concerned.

(3) The works referred to in points (i) and (ii) of paragraph 1 are works mainly made with authors and workers residing in one or more of the States referred to in those provisions provided that they comply with one of the following three conditions:

- (a) they are made by one or more producers established in one or more of those States;*
- (b) the production of the works is supervised and actually controlled by one or more producers established in one or more of those States;*



(c) the contribution of co-producers of those States to the total co-production costs is preponderant and the co-production is not controlled by one or more producers established outside those States.

(4) Works that are not European works within the meaning of point (iii) of paragraph 1 that are produced within the framework of bilateral co-production agreements concluded between EU Member States and third countries shall be deemed to be European works provided that the co-producers from the Union supply a majority share of the total cost of production and that the production is not controlled by one or more producers established outside the territory of the Member States.”

Table 212. Greece – Definition of the main concepts in terms of the promotion of EU works

| Concept | Definition |
|----------------------|------------|
| European works | Yes. |
| Independent producer | No. |
| Prominence | No. |

Source: Greek response to European Audiovisual Observatory standardised survey

4.15.3. Financial investment obligations

4.15.3.1. Financial investment obligations by linear AVMS providers (broadcasters)

Each year, the public broadcaster ERT shall allocate 1.5% of its yearly turnover and private broadcasters shall allocate 1.5% of their yearly advertising revenues to the production of Greek cinematographic works (Article 8 of Law 3905/2010).

A cinematographic work shall be considered as a Greek cinematographic work if it meets two of the following three criteria:

- (a) its original version is at least 51% in Greek;
- (b) at least 51% of filming took place in the Greek territory;
- (c) at least 51% of the budget cost has been proven to be spent in the Greek territory.

Table 213. Greece – Main features of the financial investment scheme for broadcasters

| Feature | Description |
|--------------------------------|--|
| Legal basis for the investment | Law 3905/2010. |
| Level of investment | Public broadcaster: 1.5% of the yearly turnover. Private broadcasters: 1.5 of the advertising revenues. |



| | |
|---|-------------|
| Mandatory, optional or voluntary investment | Mandatory. |
| Nature of the investment | Production. |
| Distinction between genres in which to invest | Yes. |
| Distinction between public or private broadcasters | Yes. |
| Level of investment in European works | No. |
| Level of investment in independent works | No. |
| Level of investment in works in a national language | Yes. |
| Investment scheme applicable to foreign broadcasters | No. |
| Other type of investment | No. |

Source: Greek response to European Audiovisual Observatory standardised survey

4.15.3.2. Financial investment obligations by non-linear AVMS (VOD) providers

The scheme does not differ between broadcasters and VOD services.

In addition to the aforementioned obligation, VOD services shall promote, where practicable and by appropriate means, the production of and access to European works. Such promotion could relate, inter alia, to the financial contribution made by such services to the production and rights acquisition of European works or to the share and/or prominence of European works in the catalogue (Article 14.1 of Presidential Decree 109/2010).

Table 214. Greece – Main features of the investment scheme for VOD providers

| Feature | Description |
|---|--|
| Legal basis for the investment | Law 3905/2010. |
| Level of the investment | Public broadcaster: 1.5% of the yearly turnover. Private broadcasters: 1.5 of the advertising revenues. |
| Mandatory, optional or voluntary investment | Mandatory. |
| Nature of the investment | Production. |
| Distinction between genres in which to invest | Yes. |
| Distinction between public or private services | Yes. |
| Level of investment in European works | No specific level. |
| Level of investment in independent works | No specific level. |



| | |
|--|-----|
| Level of investment in works in a national language | Yes |
| Investment scheme applicable to foreign VOD providers | No. |
| Other type of investment | No. |

Source: Greek response to European Audiovisual Observatory standardised survey

4.15.3.3. Financial investment obligations by distributors

Satellite operators distributing pay TV services and telecommunications operators distributing AVMS via the Internet or mobile telephony shall allocate 1.5% of their yearly turnover each year to the production of Greek cinematographic works (Article 8 of Law 3905/2010).

Table 215. Greece – Main features of the investment scheme for distributors

| Feature | Description |
|--|------------------------------|
| Legal basis for the investment | Law 3905/2010. |
| Level of the investment | 1.5% of the yearly turnover. |
| Mandatory, optional or voluntary investment | Mandatory. |
| Nature of the investment | Production. |
| Distinction between genres in which to invest | Yes. |
| Level of investment in European works | No. |
| Level of investment in independent works | No. |
| Level of investment in works in a national language | Yes. |
| Other type of investment | No. |

Source: Greek response to European Audiovisual Observatory standardised survey

4.15.4. Levies

4.15.4.1. Levies on linear AVMS providers (broadcasters)

Table 216. Greece – Main features of the levies on broadcasters

| Feature | Description |
|--------------------------------|-------------|
| Legal basis of the levy | N/A. |



| | |
|--|------|
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private broadcasters | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign broadcasters | N/A. |

Source: Greek response to European Audiovisual Observatory standardised survey

4.15.4.2. Levies on non-linear AVMS providers (VOD services)

Table 217. Greece – Main features of the levies on VOD services

| Feature | Description |
|--|--------------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private VOD services | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign VOD services | N/A. |

Source: Greek response to European Audiovisual Observatory standardised survey

4.15.4.3. Levies on distributors

Table 218. Greece – Main features of the levies on distributors

| Feature | Description |
|--|--------------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |



| | |
|--|------|
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Greek response to European Audiovisual Observatory standardised survey

4.15.4.4. Levies on theatres (cinema tickets)

Table 219. Greece – Main features of the levies on theatres (cinema tickets)

| Feature | Description |
|--|--------------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Greek response to European Audiovisual Observatory standardised survey

4.15.4.5. Levies on the video industry

Table 220. Greece – Main features of the levies on the video industry

| Feature | Description |
|--|--------------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Greek response to European Audiovisual Observatory standardised survey



4.15.4.6. Other levies

N/A.

4.15.5. Quota obligations

4.15.5.1. Quotas for linear AVMS providers (broadcasters) – EU works

Broadcasters shall reserve at least 51% of their yearly transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping) for European works (Article 17 of Presidential Decree 109/2010).

Pursuant to Law 2328/1995, broadcasters shall reserve at least 25% of their transmission time for programmes in the Greek language, implying that these programmes must be produced by Greek companies. However, since this obligation has not been specified or interpreted in more detail by any other legislative text, it is practically never applied.

Pursuant to Law 4339/2015, Greek shall be the basic language of television programmes. Yet, this does not necessarily mean that quotas for national works or works in the national language are encouraged, since this provision can also be complied with by subtitling programmes.

Services that are intended for local audiences and do not form part of a national network are exempt.

Table 221. Greece – Main features of the quota for broadcasters – EU works

| Feature | Description |
|--|---|
| Legal basis of the obligation | Presidential Decree 109/2010. Law 2328/1995. Law 4339/2015. |
| Level of the quota | 51% of the transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | No. |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | Yes. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Greek response to European Audiovisual Observatory standardised survey



4.15.5.2. Quotas for linear AVMS providers (broadcasters) – independent works

Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping) for European works created by producers who are independent from broadcasters (Article 18 of Presidential Decree 109/2010).

Pursuant to Law 4339/2015, Greek shall be the basic language of television programmes.

Services that are intended for local audiences and do not form part of a national network are exempt.

Table 222. Greece – Main features of the quota for broadcasters – independent works

| Feature | Description |
|---|---|
| Legal basis of the obligation | Presidential Decree 109/2010. Law 4339/2015. |
| Level of the quota | 10% of the transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | No. |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | Yes. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Greek response to European Audiovisual Observatory standardised survey

4.15.5.3. Quotas for non-linear AVMS providers (VOD services)

VOD services shall promote, where practicable and by appropriate means, the production of and access to European works. Such promotion could relate, *inter alia*, to the financial contribution made by such services to the production and rights acquisition of European works or to the share and/or prominence of European works in the catalogue (Article 14.1 of Presidential Decree 109/2010).

Table 223. Greece – Main features of the quota for VOD services – EU works

| Feature | Description |
|-------------------------------|-------------------------------|
| Legal basis of the obligation | Presidential Decree 109/2010. |
| Level of the quota | No specific level. |



| | |
|--|------|
| Flexibility in achieving the quota (“where appropriate...”) | Yes. |
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of VOD services | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Greek response to European Audiovisual Observatory standardised survey

4.15.6. Prominence obligations

VOD services shall promote, where practicable and by appropriate means, the production of and access to European works. Such promotion could relate, *inter alia*, to the financial contribution made by such services to the production and rights acquisition of European works or to the share and/or prominence of European works in the catalogue (Article 14.1 of Presidential Decree 109/2010).

Table 224. Greece – Main features of the prominence obligation for VOD services

| Feature | Description |
|---|-------------------------------|
| Legal basis of the obligation | Presidential Decree 109/2010. |
| Means of giving prominence imposed | No. |
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of VOD services | No. |
| Prominence to give to specific genres | No. |
| Prominence to give to national works or works in a national language | No. |
| Prominence to give to non-national EU works | No. |

Source: Greek response to European Audiovisual Observatory standardised survey

4.15.7. Envisaged amendments to the regulatory framework

N/A.



4.15.8. Studies, reports and researches

N/A.

4.15.9. Applicable regulatory framework

- Primary legislation:
 - In Greek – Law 3905/2010 (Strengthening and development of cinematographic art and other provisions):
www.e-nomothesia.gr/kat-theatra-kinimatografoi/n-3905-2010.html?q=3905
 - In Greek – Law 2328/1995 (Legal status of private television and local radio. Regulation of broadcasting issues and other provisions):
www.e-nomothesia.gr/enemerose-tupos-radiophono-teleorase/n-2328-1995.html
 - In Greek – Law 4339/2015 (Licensing of digital terrestrial free-to-air broadcasters):
www.e-nomothesia.gr/enemerose-tupos-radiophono-teleorase/n-4339-2015.html
- Secondary legislation:
 - In Greek – Presidential Decree 109/2010 (Harmonization of Greek broadcasting legislation with the Directive 2010/13/EU):
<http://avmsd.obs.coe.int/cgi-bin/search.php?s%5Btext%5D=&s%5Ba%5D%5Bm%5D=&s%5Ba%5D%5By%5D=Year&s%5Bb%5D%5Bm%5D=&s%5Bb%5D%5By%5D=Year&action=s%5Bhow&s%5Bresult%5D=article&sc%5B%5D=GR>

4.15.10. Data compilation

This factsheet was produced based on data compiled by Alexandros Oikonomou, Lawyer – Legal expert in the National Council of Radio and Television.

4.16. HR – Croatia – National legal summary²⁵

4.16.1. Summary

Table 225. Croatia – Summary of the existing obligations – by type and player

| Obligation | Player | Main feature |
|----------------------------------|---|---|
| Financial investment obligations | Linear AVMS providers | No obligation. |
| | Non-linear AVMS providers | No obligation. |
| | Distributors | No obligation. |
| Levies | Linear AVMS providers | All broadcasters shall contribute to the funding of the Croatian Audiovisual Centre (HAVC). The amount of the contribution represents a percentage of their turnover. The following percentages apply depending on the type of broadcasters. Public broadcaster HRT: 2%; private national broadcasters: 0.8%; private local broadcasters with a reach extending over 750 000 viewers: 0.5%. |
| | Non-linear AVMS providers | VOD providers are subject to a levy of 2% of the revenues raised by the service. |
| | Distributors | No obligation. |
| | Theatres | Theatres are subject to a levy of 0.5% of their revenues, excluding food & beverages revenues. |
| | Video industry | No obligation. |
| | Other | Cable and satellite operators are subject to a levy of 0.5% of their revenues and operators of public networks, including Internet-connected operators, involved in the distribution of an audiovisual signal (that is, IPTV operators) to a levy of 0.8% of their revenues. |
| Promotion | Quotas European works linear AVMS providers | The public broadcaster HRT shall reserve at least 51% of its transmission time for European works, and 40% of this proportion shall be dedicated, on each channel, to Croatian works. Private broadcasters shall make their best efforts to reserve a majority proportion of their annual transmission time for European works. Broadcasters who cannot attain this proportion shall progressively |

²⁵ The factsheet on Croatia incorporates the feedback received from Daniel Rafaelić (Croatian Audiovisual Centre) during the checking round with the national film funds.



| | | |
|--|---|--|
| | | increase the proportion every year, but the minimum initial proportion shall be 20%. |
| | Quotas independent works linear AVMS providers | The public broadcaster HRT shall reserve 15% of its programming budget for European works created by producers who are independent from broadcasters, and at least 7.5% for Croatian works. Private broadcasters shall reserve at least 10% of their transmission time for European works created by producers who are independent from broadcasters. |
| | Quotas non-linear AVMS providers | VOD services shall make their best efforts to promote, where practicable and by appropriate means, the production of and access to European works. |
| | Prominence non-linear AVMS providers | VOD services shall make their best efforts to promote, where practicable and by appropriate means, the production of and access to European works. |

Source: Croatian response to European Audiovisual Observatory standardised survey

4.16.2. Definitions

Article 41 of the Electronic Media Act defines European works as follows:

- “1) - works originating in Member States of the European Union,
- works originating in European States party to the European Convention on Transfrontier Television and fulfilling the conditions of paragraph 3 of this Article,
 - works co-produced within the framework of agreements related to the audiovisual sector concluded between the European Union and third countries and fulfilling the conditions defined in each of those agreements.
- (2) Application of the provisions of paragraph 1, sub-paragraphs 2 and 3 of this Article shall be conditional only on works originating in Member States of the European Union not being the subject of discriminatory measures in the countries concerned.
- (3) The works referred to in paragraph 1, sub-paragraphs 1 and 2 of this Article are works mainly created by authors and workers residing in those States referred to in paragraph 1, sub-paragraphs 1 and 2 of this Article, provided that they comply with one of the following conditions:
- they are created by producers established in one or more of the aforementioned States, or
 - production of an individual work is supervised and actually controlled by one or more producers established in one or more of the aforementioned States, or
 - the contribution of co-producers of the aforementioned States to the total co-production costs is preponderant and the co-production is not controlled by one or more producers established outside the aforementioned States.



(4) Works that are not considered European works within the meaning of paragraph 1 of this Article, but that are produced within the framework of bilateral co-production treaties concluded between Member States of the European Union and third countries shall be deemed to be European works, provided that the co-producers from the European Union supply a majority share of the total cost of the production and that the production is not controlled by one or more producers established outside the territory of the Member States of the European Union.”

Article 43 of the Media Services Act defines an independent producer as follows:

“(1) An independent producer of audiovisual works (hereinafter: the independent producer) shall be a legal or natural person who meets the following conditions:

- that he/she is registered for performing the activity of producing audiovisual works and his/her seat is in the Republic of Croatia or in one of the European Union Member States;*
- that he/she is not included in the organisational structure of the broadcaster;*
- that the television broadcaster may have no more than 25% of the producer's share capital or managerial or voter's rights;*
- that he/she does not realise more than one half of his/her annual production upon the order of one single television broadcaster.*

(2) An independent producer shall also be a legal or natural person who is registered for performing the activity of producing audiovisual works and has his/her seat in one of the third countries, if European works have comprised the major part of his/her audiovisual production in the last three years and if he/she, in addition to that, fulfils the conditions set out in paragraph 1, sub-paragraphs 2 and 3 of this Article.

(3) An independent producer may not be a legal or natural person whose average share of financial means for covering the total expenses of production or co-production, in which he/she has participated in the last three years, does not exceed 10%.”

Table 226. Croatia – Definition of the main concepts in terms of the promotion of EU works

| Concept | Definition |
|----------------------|------------|
| European works | Yes. |
| Independent producer | Yes. |
| Prominence | No. |

Source: Croatian response to European Audiovisual Observatory standardised survey



4.16.3. Financial investment obligations

4.16.3.1. Financial investment obligations by linear AVMS providers (broadcasters)

The public broadcaster HRT shall reserve 15% of its programming budget for European works created by producers who are independent from broadcasters, and at least 7.5% for Croatian works (Article 11 of the Public Broadcasting Act).

Table 227. Croatia – Main features of the financial investment scheme for broadcasters

| Feature | Description |
|--|---|
| Legal basis for the investment | Public Broadcasting Act |
| Level of investment | The public broadcaster HRT shall reserve 15% of its programming budget for European works created by producers who are independent from broadcasters, and at least half of it for Croatian works. |
| Mandatory, optional or voluntary investment | Mandatory |
| Nature of the investment | Acquisition. |
| Distinction between genres in which to invest | No. |
| Distinction between public or private broadcasters | Yes. |
| Level of investment in European works | Yes |
| Level of investment in independent works | Yes. |
| Level of investment in works in a national language | At least half of the investment to Croatian works. |
| Investment scheme applicable to foreign broadcasters | No. |
| Other type of investment | No. |

Source: Croatian response to European Audiovisual Observatory standardised survey

4.16.3.2. Financial investment obligations by non-linear AVMS (VOD) providers

Table 228. Croatia – Main features of the investment scheme for VOD providers

| Feature | Description |
|----------------------------------|-------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |
| Mandatory, optional or voluntary | N/A. |



| | |
|--|------|
| investment | |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Distinction between public or private services | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Investment scheme applicable to foreign VOD providers | N/A. |
| Other type of investment | N/A. |

Source: Croatian response to European Audiovisual Observatory standardised survey

4.16.3.3. Financial investment obligations by distributors

Table 229. Croatia – Main features of the investment scheme for distributors

| Feature | Description |
|--|--------------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Other type of investment | N/A. |

Source: Croatian response to European Audiovisual Observatory standardised survey



4.16.4. Levies

4.16.4.1. Levies on linear AVMS providers (broadcasters)

All broadcasters shall contribute to the funding of the Croatian Audiovisual Centre (HAVC). The amount of the contribution represents a percentage of their turnover. The turnover is defined as the amount of the revenues, from which transactional profits, real estate income and other potential “non-broadcasting” revenues have been deducted. The amount due is paid on the basis of invoices sent every three months by the HAVC. The following percentages apply depending on the type of broadcasters (Article 25 of the Audiovisual Activities Act):

- public broadcaster HRT: 2%;
- private national broadcasters: 0.8%;
- private local broadcasters with a reach extending over 750 000 viewers: 0.5%.

Table 230. Croatia – Main features of the levies on broadcasters

| Feature | Description |
|--|---|
| Legal basis of the levy | Audiovisual Activities Act. |
| Criteria used to determine the levy | Between 0.5% and 2% of the turnover depending on the status of the broadcaster. |
| Mandatory or optional obligation | Mandatory. |
| Ceiling to the levy imposed | No. |
| Distinction between genres on which to spend the levy | No. |
| Distinction between public and private broadcasters | Yes. |
| Authority gathering and controlling the amount due | Croatian Audiovisual Centre. |
| Authority benefiting from the amount due | Croatian Audiovisual Centre. |
| Levy applicable to foreign broadcasters | No. |

Source: Croatian response to European Audiovisual Observatory standardised survey

4.16.4.2. Levies on non-linear AVMS providers (VOD services)

VOD providers are subject to a levy of 2% of the revenues raised by the service (Article 25 of the Audiovisual Activities Act).

**Table 231. Croatia – Main features of the levies on VOD services**

| Feature | Description |
|---|---|
| Legal basis of the levy | Audiovisual Activities Act. |
| Criteria used to determine the levy | 2% of the revenues raised by the service. |
| Mandatory or optional obligation | Mandatory. |
| Ceiling to the levy imposed | No. |
| Distinction between genres on which to spend the levy | No. |
| Distinction between public and private VOD services | No. |
| Authority gathering and controlling the amount due | Croatian Audiovisual Centre. |
| Authority benefiting from the amount due | Croatian Audiovisual Centre. |
| Levy applicable to foreign VOD services | No. |

Source: Croatian response to European Audiovisual Observatory standardised survey

4.16.4.3. Levies on distributors

Table 232. Croatia – Main features of the levies on distributors

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Croatian response to European Audiovisual Observatory standardised survey

4.16.4.4. Levies on theatres (cinema tickets)

Theatres are subject to a levy of 0.5% of their revenues, excluding food & beverages revenues. The amount due is paid on the basis of invoices sent every three months by the HAVC (Article 25 of the Audiovisual Activities Act).

**Table 233. Croatia – Main features of the levies on theatres (cinema tickets)**

| Feature | Description |
|---|------------------------------|
| Legal basis of the levy | Audiovisual Activities Act. |
| Criteria used to determine the levy | 0.5% of the revenues. |
| Distinction between genres on which to spend the levy | No. |
| Authority gathering and controlling the amount due | Croatian Audiovisual Centre. |
| Authority benefiting from the amount due | Croatian Audiovisual Centre. |

Source: Croatian response to European Audiovisual Observatory standardised survey

4.16.4.5. Levies on the video industry

Table 234. Croatia – Main features of the levies on the video industry

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Croatian response to European Audiovisual Observatory standardised survey

4.16.4.6. Other levies

Cable and satellite operators are subject to a levy of 0.5% of their revenues and operators of public networks, including Internet-connected operators, involved in the distribution of an audiovisual signal (that is, IPTV operators) to a levy of 0.8% of their revenues (Article 25 of the Audiovisual Activities Act).

As for the other levies, the beneficiary is the Croatian Audiovisual Centre.



4.16.5. Quota obligations

4.16.5.1. Quotas for linear AVMS providers (broadcasters) – EU works

The public broadcaster HRT shall reserve at least 51% of its transmission time for European works, and 40% of this proportion shall be dedicated, on each channel, to Croatian works (Article 10 of the Public Broadcasting Act).

Private broadcasters shall use their best efforts to reserve for a majority proportion of their annual transmission time for European works. Broadcasters who cannot attain this proportion shall progressively increase the proportion every year, but the minimum initial proportion shall be 20% (Article 42 of the Electronic Media Act).

The usual exclusion of the time allotted to news, sports events, games, advertising, teletext services and teleshopping, applicable for European works and deriving from Articles 16 and 17 of the AVMS Directive, do not apply.

Table 235. Croatia – Main features of the quota for broadcasters – EU works

| Feature | Description |
|--|--|
| Legal basis of the obligation | Public Broadcasting Act. Electronic Media Act. |
| Level of the quota | Public broadcaster: 51% of the transmission time. Private broadcasters: best effort with a minimum of 20% of the transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | Yes. |
| Distinction between public or private broadcasters | Yes. |
| Derogations available for certain types of broadcasters | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | Yes. |
| Quotas for non-national EU works | No. |

Source: Croatian response to European Audiovisual Observatory standardised survey

4.16.5.2. Quotas for linear AVMS providers (broadcasters) – independent works

Private broadcasters shall reserve at least 10% of their transmission time for European works created by producers who are independent from broadcasters (Article 44 of the Electronic Media Act).



The usual exclusion of the time allotted to news, sports events, games, advertising, teletext services and teleshopping, applicable for European works and deriving from Articles 16 and 17 of the AVMS Directive, do not apply.

Table 236. Croatia – Main features of the quota for broadcasters – independent works

| Feature | Description |
|---|---|
| Legal basis of the obligation | Electronic Media Act. |
| Level of the quota | Private broadcasters: 10% of the transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | No. |
| Distinction between public or private broadcasters | Yes. |
| Derogations available for certain types of broadcasters | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | Yes. |
| Quotas for non-national EU works | No. |

Source: Croatian response to European Audiovisual Observatory standardised survey

4.16.5.3. Quotas for non-linear AVMS providers (VOD services)

VOD services shall use their best efforts to promote, where practicable and by appropriate means, the production of and access to European works. (Article 21 of the Electronic Media Act).

Table 237. Croatia – Main features of the quota for VOD services – EU works

| Feature | Description |
|---|-----------------------|
| Legal basis of the obligation | Electronic Media Act. |
| Level of the quota | No specific level. |
| Flexibility in achieving the quota (“where appropriate...”) | Yes. |
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of VOD services | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |



| | |
|---|-----|
| Quotas for non-national EU works | No. |
|---|-----|

Source: Croatian response to European Audiovisual Observatory standardised survey

4.16.6. Prominence obligations

VOD services shall make their best efforts to promote, where practicable and by appropriate means, the production of and access to European works (Article 21 of the Electronic Media Act).

Table 238. Croatia – Main features of the prominence obligation for VOD services

| Feature | Description |
|---|-----------------------|
| Legal basis of the obligation | Electronic Media Act. |
| Means of giving prominence imposed | No. |
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of VOD services | No. |
| Prominence to give to specific genres | No. |
| Prominence to give to national works or works in a national language | No. |
| Prominence to give to non-national EU works | No. |

Source: Croatian response to European Audiovisual Observatory standardised survey

4.16.7. Envisaged amendments to the regulatory framework

N/A.

4.16.8. Studies, reports and researches

N/A.

4.16.9. Applicable regulatory framework

- Primary legislation:



- In Croatian – Zakon o Elektroničkim Medijima (Electronic Media Act): <https://www.zakon.hr/z/196/Zakon-o-elektroni%C4%8Dkim-medijima>
- In Croatian – Zakon o Audiovizualnim Djelatnostima (Audiovisual Activities Act): <https://www.zakon.hr/z/489/Zakon-o-audiovizualnim-djelatnostima>
- In Croatian – Zakon o Hrvatskoj Radioteleviziji (Public Broadcasting Act): <https://www.zakon.hr/z/392/Zakon-o-Hrvatskoj-radioteleviziji>
In English – Electronic Media Act: <https://www.e-mediji.hr/preview/en/news/the-electronic-media-act>

4.16.10. Data compilation

This factsheet was produced based on data compiled by Hrvoje Hribar, Independent audiovisual expert and film director.



4.17. HU – Hungary – National legal summary²⁶

4.17.1. Summary

Table 239. Hungary – Summary of the existing obligations – by type and player

| Obligation | Player | |
|---|---|---|
| Financial investment obligations | Linear AVMS providers | Broadcasters with significant market power shall invest 2.5% of their yearly advertising revenues in supporting new Hungarian cinematographic works. |
| | Non-linear AVMS providers | No obligation. |
| | Distributors | No obligation. |
| Levies | Linear AVMS providers | Broadcasters have the possibility of choosing between financial investment obligations (direct contribution) described under section 4.17.3.1 and a levy (indirect contribution). |
| | Non-linear AVMS providers | No obligation. |
| | Distributors | No obligation. |
| | Theatres | No obligation. |
| | Video industry | No obligation. |
| | Other | No obligation. |
| Promotion | Quotas European works linear AVMS providers | Private broadcasters shall reserve at least 50% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teleshopping, political advertisements, public service announcements, sponsorship announcements, public service advertisements and the non-interactive teletext) for European works, and at least 33% for Hungarian works. The public broadcaster MTV has higher quotas (60% and 50%, respectively). |
| | Quotas independent works linear AVMS providers | Private broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teleshopping, political advertisements, public service announcements, sponsorship announcements, public service advertisements and the non-interactive teletext) for European works created by producers |

²⁶ The factsheet on Hungary incorporates the feedback received from Csaba Bereczki (Hungarian National Film Fund) during the checking round with the national film funds.



| | | |
|--|---|---|
| | | who are independent from broadcasters, and at least 8% for Hungarian works. The public broadcaster MTV has a higher quota (15%). |
| | Quotas non-linear AVMS providers | VOD services shall reserve at least 25% of the total duration time of the programmes made available in a given calendar year for European works, and at least 10% shall be Hungarian works. |
| | Prominence non-linear AVMS providers | No obligation. |

Source: Hungarian response to European Audiovisual Observatory standardised survey

4.17.2. Definitions

Article 203(9) of the Act on Media Services and Mass Communication defines European works as follows:

“European work shall mean:

- (a) any Hungarian work;*
- (b) any work originating in a member State of the European Union;*
- (c) any work originating in a European State which is a party to the European Convention on Transfrontier Television, adopted in Strasbourg on 5 May 1989, promulgated by Act XLIX of 1998;*
- (d) any work produced under the co-production of the production companies of a member State of the European Union and a State outside the European Union, provided that the majority of the total co-production costs is provided by the co-producers from a EU member State, and the production is not controlled by one or more producers who are established in a country other than an EU member State; or*
- (e) any work produced in co-production, within the framework of an agreement concluded between the European Union and third countries concerning the audiovisual sector, and which complies with the conditions of the applicable agreements.*

The works mentioned in points (b)-(c) are works which were produced by authors and with the contribution of professionals having their addresses in one or more States defined under points (b)-(c), provided that the given work meets one of the following three conditions:

- 1. it is the work of one or more producers established in one or more of the above-mentioned States;*
- 2. its production is supervised and actually controlled by one or more producers established in one or more of the above-mentioned States;*



3. the contribution of co-producers from the above-mentioned states to the total co-production costs is preponderant and the co-production is not controlled by one or more producers established outside the above-mentioned States.

The works defined under points (c) and (e) can qualify as European works if no discriminatory measures apply to the works originating from the members States in the given affected State outside the European Union.”

Article 203(12) of the Act on Media Services and Mass Communication defines an independent producer as follows:

“An independent production company shall mean a production company in which neither the concerned media service provider nor the owner with a qualifying holding in such a media service provider has a direct or indirect shareholding; and neither any director, executive employee of the media service provider nor any of their close relatives is in a work-related relationship with or has an ownership share in such a production company.”

Article 203(37) of the Act also provides a definition of what shall be considered as Hungarian works and cinematographic works:

- “Hungarian works shall mean: a) works originally produced in Hungarian in their entirety; b) works originally produced in several languages, however, in terms of time, the parts originally produced in Hungarian are longer than any other parts produced in any other language; c) works originally produced in the languages of any of the nationalities recognised by Hungary, provided that their subject matter concerns the life or culture of the given nationality in Hungary; d) any musical programme performed in Hungarian or performed in the language of any of the nationalities recognised by Hungary, provided that its subject matter concerns the culture of the given nationality in relation to Hungary; e) any instrumental musical programme which forms part of the Hungarian cultural heritage or the culture in relation to Hungary of any of the nationalities recognised by Hungary.”
- “Cinematographic work shall mean cinematographic works as defined in the Copyright Act, excluding, among other things, news and political magazines; programme magazines on current affairs and services; sports programmes; or programmes containing broadcasts on other events, game shows and contests, and commercial communications. Cinematographic works shall, in particular, mean feature films, films made for television, television feature film series, animated films and documentaries.”

Table 240. Hungary – Definition of the main concepts in terms of the promotion of EU works

| Concept | Definition |
|----------------------|------------|
| European works | Yes. |
| Independent producer | Yes. |
| Prominence | No. |

Source: Hungarian response to European Audiovisual Observatory standardised survey



4.17.3. Financial investment obligations

4.17.3.1. Financial investment obligations by linear AVMS providers (broadcasters)

Broadcasters with significant market power shall invest 2.5% of their yearly advertising revenues in supporting new Hungarian cinematographic works (Article 136(8) of the Act on Media Services and Mass Communication).

Broadcasters are considered to hold significant market power when they have an average annual audience share of at least 15%, provided that the average annual audience share of at least one media service they provide reaches 3%. All other broadcasters who do not qualify as SPI media service providers are exempt.

This obligation is optional: broadcasters have the possibility of choosing between financial investment obligations (direct contribution) and a levy (indirect contribution) to the film fund (Media Service Support and Asset Management Fund).

The Fund is defined as “*a separated asset management and monetary fund responsible for promoting the structural transformation of public media services, the Public Service Foundation, the community media services and the public media service provider, to produce and support public service programmes; to support contemporary musical works and cinematographic works intended to open at cinemas; to carefully manage and increase the Fund’s own assets and the State- owned assets, the ownership rights of which are exercised by the Fund; as well as to promote and implement other activities related to the foregoing*” (Article 136(1) of the Act on Media Services and Mass Communication).

Table 241. Hungary – Main features of the financial investment scheme for broadcasters

| Feature | Description |
|--|---|
| Legal basis for the investment | Act on Media Services and Mass Communication. |
| Level of investment | 2.5% of the advertising revenues. |
| Mandatory, optional or voluntary investment | Optional. |
| Nature of the investment | Pre-acquisition, co-production or production. |
| Distinction between genres in which to invest | Yes. |
| Distinction between public or private broadcasters | No. |
| Level of investment in European works | Yes (Hungarian cinematographic works). |
| Level of investment in independent works | No. |
| Level of investment in works in a national language | Yes (Hungarian cinematographic works). |
| Investment scheme applicable to foreign broadcasters | No. |



| | |
|---------------------------------|-----|
| Other type of investment | No. |
|---------------------------------|-----|

Source: Hungarian response to European Audiovisual Observatory standardised survey

4.17.3.2. Financial investment obligations by non-linear AVMS (VOD) providers

Table 242. Hungary – Main features of the investment scheme for VOD providers

| Feature | Description |
|--|-------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Distinction between public or private services | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Investment scheme applicable to foreign VOD providers | N/A. |
| Other type of investment | N/A. |

Source: Hungarian response to European Audiovisual Observatory standardised survey

4.17.3.3. Financial investment obligations by distributors

Table 243. Hungary – Main features of the investment scheme for distributors

| Feature | Description |
|--|-------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Level of investment in European works | N/A. |



| | |
|--|------|
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Other type of investment | N/A. |

Source: Hungarian response to European Audiovisual Observatory standardised survey

4.17.4. Levies

4.17.4.1. Levies on linear AVMS providers (broadcasters)

Broadcasters have the possibility of choosing between financial investment obligations (direct contribution) described under section 4.17.3.1 and a levy (indirect contribution).

Table 244. Hungary – Main features of the levies on broadcasters

| Feature | Description |
|--|---|
| Legal basis of the levy | Act on Media Services and Mass Communication. |
| Criteria used to determine the levy | 2.5% of the advertising revenues. |
| Mandatory or optional obligation | Optional. |
| Ceiling to the levy imposed | No. |
| Distinction between genres on which to spend the levy | Yes. |
| Distinction between public and private broadcasters | No. |
| Authority gathering and controlling the amount due | Authority gathering: film fund (Media Service Support and Asset Management Fund). Authority controlling: regulatory authority (National Media and Infocommunications Authority). |
| Authority benefiting from the amount due | Media Service Support and Asset Management Fund. |
| Levy applicable to foreign broadcasters | No. |

Source: Hungarian response to European Audiovisual Observatory standardised survey

4.17.4.2. Levies on non-linear AVMS providers (VOD services)

Table 245. Hungary – Main features of the levies on VOD services

| Feature | Description |
|--------------------------------|-------------|
| Legal basis of the levy | N/A. |



| | |
|---|------|
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private VOD services | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign VOD services | N/A. |

Source: Hungarian response to European Audiovisual Observatory standardised survey

4.17.4.3. Levies on distributors

Table 246. Hungary – Main features of the levies on distributors

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Hungarian response to European Audiovisual Observatory standardised survey

4.17.4.4. Levies on theatres (cinema tickets)

Table 247. Hungary – Main features of the levies on theatres (cinema tickets)

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the | N/A. |



| | |
|---|------|
| amount due | |
| Authority benefiting from the amount due | N/A. |

Source: Hungarian response to European Audiovisual Observatory standardised survey

4.17.4.5. Levies on the video industry

Table 248. Hungary – Main features of the levies on the video industry

| Feature | Description |
|--|--------------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Hungarian response to European Audiovisual Observatory standardised survey

4.17.4.6. Other levies

N/A.

4.17.5. Quota obligations

4.17.5.1. Quotas for linear AVMS providers (broadcasters) – EU works

Private broadcasters shall reserve at least 50% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teleshopping, political advertisements, public service announcements, sponsorship announcements, public service advertisements and the non-interactive teletext) for European works and at least 33% for Hungarian works (Article 20(1) of the Act on Media Services and Mass Communication).

The public broadcaster MTV shall reserve at least 60% of its transmission time (excluding the time allotted to news, sports events, games, advertising, teleshopping, political advertisements, public service announcements, sponsorship announcements, public service advertisements and the non-interactive teletext) for European works and at least 50% for Hungarian works (Article 20(2) of the Act on Media Services and Mass Communication).

Quotas for European works shall also be met by each service between 05:00 and 24:00.



Flexibility can be granted to broadcasters by the National Media and Infocommunications Authority, with a view to progressively meeting the quotas for European works. Such flexibility may only be granted for a maximum period of three calendar years upon the condition that the broadcaster – until it reaches the prescribed proportions – shall gradually increase its quotas.

The following services are exempt:

- media services exclusively dedicated to advertising purposes and the broadcasting of teleshopping;
- media services exclusively dedicated to advertising the media service provider or another media service of the media service provider;
- media services which broadcast their service exclusively in a language other than the languages of the member States of the European Union; where programmes are broadcast in this language or languages in the significant part of the transmission time, the provisions shall not apply to the respective part of transmission time;
- local media services, with the exception of community media services;
- media services which are exclusively broadcast outside of the European Union.

Media services intended for viewers who are not in the Hungarian territory are exempt from the quota of Hungarian works.

Table 249. Hungary – Main features of the quota for broadcasters – EU works

| Feature | Description |
|--|--|
| Legal basis of the obligation | Act on Media Services and Mass Communication. |
| Level of the quota | Private broadcasters: 50% of the transmission time. Public broadcaster: 60% of the transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | Yes. |
| Distinction between public or private broadcasters | Yes. |
| Derogations available for certain types of broadcasters | Yes. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | Yes. |
| Quotas for non-national EU works | No. |

Source: Hungarian response to European Audiovisual Observatory standardised survey



4.17.5.2. Quotas for linear AVMS providers (broadcasters) – independent works

Private broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teleshopping, political advertisements, public service announcements, sponsorship announcements, public service advertisements and the non-interactive teletext) for European works created by producers who are independent from broadcasters or purchased from such producers within five years of production, and at least 8% of their transmission time for Hungarian works (Article 20(1) of the Act on Media Services and Mass Communication).

The public broadcaster MTV shall reserve at least 15% of its transmission time (excluding the time allotted to news, sports events, games, advertising, teleshopping, political advertisements, public service announcements, sponsorship announcements, public service advertisements and the non-interactive teletext) for European works created by producers who are independent from broadcasters or purchased from such producers within five years of production, and at least 8% of their transmission time for Hungarian works (Article 20(1) of the Act on Media Services and Mass Communication).

The flexibility and exemption measures detailed in the previous section also apply to this quota.

Table 250. Hungary – Main features of the quota for broadcasters – independent works

| Feature | Description |
|--|---|
| Legal basis of the obligation | Act on Media Services and Mass Communication |
| Level of the quota | Private broadcasters: 10% of the transmission time. Public broadcasters: 15% of the transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | Yes. |
| Distinction between public or private broadcasters | Yes. |
| Derogations available for certain types of broadcasters | Yes. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | Yes. |
| Quotas for non-national EU works | No. |

Source: Hungarian response to European Audiovisual Observatory standardised survey

4.17.5.3. Quotas for non-linear AVMS providers (VOD services)

VOD services shall reserve at least 25% of the total duration time of the programmes made available in a given calendar year for European works, and at least 10% shall be Hungarian works (Article 20(2) of the Act on Media Services and Mass Communication).



Flexibility can be granted to VOD providers by the National Media and Infocommunications Authority with a view to gradually meeting the quotas for European works. Such flexibility may only be granted for a maximum period of three calendar years upon the condition that the VOD provider – until it reaches the prescribed proportions – shall gradually increase its quotas. Longer-term deviations can also be granted.

Table 251. Hungary – Main features of the quota for VOD services – EU works

| Feature | Description |
|---|---|
| Legal basis of the obligation | Act on Media Services and Mass Communication. |
| Level of the quota | 25% of the total duration time of the programmes. |
| Flexibility in achieving the quota (“where appropriate...”) | Yes. |
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of VOD services | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | Yes. |
| Quotas for non-national EU works | No. |

Source: Hungarian response to European Audiovisual Observatory standardised survey

4.17.6. Prominence obligations

Table 252. Hungary – Main features of the prominence obligation for VOD services

| Feature | Description |
|--|-------------|
| Legal basis of the obligation | N/A. |
| Means of giving prominence imposed | N/A. |
| Distinction between public or private VOD services | N/A. |
| Derogations available for certain types of VOD services | N/A. |
| Prominence to give to specific genres | N/A. |
| Prominence to give to national works or works in a national language | N/A. |
| Prominence to give to non-national EU works | N/A. |

Source: Hungarian response to European Audiovisual Observatory standardised survey



4.17.7. Envisaged amendments to the regulatory framework

N/A.

4.17.8. Studies, reports and researches

N/A.

4.17.9. Applicable regulatory framework

- Primary legislation:
 - In Hungarian – 2010. évi CLXXXV. Törvény a médiaszolgáltatásokról és a tömegkommunikációról (Act on Media Services and Mass Communication): http://njt.hu/cgi_bin/njt_doc.cgi?docid=133252.339942
 - In English – Act on Media Services and Mass Communication: http://hunmedialaw.org/dokumentum/153/Mttv_110803_EN_final.pdf

4.17.10. Data compilation

This factsheet was produced based on data compiled by Károly Radnai, Partner, OrienTax.

4.18. IE – Ireland – National legal summary²⁷

4.18.1. Summary

Table 253. Ireland – Summary of the existing obligations – by type and player

| Obligation | Player | Main feature |
|----------------------------------|---|--|
| Financial investment obligations | Linear AVMS providers | <p>Broadcasters shall reserve, where practicable and by appropriate means, at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters.</p> <p>The public service media RTÉ shall invest each year EUR 40 000 000 (adapted on a yearly basis to the Consumer Price Index since 2008) in an “<i>independent programme account</i>” whose purpose shall be the following: “(i) <i>commissioning the making of independent television or sound broadcasting programmes, (ii) procuring the formulation by persons of proposals for the commissioning by RTÉ of the making of the above programmes, and (iii) assisting the completion of independent television or sound broadcasting programmes the making of which has not been commissioned by RTÉ</i>”.</p> |
| | Non-linear AVMS providers | VOD services shall promote, where practicable and by appropriate means, the production of and access to European works. |
| | Distributors | No obligation. |
| Levies | Linear AVMS providers | No obligation. |
| | Non-linear AVMS providers | No obligation. |
| | Distributors | No obligation. |
| | Theatres | No obligation. |
| | Video industry | No obligation. |
| | Other | No obligation. |
| Promotion | Quotas European works linear AVMS providers | Broadcasters shall reserve, where practicable and by appropriate means, a majority proportion of their transmission time (excluding the time allotted to |

²⁷ The factsheet on Ireland incorporates the feedback received from James Hickey (Irish Film Board) during the checking round with the national film funds.



| | | |
|--|---|--|
| | | news, sports events, competitive entertainment programmes, advertising, teleshopping and teletext services) for European works. |
| | Quotas independent works linear AVMS providers | Broadcasters shall reserve, where practicable and by appropriate means, at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters. |
| | Quotas non-linear AVMS providers | VOD services shall promote, where practicable and by appropriate means, the production of and access to European works. |
| | Prominence non-linear AVMS providers | VOD services shall promote, where practicable and by appropriate means, the production of and access to European works. |

Source: Irish response to European Audiovisual Observatory standardised survey

4.18.2. Definitions

Article 2 of the Statutory Instrument No. 258 of 2010 defines European works as follows:

“European works means the following:

- (a) works originating in the State or another Member State,
- (b) works originating in European third States party to the European Convention on Transfrontier Television of the Council of Europe and fulfilling the conditions of Regulation 2(2),
- (c) works co-produced within the framework of agreements related to the audiovisual sector concluded between the Community and third countries and fulfilling the conditions defined in each of those agreements.”

There is no definition of an independent producer but section 116 (12) and (13) of the Broadcasting Act defines an independent programme as follows:

“(12) In this section, independent programme means a television or sound broadcasting programme made by a person who complies with the following conditions, namely:

(a) each of the following matters as respects the said programme is determined by him or her or by one or more persons on his or her behalf and over whose activities in respect of the determination of such matters he or she exercises control, namely:

- (i) the persons who are to participate in the said programme,*
- (ii) the persons who are to be involved in the making of the said programme, and*



(iii) the equipment and facilities to be used in the making of the said programme,

(b) he or she is not a subsidiary of a broadcaster, and

(c) he or she is not a holding company of a broadcaster.”

(13) For the purposes of the definition in subsection (12), where:

(a) two or more broadcasters hold shares in a body corporate or a holding company of a body corporate, or

(b) each of two or more broadcasters (being shareholders in a body corporate or a holding company of a body corporate) by the exercise of some power exercisable by it without the consent or concurrence of any other person can appoint or remove a holder of a directorship of the body corporate or, as the case may be, the holding company,

then, notwithstanding that the body corporate is not a subsidiary of any of these broadcasters, the body corporate is deemed not to comply with the condition specified in paragraph (b) of that definition if

(i) the total number of shares held by the said broadcasters in the body corporate or, as the case may be, the holding company, or

ii) the total number of directorships of the body corporate or, as the case may be, the holding company that the aforesaid powers of the said broadcasters may be exercised in respect of,

is such that, were the said broadcasters to be regarded as one company, the body corporate would be a subsidiary of it, and

(I) RTE’ is one of the said broadcasters, or

(II) there exists a business relationship between the said broadcasters that, in the opinion of RTE’, is of such a kind as is likely to result in the said broadcasters acting in concert with one another in exercising their rights under those shares or in exercising the said powers.”

Table 254. Ireland – Definition of the main concepts in terms of the promotion of EU works

| Concept | Definition |
|----------------------|--|
| European works | Yes. |
| Independent producer | No, but definition of “independent programme”. |
| Prominence | No. |

Source: Irish response to European Audiovisual Observatory standardised survey



4.18.3. Financial investment obligations

4.18.3.1. Financial investment obligations by linear AVMS providers (broadcasters)

Broadcasters shall reserve, where practicable and by appropriate means, at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters (Article 15(1) of the Statutory Instrument No. 258 of 2010).

The public service media RTÉ shall invest each year EUR 40 000 000 (adapted on a yearly basis to the Consumer Price Index since 2008) in an “*independent programme account*” whose purpose shall be the following: “(i) *commissioning the making of independent television or sound broadcasting programmes, (ii) procuring the formulation by persons of proposals for the commissioning by RTÉ of the making of the above programmes, and (iii) assisting the completion of independent television or sound broadcasting programmes the making of which has not been commissioned by RTÉ*” (section 116 of the Broadcasting Act 2009).

Table 255. Ireland – Main features of the financial investment scheme for broadcasters

| Feature | Description |
|---|--|
| Legal basis for the investment | Statutory Instrument No. 258 of 2010. Broadcasting Act 2009. |
| Level of investment | 10% of the transmission time or 10% of the programming budget. Public service media: EUR 40 000 000 yearly. |
| Mandatory, optional or voluntary investment | Optional, except for the specific obligation of RTÉ, which is mandatory. |
| Nature of the investment | Pre-acquisition, co-production or production. |
| Distinction between genres in which to invest | No. |
| Distinction between public or private broadcasters | Yes. |
| Level of investment in European works | No. |
| Level of investment in independent works | Yes. |
| Level of investment in works in a national language | No. |
| Investment scheme applicable to foreign broadcasters | No. |
| Other type of investment | No. |

Source: Irish response to European Audiovisual Observatory standardised survey



4.18.3.2. Financial investment obligations by non-linear AVMS (VOD) providers

VOD services shall promote, where practicable and by appropriate means, the production of and access to European works (Article 11(1) of the Statutory Instrument No. 258 of 2010).

Table 256. Ireland – Main features of the investment scheme for VOD providers

| Feature | Description |
|---|---|
| Legal basis for the investment | Statutory Instrument No. 258 of 2010 |
| Level of the investment | No specific level. |
| Mandatory, optional or voluntary investment | Optional. |
| Nature of the investment | Pre-acquisition, co-production or production. |
| Distinction between genres in which to invest | No. |
| Distinction between public or private services | No. |
| Level of investment in European works | No specific level. |
| Level of investment in independent works | No. |
| Level of investment in works in a national language | No. |
| Investment scheme applicable to foreign VOD providers | No. |
| Other type of investment | No. |

Source: Irish response to European Audiovisual Observatory standardised survey

4.18.3.3. Financial investment obligations by distributors

Table 257. Ireland – Main features of the investment scheme for distributors

| Feature | Description |
|---|-------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Level of investment in European works | N/A. |



| | |
|---|------|
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Other type of investment | N/A. |

Source: Irish response to European Audiovisual Observatory standardised survey

4.18.4. Levies

4.18.4.1. Levies on linear AVMS providers (broadcasters)

Table 258. Ireland – Main features of the levies on broadcasters

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private broadcasters | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign broadcasters | N/A. |

Source: Irish response to European Audiovisual Observatory standardised survey

4.18.4.2. Levies on non-linear AVMS providers (VOD services)

Table 259. Ireland – Main features of the levies on VOD services

| Feature | Description |
|--|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to | N/A. |



| | |
|---|------|
| spend the levy | |
| Distinction between public and private VOD services | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign VOD services | N/A. |

Source: Irish response to European Audiovisual Observatory standardised survey

4.18.4.3. Levies on distributors

Table 260. Ireland – Main features of the levies on distributors

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Irish response to European Audiovisual Observatory standardised survey

4.18.4.4. Levies on theatres (cinema tickets)

Table 261. Ireland – Main features of the levies on theatres (cinema tickets)

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Irish response to European Audiovisual Observatory standardised survey



4.18.4.5. Levies on the video industry

Table 262. Ireland – Main features of the levies on the video industry

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Irish response to European Audiovisual Observatory standardised survey

4.18.4.6. Other levies

There are no other levies on market players in Ireland. Yet, for the purpose of the present study, it is worth mentioning that the Broadcasting Act, in its Articles 153 to 159, has empowered the regulatory authority (BAI) with the (quite rare among European regulatory authorities) mission to manage a Broadcasting Fund,²⁸ which grants funding for radio and television programming and for archiving relating to Irish culture, heritage and experience. The revenues of the fund are not generated by market players, but through the allocation of 7% of the television licence fees paid by the citizens.

4.18.5. Quota obligations

4.18.5.1. Quotas for linear AVMS providers (broadcasters) – EU works

Broadcasters shall reserve, where practicable and by appropriate means, a majority proportion of their transmission time (excluding the time allotted to news, sports events, competitive entertainment programmes, advertising, teleshopping and teletext services) for European works (Article 14(1) of the Statutory Instrument No. 258 of 2010).

Table 263. Ireland – Main features of the quota for broadcasters – EU works

| Feature | Description |
|-------------------------------|---------------------------------------|
| Legal basis of the obligation | Statutory Instrument No. 258 of 2010. |

²⁸ <http://www.bai.ie/en/broadcasting/funding-development-3/>



| | |
|--|-------------------------------|
| Level of the quota | 50% of the transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | Yes. |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Irish response to European Audiovisual Observatory standardised survey

4.18.5.2. Quotas for linear AVMS providers (broadcasters) – independent works

Broadcasters shall reserve, where practicable and by appropriate means, at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters (Article 15(1) of the Statutory Instrument No. 258 of 2010).

Table 264. Ireland – Main features of the quota for broadcasters – independent works

| Feature | Description |
|--|---|
| Legal basis of the obligation | Statutory Instrument No. 258 of 2010. |
| Level of the quota | 10% of the transmission time or 10% of the programming budget |
| Flexibility in achieving the quota (“where practicable...”) | Yes. |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Irish response to European Audiovisual Observatory standardised survey



4.18.5.3. Quotas for non-linear AVMS providers (VOD services)

VOD services shall promote, where practicable and by appropriate means, the production of and access to European works (Article 11(1) of the Statutory Instrument No. 258 of 2010).

Table 265. Ireland – Main features of the quota for VOD services – EU works

| Feature | Description |
|---|---------------------------------------|
| Legal basis of the obligation | Statutory Instrument No. 258 of 2010. |
| Level of the quota | No specific level. |
| Flexibility in achieving the quota (“where appropriate...”) | Yes. |
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of VOD services | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Irish response to European Audiovisual Observatory standardised survey

4.18.6. Prominence obligations

VOD services shall promote, where practicable and by appropriate means, the production of and access to European works (Article 11(1) of the Statutory Instrument No. 258 of 2010).

Table 266. Ireland – Main features of the prominence obligation for VOD services

| Feature | Description |
|--|---------------------------------------|
| Legal basis of the obligation | Statutory Instrument No. 258 of 2010. |
| Means of giving prominence imposed | No. |
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of VOD services | No. |
| Prominence to give to specific genres | No. |
| Prominence to give to national works or works in a national language | No. |



| | |
|---|-----|
| Prominence to give to non-national EU works | No. |
|---|-----|

Source: Irish response to European Audiovisual Observatory standardised survey

4.18.7. Envisaged amendments to the regulatory framework

N/A.

4.18.8. Studies, reports and researches

- Indecon (2017) “Review of Impact of ‘Opt Out’ Advertising on the Irish Broadcasting Sector - <https://www.dccae.gov.ie/en-ie/news-and-media/publications/Documents/27/Review%20of%20Impact%20of%20Opt-Out%20Advertising%20Redacted%20Version.pdf>

4.18.9. Applicable regulatory framework

- Primary legislation:
 - In English – Broadcasting Act 2009: <http://www.irishstatutebook.ie/eli/2009/act/18/enacted/en/print>
- Secondary legislation:
 - In English – Statutory Instrument N°258 of 2010: <http://www.irishstatutebook.ie/eli/2010/si/258/made/en/print>

4.18.10. Data compilation

This factsheet was produced based on data compiled by James Hickey, Chief Executive of Fís Éireann/Screen Ireland.



4.19. IS – Iceland – National legal summary²⁹

4.19.1. Summary

Table 267. Iceland – Summary of the existing obligations – by type and player

| Obligation | Player | Main feature |
|----------------------------------|--|---|
| Financial investment obligations | Linear AVMS providers | Broadcasters shall, as far as possible, reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext service and teleshopping), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters. Moreover, the public broadcaster RÚV shall buy content from or co-produce content with independent producers of TV series, movies and documentaries for an amount corresponding to at least 8% of its total revenue in 2017, 9% in 2018 and 11% in 2019. |
| | Non-linear AVMS providers | No obligation. |
| | Distributors | No obligation. |
| Levies | Linear AVMS providers | No obligation. |
| | Non-linear AVMS providers | No obligation. |
| | Distributors | No obligation. |
| | Theatres | No obligation. |
| | Video industry | No obligation. |
| | Other | No obligation. |
| Promotion | Quotas European works linear AVMS providers | Broadcasters shall strive to have the greater part of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping) devoted to Icelandic and European works. |
| | Quotas independent works linear AVMS providers | Broadcasters shall, as far as possible, reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext service and teleshopping), or alternately 10% of their programming budget, for European works |

²⁹ The factsheet on Iceland incorporates the feedback received from Laufey Guðjónsdóttir (Icelandic Film Centre) during the checking round with the national film funds.



| | | |
|--|---|--|
| | | created by producers who are independent from broadcasters. |
| | Quotas non-linear AVMS providers | VOD services shall ensure to the extent possible, using suitable methods, that Icelandic and other European works constitute a prominent part of the content they offer. |
| | Prominence non-linear AVMS providers | No obligation. |

Source: Icelandic response to European Audiovisual Observatory standardised survey

4.19.2. Definitions

The Media Act refers directly to the AVMS Directive for the definition of European works.

Article 2.36 of the Media Act defines an independent producer as follows:

“An undertaking which is also a separate legal person, independent of the media service provider concerned in the sense that it is not under its direct or indirect control, either individually or in partnership with others, and free to define its own commercial policy.”

Table 268. Iceland – Definition of the main concepts in terms of the promotion of EU works

| Concept | Definition |
|----------------------|------------|
| European works | No. |
| Independent producer | Yes. |
| Prominence | No. |

Source: Icelandic response to European Audiovisual Observatory standardised survey

4.19.3. Financial investment obligations

4.19.3.1. Financial investment obligations by linear AVMS providers (broadcasters)

Broadcasters shall, as far as possible, reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext service and teleshopping), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters (Article 34 of the Media Act).

Moreover, the public broadcaster RÚV shall buy content from or co-produce content with independent producers of TV series, movies and documentaries for an amount corresponding to at least 8% of its total revenue in 2017, 9% in 2018 and 11% in 2019



(public service contract between the Minister of Education, Science and Culture and RÚV). This obligation shall be fulfilled by focusing on Icelandic drama (TV series, movies) as well as on Icelandic content for children.

Table 269. Iceland - Main features of the financial investment scheme for broadcasters

| Feature | Description |
|--|--|
| Legal basis for the investment | Media Act. RÚV public service contract. |
| Level of investment | 10% of the transmission time or 10% of the programming budget. Public broadcaster: up to 11% of its total revenues. |
| Mandatory, optional or voluntary investment | Optional for private broadcasters. Mandatory for the public broadcaster. |
| Nature of the investment | Pre-acquisition, co-production or production. |
| Distinction between genres in which to invest | No. |
| Distinction between public or private broadcasters | Yes. |
| Level of investment in European works | No. |
| Level of investment in independent works | Yes. |
| Level of investment in works in a national language | No. |
| Investment scheme applicable to foreign broadcasters | No. |
| Other type of investment | No. |

Source: Icelandic response to European Audiovisual Observatory standardised survey

4.19.3.2. Financial investment obligations by non-linear AVMS (VOD) providers

Table 270. Iceland – Main features of the investment scheme for VOD providers

| Feature | Description |
|---|-------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |



| | |
|---|------|
| Distinction between public or private services | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Investment scheme applicable to foreign VOD providers | N/A. |
| Other type of investment | N/A. |

Source: Icelandic response to European Audiovisual Observatory standardised survey

4.19.3.3. Financial investment obligations by distributors

Table 271. Iceland – Main features of the investment scheme for distributors

| Feature | Description |
|---|-------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Other type of investment | N/A. |

Source: Icelandic response to European Audiovisual Observatory standardised survey

4.19.4. Levies

4.19.4.1. Levies on linear AVMS providers (broadcasters)

Table 272. Iceland – Main features of the levies on broadcasters

| Feature | Description |
|-------------------------|-------------|
| Legal basis of the levy | N/A. |



| | |
|--|------|
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private broadcasters | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign broadcasters | N/A. |

Source: Icelandic response to European Audiovisual Observatory standardised survey

4.19.4.2. Levies on non-linear AVMS providers (VOD services)

Table 273. Iceland – Main features of the levies on VOD services

| Feature | Description |
|--|--------------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private VOD services | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign VOD services | N/A. |

Source: Latvian response to European Audiovisual Observatory standardised survey

4.19.4.3. Levies on distributors

Table 274. Iceland – Main features of the levies on distributors

| Feature | Description |
|--|--------------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |



| | |
|--|------|
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Icelandic response to European Audiovisual Observatory standardised survey

4.19.4.4. Levies on theatres (cinema tickets)

Table 275. Iceland – Main features of the levies on theatres (cinema tickets)

| Feature | Description |
|--|--------------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Icelandic response to European Audiovisual Observatory standardised survey

4.19.4.5. Levies on the video industry

Table 276. Iceland – Main features of the levies on the video industry

| Feature | Description |
|--|--------------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Icelandic response to European Audiovisual Observatory standardised survey



4.19.4.6. Other levies

N/A.

4.19.5. Quota obligations

4.19.5.1. Quotas for linear AVMS providers (broadcasters) – EU works

Broadcasters shall strive to have the greater part of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping) devoted to Icelandic and European works (Article 33 of the Media Act).

Moreover, RÚV is obliged to increase the proportion of TV content from the Nordic countries to 7.5% during the contract period. At the same time, the proportion of TV content in the English language shall be reduced to 5% (public service contract between the Minister of Education, Science and Culture and RÚV).

Table 277. Iceland – Main features of the quota for broadcasters – EU works

| Feature | Description |
|--|--|
| Legal basis of the obligation | Media Act. RÚV public service contract. |
| Level of the quota | Greater part of the transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | Yes (“shall strive”). |
| Distinction between public or private broadcasters | Yes. |
| Derogations available for certain types of broadcasters | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | Yes. |
| Quotas for non-national EU works | Yes (Nordic countries). |

Source: Icelandic response to European Audiovisual Observatory standardised survey

4.19.5.2. Quotas for linear AVMS providers (broadcasters) – independent works

Broadcasters shall, as far as possible, reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext service and teleshopping), or alternately 10% of their programming budget, for European works



created by producers who are independent from broadcasters (Article 34 of the Media Act).

Table 278. Iceland – Main features of the quota for broadcasters – independent works

| Feature | Description |
|---|--|
| Legal basis of the obligation | Media Act |
| Level of the quota | 10% of the transmission time or 10% of the programming budget. |
| Flexibility in achieving the quota (“where practicable...”) | Yes. |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Icelandic response to European Audiovisual Observatory standardised survey

4.19.5.3. Quotas for non-linear AVMS providers (VOD services)

VOD services shall ensure to the extent possible, using suitable methods, that Icelandic and other European works constitute a prominent part of the content they offer (Article 33 of the Media Act).

Table 279. Iceland – Main features of the quota for VOD services – EU works

| Feature | Description |
|---|--------------------|
| Legal basis of the obligation | Media Act. |
| Level of the quota | No specific level. |
| Flexibility in achieving the quota (“where appropriate...”) | Yes. |
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of VOD services | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |



| | |
|---|-----|
| Quotas for non-national EU works | No. |
|---|-----|

Source: Icelandic response to European Audiovisual Observatory standardised survey

4.19.6. Prominence obligations

Table 280. Iceland – Main features of the prominence obligation for VOD services

| Feature | Description |
|---|--------------------|
| Legal basis of the obligation | N/A. |
| Means of giving prominence imposed | N/A. |
| Distinction between public or private VOD services | N/A. |
| Derogations available for certain types of VOD services | N/A. |
| Prominence to give to specific genres | N/A. |
| Prominence to give to national works or works in a national language | N/A. |
| Prominence to give to non-national EU works | N/A. |

Source: Icelandic response to European Audiovisual Observatory standardised survey

4.19.7. Envisaged amendments to the regulatory framework

N/A.

4.19.8. Studies, reports and researches

4.19.9. Applicable regulatory framework

- Primary legislation:
 - In Icelandic – Lög um fjölmiðla 2011 n°38 (Media Act): <https://www.althingi.is/lagasafn/pdf/148c/2011038.pdf>
 - In English – Media Act: http://fjolmidlanefnd.is/wp-content/uploads/2011/12/Log-um-fjolmidla_ensk-thyding_mai2015.pdf



- Secondary legislation:
 - In Icelandic – Samningur 2016-2019 (RÚV public service contract):
<https://www.ruv.is/sites/default/files/thjonustusamningur2016.pdf>

4.19.10. Data compilation

This factsheet was produced based on data compiled by Jón Óskar Hallgrímsson, Icelandic Film Centre, and Heiðdís Lilja Magnúsdóttir, Icelandic Media Commission.



4.20. IT – Italy – National legal summary³⁰

4.20.1. Summary

Table 281. Italy – Summary of the existing obligations – by type and player

| Obligation | Player | Main feature |
|---|------------------------------|---|
| Financial investment obligations | Linear AVMS providers | <p>Private broadcasters shall reserve at least 10% of their net annual revenues, as indicated in the income statement of the last annual financial statements available, for the production, pre-acquisition and acquisition of European works (until 30 June 2019, 100% must be devoted to works realised by independent producers). This percentage shall be increased to 12.5% as of 1 July 2019 (five sixths of which for independent producers) and to 15% from 2020 onwards (five sixths of which for independent producers).</p> <p>Private broadcasters are also subject to a specific sub-quota of 3.2% of their net annual revenues to be allocated to cinematographic works of Italian original expression produced by independent producers. This percentage shall be increased to 3.5% as of 1 July 2019, to 4% for 2020 and to 4.5% from 2021 onwards. This sub-quota shall not apply to channels that have broadcast within the previous year less than 52 cinematographic works (net of reruns); the overall number of transmissions and re-transmissions of any nature shall not be higher than 104.</p> <p>The public broadcaster RAI shall allocate to the pre-acquisition, acquisition and production of European works a quota representing not less than 15% of the overall annual revenues (until 30 June 2019, 100% is devoted to works realised by independent producers). This percentage shall be increased to 18.5% as of 1 July 2019 (five sixths of which for independent producers) and to 20% from 2020 onwards (five sixths of which for independent producers). Not less than 5% of such a quota shall be allocated to animated works for children's education.</p> <p>RAI is also subject to a specific sub-quota of 3.6% of its annual net revenues to be allocated to cinematographic works of original Italian expression</p> |

³⁰ The factsheet on Italy incorporates the feedback received from Chiara Fortuna (MIBAC-Direzione generale cinema) during the checking round with the national film funds.



| | | |
|------------------|--|---|
| | | produced by independent producers. This percentage shall be increased to 4% as of 1 July 2019, to 4.5% for 2020 and to 5% from 2021 onwards. |
| | Non-linear AVMS providers | <p>From 1 July 2019 onwards, VOD services shall promote the production of and access to European works by assigning an annual financial contribution to European works by independent producers, with particular reference to recent works, amounting to at least 20% of the net revenues raised in Italy, irrespective of whether or not the VOD provider is established in Italy.</p> <p>A specific sub-quota of at least 10% of the net annual revenues raised in Italy shall be reserved for works of Italian original expression produced by independent producers.</p> <p>Up to 1 July 2019, VOD services are bound to reserve alternatively (i) at least 5% of the annual revenues derived from the delivery of on-demand content in the previous year for the production of or the purchase of the rights to European works or (ii) a 20% share of their catalogues for European works (the share is calculated in terms of hours, on a yearly basis). VOD services that give prominence to European works in accordance with the criteria set forth by AGCOM Resolution No. 149/15/CONS are entitled to benefit from partial deductions from the investment or broadcasting quotas of up to one fifth of their amount.</p> |
| | Distributors | No obligation. |
| Levies | Linear AVMS providers | No obligation. |
| | Non-linear AVMS providers | No obligation. |
| | Distributors | No obligation. |
| | Theatres | No obligation. |
| | Video industry | No obligation. |
| | Other | No obligation. |
| Promotion | Quotas European works linear AVMS providers | <p>Broadcasters shall reserve a majority proportion of their eligible hours (the overall amount of broadcasting hours and hour fractions, excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping) for European works. The quota will be increased progressively to 53% as of 1 July 2019, to 56% for 2020 and to 60% from 2021 onwards.</p> <p>As of 1 July 2019, private broadcasters shall reserve a sub-quota of at least one third of the quota for European works for works of Italian original expression (that is, 17.7% between 1 July 2019 and 31 December 2019). The percentage shall be increased to 50% for the public broadcaster RAI (26.5% between 1 July 2019 and 31 December 2019).</p> |



| | | |
|--|---|--|
| | | <p>Broadcasters shall reserve a sub-quota of at least 3% of the eligible hours for content made specifically for minors and at least 10% of the eligible hours for programs designed to be viewed by minors and adults.</p> <p>Additionally, broadcasters shall reserve, on a weekly basis, 6% of the eligible hours in prime time (18.00-23.00) for cinematographic and audiovisual works of Italian original expression, including: fiction, animation, original documentaries or other works of high cultural or scientific content, including the TV edition of theatrical works. The percentage is raised to 12% for the public service broadcaster RAI (half of which for cinematographic works of Italian original expression).</p> |
| | Quotas independent works linear AVMS providers | No obligation. |
| | Quotas non-linear AVMS providers | <p>From 1 July 2019 onwards, VOD services shall reserve a 30% share of their catalogues for recent European works (that is, produced within the last 5 years).</p> <p>A sub-quota of 15% of the catalogue shall be reserved for works of Italian original expression.</p> <p>Up to 1 July 2019, VOD services are bound to reserve alternatively (i) at least 5% of the annual revenues derived from the delivery of on-demand content in the previous year for the production of or the purchase of the rights to European works or (ii) a 20% share of their catalogues for European works (the share is calculated in terms of hours, on a yearly basis). VOD services that give prominence to European works in accordance with the criteria set forth by AGCOM Resolution No. 149/15/CONS are entitled to benefit from partial deductions from the investment or broadcasting quotas of up to one fifth of their amount.</p> |
| | Prominence non-linear AVMS providers | <p>VOD providers shall give prominence to European works according to the modalities established by Exhibit B of AGCOM resolution no. 595/18/CONS (as amended by resolution no. 24/19/CONS). In addition, VOD providers shall arrange in their catalogues an <i>ad-hoc</i> section in the home-page or an <i>ad-hoc</i> search category for European works; they shall also reserve for European works a quota of their advertising campaigns.</p> |

Source: Italian response to European Audiovisual Observatory standardised survey

4.20.2. Definitions

Article 2, paragraph 1, cc) of the TUSMAR defines European works as follows:



- “works originating in States;
- works originating in European third States party to the European Convention on Transfrontier Television of the Council of Europe as ratified by Law No. 327/1991;
- works co-produced within the framework of agreements related to the audiovisual sector concluded between the European Union and third countries and fulfilling the conditions defined in each of those agreements.

The works referred to in points 1) and 2) are works mainly made with authors and workers residing in one or more of the States referred to in those provisions provided that they comply with one of the following three conditions: (i) they are made by one or more producers established in one or more of those States; (ii) the production of the works is supervised and actually controlled by one or more producers established in one or more of those States; (iii) the contribution of co-producers of those States to the total co-production costs is preponderant and the co-production is not controlled by one or more producers established outside those States.”

Article 2, paragraph 1, p), section 12 of the TUSMAR defines an independent producer as follows:

“European companies carrying out audiovisual production that are neither subsidiaries, nor related-companies to audiovisual media service providers subject to Italian jurisdiction and, alternatively: 1) do not reserve, over a three-year timeframe, more than 90% of their production for the same audiovisual media service provider; or 2) hold secondary rights.”

Table 282. Italy – Definition of the main concepts in terms of the promotion of EU works

| Concept | Definition |
|----------------------|------------|
| European works | Yes. |
| Independent producer | Yes. |
| Prominence | No. |

Source: Italian response to European Audiovisual Observatory standardised survey

4.20.3. Financial investment obligations

4.20.3.1. Financial investment obligations by linear AVMS providers (broadcasters)

Private broadcasters shall reserve at least 10% of their net annual revenues, as indicated in the income statement of the last annual financial statements available, to the production, pre-acquisition and acquisition of European works (until 30 June 2019, 100% must be devoted to works realised by independent producers). Such revenues shall be those obtained by the broadcaster from advertising, teleshopping, sponsorship, contracts and agreements with public and private entities, public financing and fee-based television



offers for non-sporting programmes for which it has editorial responsibility. This percentage shall be increased to 12.5% from 1 July 2019 (five sixths of which for independent producers) and to 15% from 2020 onwards (five sixths of which for independent producers).

Private broadcasters are also subject to a specific sub-quota of 3.2% of their net annual revenues to be allocated to cinematographic works of Italian original expression produced by independent producers. This percentage shall be increased to 3.5% as of 1 July 2019, to 4% for 2020 and to 4.5% from 2021 onwards (Article 44-ter, paragraph 1 of the TUSMAR). This sub-quota shall not apply to channels that have broadcast within the previous year less than 52 cinematographic works (net of reruns); the overall number of transmissions and re-transmissions of any nature shall not be higher than 104.

The public broadcaster RAI shall allocate to the pre-acquisition, acquisition and production of European works a quota of no less than 15% of the overall annual revenues (until 30 June 2019, 100% is devoted to works realised by independent producers). To this end, revenues are those derived from licence fees (“*canone*”) and advertising, excluding revenues derived from agreements with the public administration and the sales of goods and services. This percentage shall be increased to 18.5% from 1 July 2019 (five sixths of which for independent producers) and to 20% from 2020 onwards (five sixths of which for independent producers). No less than 5% of such a quota shall be allocated to animated works for children’s education.

RAI is also subject to a specific sub-quota of 3.6% of its annual net revenues to be allocated to cinematographic works of original Italian expression produced by independent producers. This percentage shall be increased to 4% as of 1 July 2019, to 4.5% for 2020 and to 5% from 2021 onwards (Article 44-ter, paragraphs 3 and 4 of the TUSMAR).

AGCOM may grant derogations under certain circumstances.

Table 283. Italy – Main features of the financial investment scheme for broadcasters

| Feature | Description |
|--|---|
| Legal basis for the investment | TUSMAR. |
| Level of investment | 10% of the annual net revenues (up to 15% in 2020). |
| Mandatory, optional or voluntary investment | Mandatory. |
| Nature of the investment | Pre-acquisition, acquisition or production. |
| Distinction between genres in which to invest | Yes. |
| Distinction between public or private broadcasters | Yes. |
| Level of investment in European works | Yes. |
| Level of investment in independent works | Yes. |
| Level of investment in works in a national | Yes. |



| | |
|---|-----|
| language | |
| Investment scheme applicable to foreign broadcasters | No. |
| Other type of investment | No. |

Source: Italian response to European Audiovisual Observatory standardised survey

4.20.3.2. Financial investment obligations by non-linear AVMS (VOD) providers

From 1 July 2019 onwards, VOD services shall promote the production of and access to European works by assigning an annual financial contribution to European works by independent producers, with particular reference to recent works, amounting to at least 20% of the net revenues raised in Italy, irrespective of whether or not the VOD provider is established in Italy (Article 44-quater, paragraph 1 of the TUSMAR).

According to the same timeline, a specific sub-quota of at least 10% of the net annual revenues raised in Italy shall be reserved for works of Italian original expression produced by independent producers (Article 44-quater, paragraph 5 of the TUSMAR).

Up to 1 July 2019, VOD services are bound to reserve alternatively (i) at least 5% of the annual revenues derived from the delivery of on-demand content in the previous year to the production of or the purchase of the rights to European works or (ii) a 20% share of their catalogues for European works (the share is calculated in terms of hours, on a yearly basis). VOD services that give prominence to European works in accordance with the criteria set forth by AGCOM Resolution No. 149/15/CONS are entitled to benefit from partial deductions from the investment or broadcasting quotas of up to one fifth of their amount.

AGCOM may grant derogations under certain circumstances.

Table 284. Italy – Main features of the investment scheme for VOD providers

| Feature | Description |
|---|---|
| Legal basis for the investment | TUSMAR. |
| Level of the investment | 20% of the revenues raised in Italy (from 1 July 2019). |
| Mandatory, optional or voluntary investment | Mandatory. |
| Nature of the investment | Pre-acquisition, acquisition or production. |
| Distinction between genres in which to invest | No. |
| Distinction between public or private services | No. |
| Level of investment in European works | Yes. |
| Level of investment in independent works | Yes. |



| | |
|--|------|
| Level of investment in works in a national language | Yes. |
| Investment scheme applicable to foreign VOD providers | Yes. |
| Other type of investment | No. |

Source: Italian response to European Audiovisual Observatory standardised survey

4.20.3.3. Financial investment obligations by distributors

Table 285. Italy – Main features of the investment scheme for distributors

| Feature | Description |
|--|--------------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Other type of investment | N/A. |

Source: Italian response to European Audiovisual Observatory standardised survey

4.20.4. Levies

4.20.4.1. Levies on linear AVMS providers (broadcasters)

Table 286. Italy – Main features of the levies on broadcasters

| Feature | Description |
|--|--------------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |



| | |
|---|------|
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private broadcasters | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign broadcasters | N/A. |

Source: Italian response to European Audiovisual Observatory standardised survey

4.20.4.2. Levies on non-linear AVMS providers (VOD services)

Table 287. Italy – Main features of the levies on VOD services

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private VOD services | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign VOD services | N/A. |

Source: Italian response to European Audiovisual Observatory standardised survey

4.20.4.3. Levies on distributors

Table 288. Italy – Main features of the levies on distributors

| Feature | Description |
|--|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to | N/A. |



| | |
|--|------|
| spend the levy | |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Italian response to European Audiovisual Observatory standardised survey

4.20.4.4. Levies on theatres (cinema tickets)

Table 289. Italy – Main features of the levies on theatres (cinema tickets)

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Italian response to European Audiovisual Observatory standardised survey

4.20.4.5. Levies on the video industry

Table 290. Italy – Main features of the levies on the video industry

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Italian response to European Audiovisual Observatory standardised survey

4.20.4.6. Other levies

Although it cannot be considered as a levy as defined by the present mapping, it is worth mentioning that a certain percentage of VAT and IRES (that is, corporate income tax) paid by companies operating in certain audiovisual and communications-related sectors (for example, the theatrical distribution of audiovisual content and television programmes,



theatrical screenings, television programming and broadcasting, the supply of Internet access services, and telecommunications) is destined for an ad hoc fund (the Fund for the development of investments in cinema and audiovisual sectors - Fondo per lo sviluppo degli investimenti nel cinema e nell'audiovisivo).

4.20.5. Quota obligations

4.20.5.1. Quotas for linear AVMS providers (broadcasters) – EU works

Broadcasters shall reserve a majority proportion of their eligible hours (*“the overall amount of broadcasting hours and hour fractions, excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping.”*) for European works (Article 44-bis, paragraph 1 of the TUSMAR). The quota will be increased progressively to 53% as of 1 July 2019, to 56% for 2020 and to 60% from 2021 onwards.

Private broadcasters shall reserve a sub-quota of at least one third of the initial quota for European works for works of Italian original expression (that is, 17.7% between 1 July 2019 and 31 December 2019). This percentage shall be increased to 50% for the public broadcaster RAI (26.5% between 1 July 2019 and 31 December 2019) (Article 44-bis, paragraph 2 of the TUSMAR). That sub-quota will apply as of 1 July 2019, after the publication of both (i) the AGCOM regulation governing the fulfillment of content and investment obligations (already adopted by resolution no. 595/18/CONS and amended by resolution no. 24/19/CONS) and (ii) the regulation by the Ministry of Culture and the Ministry of Economic Development providing for the definition of works of Italian original expression.

Additionally, broadcasters shall reserve, on a weekly basis, 6% of the eligible hours (6 p.m. to 11 p.m.) for cinematographic and audiovisual works of Italian original expression, including: fiction, animation, original documentaries or other works of highly cultural or scientific content, including the TV edition of theatrical works. This percentage shall be increased to 12% for the public service broadcaster RAI, half of which for cinematographic works of Italian original expression (Article 44-bis, paragraph 3 of the TUSMAR).

Finally, broadcasters shall reserve a sub-quota of at least 3% of the eligible hours for content made specifically for minors and at least 10% of the eligible hours for programs designed to be viewed by minors and adults.

There is uncertainty on whether, until the Ministry of Economic Development and the Ministry of Culture will issue the implementing decrees on Italian works of original expression, the previous regulation would apply, which sets forth a sub-quota for theatrical films of original expression of the Italian culture (excluding thematic channels focusing on a genre other than cinema) amounting (a) for private broadcasters, to 1% for non-thematic channels and 3% for thematic channels broadcasting mainly cinematographic works and (b) for the public service broadcaster, to 1.3% non-thematic channels and of 4% for thematic channels broadcasting mainly cinematographic works.



AGCOM may grant derogations under certain circumstances.

Table 291. Italy – Main features of the quota for broadcasters – EU works

| Feature | Description |
|---|---|
| Legal basis of the obligation | TUSMAR. |
| Level of the quota | 50% of the transmission time (up to 60% in 2021). |
| Flexibility in achieving the quota (“where practicable...”) | No. |
| Distinction between public or private broadcasters | Yes. |
| Derogations available for certain types of broadcasters | Yes. |
| Quotas for specific genres | Yes. |
| Quotas for national works or works in a national language | Yes. |
| Quotas for non-national EU works | No. |

Source: Italian response to European Audiovisual Observatory standardised survey

4.20.5.2. Quotas for linear AVMS providers (broadcasters) – independent works

Table 292. Italy – Main features of the quota for broadcasters – independent works

| Feature | Description |
|---|-------------|
| Legal basis of the obligation | N/A. |
| Level of the quota | N/A. |
| Flexibility in achieving the quota (“where practicable...”) | N/A. |
| Distinction between public or private broadcasters | N/A. |
| Derogations available for certain types of broadcasters | N/A. |
| Quotas for specific genres | N/A. |
| Quotas for national works or works in a national language | N/A. |
| Quotas for non-national EU works | N/A. |

Source: Italian response to European Audiovisual Observatory standardised survey



4.20.5.3. Quotas for non-linear AVMS providers (VOD services)

From 1 July 2019 onwards, VOD providers shall reserve a 30% share of their catalogues for recent (that is, produced within the last 5 years) European works (Article 44-quater, paragraph 1, a) of the TUSMAR).

From 1 July 2019 onwards, a sub-quota of 15% of the catalogue shall be reserved for works of Italian original expression (Article 44-quater, paragraph 5 of the TUSMAR).

Up to 1 July 2019, VOD providers are bound to reserve alternatively (i) at least 5% of the annual revenues derived from the delivery of on-demand content in the previous year to the production of or the purchase of the rights to European works or (ii) a 20% share of their catalogue for European works (the share is calculated in terms of hours, on a yearly basis). VOD service providers that give prominence to European works in accordance with the criteria set forth by AGCOM Resolution No. 149/15/CONS are entitled to benefit from partial deductions from the investment or broadcasting quotas of up to one fifth of their amount.

AGCOM may grant derogations under certain circumstances.

Table 293. Italy – Main features of the quota for VOD services – EU works

| Feature | Description |
|---|-----------------------|
| Legal basis of the obligation | TUSMAR. |
| Level of the quota | 30% of the catalogue. |
| Flexibility in achieving the quota (“where appropriate...”) | No. |
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of VOD services | Yes. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | Yes. |
| Quotas for non-national EU works | No. |

Source: Italian response to European Audiovisual Observatory standardised survey

4.20.6. Prominence obligations

Article 44-quater, paragraph 3 of the TUSMAR delegates AGCOM to adopt a regulation to specify how VOD services shall ensure that “adequate prominence” is given to European works within their catalogues. Such regulation has been adopted by resolution no. 595/18/CONS (as amended by resolution no. 24/19/CONS), whose Exhibit B regulates



prominence obligations for VOD providers. VOD providers shall arrange in their catalogues an *ad-hoc* section in the home-page or an *ad-hoc* search category for European works; they shall also reserve for European works a quota of their advertising campaigns.

Table 294. Italy – Main features of the prominence obligation for VOD services

| Feature | Description |
|---|---|
| Legal basis of the obligation | TUSMAR. |
| Means of giving prominence imposed | VOD providers shall arrange in their catalogues an <i>ad-hoc</i> section in the home-page or an <i>ad-hoc</i> search category for European works; they shall also reserve for European works a quota of their advertising campaigns. Details are provided for by Exhibit B, AGCOM resolution no. 595/18/CONS (as amended by resolution no. 24/19/CONS). |
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of VOD services | Yes. |
| Prominence to give to specific genres | No. |
| Prominence to give to national works or works in a national language | No. |
| Prominence to give to non-national EU works | No. |

Source: Italian response to European Audiovisual Observatory standardised survey

4.20.7. Envisaged amendments to the regulatory framework

The TUSMAR was amended at the end of 2018, but further amendments could be approved in 2019. The Ministry of Economic Development and the Ministry of Culture are expected to issue decrees implementing the law provisions on works of Italian original expression produced anywhere. The above-mentioned decrees may set forth additional sub-quotas for specific categories of works produced by independent producers, the definition of “works of Italian original expression,” criteria related to the maximum duration of exploitation of the works, etc.

4.20.8. Studies, reports and researches

- I-COM Paper: “AVMSD Refit or Reform? Audio Visual Media Services in the Digital Era”, September 2016 :



https://www.i-com.it/wp-content/uploads/2016/09/avmsd_refit_or_reform-audio_visual_media_services_in_the_digital_era-paper_i-com.pdf

- AGCOM sector inquiry on audiovisual production (see outcome in AGCOM Resolution n°. 582/15/CONS):
https://www.agcom.it/documentazione/documento?p_p_auth=fLw7zRht&p_p_id=101_INSTANCE_2fsZcpGr12AO&p_p_lifecycle=0&p_p_col_id=column-1&p_p_col_count=1&_101_INSTANCE_2fsZcpGr12AO_struts_action=%2Fasset_publisher%2Fview_content&_101_INSTANCE_2fsZcpGr12AO_assetEntryId=4045658&_101_INSTANCE_2fsZcpGr12AO_type=document
- Report on the audiovisual system published by the e-Media Institute and the Istituto Bruno Leoni in June 2018:
<http://www.brunoleoni.it/il-sistema-audiovisivo-evoluzione-e-dimensioni-economiche-2018>

4.20.9. Applicable regulatory framework

- Primary legislation:
 - In Italian – Decreto Legislativo 31 luglio 2005, n°177 (TUSMAR), e successive modifiche - Articolo 44-ter (Legislative Decree n°177 of 31 July 2005, as amended - Article 44-ter):
<http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2005-07-31;177!vig=>
- Secondary legislation:
 - In Italian – Delibera AGCOM n° 24/19/CONS, All. B, “Regolamento in materia di obblighi di programmazione ed investimento a favore di opere europee e di opere di produttori indipendenti” (Resolution no. 24/19/CONS, Exhibit B, “Regulation on programming and financial obligations for European works and independent works”):
<https://www.agcom.it/documents/10179/13446572/Allegato+25-1-2019+1548410333594/0a5e9c51-a64e-4a65-b0a9-3c40f3331f56?version=1.0>
 - In Italian – Delibera AGCOM n° 595/18/CONS, All. B, “Definizione dei criteri tecnici ed editoriali di messa in rilievo delle opere europee sui servizi di media audiovisivi a richiesta di cui all’art. 44-quater, commi 3 e 4 del Testo Unico” (Resolution no. 595/18/CONS, Exhibit B, “Technical and editorial criteria to give prominence to European works in non-linear audiovisual services”):
<https://www.agcom.it/documents/10179/13117145/Allegato+25-1-2019+1548409880123/2867ee12-2a1d-4a02-ac2b-34ca9f68bff0?version=1.0>
 - In Italian – Decreto del 22 febbraio 2013 firmato dal Ministro dello Sviluppo economico e dal Ministro per i Beni e le Attività culturali sulle opere cinematografiche di espressione originale italiana – Articolo 3, comma 1 (Decree dated 22 February 2013 of the Ministry of Economic Development and the Ministry of Cultural Heritage and Activities and



Tourism on cinematographic works of original Italian expression – Article 3, para. 1) – soon to be repealed:

<https://www.sviluppoeconomico.gov.it/index.php/it/normativa/decreti-interministeriali/2026841-decreto-interministeriale-22-febbraio-2013-cinema-quote-di-investimento-finanziario-e-trasmissione-riservate-opere-italiane>

4.20.10. Data compilation

This factsheet was produced based on data compiled by Ernesto Apa, Partner, Portolano Cavallo Studio Legale.



4.21. LT – Lithuania – National legal summary³¹

4.21.1. Summary

Table 295. Lithuania – Summary of the existing obligations – by type and player

| Obligation | Player | Main feature |
|----------------------------------|--|--|
| Financial investment obligations | Linear AVMS providers | No obligation. |
| | Non-linear AVMS providers | VOD services shall promote, where practicable and by appropriate means, the production of and access to European works (Article 40 ⁴ .1 of the Law on the Provision of Information to the Public). |
| | Distributors | No obligation. |
| Levies | Linear AVMS providers | No obligation. |
| | Non-linear AVMS providers | No obligation. |
| | Distributors | No obligation. |
| | Theatres | No obligation. |
| | Video industry | No obligation. |
| | Other | No obligation. |
| Promotion | Quotas European works linear AVMS providers | Broadcasters shall reserve, where practicable, at least 50% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping) for European works. |
| | Quotas independent works linear AVMS providers | Broadcasters shall reserve, where practicable, at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping) for European works created by producers who are independent from broadcasters. |
| | Quotas non-linear AVMS providers | VOD services shall reserve at least 50% of the programmes in their catalogue for European works. |
| | Prominence non-linear AVMS providers | VOD services shall promote, where practicable and by appropriate means, the production of and access to European works. |

³¹ The factsheet on Lithuania incorporates the feedback received from Rolandas Kvietkauskas (Lithuanian Film Centre) during the checking round with the national film funds.



Source: Lithuanian response to European Audiovisual Observatory standardised survey

4.21.2. Definitions

Article 37 of the Law on the Provision of Information to the Public defines European works as follows:

“1. The following shall be considered European audiovisual works (hereinafter: ‘European works’):

1) works produced in the Republic of Lithuania or in other EU Member States and States of the European Economic Area and other States which have ratified the Council of Europe Convention on Transfrontier Television, if the producers of such works are established in these States or the production of such works is controlled by one or more producers established in these States, or the contribution of the producers established in the aforementioned States to the costs of the co-production (production) is larger than the contribution of the producers established in other (third) countries and the total co-production (production) is not controlled by one or more producers established outside the Republic of Lithuania, the EU Member States, the States of the European Economic Area or the other States which have ratified the Council of Europe Convention on Transfrontier Television;

2) works produced in third countries, i.e. outside the EU Member States, States of the European Economic Area or other States which have ratified the Council of Europe Convention on Transfrontier Television, if they are produced by producers established in one or several third countries or by such producers in co-operation with producers established in one or several EU Member States and in the Republic of Lithuania provided that the European Union and the Republic of Lithuania have concluded agreements with these third countries on cooperation in the audiovisual field and provided that such works are largely produced by authors and producers residing in one or several European States.

2. Points 1 and 2 of paragraph 1 of this Article shall apply in the event that works produced in the Republic of Lithuania or the EU Member States are not subject to discriminatory measures in the countries referred to in points 1 and 2 of paragraph 1 of this Article.

3. Works which within the meaning of paragraph 1 of this Article should not be considered as European works, but which have been produced within the framework of bilateral co-production (production) contracts between the EU Member States or the Republic of Lithuania and third countries, shall be treated as European works if the contribution of the producers from the EU or the Republic of Lithuania comprises the major part of the costs of co-production (production) and if the creation (production) thereof is not controlled by producers established in a State other than the EU Member State.



4. Works which within the meaning of paragraphs 1 and 2 of this Article should not be considered as European works, but which have been largely produced in co-operation with authors and producers residing in one or several EU Member States shall be treated as European works to the extent proportionate to the contribution of producers established in the EU Member States to the costs of the total co-production (production).”

Article 2.35 of the Law on the Provision of Information to the Public defines an independent producer as follows:

“Independent producer means a person who is not a participant of a provider of audiovisual media services or a broadcaster of radio programmes or a member of the management bodies thereof, also a person who is not linked with a provider of audiovisual media services or a broadcaster of radio programmes by employment and service relations or joint activity, who creates audiovisual works or programmes and sells them freely or otherwise transfers them for public dissemination.”

Table 296. Lithuania – Definition of the main concepts in terms of the promotion of EU works

| Concept | Definition |
|----------------------|------------|
| European works | Yes. |
| Independent producer | Yes. |
| Prominence | No. |

Source: Lithuanian response to European Audiovisual Observatory standardised survey

4.21.3. Financial investment obligations

4.21.3.1. Financial investment obligations by linear AVMS providers (broadcasters)

Table 297. Lithuania – Main features of the financial investment scheme for broadcasters

| Feature | Description |
|--|-------------|
| Legal basis for the investment | N/A. |
| Level of investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Distinction between public or private broadcasters | N/A. |



| | |
|---|------|
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Investment scheme applicable to foreign broadcasters | N/A. |
| Other type of investment | N/A. |

Source: Lithuanian response to European Audiovisual Observatory standardised survey

4.21.3.2. Financial investment obligations by non-linear AVMS (VOD) providers

VOD services shall promote, where practicable and by appropriate means, the production of and access to European works (Article 40⁴.1 of the Law on the Provision of Information to the Public).

Table 298. Lithuania – Main features of the investment scheme for VOD providers

| Feature | Description |
|--|---|
| Legal basis for the investment | Law on the Provision of Information to the Public |
| Level of the investment | No specific level. |
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Distinction between public or private services | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Investment scheme applicable to foreign VOD providers | N/A. |
| Other type of investment | N/A. |

Source: Lithuanian response to European Audiovisual Observatory standardised survey



4.21.3.3. Financial investment obligations by distributors

Table 299. Lithuania – Main features of the investment scheme for distributors

| Feature | Description |
|---|-------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Other type of investment | N/A. |

Source: Lithuanian response to European Audiovisual Observatory standardised survey

4.21.4. Levies

4.21.4.1. Levies on linear AVMS providers (broadcasters)

Table 300. Lithuania – Main features of the levies on broadcasters

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private broadcasters | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign broadcasters | N/A. |



Source: Lithuanian response to European Audiovisual Observatory standardised survey

4.21.4.2. Levies on non-linear AVMS providers (VOD services)

Table 301. Lithuania – Main features of the levies on VOD services

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private VOD services | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign VOD services | N/A. |

Source: Lithuanian response to European Audiovisual Observatory standardised survey

4.21.4.3. Levies on distributors

Table 302. Lithuania – Main features of the levies on distributors

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Lithuanian response to European Audiovisual Observatory standardised survey



4.21.4.4. Levies on theatres (cinema tickets)

Table 303. Lithuania – Main features of the levies on theatres (cinema tickets)

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Lithuanian response to European Audiovisual Observatory standardised survey

4.21.4.5. Levies on the video industry

Table 304. Lithuania – Main features of the levies on the video industry

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Lithuanian response to European Audiovisual Observatory standardised survey

4.21.4.6. Other levies

N/A.

4.21.5. Quota obligations

4.21.5.1. Quotas for linear AVMS providers (broadcasters) – EU works

Broadcasters shall reserve, where practicable, more than 50% of the television programme time remaining after deducting the time allocated for news, sports events,



games and advertising programmes, teletext services and teleshopping for European works (Article 38.8 of the Law on the Provision of Information to the Public).

Local TV programmes are exempt.

Table 305. Lithuania – Main features of the quota for broadcasters – EU works

| Feature | Description |
|---|---|
| Legal basis of the obligation | Law on the Provision of Information to the Public |
| Level of the quota | More than 50% of the transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | Yes. |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | Yes. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Lithuanian response to European Audiovisual Observatory standardised survey

4.21.5.2. Quotas for linear AVMS providers (broadcasters) – independent works

Broadcasters shall reserve, where practicable, at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping) for European works created by producers who are independent from broadcasters (Article 38.9 of the Law on the Provision of Information to the Public).

Local TV programmes are exempt.

Table 306. Lithuania – Main features of the quota for broadcasters – independent works

| Feature | Description |
|---|--|
| Legal basis of the obligation | Law on the Provision of Information to the Public. |
| Level of the quota | 10% of the transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | Yes. |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | Yes. |
| Quotas for specific genres | No. |



| | |
|--|-----|
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Lithuanian response to European Audiovisual Observatory standardised survey

4.21.5.3. Quotas for non-linear AVMS providers (VOD services)

VOD services shall reserve at least 50% of the programmes in their catalogue for European works, (Article 40⁴.2 of the Law on the Provision of Information to the Public).

Table 307. Lithuania – Main features of the quota for VOD services – EU works

| Feature | Description |
|--|--|
| Legal basis of the obligation | Law on the Provision of Information to the Public. |
| Level of the quota | 50% of the programmes in the catalogue. |
| Flexibility in achieving the quota (“where appropriate...”) | No. |
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of VOD services | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Lithuanian response to European Audiovisual Observatory standardised survey

4.21.6. Prominence obligations

VOD services shall promote, where practicable and by appropriate means, the production of and access to European works (Article 40⁴.1 of the Law on the Provision of Information to the Public).

Table 308. Lithuania – Main features of the prominence obligation for VOD services

| Feature | Description |
|---|--|
| Legal basis of the obligation | Law on the Provision of Information to the Public. |
| Means of giving prominence imposed | No. |
| Distinction between public or private VOD services | No. |



| | |
|---|-----|
| Derogations available for certain types of VOD services | No. |
| Prominence to give to specific genres | No. |
| Prominence to give to national works or works in a national language | No. |
| Prominence to give to non-national EU works | No. |

Source: Lithuanian response to European Audiovisual Observatory standardised survey

4.21.7. Envisaged amendments to the regulatory framework

N/A.

4.21.8. Studies, reports and researches

N/A.

4.21.9. Applicable regulatory framework

- Primary legislation:
 - In Lithuanian – Lietuvos Respublikos visuomenės informavimo įstatymas (Law on the Provision of Information to the Public):
<https://www.e-tar.lt/portal/lt/legalAct/TAR.065AB8483E1E/smgmCYGYRC>
 - In English – Law on the Provision of Information to the Public:
<https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/c4a1511305c611e8802fc9918087744d?jfwid=2r1mldso>

4.21.10. Data compilation

This factsheet was produced based on data compiled by Jurgita Iešmantaitė, Deputy Executive Director, Radio and Television Commission.

4.22. LU – Luxembourg – National legal summary³²

4.22.1. Summary

Table 309. Luxembourg – Summary of the existing obligations – by type and player

| Obligation | Player | Main feature |
|---|---|--|
| Financial investment obligations | Linear AVMS providers | No obligation. |
| | Non-linear AVMS providers | VOD services shall promote, where practicable and by appropriate means, the production of and access to European works. |
| | Distributors | No obligation. |
| Levies | Linear AVMS providers | No obligation. |
| | Non-linear AVMS providers | No obligation. |
| | Distributors | No obligation. |
| | Theatres | No obligation. |
| | Video industry | No obligation. |
| | Other | No obligation. |
| Promotion | Quotas European works linear AVMS providers | Broadcasters shall reserve, where practicable, a majority proportion of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping) for European works. This proportion shall be attained gradually, based on appropriate criteria. |
| | Quotas independent works linear AVMS providers | Broadcasters shall reserve, where practicable, at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping) for European works created by producers who are independent from broadcasters. This proportion shall be attained gradually, based on appropriate criteria. |
| | Quotas non-linear AVMS providers | VOD services shall promote, where practicable and by appropriate means, the production of and access to European works. |
| | Prominence non-linear AVMS providers | VOD services shall promote, where practicable and by appropriate means, the production of and access to |

³² The factsheet on Luxembourg incorporates the feedback received from Carole Kremer (Film Fund Luxembourg) during the checking round with the national film funds.



| | |
|--|-----------------|
| | European works. |
|--|-----------------|

Source: Luxembourgish response to European Audiovisual Observatory standardised survey

4.22.2. Definitions

Article 2 (1) of the grand-ducal regulation setting the rules applicable to European and independent works pursuant to the AVMS Directive defines European works as follows:

- “a) works originating in a member State of the European Economic Area;*
- b) works originating in third States, but which are parties to the European Convention on Transfrontier Television;*
- c) works which are co-produced within the framework of an agreement of cooperation concluded between a member State of the European Union and a third State and fulfilling the conditions specified in the agreement.”*

Article 2 (6) of the grand-ducal regulation setting the rules applicable to European and independent works pursuant to the AVMS Directive defines an independent producer as follows:

“Any natural person producing audiovisual works without exercising the activity of an audiovisual media service provider and any legal person producing audiovisual works without exercising the activity of an audiovisual media service provider and whose majority of shares are not controlled by an audiovisual media service provider.”

Table 310. Luxembourg – Definition of the main concepts in terms of the promotion of EU works

| Concept | Definition |
|----------------------|------------|
| European works | Yes. |
| Independent producer | Yes. |
| Prominence | No. |

Source: Luxembourgish response to European Audiovisual Observatory standardised survey

4.22.3. Financial investment obligations

4.22.3.1. Financial investment obligations by linear AVMS providers (broadcasters)

N/A.

**Table 311. Luxembourg – Main features of the financial investment scheme for broadcasters**

| Feature | Description |
|--|-------------|
| Legal basis for the investment | N/A. |
| Level of investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Distinction between public or private broadcasters | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Investment scheme applicable to foreign broadcasters | N/A. |
| Other type of investment | N/A. |

Source: Luxembourgish response to European Audiovisual Observatory standardised survey

4.22.3.2. Financial investment obligations by non-linear AVMS (VOD) providers

VOD services shall promote, where practicable and by appropriate means, the production of and access to European works (Article 5bis of the Grand-ducal regulation setting the rules applicable to European and independent works pursuant to the AVMS Directive).

Table 312. Luxembourg – Main features of the investment scheme for VOD providers

| Feature | Description |
|--|---|
| Legal basis for the investment | Grand-ducal regulation setting the rules applicable to European and independent works pursuant to the AVMS Directive. |
| Level of the investment | No specific level. |
| Mandatory, optional or voluntary investment | Optional. |
| Nature of the investment | Pre-acquisition, co-production or production. |
| Distinction between genres in which to invest | No. |
| Distinction between public or private services | No. |
| Level of investment in European works | No specific level. |



| | |
|--|-----|
| Level of investment in independent works | No. |
| Level of investment in works in a national language | No. |
| Investment scheme applicable to foreign VOD providers | No. |
| Other type of investment | |

Source: Luxembourgish response to European Audiovisual Observatory standardised survey

4.22.3.3. Financial investment obligations by distributors

Table 313. Luxembourg – Main features of the investment scheme for distributors

| Feature | Description |
|--|--------------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Other type of investment | N/A. |

Source: Luxembourgish response to European Audiovisual Observatory standardised survey

4.22.4. Levies

4.22.4.1. Levies on linear AVMS providers (broadcasters)

Table 314. Luxembourg – Main features of the levies on broadcasters

| Feature | Description |
|--|--------------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |



| | |
|--|------|
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private broadcasters | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign broadcasters | N/A. |

Source: Luxembourgish response to European Audiovisual Observatory standardised survey

4.22.4.2. Levies on non-linear AVMS providers (VOD services)

Table 315. Luxembourg – Main features of the levies on VOD services

| Feature | Description |
|--|--------------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private VOD services | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign VOD services | N/A. |

Source: Luxembourgish response to European Audiovisual Observatory standardised survey

4.22.4.3. Levies on distributors

Table 316. Luxembourg – Main features of the levies on distributors

| Feature | Description |
|--|--------------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |



| | |
|--|------|
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Luxembourgish response to European Audiovisual Observatory standardised survey

4.22.4.4. Levies on theatres (cinema tickets)

Table 317. Luxembourg – Main features of the levies on theatres (cinema tickets)

| Feature | Description |
|--|--------------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Luxembourgish response to European Audiovisual Observatory standardised survey

4.22.4.5. Levies on the video industry

Table 318. Luxembourg – Main features of the levies on the video industry

| Feature | Description |
|--|--------------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Luxembourgish response to European Audiovisual Observatory standardised survey

4.22.4.6. Other levies

The grand-ducal regulation sets out the amount and the modalities of payment of the fees which the media regulatory authority ALIA collects from the AVMS providers under its jurisdiction.



This regulation is mentioned in the present mapping merely for information, as it cannot be considered as a levy meant to finance support schemes for audiovisual production.

The regulation does not prescribe a specific amount for the licence fee but refers to the Luxembourg civil service pay scale: the amount of the fee is equal to 1% of the remuneration of a high-ranking civil servant. The flat fee is linked to the civil service pay scale because the scale is indexed, which means that the fee is automatically adapted to economic developments without having to make subsequent changes to the grand-ducal regulation. For the year 2017, this meant that AVMS providers paid the amount of EUR 1 512. The fee is due for each licensed or notified service, except for those meant to be received in one or more countries situated outside the EEA, and those not received directly or indirectly using standard equipment by the public in any member state of the EEA. Non-profit AVMS providers are exempt. The fee is paid on a yearly basis to ALIA and is meant to cover the administrative costs it incurs for supervising the service.

4.22.5. Quota obligations

4.22.5.1. Quotas for linear AVMS providers (broadcasters) – EU works

Broadcasters shall reserve, where practicable, a majority proportion of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping) for European works. This proportion shall be attained gradually, based on appropriate criteria (Article 3 of the Grand-ducal regulation setting the rules applicable to European and independent works pursuant to the AVMS Directive).

Table 319. Luxembourg – Main features of the quota for broadcasters – EU works

| Feature | Description |
|--|---|
| Legal basis of the obligation | Grand-ducal regulation setting the rules applicable to European and independent works pursuant to the AVMS Directive. |
| Level of the quota | 50% of the transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | Yes. |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Luxembourgish response to European Audiovisual Observatory standardised survey



4.22.5.2. Quotas for linear AVMS providers (broadcasters) – independent works

Broadcasters shall reserve, where practicable, at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping) for European works created by producers who are independent from broadcasters. This proportion shall be attained gradually, based on appropriate criteria (Article 4 of the Grand-ducal regulation setting the rules applicable to European and independent works pursuant to the AVMS Directive).

Table 320. Luxembourg – Main features of the quota for broadcasters – independent works

| Feature | Description |
|--|---|
| Legal basis of the obligation | Grand-ducal regulation setting the rules applicable to European and independent works pursuant to the AVMS Directive. |
| Level of the quota | 10% of the transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | Yes. |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Luxembourgish response to European Audiovisual Observatory standardised survey

4.22.5.3. Quotas for non-linear AVMS providers (VOD services)

VOD services shall promote, where practicable and by appropriate means, the production of and access to European works (Article 5bis of the Grand-ducal regulation setting the rules applicable to European and independent works pursuant to the AVMS Directive).

Table 321. Luxembourg – Main features of the quota for VOD services – EU works

| Feature | Description |
|--|---|
| Legal basis of the obligation | Grand-ducal regulation setting the rules applicable to European and independent works pursuant to the AVMS Directive. |
| Level of the quota | No specific quota. |
| Flexibility in achieving the quota (“where appropriate...”) | Yes. |
| Distinction between public or private VOD | No. |



| | |
|--|-----|
| services | |
| Derogations available for certain types of VOD services | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Luxembourgish response to European Audiovisual Observatory standardised survey

4.22.6. Prominence obligations

VOD services shall promote, where practicable and by appropriate means, the production of and access to European works (Article 5bis of the Grand-ducal regulation setting the rules applicable to European and independent works pursuant to the AVMS Directive).

Table 322. Luxembourg – Main features of the prominence obligation for VOD services

| Feature | Description |
|---|---|
| Legal basis of the obligation | Grand-ducal regulation setting the rules applicable to European and independent works pursuant to the AVMS Directive. |
| Means of giving prominence imposed | No. |
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of VOD services | No. |
| Prominence to give to specific genres | No. |
| Prominence to give to national works or works in a national language | N/A. |
| Prominence to give to non-national EU works | N/A. |

Source: Luxembourgish response to European Audiovisual Observatory standardised survey

4.22.7. Envisaged amendments to the regulatory framework

N/A.



4.22.8. Studies, reports and researches

All the researches for the purpose of compiling the present mapping are available at: https://wwwfr.uni.lu/recherche/fdef/droit_des_medias/audiovisual_media_services_directive/news

4.22.9. Applicable regulatory framework

- Primary legislation:
 - In French - Loi du 27 juillet 1991 sur les médias électroniques (Law on Electronic Media): <https://www.alia.lu/assets/upload/files/2017-09-20Presse-et-mdias-lectroniques-2017-textes-coordonnes-20-09-17.pdf>
 - In English – Law on Electronic Media: https://wwwen.uni.lu/content/download/65349/830145/file/Luxembourg_ALIA_translation_consolidated.pdf
- Secondary legislation:
 - In French - Règlement grand-ducal du 5 avril 2001 fixant les règles applicables en matière de contenu en œuvres européennes et en œuvres de producteurs indépendants des programmes de télévision réputés relever de la compétence du Luxembourg conformément à la directive européenne Télévision sans frontières (Grand-ducal regulation setting the rules applicable to European and Independent works pursuant to the AVMS Directive): <http://legilux.public.lu/eli/etat/leg/rgd/2001/04/05/n1/jo> (primary) and <http://legilux.public.lu/eli/etat/leg/rgd/2010/12/17/n11/jo> (amending) - no coordinated version available
 - In French – Règlement grand-ducal du 2 février 2015 fixant le montant et les modalités de paiement des taxes (Grand-ducal regulation setting the amount and method of payment for fees – not coordinated): <http://legilux.public.lu/eli/etat/leg/rgd/2015/02/02/n5/jo>
 - In English - Grand-ducal regulation setting the amount and method of payment for fees: https://wwwen.uni.lu/content/download/79703/988216/file/R%C3%A8glement_paiement%20taxes_translation.pdf

4.22.10. Data compilation

This factsheet was produced based on data compiled by Aleksandra Suwala, LL.M, Attorney at Law.

4.23. LV – Latvia – National legal summary³³

4.23.1. Summary

Table 323. Latvia – Summary of the existing obligations – by type and player

| Obligation | Player | Main feature |
|----------------------------------|--|---|
| Financial investment obligations | Linear AVMS providers | The public broadcaster LTV shall “ensure the availability of the Latvian national audiovisual heritage to the public by purchasing national films, demonstrating them in their programmes, and undertaking other support measures for the Latvian film sector in accordance with the legal acts pertaining to this sector” and “shall co-operate with the State direct administration institution the National Film Centre on matters concerning the national film heritage”. |
| | Non-linear AVMS providers | No obligation. |
| | Distributors | No obligation. |
| Levies | Linear AVMS providers | No obligation. |
| | Non-linear AVMS providers | No obligation. |
| | Distributors | No obligation. |
| | Theatres | No obligation. |
| | Video industry | No obligation. |
| | Other | No obligation. |
| Promotion | Quotas European works linear AVMS providers | Broadcasters shall reserve at least 51% of their weekly transmission time (excluding the time allotted to news, sports events, games, advertising, teleshopping and teleshopping windows) for European works. |
| | Quotas independent works linear AVMS providers | Private broadcasters shall reserve at least 10% of their broadcasts and 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teleshopping and teleshopping windows) for European works created by producers who are independent from broadcasters. The public broadcaster LTV shall reserve at least 30% of its full transmission time for European works created by producers who are independent from |

³³ The factsheet on Latvia incorporates the feedback received from Dita Rietuma (National Film Centre of Latvia) during the checking round with the national film funds.



| | | |
|--|---|---|
| | | broadcasters. |
| | Quotas non-linear AVMS providers | VOD services shall include European works in their catalogues. The percentage is not further specified. |
| | Prominence non-linear AVMS providers | No obligation. |

Source: Latvian response to European Audiovisual Observatory standardised survey

4.23.2. Definitions

Article 31 of the Electronic Mass Media Law defines European works as follows:

“(1) European audiovisual works are:

1) literary dramatic works, serials, films, documentary, art, education and similar creative works produced in Latvia and other European Union Member States; and

2) audiovisual works complying with the provisions of Paragraph three of this Section, which have been produced in those European Convention on Transfrontier Television Member States which are not European Union Member States and do not apply discriminating regulations in relation to audiovisual works produced in Latvia and other European Union Member States.

(2) In accordance with agreements entered into between the European Union and States other than European Union Member States and provided they do not apply discriminating regulations in relation to audiovisual works produced in Latvia and other European Union Member States, coproduction audiovisual works which comply with the conditions of the aforementioned agreements shall also be considered as European audiovisual works.

(3) European audiovisual works specified in Paragraph one, Clauses 1 and 2 of this Section are such works which have been produced primarily by authors and technical employees from one or more of the States referred to in Paragraph one, Clauses 1 and 2, and which comply with at least one of the following conditions:

1) they have been produced by one producer or several producers whose permanent place of residence is in one of these States;

2) the production of the works is supervised and actually controlled by one producer or several producers whose permanent place of residence is in one of these States; or

3) the investment of producers from these states covers the larger share of co-production costs, and the co-production is not controlled by one producer or several producers residing permanently outside these States.

(4) European audiovisual works shall also be deemed to be such works, which are not European audiovisual works within the meaning of Paragraph one of this Section, but which have been produced within the scope of bilateral co-production agreements



between Latvia or other European Union Member States and a State other than a European Union Member State, if the Latvian producers or producers of the European Union Member States cover the larger share of co-production costs, and the co-production is not controlled by one or more producers permanently residing outside the territory of Latvia or the European Union Member States.”

Article 1(13) of the Electronic Mass Media Law defines an independent producer as follows:

“Independent producer – a private person who is not an electronic mass medium but who is engaged in the production of films, advertising, individual radio or television broadcasts, programmes.”

Table 324. Latvia – Definition of the main concepts in terms of the promotion of EU works

| Concept | Definition |
|----------------------|------------|
| European works | Yes. |
| Independent producer | Yes. |
| Prominence | No. |

Source: Latvian response to European Audiovisual Observatory standardised survey

4.23.3. Financial investment obligations

4.23.3.1. Financial investment obligations by linear AVMS providers (broadcasters)

The public broadcaster LTV shall “ensure the availability of the Latvian national audiovisual heritage to the public by purchasing national films, demonstrating them in their programmes, and undertaking other support measures for the Latvian film sector in accordance with the legal acts pertaining to this sector” and “shall co-operate with the State direct administration institution the National Film Centre on matters concerning the national film heritage”.

Moreover, “The State direct administration institution the National Film Centre and Latvian Television shall enter into an agreement setting out the procedures whereby Latvian Television has the duty to be involved in the co-production and purchase of national films within the framework of the budget granted. The time period of such an agreement shall be three years and it shall be renewed on every occasion not later than four months before the start date of the next time period” (Article 69 of the Electronic Mass Media Law).

Private broadcasters do not have any financial investment obligations.

Table 325. Latvia – Main features of the financial investment scheme for broadcasters

| Feature | Description |
|---------|-------------|
|---------|-------------|



| | |
|---|---|
| Legal basis for the investment | Electronic Mass Media Law. |
| Level of investment | No specific level. |
| Mandatory, optional or voluntary investment | Mandatory. |
| Nature of the investment | Pre-acquisition, co-production or production. |
| Distinction between genres in which to invest | No. |
| Distinction between public or private broadcasters | Yes. |
| Level of investment in European works | No specific level. |
| Level of investment in independent works | No specific level. |
| Level of investment in works in a national language | No specific level. |
| Investment scheme applicable to foreign broadcasters | No. |
| Other type of investment | No. |

Source: Latvian response to European Audiovisual Observatory standardised survey

4.23.3.2. Financial investment obligations by non-linear AVMS (VOD) providers

Table 326. Latvia – Main features of the investment scheme for VOD providers

| Feature | Description |
|--|--------------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Distinction between public or private services | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Investment scheme applicable to foreign VOD providers | N/A. |
| Other type of investment | N/A. |

Source: Latvian response to European Audiovisual Observatory standardised survey



4.23.3.3. Financial investment obligations by distributors

Table 327. Latvia – Main features of the investment scheme for distributors

| Feature | Description |
|---|-------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Other type of investment | N/A. |

Source: Latvian response to European Audiovisual Observatory standardised survey

4.23.4. Levies

4.23.4.1. Levies on linear AVMS providers (broadcasters)

Table 328. Latvia – Main features of the levies on broadcasters

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private broadcasters | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign broadcasters | N/A. |



Source: Latvian response to European Audiovisual Observatory standardised survey

4.23.4.2. Levies on non-linear AVMS providers (VOD services)

Table 329. Latvia – Main features of the levies on VOD services

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private VOD services | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign VOD services | N/A. |

Source: Latvian response to European Audiovisual Observatory standardised survey

4.23.4.3. Levies on distributors

Table 330. Latvia – Main features of the levies on distributors

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Latvian response to European Audiovisual Observatory standardised survey



4.23.4.4. Levies on theatres (cinema tickets)

Table 331. Latvia – Main features of the levies on theatres (cinema tickets)

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Latvian response to European Audiovisual Observatory standardised survey

4.23.4.5. Levies on the video industry

Table 332. Latvia – Main features of the levies on the video industry

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Latvian response to European Audiovisual Observatory standardised survey

4.23.4.6. Other levies

N/A.

4.23.5. Quota obligations

4.23.5.1. Quotas for linear AVMS providers (broadcasters) – EU works

Broadcasters shall reserve at least 51% of their weekly transmission time (excluding the time allotted to news, sports events, games, advertising, teleshopping and teleshopping windows) for European works (Article 32(1) of the Electronic Mass Media Law).



National and regional broadcasters shall reserve at least 40% of the transmission time they dedicate to European works (except for the news, sports events, games, advertising, teleshopping and teleshopping windows) for audiovisual works in the official language, and shall ensure that at least 65% of their broadcasts (except for the advertising, teleshopping and teleshopping windows) are in the official language and that such broadcasts take up at least 65% of their transmission time. A television broadcast in a foreign language, if it is dubbed or subtitled in the official language, shall also be deemed to be a broadcast in the official language (Article 32(2) (3) and (4) of the Electronic Mass Media Law).

Table 333. Latvia – Main features of the quota for broadcasters – EU works

| Feature | Description |
|---|--------------------------------------|
| Legal basis of the obligation | Electronic Mass Media Law. |
| Level of the quota | 51% of the weekly transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | No. |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | Yes. |
| Quotas for non-national EU works | No. |

Source: Latvian response to European Audiovisual Observatory standardised survey

4.23.5.2. Quotas for linear AVMS providers (broadcasters) – independent works

Private broadcasters shall reserve at least 10% of their broadcasts and 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teleshopping and teleshopping windows) for European works created by producers who are independent from broadcasters (Article 33(1) of the Electronic Mass Media Law).

The public broadcaster LTV shall reserve at least 30% of its full transmission time for European works created by producers who are independent from broadcasters (Article 66(5) of the Electronic Mass Media Law).

Table 334. Latvia – Main features of the quota for broadcasters – independent works

| Feature | Description |
|-------------------------------|--|
| Legal basis of the obligation | Electronic Mass Media Law. |
| Level of the quota | Private broadcasters: 10% of the broadcasts and 10% of the |



| | |
|--|---|
| | transmission time. Public broadcaster: 30% of the transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | No. |
| Distinction between public or private broadcasters | Yes. |
| Derogations available for certain types of broadcasters | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Latvian response to European Audiovisual Observatory standardised survey

4.2.3.5.3. Quotas for non-linear AVMS providers (VOD services)

VOD services shall include European works in their catalogues (Article 23(5) of the Electronic Mass Media Law). The percentage is not further specified.

Table 335. Latvia – Main features of the quota for VOD services – EU works

| Feature | Description |
|--|----------------------------|
| Legal basis of the obligation | Electronic Mass Media Law. |
| Level of the quota | No specific level. |
| Flexibility in achieving the quota (“where appropriate...”) | N/A. |
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of VOD services | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Latvian response to European Audiovisual Observatory standardised survey



4.23.6. Prominence obligations

Table 336. Latvia – Main features of the prominence obligation for VOD services

| Feature | Description |
|--|-------------|
| Legal basis of the obligation | N/A. |
| Means of giving prominence imposed | N/A. |
| Distinction between public or private VOD services | N/A. |
| Derogations available for certain types of VOD services | N/A. |
| Prominence to give to specific genres | N/A. |
| Prominence to give to national works or works in a national language | N/A. |
| Prominence to give to non-national EU works | N/A. |

Source: Latvian response to European Audiovisual Observatory standardised survey

4.23.7. Envisaged amendments to the regulatory framework

N/A.

4.23.8. Studies, reports and researches

- Research on the fulfilment of public remit by the Latvian Television (in Latvian): https://neplpadome.lv/lv/assets/documents/sabiedriskais%20pasutijums/atzinums_par_ltv_24022016.pdf

4.23.9. Applicable regulatory framework

- Primary legislation:
 - In Latvian – Elektronisko plašsaziņas līdzekļu likums (Electronic Mass Media Law): <https://likumi.lv/doc.php?id=214039>
 - In English – Electronic Mass Media Law (not consolidated): <https://neplpadome.lv/en/assets/documents/anglu/Electronic%20Mass%20Media%20Law%202012.2014.pdf>



4.23.10. Data compilation

This factsheet was produced based on data compiled by Ieva Andersone, LL.M, Attorney at Law.



4.24. MT – Malta – National legal summary³⁴

4.24.1. Summary

Table 337. Malta – Summary of the existing obligations – by type and player

| Obligation | Player | Main feature |
|---|---|---|
| Financial investment obligations | Linear AVMS providers | Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters. |
| | Non-linear AVMS providers | No obligation. |
| | Distributors | No obligation. |
| Levies | Linear AVMS providers | No obligation. |
| | Non-linear AVMS providers | No obligation. |
| | Distributors | No obligation. |
| | Theatres | No obligation. |
| | Video industry | No obligation. |
| | Other | No obligation. |
| Promotion | Quotas European works linear AVMS providers | Broadcasters shall reserve at least 50% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping) for European works. |
| | Quotas independent works linear AVMS providers | Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters. |
| | Quotas non-linear AVMS providers | VOD services shall encourage the promotion of European works and culturally diverse programming. A minimum of 10% of European works shall be available in the first two years of operation, rising to 15% in the third year. |

³⁴ The factsheet on Malta incorporates the feedback received from Susan Ronald (Malta Film Commission) during the checking round with the national film funds.



| | | |
|--|---|----------------|
| | Prominence non-linear AVMS providers | No obligation. |
|--|---|----------------|

Source: Maltese response to European Audiovisual Observatory standardised survey

4.24.2. Definitions

Article 5 of the of the Broadcasting (Jurisdiction and European Co-operation) Regulations defines European works as follows:

“(3) For the purposes of this regulation, “European works” means:

(a) works originating in Member States of the European Union, hereinafter referred to as “Member States”;

(b) works originating in European third States party to the European Convention on Transfrontier Television of the Council of Europe and fulfilling the conditions in sub-regulation (4);

(c) works co-produced within the framework of agreements related to the audiovisual sector concluded between the Community and third countries and fulfilling the conditions defined in each of those agreements;

Provided that the application of the provisions of paragraphs (b) and (c) shall be conditional on works originating in Member States not being the subject of discriminatory measures in the third country concerned.

(4) The works referred to in sub-regulation (3)(a) and (b) are works mainly made with authors and workers residing in one or more of the States referred to in the said paragraphs, provided that they comply with one of the following three conditions:

(a) they are made by one or more producers established in one or more of those States; or

(b) production of the works is supervised and actually controlled by one or more producers established in one or more of those States, or

(c) the contribution of co-producers of those States to the total co-production costs is preponderant and the co-production is not controlled by one or more producers established outside those States.

(5) Works that are not European works within the meaning of sub-regulation (3) but that are produced within the framework of bilateral co-production treaties concluded between Member States and third countries shall be deemed to be European works provided that the co-producers from the Community supply a majority share of the total cost of production and that the production is not controlled by one or more producers established outside the territory of the Member States.”

Article 2(1) of the Broadcasting (Jurisdiction and European Co-operation) Regulations defines an independent producer as follows:

“Producers who are independent of broadcasters means any person who:



- (a) is not an employee (whether or not on temporary leave of absence) of a broadcaster;
- (b) does not have a shareholding greater than 15% in a broadcaster;

Provided that a company shall not be considered as an independent producer if a broadcaster has a shareholding greater than 15% in such company.”

Table 338. Malta – Definition of the main concepts in terms of the promotion of EU works

| Concept | Definition |
|----------------------|------------|
| European works | Yes. |
| Independent producer | Yes. |
| Prominence | No. |

Source: Maltese response to European Audiovisual Observatory standardised survey

4.24.3. Financial investment obligations

4.24.3.1. Financial investment obligations by linear AVMS providers (broadcasters)

Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters (Article 5(2) of the Broadcasting (Jurisdiction and European Co-operation) Regulations).

Table 339. Malta – Main features of the financial investment scheme for broadcasters

| Feature | Description |
|--|---|
| Legal basis for the investment | Broadcasting (Jurisdiction and European Co-operation) Regulations |
| Level of investment | 10% of the transmission time or 10% of the programming budget. |
| Mandatory, optional or voluntary investment | Optional. |
| Nature of the investment | Pre-acquisition, co-production or production. |
| Distinction between genres in which to invest | No. |
| Distinction between public or private broadcasters | No. |
| Level of investment in European works | No. |



| | |
|---|------|
| Level of investment in independent works | Yes. |
| Level of investment in works in a national language | No. |
| Investment scheme applicable to foreign broadcasters | No. |
| Other type of investment | No. |

Source: Maltese response to European Audiovisual Observatory standardised survey

4.24.3.2. Financial investment obligations by non-linear AVMS (VOD) providers

Table 340. Malta – Main features of the investment scheme for VOD providers

| Feature | Description |
|--|--------------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Distinction between public or private services | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Investment scheme applicable to foreign VOD providers | N/A. |
| Other type of investment | N/A. |

Source: Maltese response to European Audiovisual Observatory standardised survey

4.24.3.3. Financial investment obligations by distributors

Table 341. Malta – Main features of the investment scheme for distributors

| Feature | Description |
|--|--------------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |



| | |
|---|------|
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Other type of investment | N/A. |

Source: Maltese response to European Audiovisual Observatory standardised survey

4.24.4. Levies

4.24.4.1. Levies on linear AVMS providers (broadcasters)

Table 342. Malta – Main features of the levies on broadcasters

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private broadcasters | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign broadcasters | N/A. |

Source: Maltese response to European Audiovisual Observatory standardised survey

4.24.4.2. Levies on non-linear AVMS providers (VOD services)

Table 343. Malta – Main features of the levies on VOD services

| Feature | Description |
|-------------------------|-------------|
| Legal basis of the levy | N/A. |



| | |
|---|------|
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private VOD services | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign VOD services | N/A. |

Source: Maltese response to European Audiovisual Observatory standardised survey

4.24.4.3. Levies on distributors

Table 344. Malta – Main features of the levies on distributors

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Maltese response to European Audiovisual Observatory standardised survey

4.24.4.4. Levies on theatres (cinema tickets)

Table 345. Malta – Main features of the levies on theatres (cinema tickets)

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the | N/A. |



| | |
|--|------|
| amount due | |
| Authority benefiting from the amount due | N/A. |

Source: Maltese response to European Audiovisual Observatory standardised survey

4.24.4.5. Levies on the video industry

Table 346. Malta – Main features of the levies on the video industry

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Maltese response to European Audiovisual Observatory standardised survey

4.24.4.6. Other levies

N/A.

4.24.5. Quota obligations

4.24.5.1. Quotas for linear AVMS providers (broadcasters) – EU works

Broadcasters shall reserve at least 50% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping) for European works (Article 5(1) of the Broadcasting (Jurisdiction and European Co-operation) Regulations).

Table 347. Malta – Main features of the quota for broadcasters – EU works

| Feature | Description |
|---|--|
| Legal basis of the obligation | Broadcasting (Jurisdiction and European Co-operation) Regulations. |
| Level of the quota | 50% of the transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | No. |



| | |
|--|-----|
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Maltese response to European Audiovisual Observatory standardised survey

4.24.5.2. Quotas for linear AVMS providers (broadcasters) – independent works

Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters (Article 5(2) of the Broadcasting (Jurisdiction and European Co-operation) Regulations).

Table 348. Malta – Main features of the quota for broadcasters – independent works

| Feature | Description |
|--|--|
| Legal basis of the obligation | Broadcasting (Jurisdiction and European Co-operation) Regulations. |
| Level of the quota | 10% of the transmission time or 10% of the programming budget. |
| Flexibility in achieving the quota (“where practicable...”) | No. |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Maltese response to European Audiovisual Observatory standardised survey

4.24.5.3. Quotas for non-linear AVMS providers (VOD services)

VOD services shall encourage the promotion of European works and culturally diverse programming. A minimum of 10% of European works shall be available in the first two years of operation, rising to 15% in the third year.

**Table 349. Malta – Main features of the quota for VOD services – EU works**

| Feature | Description |
|---|---|
| Legal basis of the obligation | Notification of On-Demand Audiovisual Media Services Order. |
| Level of the quota | 15% of the catalogue (10% during the first two years). |
| Flexibility in achieving the quota (“where appropriate...”) | No. |
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of VOD services | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Maltese response to European Audiovisual Observatory standardised survey

4.24.6. Prominence obligations

Table 350. Malta – Main features of the prominence obligation for VOD services

| Feature | Description |
|--|-------------|
| Legal basis of the obligation | N/A. |
| Means of giving prominence imposed | N/A. |
| Distinction between public or private VOD services | N/A. |
| Derogations available for certain types of VOD services | N/A. |
| Prominence to give to specific genres | N/A. |
| Prominence to give to national works or works in a national language | N/A. |
| Prominence to give to non-national EU works | N/A. |

Source: Maltese response to European Audiovisual Observatory standardised survey

4.24.7. Envisaged amendments to the regulatory framework

N/A.



4.24.8. Studies, reports and researches

N/A.

4.24.9. Applicable regulatory framework

- Primary legislation:
 - In English – Broadcasting Act:
<http://ba-malta.org/legislation>
- Secondary legislation:
 - In English – Broadcasting (Jurisdiction and European Co-operation) Regulations: <http://ba-malta.org/legislation>
 - In English – Notification of On-Demand Audiovisual Media Services Order:
<http://ba-malta.org/legislation>

4.24.10. Data compilation

This factsheet was produced based on data compiled by Pierre Cassar, Freelance consultant.



4.25. NL – Netherlands – National legal summary³⁵

4.25.1. Summary

Table 351. Netherlands – Summary of the existing obligations – by type and player

| Obligation | Player | Main feature |
|---|----------------------------------|---|
| Financial investment obligations | Linear AVMS providers | <p>Article 2.116 of the Media Act states that secondary legislation shall set the percentage of the total programming budget that the public service media organisations shall invest in independent works and that this percentage shall be set between 10% and 20%. Secondary legislation has set this percentage at 16.5%.</p> <p>Moreover, in the yearly budget allocated to the NPO, on the basis of the Media Act, an amount is specifically allocated for its investment in CoBO: EUR 8 106 325 in 2017 and EUR 8 274 457 in 2018.</p> <p>Furthermore, the Performance Agreement between the government and the NPO states that the NPO shall spend EUR 16 600 000 yearly on high quality Dutch drama, documentaries and talent development.</p> |
| | Non-linear AVMS providers | VOD providers shall promote the production of and access to European works, but there is no specific obligation to invest and the VOD providers can choose the way in which they fulfil this general obligation. |
| | Distributors | No obligation. |
| Levies | Linear AVMS providers | No obligation. |
| | Non-linear AVMS providers | No obligation. |
| | Distributors | No obligation. |
| | Theatres | Pursuant to the Covenant negotiated between the Association of Cinemas and Film Theatres (Nederlandse Vereniging van Bioscopen en Filmtheaters - NVBF), the Association of Film Distributors (Filmdistributeurs Nederland - FDN), the Association of Film Producers (Filmproducenten Nederland - FPN), the Netherlands Film Fund (Stichting Nederlands Fonds voor de Film) and the Dutch State, an amount of EUR 0.15 per cinema |

³⁵ The factsheet on The Netherlands incorporates the feedback received from Doreen Boonekamp (Netherlands Film Fund) during the checking round with the national film funds.



| | | |
|------------------|---|--|
| | | ticket (60% being due by the NVBF and 40% by the FDN) is dedicated to the production of mainstream films ("Publieksfilm"), apart from 6% of the total amount, which is used by the FDN and NVBF for other purposes, such as research and the financing of the platform www.film.nl . The Fund is managed by the Abraham Tuschinski Foundation (Stichting Abraham Tuschinski Fonds), run by the NVBF, FDN and FPN. |
| | Video industry | No obligation. |
| | Other | No obligation. |
| Promotion | Quotas European works linear AVMS providers | Broadcasters shall reserve a majority proportion of their transmission time for European works. |
| | Quotas independent works linear AVMS providers | Broadcasters shall reserve at least 10% of their transmission time for European works created by producers who are independent from broadcasters. |
| | Quotas non-linear AVMS providers | VOD services shall promote the production of and access to European works. |
| | Prominence non-linear AVMS providers | VOD services shall promote the production of and access to European works. |

Source: Dutch response to European Audiovisual Observatory standardised survey

4.25.2. Definitions

Article 2.120 of the Media Act defines an independent producer as follows:

"Independent production is defined as a work that is not produced by:

- a. public service media;*
- b. a commercial media;*
- c. a foreign broadcaster;*
- d. a legal entity in which an institution as referred to in points a, b or c, whether or not by means of one or more subsidiaries, has an interest of more than twenty-five percent;*
- e. a legal entity in which two or more institutions as referred to in points a, b or c, together with one or more of their respective subsidiaries, have an interest of more than fifty per cent;*
- f. a company in which an institution as referred to in points a, b or c, or one or more of its subsidiaries, as a partner is fully liable towards creditors for its debts."*

**Table 352. Netherlands – Definition of the main concepts in terms of the promotion of EU works**

| Concept | Definition |
|----------------------|--|
| European works | No, but the Media Act refers to Article 1 of the AVMS Directive. |
| Independent producer | Yes. |
| Prominence | No. |

Source: Dutch response to European Audiovisual Observatory standardised survey

4.25.3. Financial investment obligations

4.25.3.1. Financial investment obligations by linear AVMS providers (broadcasters)

Article 2.116 of the Media Act states that secondary legislation shall set the percentage of the total programming budget that the public service media organisations shall invest in independent works and that this percentage shall be set between 10% and 20%. Secondary legislation (namely, Article 14b of the Media Decree) has set this percentage at 16.5%.

In addition, in the yearly budget allocated to the NPO, on the basis of the Media Act, an amount is specifically allocated for its investment in CoBO:³⁶ EUR 8 106 325 in 2017 and EUR 8 274 457 in 2018.

Furthermore, the Performance Agreement between the Dutch Government and the NPO states that the NPO shall spend EUR 16 600 000 yearly on high quality Dutch drama, documentaries and talent development (engagement No. 14). Pursuant to the Performance Agreement, the NPO shall also co-produce a minimum of 16 feature films, 2 “Telescope” films (quality feature films aiming for a large cinema audience with a generally higher budget range) and 6 telefilms per year (engagements No. 15-17).

Table 353. Netherlands – Main features of the financial investment scheme for broadcasters

| Feature | Description |
|--------------------------------|---|
| Legal basis for the investment | Media Act 2008. Media Decree. Performance Agreement 2017-2010. |
| Level of investment | The public service media organisations shall invest 16.5% of their total budget for programming in independent works. |

³⁶ CoBO (Coproductiefonds Binnenlandse Omroep) is a co-production fund founded in 1986 in order to fund co-productions between the public service media and independent producers. The Fund functions by managing, collecting and allocating revenues received by the public media NPO for the distribution of their channels abroad. In addition, CoBO also receives a budget from the State, on the basis of the Media Act.



| | |
|---|--|
| | Moreover, a yearly amount is specifically allocated for the NPO's investment in CoBO, and another yearly amount shall be spent on Dutch drama, documentaries and talent development. |
| Mandatory, optional or voluntary investment | Mandatory. |
| Nature of the investment | Acquisition, co-production or production. |
| Distinction between genres in which to invest | Yes. |
| Distinction between public or private broadcasters | Yes. |
| Level of investment in European works | No. |
| Level of investment in independent works | Yes. |
| Level of investment in works in a national language | No. |
| Investment scheme applicable to foreign broadcasters | No. |
| Other type of investment | No. |

Source: Dutch response to European Audiovisual Observatory standardised survey

4.25.3.2. Financial investment obligations by non-linear AVMS (VOD) providers

VOD providers shall promote the production of and access to European works (Article 3.29c of the Media Act), but there is no specific obligation to invest and VOD providers can choose the way in which they fulfil the general obligation under Article 3.29c.

Table 354. Netherlands – Main features of the investment scheme for VOD providers

| Feature | Description |
|--|-------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Distinction between public or private services | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Investment scheme applicable to foreign | N/A. |



| | |
|---------------------------------|------|
| VOD providers | |
| Other type of investment | N/A. |

Source: Dutch response to European Audiovisual Observatory standardised survey

4.25.3.3. Financial investment obligations by distributors

Table 355. Netherlands – Main features of the investment scheme for distributors

| Feature | Description |
|--|--------------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Other type of investment | N/A. |

Source: Dutch response to European Audiovisual Observatory standardised survey

4.25.4. Levies

4.25.4.1. Levies on linear AVMS providers (broadcasters)

Table 356. Netherlands – Main features of the levies on broadcasters

| Feature | Description |
|--|--------------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private | N/A. |



| | |
|---|------|
| broadcasters | |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign broadcasters | N/A. |

Source: Dutch response to European Audiovisual Observatory standardised survey

4.25.4.2. Levies on non-linear AVMS providers (VOD services)

Table 357. Netherlands – Main features of the levies on VOD services

| Feature | Description |
|--|--------------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private VOD services | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign VOD services | N/A. |

Source: Dutch response to European Audiovisual Observatory standardised survey

4.25.4.3. Levies on distributors

Table 358. Netherlands – Main features of the levies on distributors

| Feature | Description |
|--|--------------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |



| | |
|---|------|
| Authority benefiting from the amount due | N/A. |
|---|------|

Source: Dutch response to European Audiovisual Observatory standardised survey

4.25.4.4. Levies on theatres (cinema tickets)

Pursuant to the Covenant negotiated between the Association of Cinemas and Film Theatres (Nederlandse Vereniging van Bioscopen en Filmtheaters - NVBF), the Association of Film Distributors (Filmdistributeurs Nederland - FDN), the Association of Film Producers (Filmproducenten Nederland - FPN), the Netherlands Film Fund (Stichting Nederlands Fonds voor de Film) and the Dutch State, an amount of EUR 0.15 per cinema ticket (60% being due by the NVBF and 40% by the FDN) is dedicated to the production of mainstream films ("Publieksfilm"), apart from 6% of the total amount, which is used by the FDN and NVBF for other purposes, such as research and the financing of the platform www.film.nl. The Fund is managed by the Abraham Tuschinski Foundation (Stichting Abraham Tuschinski Fonds), run by the NVBF, FDN and FPN.³⁷

This contribution cannot be fully considered as a levy as defined by the present mapping, since it is voluntary and not mandatory. However, in order to allow a relevant comparative analysis, and considering the fact that this contribution involves all the major stakeholders and that the state is also a party to the agreement, it is mentioned under this section rather than under section 4.25.4.6.

Table 359. Netherlands – Main features of the levies on theatres (cinema tickets)

| Feature | Description |
|--|--|
| Legal basis of the levy | Covenant. |
| Criteria used to determine the levy | EUR 0.15 per cinema ticket (60% being due by the NVBF and 40% by the FDN). |
| Distinction between genres on which to spend the levy | Yes (the Fund is dedicated to mainstream films). |
| Authority gathering and controlling the amount due | Abraham Tuschinski Foundation (Stichting Abraham Tuschinski Fonds). |
| Authority benefiting from the amount due | Abraham Tuschinski Foundation (Stichting Abraham Tuschinski Fonds). |

Source: Dutch response to European Audiovisual Observatory standardised survey

³⁷ The regulation is available at <https://www.abrahamtuschinskifonds.nl/downloads/Reglement-Uitvoeringsregeling-2018.pdf>



4.25.4.5. Levies on the video industry

Table 360. Netherlands – Main features of the levies on the video industry

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Dutch response to European Audiovisual Observatory standardised survey

4.25.4.6. Other levies

N/A.

4.25.5. Quota obligations

4.25.5.1. Quotas for linear AVMS providers (broadcasters) – EU works

Broadcasters shall reserve a majority proportion of their transmission time for European works (Articles 2.115, 2.122, 3.20 and 3.24 of the Media Act).

In exceptional cases, the regulatory authority CVDM can grant private broadcasters a temporary exemption on the condition that the percentage can never be lower than ten.

Besides the general obligations derived from the AVMS Directive, the following obligations also apply:

- 75% of the national public service media's yearly television programming shall originally be in the Dutch language;
- 50% of the television programming of each service of the national and regional public service media shall originally be in the Dutch or Frisian language;
- 40% of the television programming for each of the private broadcasters' services shall originally be in the Dutch or Frisian language.

Table 361. Netherlands – Main features of the quota for broadcasters – EU works

| Feature | Description |
|-------------------------------|-----------------|
| Legal basis of the obligation | Media Act 2008. |



| | |
|--|---|
| Level of the quota | 50% of the transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | Temporary exemptions available for specific private broadcasters. |
| Distinction between public or private broadcasters | Yes. |
| Derogations available for certain types of broadcasters | Yes. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | Yes. |
| Quotas for non-national EU works | No. |

Source: Dutch response to European Audiovisual Observatory standardised survey

4.25.5.2. Quotas for linear AVMS providers (broadcasters) – independent works

Broadcasters shall reserve at least 10% of their transmission time for European works created by producers who are independent from broadcasters (Articles 2.116, 2.117 and 3.21 of the Media Act).

Table 362. Netherlands – Main features of the quota for broadcasters – independent works

| Feature | Description |
|--|-------------------------------|
| Legal basis of the obligation | Media Act 2008. |
| Level of the quota | 10% of the transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | No. |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Dutch response to European Audiovisual Observatory standardised survey

4.25.5.3. Quotas for non-linear AVMS providers (VOD services)

VOD services shall promote the production of and access to European works (Article 3.29c of the Media Act).

**Table 363. Netherlands – Main features of the quota for VOD services – EU works**

| Feature | Description |
|---|--------------------|
| Legal basis of the obligation | Media Act 2008. |
| Level of the quota | No specific level. |
| Flexibility in achieving the quota (“where appropriate...”) | N/A. |
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of VOD services | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Dutch response to European Audiovisual Observatory standardised survey

4.25.6. Prominence obligations

VOD services shall promote the production of and access to European works (Article 3.29c of the Media Act).

Table 364. Netherlands – Main features of the prominence obligation for VOD services

| Feature | Description |
|--|---------------------------------|
| Legal basis of the obligation | Media Act 2008 (Article 3.29c). |
| Means of giving prominence imposed | No specific means. |
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of VOD services | No. |
| Prominence to give to specific genres | No. |
| Prominence to give to national works or works in a national language | No. |
| Prominence to give to non-national EU works | No. |

Source: Dutch response to European Audiovisual Observatory standardised survey



4.25.7. Envisaged amendments to the regulatory framework

N/A.

4.25.8. Studies, reports and researches

N/A.

4.25.9. Applicable regulatory framework

- Primary legislation:
 - In Dutch – Mediawet 2008 (Media Act 2008): <http://wetten.overheid.nl/BWBR0025028/2017-02-01>
 - in Dutch – Mediabesluit 2008 (Media Decree 2008): <http://wetten.overheid.nl/BWBR0025036/2018-01-01>
- Secondary legislation:
 - In Dutch – Prestatieovereenkomst (Performance Agreement between the Government and the NPO): <https://www.rijksoverheid.nl/documenten/regelingen/2017/09/15/prestatieovereenkomst-npo-2017-2020>
 - In Dutch – Convenant Ter bevordering van de productie van de Nederlandse film en Nederlandse publieksfilms in het bijzonder en het bioscoopbezoek in Nederland (Film covenant): <https://www.rijksoverheid.nl/documenten/convenanten/2018/05/17/btw-convenant-film-2018>

4.25.10. Data compilation

This factsheet was produced based on data compiled by Helga Zeinstra, Senior legal/policy advisor, Ministry of Education, Culture & Science.



4.26. NO – Norway – National legal summary³⁸

4.26.1. Summary

Table 365. Norway – Summary of the existing obligations – by type and player

| Obligation | Player | Main feature |
|---|---|---|
| Financial investment obligations | Linear AVMS providers | No obligation. |
| | Non-linear AVMS providers | VOD services shall promote the production of and access to European works when practicable and with appropriate means. |
| | Distributors | No obligation. |
| Levies | Linear AVMS providers | No obligation. |
| | Non-linear AVMS providers | No obligation. |
| | Distributors | No obligation. |
| | Theatres | Theatres are subject to a levy of 2.5% of their turnover. |
| | Video industry | Video retailers are subject to a levy of 3.5 Norwegian krone (NOK) (approximately EUR 0.35) per videogramme sold or rented. |
| Other | No obligation. | |
| Promotion | Quotas European works linear AVMS providers | Broadcasters shall reserve at least 50% of their transmission time (excluding the time allotted to news, sports events, entertainment programmes with competitive elements, advertising and teletext services) for European works. |
| | Quotas independent works linear AVMS providers | Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext service and teleshopping) for European works created by producers who are independent from broadcasters. |
| | Quotas non-linear AVMS providers | VOD services shall promote the production of and access to European works when practicable and with appropriate means. |
| | Prominence non-linear AVMS providers | VOD services shall promote the production of and access to European works when practicable and with appropriate means. |

³⁸ The factsheet on Norway incorporates the feedback received from Sindre Guldvog (The Norwegian Film Institute) during the checking round with the national film funds.



Source: Norwegian response to European Audiovisual Observatory standardised survey

4.26.2. Definitions

Section 2.3 of the Regulation relating to broadcasting and audiovisual on-demand services defines European works as follows:

“European works means works originating in States party to the EEA Agreement or in States party to the Council of Europe’s Convention on Transfrontier Television. The works must be produced with the participation of authors and workers residing in one or more of the said States.

Furthermore, the works must meet at least one of the following three conditions:

- a) they must be produced by one or more producers established in the said States, or*
- b) production must be actually monitored and controlled by one or more producers established in the said States, or*
- c) co-producers in the said States must supply a majority share of the total cost of the co-production. The co-production shall not be controlled by one or more producers established outside the territory of the said States.*

Works mainly produced with the assistance of originators and workers residing in one or more States party to the EEA Agreement, but to which the first and second paragraphs do not apply, shall be regarded as European works to an extent corresponding to the proportion of the contribution of co-producers in the States party to the EEA Agreement to the total production costs.

“European works” also means works originating in European States other than States party to the EEA Agreement or the Council of Europe’s Convention on Transfrontier Television. For such works it is a condition that the works are mainly produced with the assistance of originators or workers residing in one or more European States and that:

- d) the works are either exclusively produced by or in co-production with producers established in one or more of the States party to the EEA Agreement, or*
- e) the works are produced by producers established in other European States and the necessary agreements have been concluded between States party to the EEA Agreement and the State in question.*

The first to fourth paragraphs apply on the condition that works originating in States party to the EEA Agreement are not subjected to discriminatory measures in the European third States in question.

Works produced within the framework of bilateral agreements on co-production concluded by States party to the EEA Agreement and other States, but to which the preceding paragraphs do not apply, shall be deemed to be European works provided that co-producers in States party to the EEA Agreement supply a majority share of the



total production costs, and that production is not controlled by one or more producers established outside the member States' territories."

Section 2.2 of the Regulation relating to broadcasting and audiovisual on-demand services defines an independent producer as follows:

"A producer is to be regarded as an independent producer in relation to the first paragraph if:

a) A broadcaster does not own shares or interests in the production company representing more than 25 per cent of the votes in the company. Where several broadcasters are co-owners of a production company, the broadcasters' shares must not constitute more than 50 per cent of the votes in the production company. The same applies where a production company owns shares or interests in a broadcaster.

b) The producer does not sell more than 90 per cent of its production over a three-year period to a single broadcaster, unless the producer produces only one programme or a series in the course of this period.

c) The producer holds secondary rights to its productions."

Table 366. Norway – Definition of the main concepts in terms of the promotion of EU works

| Concept | Definition |
|----------------------|------------|
| European works | Yes. |
| Independent producer | Yes. |
| Prominence | No. |

Source: Norwegian response to European Audiovisual Observatory standardised survey

4.26.3. Financial investment obligations

4.26.3.1. Financial investment obligations by linear AVMS providers (broadcasters)

Table 367. Norway – Main features of the financial investment scheme for broadcasters

| Feature | Description |
|---|-------------|
| Legal basis for the investment | N/A. |
| Level of investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to | N/A. |



| | |
|---|------|
| invest | |
| Distinction between public or private broadcasters | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Investment scheme applicable to foreign broadcasters | N/A. |
| Other type of investment | N/A. |

Source: Norwegian response to European Audiovisual Observatory standardised survey

4.26.3.2. Financial investment obligations by non-linear AVMS (VOD) providers

VOD services shall promote the production of and access to European works when practicable and with appropriate means (section 2.1.a of the Regulation relating to broadcasting and audiovisual on-demand services).

Table 368. Norway – Main features of the investment scheme for VOD providers

| Feature | Description |
|--|---|
| Legal basis for the investment | Regulation relating to broadcasting and audiovisual on-demand services. |
| Level of the investment | No specific level |
| Mandatory, optional or voluntary investment | Optional. |
| Nature of the investment | Pre-acquisition, co-production or production. |
| Distinction between genres in which to invest | No. |
| Distinction between public or private services | No. |
| Level of investment in European works | No specific level. |
| Level of investment in independent works | No. |
| Level of investment in works in a national language | No. |
| Investment scheme applicable to foreign VOD providers | No. |
| Other type of investment | No. |

Source: Norwegian response to European Audiovisual Observatory standardised survey



4.26.3.3. Financial investment obligations by distributors

Table 369. Norway – Main features of the investment scheme for distributors

| Feature | Description |
|---|-------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Other type of investment | N/A. |

Source: Norwegian response to European Audiovisual Observatory standardised survey

4.26.4. Levies

4.26.4.1. Levies on linear AVMS providers (broadcasters)

Table 370. Norway – Main features of the levies on broadcasters

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private broadcasters | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign broadcasters | N/A. |



Source: Norwegian response to European Audiovisual Observatory standardised survey

4.26.4.2. Levies on non-linear AVMS providers (VOD services)

Table 371. Norway – Main features of the levies on VOD services

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private VOD services | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign VOD services | N/A. |

Source: Norwegian response to European Audiovisual Observatory standardised survey

4.26.4.3. Levies on distributors

Table 372. Norway – Main features of the levies on distributors

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Norwegian response to European Audiovisual Observatory standardised survey



4.26.4.4. Levies on theatres (cinema tickets)

Theatres are subject to a levy of 2.5% of their turnover (section 3 of the Film Act). Only commercial theatres are subject to the levy (independent theatres, film clubs and film libraries are exempt).

Table 373. Norway – Main features of the levies on theatres (cinema tickets)

| Feature | Description |
|---|-----------------------|
| Legal basis of the levy | Law on Film. |
| Criteria used to determine the levy | 2.5% of the turnover. |
| Distinction between genres on which to spend the levy | No. |
| Authority gathering and controlling the amount due | Tax Administration. |
| Authority benefiting from the amount due | Ministry of Culture. |

Source: Norwegian response to European Audiovisual Observatory standardised survey

4.26.4.5. Levies on the video industry

Video retailers are subject to a levy of NOK 3.5 (approximately EUR 0.35) per videogramme sold or rented (section 3 of the Film Act).

Table 374. Norway – Main features of the levies on the video industry

| Feature | Description |
|---|---|
| Legal basis of the levy | Law on Film. |
| Criteria used to determine the levy | NOK 3.5 per videogramme sold or rented. |
| Distinction between genres on which to spend the levy | No. |
| Authority gathering and controlling the amount due | Tax Administration. |
| Authority benefiting from the amount due | Ministry of Culture. |

Source: Norwegian response to European Audiovisual Observatory standardised survey

4.26.4.6. Other levies

N/A.



4.26.5. Quota obligations

4.26.5.1. Quotas for linear AVMS providers (broadcasters) – EU works

Broadcasters shall reserve at least 50% of their transmission time (excluding the time allotted to news, sports events, entertainment programmes with competitive elements, advertising and teletext services) for European works (section 2.1 of the Regulation relating to broadcasting and audiovisual on-demand services).

Local broadcasters that do not form part of a nationwide network are exempt.

Table 375. Norway – Main features of the quota for broadcasters – EU works

| Feature | Description |
|--|---|
| Legal basis of the obligation | Regulation relating to broadcasting and audiovisual on-demand services. |
| Level of the quota | 50% of the transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | No. |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | Yes. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Norwegian response to European Audiovisual Observatory standardised survey

4.26.5.2. Quotas for linear AVMS providers (broadcasters) – independent works

Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext service and teleshopping) for European works created by producers who are independent from broadcasters (section 2.2 of the Regulation relating to broadcasting and audiovisual on-demand services).

Table 376. Norway – Main features of the quota for broadcasters – independent works

| Feature | Description |
|--------------------------------------|---|
| Legal basis of the obligation | Regulation relating to broadcasting and audiovisual on-demand services. |



| | |
|--|-------------------------------|
| Level of the quota | 10% of the transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | No. |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Norwegian response to European Audiovisual Observatory standardised survey

4.26.5.3. Quotas for non-linear AVMS providers (VOD services)

VOD services shall promote the production of and access to European works when practicable and with appropriate means (section 2.1.a of the Regulation relating to broadcasting and audiovisual on-demand services).

Table 377. Norway – Main features of the quota for VOD services – EU works

| Feature | Description |
|--|---|
| Legal basis of the obligation | Regulation relating to broadcasting and audiovisual on-demand services. |
| Level of the quota | No specific level. |
| Flexibility in achieving the quota (“where appropriate...”) | Yes. |
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of VOD services | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Norwegian response to European Audiovisual Observatory standardised survey



4.26.6. Prominence obligations

VOD services shall promote the production of and access to European works when practicable and with appropriate means (section 2.1.a of the Regulation relating to broadcasting and audiovisual on-demand services).

Table 378. Norway – Main features of the prominence obligation for VOD services

| Feature | Description |
|---|---|
| Legal basis of the obligation | Regulation relating to broadcasting and audiovisual on-demand services. |
| Means of giving prominence imposed | No specific mean. |
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of VOD services | No. |
| Prominence to give to specific genres | No. |
| Prominence to give to national works or works in a national language | No. |
| Prominence to give to non-national EU works | No. |

Source: Norwegian response to European Audiovisual Observatory standardised survey

4.26.7. Envisaged amendments to the regulatory framework

In 2017, The Norwegian Film Institute, with a mandate from the Ministry of Culture, investigated the possibilities regarding the implementation of the AVMS Directive. The report named “Hvordan ivareta norsk og europeisk innhold i fremtiden?” (“How to safeguard Norwegian and European content in the future?”) recommends how the directive should be implemented according to Norwegian law (available at https://www.regjeringen.no/contentassets/05155c9509874ca7b8e7aa76bd18aa92/analyse_av_amt-direktivet_nfi_2017.pdf)

4.26.8. Studies, reports and researches

N/A.



4.26.9. Applicable regulatory framework

- Primary legislation:
 - In Norwegian – Lov om kringkasting og audiovisuelle bestillingstjenester (Broadcasting Act):
<https://lovdata.no/dokument/NL/lov/1992-12-04-127>
 - In Norwegian – Lov om film og videogram (Film Act):
<https://lovdata.no/dokument/NL/lov/1987-05-15-21>
 - In English – Broadcasting Act:
<http://www.medietilsynet.no/globalassets/engelsk/180418-act-relating-to-broadcasting-and-audiovisual-on-demand-services.pdf>
- Secondary legislation:
 - In Norwegian – Forskrift om kringkasting og audiovisuelle bestillingstjenester (Regulation relating to broadcasting and audiovisual on-demand services)
https://lovdata.no/dokument/SF/forskrift/1997-02-28-153#KAPITTEL_2
 - In English – Regulation relating to broadcasting and audiovisual on-demand services:
<http://www.medietilsynet.no/globalassets/engelsk/180418-regulation-relating-to-broadcasting-and-audiovisual-on-demand-services.pdf>

4.26.10. Data compilation

This factsheet was produced based on data compiled by Live Nerموen, Head of Statistics, Norwegian Film Institute.



4.27. PL – Poland – National legal summary³⁹

4.27.1. Summary

Table 379. Poland – Summary of the existing obligations – by type and player

| Obligation | Player | Main feature |
|---|---|---|
| Financial investment obligations | Linear AVMS providers | The public broadcaster TVP shall allocate at least 1.5% of its annual revenues from the television licence fee collected from television set owners to the production of films. TVP shall submit an annual report to the Polish Film Institute by the end of the first quarter of the calendar year. If the amount is not spent entirely on film production, TVP shall pay the difference resulting from the settlement to the Polish Film Institute within one month after the first quarter of the calendar year. |
| | Non-linear AVMS providers | No obligation. |
| | Distributors | No obligation. |
| Levies | Linear AVMS providers | Private broadcasters are subject to a levy of 1.5% of the revenues obtained from advertising, teleshopping and sponsored programmes or revenues from fees collected directly from subscribers for access to the service, if these revenues are higher in a given settlement period. |
| | Non-linear AVMS providers | No obligation. |
| | Distributors | Distributors on the DTT platform are subject to a levy of 1.5% of the revenues derived from the fees charged for access to television programmes broadcast or retransmitted on the DTT platform. |
| | | Distributors on the cable platform are subject to a levy of 1.5% of the revenues derived from the fees charged for access to retransmitted television programmes and the provision of re-broadcast services. |
| | Theatres | Theatres are subject to a levy of 1.5% of the revenues generated by the screening of films and commercials. |
| | Video industry | No obligation. |
| Other | Theatrical distributors are subject to a fee of 1.5% of | |

³⁹ The factsheet on Poland incorporates the feedback received from Robert Baliński (Polish Film Institute) during the checking round with the national film funds.



| | | |
|------------------|---|---|
| | | the revenues obtained from the sale and rental of media with films recorded on them and from agreements authorising other entities to sell or rent such films. |
| Promotion | Quotas European works linear AVMS providers | Broadcasters shall reserve at least 50% of their quarterly transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping) for European works. |
| | Quotas independent works linear AVMS providers | Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping) for European works created by producers who are independent from broadcasters. |
| | Quotas non-linear AVMS providers | VOD services shall reserve at least 20% of their catalogue for European works, including works produced originally in the Polish language, and shall provide adequate visibility to such programmes in the catalogue. |
| | Prominence non-linear AVMS providers | VOD services shall promote European works, including works produced originally in the Polish language, in particular by: properly identifying the origins of programmes available in the catalogue of programmes, as well as providing the option to search for European works, including works produced originally in the Polish language, or through the placement of information and materials promoting European works, including works produced originally in the Polish language. |

Source: Polish response to European Audiovisual Observatory standardised survey

4.27.2. Definitions

Article 15b of the Broadcasting Act defines European works as follows:

“1. A programme shall be deemed to be a European work, if it:

- 1) originates in a Member State of the European Union, or*
- 2) originates in another State party to the European Convention on Transfrontier Television concluded in Strasbourg on 5 May 1989 (official journal “Dz.U.” of 1995, item 160 and of 2004, item 250), hereinafter the “European Convention on Transfrontier Television”, which does not apply discriminatory measures against any programmes originating in Member States of the European Union, or*
- 3) was co-produced within the framework of an agreement related to the audiovisual sector executed between the European Union and other third State, and fulfils the requirements defined in the agreement, if this State does*



not apply discriminatory measures against any programmes originating in Member States of the European Union.

2. A programme originates in the States referred to in paragraph 1, sub-paragraphs 1 and 2, if the majority of the creative team members have their permanent residence in the territory of one of those States and provided at least one of the following conditions is met:

1) the programme is produced by a producer whose head office or permanent residence is in the State referred to in paragraph 1, sub-paragraphs 1 and 2,

2) the production of the programme is supervised and controlled by a natural person having a permanent residence in the State referred to in paragraph 1, sub-paragraphs 1 and 2, or by a legal person or entity having no legal personality, while its head office is located in the State referred to in paragraph 1, sub-paragraphs 1 and 2,

3) the contribution of co-producers having a head office or permanent residence in the State referred to in paragraph 1, sub-paragraphs 1 and 2, to the total production costs is preponderant and the co-production is not under the control of co-producers that do not have their head office or permanent residence in the State referred to in paragraph 1, sub-paragraphs 1 and 2.

3. (repealed).

4. A programme shall also be deemed a European work if it was made pursuant to bilateral co-production agreements executed by member States of the European Union and third parties, and the contribution of co-producers having a head office or permanent residence in the State referred to in paragraph 1, sub-paragraph 1, to the total production costs is preponderant and the co-production is not under the control of co-producers that do not have their head office or permanent residence in the territory of the State referred to in paragraph 1, sub-paragraph 1.

5. (repealed)."

Table 380. Poland – Definition of the main concepts in terms of the promotion of EU works

| Concept | Definition |
|----------------------|------------|
| European works | Yes. |
| Independent producer | No. |
| Prominence | No. |

Source: Polish response to European Audiovisual Observatory standardised survey



4.27.3. Financial investment obligations

4.27.3.1. Financial investment obligations by linear AVMS providers (broadcasters)

The public broadcaster TVP shall allocate at least 1.5% of its annual revenues from the television licence fee collected from television set owners to the production of films. TVP shall submit an annual report to the Polish Film Institute by the end of the first quarter of the calendar year. If the amount is not spent entirely on film production, TVP shall pay the difference resulting from the settlement to the Polish Film Institute within one month after the first quarter of the calendar year, (Article 19.7 of the Cinematography Act).

Table 381. Poland – Main features of the financial investment scheme for broadcasters

| Feature | Description |
|--|--|
| Legal basis for the investment | Cinematography Act. |
| Level of investment | 1.5% of the revenues from the licence fee. |
| Mandatory, optional or voluntary investment | Mandatory. |
| Nature of the investment | Production. |
| Distinction between genres in which to invest | Yes. |
| Distinction between public or private broadcasters | Yes. |
| Level of investment in European works | No. |
| Level of investment in independent works | No. |
| Level of investment in works in a national language | No. |
| Investment scheme applicable to foreign broadcasters | No. |
| Other type of investment | No. |

Source: Polish response to European Audiovisual Observatory standardised survey

4.27.3.2. Financial investment obligations by non-linear AVMS (VOD) providers

Table 382. Poland – Main features of the investment scheme for VOD providers

| Feature | Description |
|----------------------------------|-------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |
| Mandatory, optional or voluntary | N/A. |



| | |
|--|------|
| investment | |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Distinction between public or private services | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Investment scheme applicable to foreign VOD providers | N/A. |
| Other type of investment | N/A. |

Source: Polish response to European Audiovisual Observatory standardised survey

4.27.3.3. Financial investment obligations by distributors

Table 383. Poland – Main features of the investment scheme for distributors

| Feature | Description |
|--|--------------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Other type of investment | N/A. |

Source: Polish response to European Audiovisual Observatory standardised survey



4.27.4. Levies

4.27.4.1. Levies on linear AVMS providers (broadcasters)

Private broadcasters are subject to a levy of 1.5% of the revenues obtained from advertising, teleshopping and sponsored programmes or revenues from fees collected directly from subscribers for access to the service, if these revenues are higher in a given settlement period (Article 19.3 of the Cinematography Act).

Table 384. Poland – Main features of the levies on broadcasters

| Feature | Description |
|---|--|
| Legal basis of the levy | Cinematography Act. |
| Criteria used to determine the levy | 1.5% of the revenues from commercial communications. |
| Mandatory or optional obligation | Mandatory. |
| Ceiling to the levy imposed | No. |
| Distinction between genres on which to spend the levy | No. |
| Distinction between public and private broadcasters | Yes. |
| Authority gathering and controlling the amount due | Polish Film Institute. |
| Authority benefiting from the amount due | Polish Film Institute. |
| Levy applicable to foreign broadcasters | No. |

Source: Polish response to European Audiovisual Observatory standardised survey

4.27.4.2. Levies on non-linear AVMS providers (VOD services)

Table 385. Poland – Main features of the levies on VOD services

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private VOD services | N/A. |
| Authority gathering and controlling the | N/A. |



| | |
|--|------|
| amount due | |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign VOD services | N/A. |

Source: Polish response to European Audiovisual Observatory standardised survey

4.27.4.3. Levies on distributors

Distributors on the DTT platform are subject to a levy of 1.5% of the revenues derived from fees charged for access to television programmes broadcast or retransmitted on the DTT platform (Article 19.4 of the Cinematography Act).

Distributors on the cable platform are subject to a levy of 1.5% of the revenues derived from the fees charged for access to retransmitted television programmes and the provision of re-broadcast services (Article 19.5 of the Cinematography Act).

Table 386. Poland – Main features of the levies on distributors

| Feature | Description |
|---|--|
| Legal basis of the levy | Cinematography Act. |
| Criteria used to determine the levy | 1.5% of the revenues from subscribers. |
| Mandatory or optional obligation | Mandatory. |
| Ceiling to the levy imposed | No. |
| Distinction between genres on which to spend the levy | No. |
| Authority gathering and controlling the amount due | Polish Film Institute. |
| Authority benefiting from the amount due | Polish Film Institute. |

Source: Polish response to European Audiovisual Observatory standardised survey

4.27.4.4. Levies on theatres (cinema tickets)

Theatres are subject to a levy of 1.5% of the revenues generated by the screening of films and commercials (Article 19.1 of the Cinematography Act).

Table 387. Poland – Main features of the levies on theatres (cinema tickets)

| Feature | Description |
|---|---|
| Legal basis of the levy | Cinematography Act. |
| Criteria used to determine the levy | 1.5% of the admission ticket excluding VAT. |
| Distinction between genres on which to spend the levy | No. |



| | |
|---|------------------------|
| Authority gathering and controlling the amount due | Polish Film institute. |
| Authority benefiting from the amount due | Polish Film Institute. |

Source: Polish response to European Audiovisual Observatory standardised survey

4.27.4.5. Levies on the video industry

Table 388. Poland – Main features of the levies on the video industry

| Feature | Description |
|--|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Polish response to European Audiovisual Observatory standardised survey

4.27.4.6. Other levies

Film distributors are subject to a fee of 1.5% of the revenues obtained from the sale and rental of media with films recorded on them and from agreements authorising other entities to sell or rent such films (Article 19.2 of the Cinematography Act).

Film distribution means the acquisition of the right to exploit a film, including the right to make copies of the film and to adapt the film to use a language version other than the one in which it was made, and transfer this right to other entities for the purpose of film distribution.

4.27.5. Quota obligations

4.27.5.1. Quotas for linear AVMS providers (broadcasters) – EU works

Broadcasters shall reserve at least 50% of their quarterly transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping) for European works (Article 15.3 of the Broadcasting Act).

Broadcasters shall reserve at least 33% of their quarterly transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and



teleshopping) for programmes originally produced in the Polish language (Article 15.1 of the Broadcasting Act).

Upon the request of broadcasters transmitting exclusively in an information and communication technology system, the Chairman of the regulatory authority (KRRiT) may, in his or her decision, determine lower percentages, taking into consideration the number of viewers and the coverage of the service, as well as the ability to implement the obligations imposed upon the broadcaster (Article 15.3a of the Broadcasting Act). A specific Regulation of the KRRiT determines under which specific circumstances and for which specific broadcasters these percentages can be lower (Regulation concerning a lower share of broadcasts originally produced in the Polish language and of European broadcasts on television programmes and verbal-musical works performed in the Polish language on radio programmes).

Derogations are also possible for:

- broadcasters during the first year their service is transmitted;
- thematic services for which the number of available European or Polish programmes is insufficient;
- services intended for national or ethnic minorities or a community using a regional language (Article 15.4 of the Broadcasting Act).

Table 389. Poland – Main features of the quota for broadcasters – EU works

| Feature | Description |
|--|--|
| Legal basis of the obligation | Broadcasting Act. Regulation concerning a lower share of broadcasts originally produced in the Polish language and of European broadcasts on television programmes and verbal-musical works performed in the Polish language on radio programmes. |
| Level of the quota | 50% of the transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | No. |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | Yes. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | Yes. |
| Quotas for non-national EU works | No. |

Source: Polish response to European Audiovisual Observatory standardised survey



4.27.5.2. Quotas for linear AVMS providers (broadcasters) – independent works

Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping) for European works created by producers who are independent from broadcasters (Article 15a.1 of the Broadcasting Act).

Table 390. Poland – Main features of the quota for broadcasters – independent works

| Feature | Description |
|---|-------------------------------|
| Legal basis of the obligation | Broadcasting Act. |
| Level of the quota | 10% of the transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | No. |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Polish response to European Audiovisual Observatory standardised survey

4.27.5.3. Quotas for non-linear AVMS providers (VOD services)

VOD services shall reserve at least 20% of their catalogue for European works, including works originally produced in the Polish language, and shall provide adequate visibility for such programmes in the catalogue (Article 47f.2 of the Broadcasting Act).

The percentage shall be calculated based on the total duration of the programmes multiplied by the total broadcasting time of the programmes in the catalogue during a given calendar quarter.

VOD services whose catalogue contains exclusively non-European works are exempt.

Table 391. Poland – Main features of the quota for VOD services – EU works

| Feature | Description |
|---|-----------------------|
| Legal basis of the obligation | Broadcasting Act. |
| Level of the quota | 20% of the catalogue. |
| Flexibility in achieving the quota (“where appropriate...”) | No. |



| | |
|--|------|
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of VOD services | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | Yes. |
| Quotas for non-national EU works | No. |

Source: Polish response to European Audiovisual Observatory standardised survey

4.27.6. Prominence obligations

VOD services shall promote European works, including works produced originally in the Polish language, in particular by:

- properly identifying the origins of programmes available in the catalogue of programmes, as well as providing the option to search for European works, including works produced originally in the Polish language, or
- through the placement of information and materials promoting European works, including works produced originally in the Polish language (Article 47f.1. of the Broadcasting Act).

Table 392. Poland – Main features of the prominence obligation for VOD services

| Feature | Description |
|---|---|
| Legal basis of the obligation | Broadcasting Act. |
| Means of giving prominence imposed | Identification of origin. Search. Promotion material. |
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of VOD services | No. |
| Prominence to give to specific genres | No. |
| Prominence to give to national works or works in a national language | Yes. |
| Prominence to give to non-national EU works | No. |

Source: Polish response to European Audiovisual Observatory standardised survey



4.27.7. Envisaged amendments to the regulatory framework

N/A.

4.27.8. Studies, reports and researches

- Polish Film Institute (2015), Report on Polish cinematography financing - <https://www.nik.gov.pl/plik/id,8868,vp,11020.pdf>

4.27.9. Applicable regulatory framework

- Primary legislation:
 - In Polish – Ustawa z dnia 30 czerwca 2005 r. o kinematografii (Cinematography Act): <http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU20051321111/U/D20051111Lj.pdf>
 - In Polish – Ustawa z dnia 29 grudnia 1992 r. o radiofonii i telewizji (Broadcasting Act): <http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU19930070034/U/D19930034Lj.pdf>
 - In English – Broadcasting Act: http://www.krrit.gov.pl/Data/Files/_public/Portals/0/angielska/ustawa-o-radiofonii-i-telewizji-2016-eng.pdf
- Secondary legislation:
 - In English – Regulation concerning a lower share of broadcasts originally produced in the Polish language and of European broadcasts on television programmes and verbal-musical works performed in the Polish language on radio programmes: http://www.krrit.gov.pl/Data/Files/_public/Portals/0/angielska/Documents/Regulations/rozp--krrit-z-dnia-18-maja-2016-r-_en.doc

4.27.10. Data compilation

This factsheet was produced based on data compiled by Aleksandra Suwala, LL.M, Attorney at Law.



4.28. PT – Portugal – National legal summary⁴⁰

4.28.1. Summary

The following table, which is identical for each country factsheet, summarises the obligations which are the most common in Europe.

In Portugal however, besides these obligations, there are also two specific financial investment obligations (investment in cinematographic and audiovisual production) which are imposed by Law No. 55/2012 (Article 15) on:

- distributors of cinematographic works: 3% of the revenues for the previous year; the following investments are eligible:
 - participation in the film's financial package, as co-financier, without involvement in the production;
 - participation in the film's production, as co-producer;
 - advancements on production, as guarantee minima;
 - purchase of the distribution rights attached to national cinematographic works;
 - restauration and mastering of the films of supported and other national works, as long as two copies are delivered to the Cinemateca.
- video industry: 1% of the retailing (but not renting) revenues for the previous year; the following investments are eligible:
 - the same as those eligible for theatres;
 - the purchase of rights for videogram editing or the distribution of national cinematographic works.

Table 393. Portugal – Summary of the existing obligations – by type and player

| Obligation | Player | Main feature |
|----------------------------------|-----------------------|--|
| Financial investment obligations | Linear AVMS providers | All broadcasters who include in their services feature and short films, television films, cinematographic creation documentaries or creative documentaries for television and television series, including fiction and animation, shall participate in cinematographic and audiovisual production by means of yearly investment obligations for the financing of writing works and for the development, production and co-production of national creative works, or by purchasing the rights for the broadcast, transmission and making available of national and European |

⁴⁰ The factsheet on Portugal incorporates the feedback received from Nuno Fonseca (Instituto do Cinema e do Audiovisual) during the checking round with the national film funds.



| | | |
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| | | <p>creative works.</p> <p>For private broadcasters, the investment amounts to 0.75% of the yearly revenues generated by the transmission of audiovisual commercial communications. Broadcasters who programme exclusively pornographic works are exempt.</p> <p>For the public service media RTP, the investment amounts to 8% of the yearly revenues generated by the audiovisual contribution. In Portugal, the audiovisual contribution corresponds to the licence fee for the funding of the public service broadcaster. It is paid monthly by every household via the energy bill (EUR 3.02 per month).</p> |
| | Non-linear AVMS providers | VOD services shall invest at least 1% of the revenues raised by their services in national cinematographic works. |
| | Distributors | No obligation. |
| Levies | Linear AVMS providers | No obligation per se (see “other levies”). |
| | Non-linear AVMS providers | No obligation per se (see “other levies”). |
| | Distributors | <p>Distributors are subject to a levy of EUR 1.75 (EUR 2 from 2020) per subscriber per year.</p> <p>This amount is complemented by the amount of EUR 1.75 (EUR 1.5 from 2020) per subscriber per year paid by the National Telecommunications Authority (ANACOM).</p> |
| | Theatres | No obligation per se (see “other levies”). |
| | Video industry | No obligation. |
| | Other | No levy is directly imposed on broadcasters, VOD services or theatres. However, any commercial communication which is made available to the public by any of these players is subject to an “exhibition fee” representing 4% of the revenues raised, paid directly by the advertiser. |
| Promotion | Quotas European works linear AVMS providers | Broadcasters shall reserve at least 50% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teleshopping and teletext) for European works. |
| | Quotas independent works linear AVMS providers | Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teleshopping and teletext) for European works |



| | | |
|--|---|--|
| | | created by producers who are independent from broadcasters. |
| | Quotas non-linear AVMS providers | VOD services shall contribute to the promotion of European works by progressively including them in their catalogues. |
| | Prominence non-linear AVMS providers | VOD services shall give particular visibility to European works in their catalogue by adopting functionalities that allow users to search by origin. |

Source: Portuguese response to European Audiovisual Observatory standardised survey

4.28.2. Definitions

Article 2(k) of Law No. 55/2012 defines European works as follows:

“(i) works originating in Member States;

(ii) works originating in European non-member States which are parties to the European Convention on Transfrontier Television of the Council of Europe and which satisfy the conditions of paragraph 3;

(iii) works co-produced under agreements relating to the audiovisual sector, including the cinema sector, concluded between the European Union and third countries and fulfilling the conditions laid down in each of those agreements;

The works referred to in (i) and (ii) shall be those works which, essentially carried out with the participation of authors and workers residing in one or more of the States to which those provisions refer, satisfy one of the following conditions:

(i) the production is carried out by one or more producers established in one or more of those States;

(ii) the production is supervised and actually controlled by one or more producers established in one or more of those States;

(iii) the contribution of co-producers from these States to the total cost of co-production shall be preponderant and co-production shall not be controlled by one or more producers established outside those States.”

Article 2(j) of Law No. 55/2012 defines an independent producer as follows:

“Independent producer means a legal person whose principal activity is the production of cinematographic or audiovisual works, provided that the following requirements are met cumulatively:

i) Not more than 25% of the capital stock can be held, directly or indirectly, by a media service provider or, in the case of several media service providers, not more than 50%;



(ii) 90% limit of total income, in the last fiscal year or accumulated in the last three fiscal years, from each media service provider.”

Table 394. Portugal – Definition of the main concepts in terms of the promotion of EU works

| Concept | Definition |
|----------------------|------------|
| European works | Yes. |
| Independent producer | Yes. |
| Prominence | No. |

Source: Portuguese response to European Audiovisual Observatory standardised survey

4.28.3. Financial investment obligations

4.28.3.1. Financial investment obligations by linear AVMS providers (broadcasters)

All broadcasters who include in their services feature and short films, television films, cinematographic creation documentaries or creative documentaries for television and television series, including fiction and animation, shall participate in cinematographic and audiovisual production by means of yearly investment obligations for the financing of writing works and for the development, production and co-production of national creative works, or by purchasing rights for the broadcast, transmission and making available of national and European creative works (Article 14 of Law No. 55/2012 and Article 44 of Decree-Law No. 25/2018).

As concerns private broadcasters, the investment amounts to 0.75% of the yearly revenues generated by the transmission of audiovisual commercial communications. Broadcasters who programme exclusively pornographic works are exempt.

For the public service media RTP, the investment amounts to 8% of the yearly revenues generated by the audiovisual contribution. In Portugal, the audiovisual contribution corresponds to the licence fee for the funding of the public service broadcaster. It is paid monthly by every household via the energy bill (EUR 3.02 per month).

Ninety per cent of these financial obligations shall be invested in national works.

There are no per se obligations to invest in specific types of works, but RTP has an obligation to invest a “significant share” in cinematographic works. This “significant share” is specified in the Public Service Contract between RTP and the Portuguese State, which provides for a level of investment in cinematographic works of at least 25% of the total RTP investment.

Table 395. Portugal – Main features of the financial investment scheme for broadcasters

| Feature | Description |
|---------|-------------|
|---------|-------------|



| | |
|---|--|
| Legal basis for the investment | Law No. 55/2012. Decree-Law No. 25/2018. RTP Public Service Contract. |
| Level of investment | Private broadcasters: 0.75% of the revenues from audiovisual commercial communications. Public service media: 8% of the audiovisual contribution. |
| Mandatory, optional or voluntary investment | Mandatory |
| Nature of the investment | Pre-acquisition, co-production or production. |
| Distinction between genres in which to invest | Partly for RTP. |
| Distinction between public or private broadcasters | Yes. |
| Level of investment in European works | No. |
| Level of investment in independent works | No. |
| Level of investment in works in a national language | Yes. |
| Investment scheme applicable to foreign broadcasters | No. |
| Other type of investment | No. |

Source: Portuguese response to European Audiovisual Observatory standardised survey

4.28.3.2. Financial investment obligations by non-linear AVMS (VOD) providers

VOD services shall invest at least 1% of the revenues raised by their services in national cinematographic works (Article 16 of Law No. 55/2012 and Article 46 of Decree-Law No. 25/2018).

VOD services shall also reserve an area dedicated to national works, where all supported works are made available, as well as other works of national production at the request of the distributors or rightsholders, for the purpose of renting or selling the works, under conditions which entitle rightsholders to a percentage of not less than 50% of the revenues raised.

These obligations also apply to foreign VOD providers that target the Portuguese public.

Table 396. Portugal – Main features of the investment scheme for VOD providers

| Feature | Description |
|---------------------------------------|---|
| Legal basis for the investment | Law No. 55/2012. Decree-Law No. 25/2018. |
| Level of the investment | 1% of the revenues raised by the service. |



| | |
|--|---|
| Mandatory, optional or voluntary investment | Mandatory. |
| Nature of the investment | Pre-acquisition, co-production or production. |
| Distinction between genres in which to invest | Yes. |
| Distinction between public or private services | No. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | Yes. |
| Investment scheme applicable to foreign VOD providers | Yes. |
| Other type of investment | Yes. |

Source: Portuguese response to European Audiovisual Observatory standardised survey

4.28.3.3. Financial investment obligations by distributors

Table 397. Portugal – Main features of the investment scheme for distributors

| Feature | Description |
|--|--------------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Other type of investment | N/A. |

Source: Portuguese response to European Audiovisual Observatory standardised survey



4.28.4. Levies

4.28.4.1. Levies on linear AVMS providers (broadcasters)

No direct levy (see 4.28.4.6).

Table 398. Portugal – Main features of the levies on broadcasters

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private broadcasters | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign broadcasters | N/A. |

Source: Portuguese response to European Audiovisual Observatory standardised survey

4.28.4.2. Levies on non-linear AVMS providers (VOD services)

No direct levy (see 4.28.4.6).

Table 399. Portugal – Main features of the levies on VOD services

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private VOD services | N/A. |
| Authority gathering and controlling the amount due | N/A. |



| | |
|---|------|
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign VOD services | N/A. |

Source: Portuguese response to European Audiovisual Observatory standardised survey

4.28.4.3. Levies on distributors

Distributors are subject to a levy of EUR 1.75 (2 EUR from 2020) per subscriber in the previous year (Article 10.2 of Law No. 55/2012).

See also section 4.28.4.6.

Table 400. Portugal – Main features of the levies on distributors

| Feature | Description |
|--|--|
| Legal basis of the levy | Law No. 55/2012 |
| Criteria used to determine the levy | EUR 2 per subscriber in the previous year. |
| Mandatory or optional obligation | Mandatory |
| Ceiling to the levy imposed | No. |
| Distinction between genres on which to spend the levy | No. |
| Authority gathering and controlling the amount due | The National Telecommunications Authority (ANACOM), which adds EUR 1.75 (1.5 EUR from 2020) per subscriber per year. |
| Authority benefiting from the amount due | Portuguese Cinema Institute (ICA). |

Source: Portuguese response to European Audiovisual Observatory standardised survey

4.28.4.4. Levies on theatres (cinema tickets)

No direct levy (see 4.28.4.6).

Table 401. Portugal – Main features of the levies on theatres (cinema tickets)

| Feature | Description |
|--|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Portuguese response to European Audiovisual Observatory standardised survey



4.28.4.5. Levies on the video industry

Table 402. Portugal – Main features of the levies on the video industry

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Portuguese response to European Audiovisual Observatory standardised survey

4.28.4.6. Other levies

No levy is directly imposed on broadcasters, VOD services or theatres. However, any commercial communication which is made available to the public by any of these players is subject to an “exhibition fee” representing 4% of the revenues raised, paid directly by the advertiser (Article 10.1 of Law No. 55/2012).

The beneficiaries of this fee are the Portuguese Cinema Institute (Instituto do Cinema e do Audiovisual – ICA) and the National Museum of Cinema (Cinemateca), with respectively 3.2% and 0.8%.

4.28.5. Quota obligations

4.28.5.1. Quotas for linear AVMS providers (broadcasters) – EU works

Broadcasters shall reserve at least 50% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teleshopping and teletext) for European works (Article 45.1 of Law No. 27/2007).

Table 403. Portugal – Main features of the quota for broadcasters – EU works

| Feature | Description |
|---|-------------------------------|
| Legal basis of the obligation | Law No. 27/2007. |
| Level of the quota | 50% of the transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | No. |



| | |
|--|-----|
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Portuguese response to European Audiovisual Observatory standardised survey

4.28.5.2. Quotas for linear AVMS providers (broadcasters) – independent works

Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teleshopping and teletext) for European works created by producers who are independent from broadcasters (Article 46 of Law No. 27/2007).

Half of this quota must be reserved for works originally produced in Portuguese.

Table 404. Portugal – Main features of the quota for broadcasters – independent works

| Feature | Description |
|--|-------------------------------|
| Legal basis of the obligation | Law No. 27/2007. |
| Level of the quota | 10% of the transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | No. |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | Yes. |
| Quotas for non-national EU works | No. |

Source: Portuguese response to European Audiovisual Observatory standardised survey

4.28.5.3. Quotas for non-linear AVMS providers (VOD services)

VOD services shall contribute to the promotion of European works by progressively including them in their catalogues (Article 45.2 of Law No. 27/2007). The percentage is not further specified.

**Table 405. Portugal – Main features of the quota for VOD services – EU works**

| Feature | Description |
|---|--------------------|
| Legal basis of the obligation | Law No. 27/2007. |
| Level of the quota | No specific level. |
| Flexibility in achieving the quota (“where appropriate...”) | N/A. |
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of VOD services | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Portuguese response to European Audiovisual Observatory standardised survey

4.28.6. Prominence obligations

VOD services shall give particular visibility to European works in their catalogue by adopting functionalities that allow users to search by origin (Article 45.3 of Law No. 27/2007).

Table 406. Portugal – Main features of the prominence obligation for VOD services

| Feature | Description |
|--|--|
| Legal basis of the obligation | Law on the Provision of Information to the Public. |
| Means of giving prominence imposed | Search by origin. |
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of VOD services | No. |
| Prominence to give to specific genres | No. |
| Prominence to give to national works or works in a national language | No. |
| Prominence to give to non-national EU works | No. |

Source: Portuguese response to European Audiovisual Observatory standardised survey



4.28.7. Envisaged amendments to the regulatory framework

N/A.

4.28.8. Studies, reports and researches

- Annual reports of the regulatory authority (Entidade Reguladora para a Comunicação Social – ERC) – <http://www.erc.pt/pt/estudos-e-publicacoes/relatorios-de-regulacao>.
- http://repositorio.ul.pt/bitstream/10451/10095/1/ulfl148003_tm.pdf
- Agencia Nacional do Cinema, A regulação do VoD na União Europeia – http://icabrasil.org/2016/files/557-corporateTwo/downloads/EstudoVoD_versao_publicacao.pdf
- Associação de Produtores Independentes de Televisão (APIT), Plano Legislativo e Regulatório Português para o Audiovisual – http://www.apitv.com/uploads/3/9/7/2/3972593/sumario_executivo_02-2018.pdf

4.28.9. Applicable regulatory framework

- Primary legislation:
 - In Portuguese – Lei n°27/2007 da Televisão e dos serviços audiovisuais a pedido (Law on Television and On-demand Audiovisual Services): http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=923&tabela=leis&so_miolo
 - In Portuguese – Lei n°55/2012 da Princípios de ação do estado na proteção da arte do cinema e audiovisual (Law on Principles of State Action within the Framework for the Promotion, Development and Protection of Cinema and of the Cinematographic and Audiovisual Activities): http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=2041&tabela=leis&so_miolo
 - In English – Law n°55/2012 on Principles of State Action within the Framework for the Promotion, Development and Protection of Cinema and of the Cinematographic and Audiovisual Activities:
■ http://www.ica-ip.pt/fotos/editor2/law_55_14_eng.pdf
- Secondary legislation:
 - In Portuguese – Decreto-Lei n°25/2018 apoio ao desenvolvimento e proteção das atividades cinematográficas e audiovisuais (Decree-Law on the Development and the Protection of Cinematographic and Audiovisual Activities):
 - In Portuguese – Contrato de concessão do serviço público de rádio e de televisão (Radio and Television Public Service Contract):



- <http://media.rtp.pt/empresa/wp-content/uploads/sites/31/2015/07/contratoConcessao2015.pdf>

4.28.10.Data compilation

This factsheet was produced based on data compiled by Mariana Lameiras, Postdoctoral Fellow, United Nations University Operating Unit on Policy-Driven Electronic Governance (UNU-EGOV), Researcher, Communication and Society Research Centre (CSRC), University of Minho, and Elsa Costa e Silva, Professor, University of Minho, Researcher, Communication and Society Research Centre (CSRC), University of Minho.

4.29. RO – Romania – National legal summary⁴¹

4.29.1. Summary

Table 408. Romania – Summary of the existing obligations – by type and player

| Obligation | Player | Main feature |
|----------------------------------|---------------------------|---|
| Financial investment obligations | Linear AVMS providers | Private broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping services), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters. The public broadcasters Romanian Radio Corporation and Romanian Television Corporation shall reserve at least 10% of their transmission time for European works created by producers who are independent from broadcasters. |
| | Non-linear AVMS providers | VOD services shall promote, where practicable and by appropriate means, the production of and access to European works. Such promotion could relate, <i>inter alia</i> , to the financial contribution made by such services to the production and rights acquisition of European works or to the percentage and/or prominence of European works in the catalogue of programmes offered. |
| | Distributors | No obligation. |
| Levies | Linear AVMS providers | Private broadcasters are subject to a 4% contribution from the equivalent value of the advertising minutes purchased by economic agents and/or advertising/media agencies, which is added to the value per minute and is cashed from the advertising agency, the intermediary media-buying agency purchasing the advertising minutes, or the economic agent purchasing the advertising minutes. They shall send to the Romanian Film Centre (CNC) a list of the contracts concluded, containing their value and the names of the sales agents. The public broadcaster TVR shall contribute a sum representing 15% of its own income from advertising |

⁴¹ The factsheet on Romania incorporates the feedback received from Alex Traila (Romanian Film) during the checking round with the national film funds.



| | | |
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| | | sales to support cinematographic works. |
| | Non-linear AVMS providers | VOD services are subject to the monthly collection of a contribution of 3% of the price of movies downloaded after payment through the services of data transmission, including Internet and mobile services. |
| | Distributors | Distributors are subject to the collection of a contribution of 3% of the price of the advertising minutes aired in their own services, sold by cable television companies that have a TV licence. It also benefits from the collection of a contribution of 1% from the income generated monthly by the economic operators for retransmission through cable, satellite and the digital retransmission of TV programmes. |
| | Theatres | Theatres are subject to the collection of a contribution of 4% of the total income generated through the exploitation of cinema films of any genre and on any type of support, in cinema theatres or in any spaces used for public viewing. |
| | Video industry | Video retailers are subject to the collection of a contribution of 3% of the sales and/or rental price of recorded video cassettes, DVDs or any recorded material which can be multiplied in video or digitally, payable by the economic agent that carries out the sales and/or rental wholesale. The contribution for films classified as XXX which are subject to an interdiction on public showing is 15%. |
| | Other | No obligation. |
| Promotion | Quotas European works linear AVMS providers | Broadcasters shall reserve a majority proportion of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping services) for European works. |
| | Quotas independent works linear AVMS providers | Private broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping services), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters. The public broadcasters Romanian Radio Corporation and Romanian Television Corporation shall reserve at least 10% of their transmission time for European works created by producers who are independent from broadcasters. |
| | Quotas non-linear AVMS providers | VOD services shall reserve at least 20% of their catalogue for European works, with the exception of information programmes, sports broadcasts and teleshopping. |
| | Prominence non-linear AVMS providers | VOD services shall promote on the homepage of their website, in equal measure, the European audiovisual |



| | | |
|--|--|---|
| | | fiction works available in the catalogue and shall classify the country of origin of each audiovisual programme available in the catalogue. |
|--|--|---|

Source: Romanian response to European Audiovisual Observatory standardised survey

4.29.2. Definitions

Article 1.1. of the Audiovisual Law defines European works as follows:

“1) For the purpose of the present law, European works means the following:

a) works originating in the EU member States

b) works originating in third-party European States (part of the European Convention on Transfrontier Television of the Council of Europe), which fulfil the conditions from point 3.

c) works co-produced as part of agreements regarding the audiovisual sector concluded between the European Community and third-parties, which fulfil the conditions foreseen in each of these agreements.

2) The definitions of works under point 1.b and 1.c are applicable only in the case of works originating in member States that are not part of discriminatory provisions in the respective third-party countries.

3) Works as defined under point 1.a and 1.b are works produced mostly with the contribution of authors and personnel that reside in one or several of the respective States, on condition that these works fulfil one of the following requirements: a) are produced by one or more producers residing in one or more of the respective States; b) the production of these works is supervised and actually controlled by one or more producers residing in one or more of the respective States; c) the contribution of the co-producers from these States to the total co-production costs is preponderant, and the co-production is not controlled by one or more producers residing outside those respective States.

4) Works that are not European works as defined in point 1, but that are produced as part of bilateral co-production treaties concluded between member States and third-party countries, are considered to be European works, on condition that a majority percentage in the total production costs be covered by the co-producers from the European Community and the production not be controlled by one or more producers residing outside the territory of the member States.”

Article 24.3 of the Audiovisual Law defines an independent producer as follows:

“A producer is independent from a certain broadcaster if its audiovisual production activity is financially supported to a proportion of less than 25% by the same sources of programme service in which its production is aired and if it owns less than 25% of the capital of the company that finances the respective programme service.”

**Table 409. Romania – Definition of the main concepts in terms of the promotion of EU works**

| Concept | Definition |
|----------------------|------------|
| European works | Yes. |
| Independent producer | Yes. |
| Prominence | No. |

Source: Romanian response to European Audiovisual Observatory standardised survey

4.29.3. Financial investment obligations

4.29.3.1. Financial investment obligations by linear AVMS providers (broadcasters)

Private broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping services), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters (Article 24.1 of Law No. 504/2002).

The public broadcasters Romanian Radio Corporation and Romanian Television Corporation shall reserve at least 10% of their transmission time for European works created by producers who are independent from broadcasters (Article 7.5 of Law No. 41/1994).

Table 410. Romania – Main features of the financial investment scheme for broadcasters

| Feature | Description |
|--|---|
| Legal basis for the investment | Private broadcasters: Law No. 504 of 11 July 2002 (Audiovisual Law) and Decision No. 220/2011 of 24 February 2011 regarding the Audiovisual Content Regulatory Code. Public broadcasters: Law No. 41/1994 on the organisation and operation of the Romanian Radio Corporation and the Romanian Television Corporation. |
| Level of investment | Private broadcasters: 10% of the transmission time or 10% of the programming budget for independent works. Public broadcasters Romanian Radio Corporation and Romanian Television Corporation: 10% of the transmission time for independent works. |
| Mandatory, optional or voluntary investment | Optional. |
| Nature of the investment | Pre-acquisition, co-production or production. |
| Distinction between genres in which to invest | No. |
| Distinction between public or private | Yes. |



| | |
|---|------|
| broadcasters | |
| Level of investment in European works | No. |
| Level of investment in independent works | Yes. |
| Level of investment in works in a national language | No. |
| Investment scheme applicable to foreign broadcasters | No. |
| Other type of investment | No. |

Source: Romanian response to European Audiovisual Observatory standardised survey

4.29.3.2. Financial investment obligations by non-linear AVMS (VOD) providers

VOD services shall promote, where practicable and by appropriate means, the production of and access to European works. Such promotion could relate, *inter alia*, to the financial contribution made by such services to the production and rights acquisition of European works or to the percentage and/or prominence of European works in their catalogue (Article 23 of Law No. 504/2002).

Table 411. Romania – Main features of the investment scheme for VOD providers

| Feature | Description |
|--|---|
| Legal basis for the investment | Law No. 504 of 11 July 2002 (Audiovisual Law) |
| Level of the investment | No specific level. |
| Mandatory, optional or voluntary investment | Optional. |
| Nature of the investment | Pre-acquisition, co-production or production. |
| Distinction between genres in which to invest | No. |
| Distinction between public or private services | No. |
| Level of investment in European works | No specific level. |
| Level of investment in independent works | No. |
| Level of investment in works in a national language | No. |
| Investment scheme applicable to foreign VOD providers | No. |
| Other type of investment | No. |

Source: Romanian response to European Audiovisual Observatory standardised survey



4.29.3.3. Financial investment obligations by distributors

Table 412. Romania – Main features of the investment scheme for distributors

| Feature | Description |
|---|-------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Other type of investment | N/A. |

Source: Romanian response to European Audiovisual Observatory standardised survey

4.29.4. Levies

4.29.4.1. Levies on linear AVMS providers (broadcasters)

Private broadcasters are subject to a 4% contribution from the equivalent value of the advertising minutes purchased by economic agents and/or advertising/media agencies, which is added to the value per minute and is cashed from the advertising agency, the intermediary media-buying agency purchasing the advertising minutes, or from the economic agent purchasing the advertising minutes. They shall send to the Romanian Film Centre (CNC) a list of the contracts concluded, containing their value and the names of the sales agents (Article 13.1.b of the Government Ordinance 39/2005).

This contribution is optional: private broadcasters can choose to directly finance the production of television films (documentaries and/or fiction) with up to 1% of the value of advertising minutes sold, after notifying the CNC; or to directly finance cinema films with up to 1.5% of the value of advertising minutes sold, after notifying the CNC (Article 16.3 of the Government Ordinance 39/2005 on Cinematography).

The public broadcaster TVR (Romanian Television Corporation) shall contribute a sum representing 15% of its own income from advertising sales to support cinematographic works (Article 17.1 of Law No. 41/1994).



This contribution is also optional: TVR can choose to directly finance film production with up to 50% of the amount due to the CNC, after notifying the CNC (Article 17.2 of the Government Ordinance 39/2005 on Cinematography).

Table 413. Romania – Main features of the levies on broadcasters

| Feature | Description |
|--|--|
| Legal basis of the levy | Private broadcasters: Government Ordinance on Cinematography No. 39 of 14 July 2005. Public broadcaster TVR: Law No. 41/1994 on the organisation and operation of the Romanian Radio Corporation and the Romanian Television Corporation. |
| Criteria used to determine the levy | Private broadcasters: 4% of advertising revenues. Public broadcaster TVR: 15% of advertising sales. |
| Mandatory or optional obligation | Optional. |
| Ceiling to the levy imposed | No. |
| Distinction between genres on which to spend the levy | No. |
| Distinction between public and private broadcasters | Yes. |
| Authority gathering and controlling the amount due | Romanian Film Centre (CNC). |
| Authority benefiting from the amount due | Romanian Film Centre (CNC). |
| Levy applicable to foreign broadcasters | No. |

Source: Romanian response to European Audiovisual Observatory standardised survey

4.29.4.2. Levies on non-linear AVMS providers (VOD services)

VOD services are subject to the monthly collection of a contribution of 3% of the price of films downloaded after payment through the services of data transmission, including Internet and mobile services (Article 13.1.h of the Government Ordinance on Cinematography).

This contribution is optional: VOD providers can choose to directly finance film productions with up to 50% of the amount due, after notifying the CNC (Article 16.1. of the Government Ordinance on Cinematography).

Due to inconsistent legal wording, the above-mentioned option, makes it impossible for the measure to be applied.

**Table 414. Romania – Main features of the levies on VOD services**

| Feature | Description |
|---|--|
| Legal basis of the levy | Government Ordinance on Cinematography No. 39 of 14 July 2005. |
| Criteria used to determine the levy | 3% of the revenues raised by film download activities. |
| Mandatory or optional obligation | Optional. |
| Ceiling to the levy imposed | No |
| Distinction between genres on which to spend the levy | No. |
| Distinction between public and private VOD services | No. |
| Authority gathering and controlling the amount due | Romanian Film Centre (CNC). |
| Authority benefiting from the amount due | Romanian Film Centre (CNC). |
| Levy applicable to foreign VOD services | No. |

Source: Romanian response to European Audiovisual Observatory standardised survey

4.29.4.3. Levies on distributors

Distributors are subject to the collection of a contribution of 3% of the price of the advertising minutes aired in their own services, sold by cable television companies that have a TV licence (Article 13.1.c of the Government Ordinance on Cinematography).

It also benefits from the collection of a contribution of 1% of the income generated monthly by the economic operators for retransmission through cable, satellite and the digital retransmission of TV programmes (Article 13.1.e. of the Government Ordinance on the Cinematography).

This contribution is optional: distributors can choose to directly finance film productions with up to 50% of the amount due, after notifying the CNC (Article 16.1. of the Government Ordinance on Cinematography).

Table 415. Romania – Main features of the levies on distributors

| Feature | Description |
|-------------------------------------|---|
| Legal basis of the levy | Government ordinance on cinematography No. 39 of 14 July 2005. |
| Criteria used to determine the levy | 3% of the price of the advertising minutes aired in their own services, sold by cable television companies that have a TV licence. 1% of the income generated monthly by the economic operators for retransmission through cable, satellite and the digital retransmission of TV programmes. |



| | |
|--|-----------------------------|
| Mandatory or optional obligation | Optional. |
| Ceiling to the levy imposed | No. |
| Distinction between genres on which to spend the levy | No. |
| Authority gathering and controlling the amount due | Romanian Film Centre (CNC). |
| Authority benefiting from the amount due | Romanian Film Centre (CNC). |

Source: Romanian response to European Audiovisual Observatory standardised survey

4.29.4.4. Levies on theatres (cinema tickets)

Theatres are subject to the collection of a contribution of 4% of the total income generated through the exploitation of cinematographic works, of any genre and on any type of support, in cinema theatres or in any spaces for public viewing (Article 13.1.d. of the Government Ordinance on Cinematography).

Table 416. Romania – Main features of the levies on theatres (cinema tickets)

| Feature | Description |
|--|---|
| Legal basis of the levy | Government Ordinance on Cinematography No. 39 of 14 July 2005. |
| Criteria used to determine the levy | 4% of the total income generated through the exploitation of films. |
| Distinction between genres on which to spend the levy | No. |
| Authority gathering and controlling the amount due | Romanian Film Centre (CNC). |
| Authority benefiting from the amount due | Romanian Film Centre (CNC). |

Source: Romanian response to European Audiovisual Observatory standardised survey

4.29.4.5. Levies on the video industry

Video retailers are subject to the collection of a contribution of 3% of the sales and/or rental price of recorded video cassettes, DVDs or any recorded material which can be multiplied in video or digitally, payable by the economic agent that carries out the sales and/or rental wholesale. The contribution for films classified as X which are subject to an interdiction on public showing is 15% (Article 13.1.a of the Government Ordinance on Cinematography).

**Table 417. Romania – Main features of the levies on the video industry**

| Feature | Description |
|--|---|
| Legal basis of the levy | Government Ordinance on Cinematography No. 39 of 14 July 2005. |
| Criteria used to determine the levy | 3% of the sales and/or rental price of recorded video cassettes, DVDs or any recorded material. |
| Distinction between genres on which to spend the levy | No. |
| Authority gathering and controlling the amount due | Romanian Film Centre (CNC). |
| Authority benefiting from the amount due | Romanian Film Centre (CNC). |

Source: Romanian response to European Audiovisual Observatory standardised survey

4.29.4.6. Other levies

N/A.

4.29.5. Quota obligations

4.29.5.1. Quotas for linear AVMS providers (broadcasters) – EU works

Broadcasters shall reserve a majority proportion of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping services) for European works (Article 22.1 of Law No. 504/2002).

Moreover, at least 30% of European works transmitted by the public television broadcaster TVR shall be Romanian creations, including creations specific to national minorities. Of all the Romanian creations, at least 35% shall be cultural creations (Article 7 of Law No. 41/1994).

Table 418. Romania – Main features of the quota for broadcasters – EU works

| Feature | Description |
|---|--|
| Legal basis of the obligation | Law No. 504 of 11 July 2002. Law No. 41/1994 on the organisation and operation of the Romanian Radio Corporation and the Romanian Television Corporation. Decision No. 220/2011 of 24 February 2011 regarding the Audiovisual Content Regulatory Code. |
| Level of the quota | 50% of the transmission time. |
| Flexibility in achieving the quota (“where | No. |



| | |
|--|------|
| practicable...") | |
| Distinction between public or private broadcasters | Yes. |
| Derogations available for certain types of broadcasters | No. |
| Quotas for specific genres | Yes. |
| Quotas for national works or works in a national language | Yes. |
| Quotas for non-national EU works | No. |

Source: Romanian response to European Audiovisual Observatory standardised survey

4.29.5.2. Quotas for linear AVMS providers (broadcasters) – independent works

Private broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teletext and teleshopping services), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters (Article 24.1 of Law No. 504/2002).

The public broadcasters Romanian Radio Corporation and Romanian Television Corporation shall reserve at least 10% of their transmission time for European works created by producers who are independent from broadcasters (Article 7.5 of Law No. 41/1994).

Table 419. Romania – Main features of the quota for broadcasters – independent works

| Feature | Description |
|--|--|
| Legal basis of the obligation | Law No. 504 of 11 July 2002 (Audiovisual Law). Law No. 41/1994 on the organisation and operation of the Romanian Radio Corporation and the Romanian Television Corporation. Decision No. 220/2011 of 24 February 2011 regarding the Audiovisual Content Regulatory Code. |
| Level of the quota | 10% of the transmission time or 10% of the programming budget. |
| Flexibility in achieving the quota ("where practicable...") | No. |
| Distinction between public or private broadcasters | Yes. |
| Derogations available for certain types of broadcasters | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |



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|---|-----|
| Quotas for non-national EU works | No. |
|---|-----|

Source: Romanian response to European Audiovisual Observatory standardised survey

4.29.5.3. Quotas for non-linear AVMS providers (VOD services)

VOD services shall reserve at least 20% of their catalogue for European works, with the exception of information programmes, sports broadcasts and teleshopping (Article 26 of Decision No. 320 of 29 May 2012).

Table 420. Romania – Main features of the quota for VOD services – EU works

| Feature | Description |
|--|--|
| Legal basis of the obligation | Law No. 504 of 11 July 2002 (Audiovisual Law, Article 23.1). Decision No. 320 of 29 May 2012 regarding the supply of on-demand audiovisual media services (Article 26.1). |
| Level of the quota | 20% of the catalogue. |
| Flexibility in achieving the quota (“where appropriate...”) | No. |
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of VOD services | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Romanian response to European Audiovisual Observatory standardised survey

4.29.6. Prominence obligations

VOD services shall promote on the homepage of their website, in equal measure, the European audiovisual fiction works available in the catalogue (Article 26.2 of Decision No. 320 of 29 May 2012) and shall classify the country of origin of each audiovisual programme available in the catalogue (Article 26.3).

Table 421. Romania – Main features of the prominence obligation for VOD services

| Feature | Description |
|--------------------------------------|---|
| Legal basis of the obligation | Law No. 504 of 11 July 2002 (Audiovisual Law, Article 23.1). Decision No. 320 of 29 May 2012 regarding the supply of on- |



| | |
|---|--|
| | demand audiovisual media services (Article 26.2 – 26.3). |
| Means of giving prominence imposed | Promotion on the homepage. Classification of the origin of works. |
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of VOD services | No. |
| Prominence to give to specific genres | No. |
| Prominence to give to national works or works in a national language | No. |
| Prominence to give to non-national EU works | No. |

Source: Romanian response to European Audiovisual Observatory standardised survey

4.29.7. Envisaged amendments to the regulatory framework

The past two years have seen a lot of activity related to proposed changes in the legal provisions governing the funding of the CNC. A draft law supported by film directors that was written in clearer terms, aimed at boosting funding for cinema production, was, in the end, rejected by parliament in 2017.⁴² Among other things, its purpose was to clarify the provisions regarding the levy imposed on VOD providers, which is currently inapplicable due to its confusing wording, and which is contested by VOD providers. The amendments clearly stated the contribution that VOD providers have to make to the Film Fund: “Collection of a contribution of 3% of the sale and/or rent price of movies on video streaming platforms of VoD, SvoD, TvoD, PayPerView, type, which is added to this price, payable by the economic agent that carries out the sale and/or rental.” The amendments were also meant to create more incentives for private broadcasters to make direct investments in production and to introduce new levies on cinemas to encourage them to show more local production (a levy of 4% was planned for cinemas showing more Romanian films and of 8% for those not showing a sufficient amount of Romanian films).⁴³

⁴² <https://www.hotnews.ro/stiri-esential-21253375-taxe-noi-pentru-televiziuni-cinematografe-furnizorii-telefonie-ordonanta-corinei-suteu.htm>

⁴³ Draft law available at https://www.legalis.ro/legalis/chapterview-document.seam?toclid=nvxv6mrqge3f6mbzhe4v64br&documentId=nvxv6mrqge3f6mbzhe4v64brl5xxkz27m52xmzlsnz2wyxzzqfptembrywtcmjngi4q&utm_medium=link&utm_campaign=acte-mo&utm_source=stire-legalis&utm_content=OUG-91-2016&utm_term=MO-999-2016



4.29.8. Studies, reports and researches

N/A.

4.29.9. Applicable regulatory framework

- Primary legislation:
 - In Romanian – Legea n°504/2002 din 11 iulie 2002 Legea audiovizualului (Audiovisual Law): <http://legislatie.just.ro/Public/DetaliiDocument/37503>
 - In Romanian – Legea n°41/1994 din 17 iunie 1994 privind organizarea și funcționarea Societății Române de Radiodifuziune și Societății Române de Televiziune (Law on the organisation and operation of the Romanian Radio Corporation and Romanian Television Corporation further amended): <http://legislatie.just.ro/Public/DetaliiDocument/20381>
 - In English – Law n°504 of 11 July 2002 - Audiovisual Law (last modified by Law no 66/2017): <http://www.cna.ro/The-Audio-visual-Law,1655.html>
 - In English – Law n°41/1994 on the organization and operation of the Romanian Radio Corporation and Romanian Television Corporation further amended (not consolidated) <http://www.cdep.ro/legislatie/eng/vol51eng.pdf>
- Secondary legislation:
 - In Romanian – Ordonanta n°39 din 14 iulie 2005 privind cinematografia (Government ordinance on cinematography): <http://legislatie.just.ro/Public/DetaliiDocument/63969>
 - In Romanian – Decizie n°220/2011 din 24 februarie 2011 privind Codul de reglementare a conținutului audiovizual (Decision of the regulatory authority CNA regarding the audiovisual content regulatory code): http://www.cna.ro/IMG/pdf/DECIZIE_CNA_NR._220_2011_VERSIUNE_CONSOLIDATA.pdf
 - In Romanian – Decizie n°320 din 29 mai 2012 privind furnizarea serviciilor media audiovizuale la cerere (Decision of the regulatory authority CNA regarding the supply of on-demand audiovisual media services): <http://www.cna.ro/Decizie-nr-320-din-29-mai-2012,5314.html>

4.29.10. Data compilation

This factsheet was produced based on data compiled by Marius Dragomir, Director, CEU Center for Media, Data and Society (CMDS).

4.30. SE – Sweden – National legal summary⁴⁴

4.30.1. Summary

Table 422. Sweden – Summary of the existing obligations – by type and player

| Obligation | Player | Main feature |
|----------------------------------|--|--|
| Financial investment obligations | Linear AVMS providers | Broadcasters (except those whose services are distributed exclusively on cable and IPTV) shall reserve, unless there are special reasons to the contrary, at least 10% of their yearly transmission time (excluding the time allotted to news, sports events, games, advertising and teleshopping), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters. |
| | Non-linear AVMS providers | VOD services shall, in an appropriate manner and where it is feasible, promote the production of and access to European works. |
| | Distributors | No obligation. |
| Levies | Linear AVMS providers | No obligation. |
| | Non-linear AVMS providers | No obligation. |
| | Distributors | No obligation. |
| | Theatres | No obligation. |
| | Video industry | No obligation. |
| | Other | No obligation. |
| Promotion | Quotas European works linear AVMS providers | Broadcasters shall reserve, unless there are reasons to the contrary, more than 50% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teleshopping and teleshopping windows) for European works. |
| | Quotas independent works linear AVMS providers | Broadcasters shall reserve, unless there are special reasons to the contrary, at least 10% of their yearly transmission time (excluding the time allotted to news, sports events, games, advertising and teleshopping), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters. |

⁴⁴ The factsheet on Sweden incorporates the feedback received from Jonas Vilhelmsson (Swedish Film Institute) during the checking round with the national film funds.



| | | |
|--|---|--|
| | Quotas non-linear AVMS providers | VOD services shall, in an appropriate manner and where it is feasible, promote the production of and access to European works. |
| | Prominence non-linear AVMS providers | VOD services shall, in an appropriate manner and where it is feasible, promote the production of and access to European works. |

Source: Swedish response to European Audiovisual Observatory standardised survey

4.30.2. Definitions

Table 423. Sweden – Definition of the main concepts in terms of the promotion of EU works

| Concept | Definition |
|----------------------|------------|
| European works | No. |
| Independent producer | No. |
| Prominence | No. |

Source: Swedish response to European Audiovisual Observatory standardised survey

4.30.3. Financial investment obligations

4.30.3.1. Financial investment obligations by linear AVMS providers (broadcasters)

Broadcasters shall reserve, unless there are special reasons to the contrary, at least 10% of their yearly transmission time (excluding the time allotted to news, sports events, games, advertising and teleshopping), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters (chapter 5, section 7, of the Radio and Television Act).

Broadcasters whose services are distributed exclusively on wired platforms (cable and IPTV) are exempt.

Table 424. Sweden – Main features of the financial investment scheme for broadcasters

| Feature | Description |
|--|--|
| Legal basis for the investment | Radio and Television Act. |
| Level of investment | 10% of the transmission time or 10% of the programming budget. |
| Mandatory, optional or voluntary investment | Optional. |



| | |
|---|---|
| Nature of the investment | Pre-acquisition, co-production or production. |
| Distinction between genres in which to invest | No. |
| Distinction between public or private broadcasters | No. |
| Level of investment in European works | No. |
| Level of investment in independent works | Yes. |
| Level of investment in works in a national language | No. |
| Investment scheme applicable to foreign broadcasters | No. |
| Other type of investment | No. |

Source: Swedish response to European Audiovisual Observatory standardised survey

4.30.3.2. Financial investment obligations by non-linear AVMS (VOD) providers

VOD services shall, in an appropriate manner and where it is feasible, promote the production of and access to European works (chapter 5, section 8, of the Radio and Television Act).

VOD providers whose services are distributed exclusively on wired platforms (cable and IPTV) are exempt.

Table 425. Sweden – Main features of the investment scheme for VOD providers

| Feature | Description |
|--|---|
| Legal basis for the investment | Radio and Television Act. |
| Level of the investment | No specific level. |
| Mandatory, optional or voluntary investment | Optional. |
| Nature of the investment | Pre-acquisition, co-production or production. |
| Distinction between genres in which to invest | No. |
| Distinction between public or private services | No. |
| Level of investment in European works | No specific level. |
| Level of investment in independent works | No. |
| Level of investment in works in a national language | No. |
| Investment scheme applicable to foreign VOD providers | No. |
| Other type of investment | No. |



Source: Swedish response to European Audiovisual Observatory standardised survey

4.30.3.3. Financial investment obligations by distributors

Table 426. Sweden – Main features of the investment scheme for distributors

| Feature | Description |
|---|-------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Other type of investment | N/A. |

Source: Swedish response to European Audiovisual Observatory standardised survey

4.30.4. Levies

4.30.4.1. Levies on linear AVMS providers (broadcasters)

Table 427. Sweden – Main features of the levies on broadcasters

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private broadcasters | N/A. |
| Authority gathering and controlling the amount due | N/A. |



| | |
|---|------|
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign broadcasters | N/A. |

Source: Swedish response to European Audiovisual Observatory standardised survey

4.30.4.2. Levies on non-linear AVMS providers (VOD services)

Table 428. Sweden – Main features of the levies on VOD services

| Feature | Description |
|--|--------------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private VOD services | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign VOD services | N/A. |

Source: Swedish response to European Audiovisual Observatory standardised survey

4.30.4.3. Levies on distributors

Table 429. Sweden – Main features of the levies on distributors

| Feature | Description |
|--|--------------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Swedish response to European Audiovisual Observatory standardised survey



4.30.4.4. Levies on theatres (cinema tickets)

Under a “Film Agreement” between the Swedish State and all stakeholders in the cinematographic and audiovisual industry, there used to be a tax representing 10% of the price of a cinema ticket which was intended to fund the Swedish Film Institute’s film funding scheme. This tax was abolished on 1 January 2016 and the Institute and film fund are now both fully funded by the state.

Table 430. Sweden – Main features of the levies on theatres (cinema tickets)

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Swedish response to European Audiovisual Observatory standardised survey

4.30.4.5. Levies on the video industry

Table 431. Sweden – Main features of the levies on the video industry

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Swedish response to European Audiovisual Observatory standardised survey

4.30.4.6. Other levies

N/A.



4.30.5. Quota obligations

4.30.5.1. Quotas for linear AVMS providers (broadcasters) – EU works

Broadcasters shall reserve, unless there are reasons to the contrary, more than 50% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teleshopping and teleshopping windows) for European works (chapter 5, section 7, of the Radio and Television Act).

Unless there are special reasons to the contrary, these percentages shall contain a considerable proportion of programmes in the Swedish language, programmes with Swedish artists active in Sweden, and works by Swedish authors active in Sweden.

Broadcasters whose services are distributed exclusively on wired platforms (cable and IPTV) are exempt.

Table 432. Sweden – Main features of the quota for broadcasters – EU works

| Feature | Description |
|--|---|
| Legal basis of the obligation | Radio and Television Act |
| Level of the quota | 50% of the transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | Yes (“unless there are reasons to the contrary”). |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | Yes. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | Yes. |
| Quotas for non-national EU works | No. |

Source: Swedish response to European Audiovisual Observatory standardised survey

4.30.5.2. Quotas for linear AVMS providers (broadcasters) – independent works

Broadcasters shall reserve, unless there are special reasons to the contrary, at least 10% of their yearly transmission time (excluding the time allotted to news, sports events, games, advertising and teleshopping), or alternately 10% of their programming budget, for European works created by producers who are independent from broadcasters (chapter 5, section 7, of the Radio and Television Act).

Broadcasters whose services are distributed exclusively on wired platforms (cable and IPTV) are exempt.

**Table 433. Sweden – Main features of the quota for broadcasters – independent works**

| Feature | Description |
|---|--|
| Legal basis of the obligation | Radio and Television Act. |
| Level of the quota | 10% of the transmission time or 10% of the programming budget. |
| Flexibility in achieving the quota (“where practicable...”) | Yes (“unless there are reasons to the contrary”). |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | Yes. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | Yes. |
| Quotas for non-national EU works | No. |

Source: Swedish response to European Audiovisual Observatory standardised survey

4.30.5.3. Quotas for non-linear AVMS providers (VOD services)

VOD services shall, in an appropriate manner and where it is feasible, promote the production of and access to European works (chapter 5, section 8, of the Radio and Television Act).

VOD services whose services are distributed exclusively on wired platforms (cable and IPTV) are exempt.

Table 434. Sweden – Main features of the quota for VOD services – EU works

| Feature | Description |
|---|---------------------------|
| Legal basis of the obligation | Radio and Television Act. |
| Level of the quota | No specific level. |
| Flexibility in achieving the quota (“where appropriate...”) | Yes. |
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of VOD services | Yes. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Swedish response to European Audiovisual Observatory standardised survey



4.30.6. Prominence obligations

VOD services shall, in an appropriate manner and where it is feasible, promote the production of and access to European works (chapter 5, section 8, of the Radio and Television Act).

VOD services distributed exclusively on wired platforms (cable and IPTV) are exempt.

Table 435. Sweden – Main features of the prominence obligation for VOD services

| Feature | Description |
|--|---------------------------|
| Legal basis of the obligation | Radio and Television Act. |
| Means of giving prominence imposed | No. |
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of VOD services | Yes. |
| Prominence to give to specific genres | No. |
| Prominence to give to national works or works in a national language | No. |
| Prominence to give to non-national EU works | No. |

Source: Swedish response to European Audiovisual Observatory standardised survey

4.30.7. Envisaged amendments to the regulatory framework

An amendment to the constitutional Law on Freedom of Expression will be put to a second and final vote after the parliamentary elections of September 2018. The proposed amendments are expected to be passed and should enter into effect on 1 January 2019 (documentation only available in Swedish at <https://www.regeringen.se/rattsliga-dokument/proposition/2017/12/prop.-20171849/>).

A special enquiry has been commissioned to investigate and propose amendments to the Radio and Television Act following the amendment to the constitution, in order to more clearly implement the requirements of the AVMS Directive and update it according to the new version recently adopted (documentation only available in Swedish: <https://www.regeringen.se/rattsliga-dokument/kommittedirektiv/2018/06/dir.-201855/>).

4.30.8. Studies, reports and researches

N/A.



4.30.9. Applicable regulatory framework

- Primary legislation:
 - In Swedish – Radio- och tv-lag (Radio and Television Act):
<http://www.notisum.se/rnp/sls/lag/20100696.htm>
 - In English - Radio and Television Act:
<http://www.mppt.se/Documents/Styrdokument/Radio%20and%20Television%20Act.pdf>

4.30.10. Data compilation

This factsheet was produced based on data compiled by Malin Wallin, Attorney at Law.



4.31. SI – Slovenia – National legal summary⁴⁵

4.31.1. Summary

Table 436. Slovenia – Summary of the existing obligations – by type and player

| Obligation | Player | Main feature |
|----------------------------------|--|---|
| Financial investment obligations | Linear AVMS providers | The public service media RTVSLO shall support Slovenian film production by conducting a tender for the funding of film production by independent producers to the minimum amount of 2% of the broadcasting fee collected the previous year. |
| | Non-linear AVMS providers | VOD services shall reserve at least 10% of the programmes in their catalogue in an individual calendar year for European works. VOD services failing to attain this percentage shall, every calendar year, earmark funds amounting to at least 1% of the revenues raised by their services in that calendar year for the production of or the acquisition of the rights to the European audiovisual works that they provide via their services. |
| | Distributors | No obligation. |
| Levies | Linear AVMS providers | No obligation. |
| | Non-linear AVMS providers | No obligation. |
| | Distributors | No obligation. |
| | Theatres | No obligation. |
| | Video industry | No obligation. |
| | Other | No obligation. |
| Promotion | Quotas European works linear AVMS providers | Broadcasters shall reserve at least 50% of their yearly transmission time (excluding the time allotted to news, sports events, games, advertising, teleshopping and teletext services) for European works. |
| | Quotas independent works linear AVMS providers | Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teleshopping and teletext services) for European works created by producers who are independent from broadcasters. |
| | Quotas non-linear AVMS | VOD services shall reserve at least 10% of the |

⁴⁵ The factsheet on Slovenia incorporates the feedback received from Nataša Bučar (Slovenian Film Centre) during the checking round with the national film funds.



| | | |
|--|---|--|
| | providers | programmes in their catalogue in an individual calendar year for European works. |
| | Prominence non-linear AVMS providers | No obligation. |

Source: Slovenian response to European Audiovisual Observatory standardised survey

4.31.2. Definitions

Articles 3.20 and 3.21 of the Audiovisual Media Services Act defines European works as follows:

“20. Under this Act, ‘European audiovisual works’ means:

- works originating in European Union Member States;*
- works originating in European third States party to the European Convention on Transfrontier Television of the Council of Europe in which audiovisual works of European Union Member States are not subject to discriminatory measures and which meet the conditions referred to in point 21 of this paragraph;*
- works originating in European third States in which audiovisual works of European Union Member States are not subject to discriminatory measures and which were wholly made in a co-production of producers established and registered in European Union Member States with producers from European States with which the European Union has signed agreements in the audiovisual area, if these works were mainly made by authors and workers from one or more European States.*

21. The European works referred to in the first and second indents of the previous point are works which have been mainly made by authors and workers residing in the States referred to in these indents, provided they comply with one of the following conditions:

- the producers of these works are established or registered in one or more of those States;*
- the work was made under the supervision and actual control of one or more producers from these States;*
- the contribution of co-producers from those States to the total co-production costs is preponderant and the co-production is not controlled by one or more producers established or registered outside those States.”*

Articles 3.22 and 3.23 of the Audiovisual Media Services Act defines an independent producer as follows:



“22. Under this Act, an independent producer of audiovisual works is a legal or natural person that meets the following four conditions:

- they are registered to produce audiovisual works and are established in the Republic of Slovenia or another European Union Member State;
- they are not part of the organisational structure or legal personality of a television broadcaster;
- a television broadcaster has not more than a 25% share in the equity of or management or voting rights in its property;
- they make not more than half their annual production on commission from an individual television broadcaster.

23. An independent producer may also be a legal or natural person registered to produce audiovisual works and established in a third country if European works have accounted for a majority of their audiovisual production in the last three years and they meet the conditions referred to in the second and third indents of the previous point.”

Table 437. Slovenia – Definition of the main concepts in terms of the promotion of EU works

| Concept | Definition |
|----------------------|------------|
| European works | Yes. |
| Independent producer | Yes. |
| Prominence | No. |

Source: Slovenian response to European Audiovisual Observatory standardised survey

4.31.3. Financial investment obligations

4.31.3.1. Financial investment obligations by linear AVMS providers (broadcasters)

The public service media RTVSLO shall support Slovenian film production by conducting a tender for the funding of film production by independent producers to the minimum amount of 2% of the broadcasting fee collected the previous year (Article 17(1) of the Slovenian Film Center Act).

This invested amount shall be devoted exclusively to Slovenian works, which are defined as “works originally produced in the Slovenian language or works produced in Hungarian and Italian if they are intended for the Hungarian or Italian national community living in the territory of the Republic of Slovenia, and works of Slovenian cultural origin from other fields of art, if they are expressed as individual intellectual creations in the field of literature, science and art, and are designed or suitable for broadcasting on a television programme” (Decree on the criteria and conditions for determining Slovenian audiovisual works).



Private broadcasters do not have any financial investment obligations. Article 17(2) of the Slovenian Film Center Act stated that private broadcasters with national coverage shall allocate 5% of their profits to independent producers, but the Constitutional Court annulled this provision in 2014.⁴⁶

Table 438. Slovenia – Main features of the financial investment scheme for broadcasters

| Feature | Description |
|--|--------------------------------------|
| Legal basis for the investment | Slovenian Film Center Act. |
| Level of investment | At least 2% of the broadcasting fee. |
| Mandatory, optional or voluntary investment | Mandatory. |
| Nature of the investment | Co-production. |
| Distinction between genres in which to invest | No. |
| Distinction between public or private broadcasters | Yes. |
| Level of investment in European works | No. |
| Level of investment in independent works | Yes. |
| Level of investment in works in a national language | Yes. |
| Investment scheme applicable to foreign broadcasters | No. |
| Other type of investment | No. |

Source: Slovenian response to European Audiovisual Observatory standardised survey

4.31.3.2. Financial investment obligations by non-linear AVMS (VOD) providers

VOD services shall reserve at least 10% of the programmes in their catalogue in an individual calendar year for European works.

VOD services failing to attain this percentage shall, every calendar year, earmark funds amounting to at least 1% of the revenues raised by their services in that calendar year for the production of or the acquisition of the rights to European audiovisual works that they provide via their services (Article 16(2) and (3) of the Audiovisual Media Services Act).

Table 439. Slovenia – Main features of the investment scheme for VOD providers

| Feature | Description |
|---------|-------------|
|---------|-------------|

⁴⁶ Decision available at <https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina?urlurid=2014670>



| | |
|--|---|
| Legal basis for the investment | Audiovisual Media Services Act. |
| Level of the investment | 1% of the revenues raised by the service. |
| Mandatory, optional or voluntary investment | Optional. |
| Nature of the investment | Acquisition, co-production or production. |
| Distinction between genres in which to invest | No. |
| Distinction between public or private services | No. |
| Level of investment in European works | Yes. |
| Level of investment in independent works | No. |
| Level of investment in works in a national language | No. |
| Investment scheme applicable to foreign VOD providers | No. |
| Other type of investment | No. |

Source: Slovenian response to European Audiovisual Observatory standardised survey

4.31.3.3. Financial investment obligations by distributors

Table 440. Slovenia – Main features of the investment scheme for distributors

| Feature | Description |
|--|--------------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Other type of investment | N/A. |

Source: Slovenian response to European Audiovisual Observatory standardised survey



4.31.4. Levies

4.31.4.1. Levies on linear AVMS providers (broadcasters)

Table 441. Slovenia – Main features of the levies on broadcasters

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private broadcasters | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign broadcasters | N/A. |

Source: Slovenian response to European Audiovisual Observatory standardised survey

4.31.4.2. Levies on non-linear AVMS providers (VOD services)

Table 442. Slovenia – Main features of the levies on VOD services

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Distinction between public and private VOD services | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |
| Levy applicable to foreign VOD services | N/A. |

Source: Slovenian response to European Audiovisual Observatory standardised survey



4.31.4.3. Levies on distributors

Table 443. Slovenia – Main features of the levies on distributors

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Mandatory or optional obligation | N/A. |
| Ceiling to the levy imposed | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Slovenian response to European Audiovisual Observatory standardised survey

4.31.4.4. Levies on theatres (cinema tickets)

Table 444. Slovenia – Main features of the levies on theatres (cinema tickets)

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Slovenian response to European Audiovisual Observatory standardised survey

4.31.4.5. Levies on the video industry

Table 445. Slovenia – Main features of the levies on the video industry

| Feature | Description |
|---|-------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |



| | |
|--|------|
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Slovenian response to European Audiovisual Observatory standardised survey

4.31.4.6. Other levies

N/A.

4.31.5. Quota obligations

4.31.5.1. Quotas for linear AVMS providers (broadcasters) – EU works

Broadcasters shall reserve at least 50% of their yearly transmission time (excluding the time allotted to news, sports events, games, advertising, teleshopping and teletext services) for European works (Article 16(1) of the Audiovisual Media Services Act).

A significant proportion shall be dedicated to Slovenian works (25% cumulatively on the 1st and 2nd television channels of the public service media RTVSLO). The definition of Slovenian works is narrower than the definition of European works. It covers cinematographic works or other audiovisual works “expressed as individual intellectual creations in the field of literature, science and art, suitable for broadcasting.” Based on the European Convention on Cinematographic Co-Production (referred to in Slovenian secondary legislation), the benefits granted to Slovenian works also apply to European cinematographic works made as multilateral co-productions.

Broadcasters (except, pursuant to the Mass Media Act, the RTVSLO) failing to attain this percentage shall inform the ministry responsible for the media and the regulatory authority (AKOS) of the objective reasons for failure to meet their legal obligations. In such a case, the regulatory authority, as part of the inspection procedure, shall request that the ministry responsible for the media provide an opinion on the justifiability of the reasons for failure to attain the shares or meet the requirements (Article 18(3) of the Audiovisual Media Services Act).

The following services are exempt:

- services of special importance or services whose programmes are intended for a local audience and are not included in a broadcast network that reaches more than 50% of the population;
- services intended exclusively for advertising, teleshopping or self-promotion.

Table 446. Slovenia – Main features of the quota for broadcasters – EU works

| Feature | Description |
|---------|-------------|
|---------|-------------|



| | |
|--|---|
| Legal basis of the obligation | Audiovisual Media Services Act. Mass Media Act (for RTVSLO). |
| Level of the quota | 50% of the yearly transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | Yes. |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | Yes. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | Yes. |
| Quotas for non-national EU works | No. |

Source: Slovenian response to European Audiovisual Observatory standardised survey

4.31.5.2. Quotas for linear AVMS providers (broadcasters) – independent works

Broadcasters shall reserve at least 10% of their transmission time (excluding the time allotted to news, sports events, games, advertising, teleshopping and teletext services) for European works created by producers who are independent from broadcasters (Article 17(1) of the Audiovisual Media Services Act).

Of the 25% of transmission time which the public service media RTVSLO shall dedicate to Slovenian works on its first two channels, 25% shall be dedicated to independent productions.

Broadcasters (except, pursuant to the Mass Media Act, the RTVSLO) failing to attain this percentage shall inform the ministry responsible for the media and the regulatory authority (AKOS) of the objective reasons for failure to meet their legal obligations. In such a case, the regulatory authority, as part of the inspection procedure, shall request that the ministry responsible for the media provide an opinion on the justifiability of the reasons for failure to attain the shares or meet the requirements (Article 18(3) of the Audiovisual Media Services Act).

The following services are exempt:

- services of special importance or services whose programmes are intended for a local audience and are not included in a broadcast network that reaches more than 50% of the population;
- special services dedicated to the live transmission of the proceedings of the National Assembly or to television services intended for the indigenous Italian and Hungarian national communities;
- services intended exclusively for advertising, teleshopping or self-promotion.

**Table 447. Slovenia – Main features of the quota for broadcasters – independent works**

| Feature | Description |
|---|---|
| Legal basis of the obligation | Audiovisual Media Services Act. Mass Media Act (for RTVSLO). |
| Level of the quota | 10% of the transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | Yes. |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | Yes. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | Yes. |
| Quotas for non-national EU works | No. |

Source: Slovenian response to European Audiovisual Observatory standardised survey

4.31.5.3. Quotas for non-linear AVMS providers (VOD services)

VOD services shall reserve at least 10% of the programmes in their catalogue in an individual calendar year for European works.

VOD services failing to attain this percentage shall, every calendar year, earmark funds amounting to at least 1% of the revenues raised by their services in that calendar year for the production of or acquisition of the rights to European audiovisual works that it provides via their services (Article 16(2) and (3) of the Audiovisual Media Services Act).

Table 448. Slovenia – Main features of the quota for VOD services – EU works

| Feature | Description |
|---|---------------------------------|
| Legal basis of the obligation | Audiovisual Media Services Act. |
| Level of the quota | 10% of the catalogue. |
| Flexibility in achieving the quota (“where appropriate...”) | No. |
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of VOD services | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |



| | |
|---|-----|
| Quotas for non-national EU works | No. |
|---|-----|

Source: Slovenian response to European Audiovisual Observatory standardised survey

4.31.6. Prominence obligations

Table 449. Slovenia – Main features of the prominence obligation for VOD services

| Feature | Description |
|---|--------------------|
| Legal basis of the obligation | N/A. |
| Means of giving prominence imposed | N/A. |
| Distinction between public or private VOD services | N/A. |
| Derogations available for certain types of VOD services | N/A. |
| Prominence to give to specific genres | N/A. |
| Prominence to give to national works or works in a national language | N/A. |
| Prominence to give to non-national EU works | N/A. |

Source: Slovenian response to European Audiovisual Observatory standardised survey

4.31.7. Envisaged amendments to the regulatory framework

A revision of the Slovenian Film Centre Act is possible, but it is hard to assess how likely it is to occur in the near future. The Directors Guild of Slovenia suggested the introduction of extra-budgetary sources for the financing of the Slovenian Film Centre in their Proposal of the National Film Programme for 2018-2013, presented in September 2018. They suggested a wider range of sources, independent of the state budget. According to them, given the specificity of the domestic audiovisual sector, the following industry levies should be introduced:

- share of gross revenue from advertising and teleshopping or other revenues from television broadcasting by broadcasters with national coverage;
- share of turnover from the sale of cinema tickets;
- share of annual gross revenue of cable, mobile and satellite operators and Internet providers from the revenues generated by the transmission of television channels;
- share of annual revenue generated by VOD providers;
- share of revenue from advertising in cable systems.



4.31.8. Studies, reports and researches

- SFC, 2015: Strategic plan of the Slovenian Film Centre, 2015-2019 – https://www.film-center.si/media/cms/attachments/2015/01/22/SFC_strateski_nacrt.pdf
- DSR, 2018: National Film Programme, 2018-2023 – <http://www.dsr.si/files/2018/09/Filmarija-3.pdf>
- SFC's collection of brochures and publications with facts and figures for different years – <https://www.film-center.si/en/publications/>
- Wagner-Hatfield, 2014: Audiovisual policy and content obligations in a digital, connected and international audiovisual environment – https://www.akos-rs.si/files/Elektronski_mediji/Medijska_ucilnica/Raziskave_in_analize/2016/AKOS-WH-20140502-Audiovisual-Policy-Slovenia1.pdf
- AKOS' collection of reports on the electronic media market including information on shares of European works and works of independent producers – <https://www.akos-rs.si/porocila->

4.31.9. Applicable regulatory framework

- Primary legislation:
 - In Slovenian – Zakon o medijih (Mass Media Act): <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1608>
 - In Slovenian – Zakon o avdiovizualnih medijskih storitvah (Audiovisual Media Services Act): <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO6225>
 - In Slovenian – et Zakon o Slovenskem filmskem centru, javni agenciji Republike Slovenije (Slovenian Film Center Act): <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5960>
 - In English – Mass Media Act: http://www.akos-rs.si/files/APEK_eng/Legislation/mass-media-act.pdf
 - In English – Audiovisual Media Services Act: http://www.akos-rs.si/files/APEK_eng/Legislation/Act/AKOS-Audiovisual-Media-Services-Act.Unofficial-Translation.pdf
- Secondary legislation:
 - In Slovenian – Pravilnik o postopku javnega razpisa Radiotelevizije Slovenija za izdelavo filmov neodvisnih producentov za javno kinematografsko prikazovanje (Rules on tender procedure of RTVSLO for the production of films by independent producers for public cinema screening): <https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2017-01-3464?sop=2017-01-3464>
 - In Slovenian – Uredba o merilih oziroma pogojih za določitev slovenskih avdiovizualnih (Decree on the criteria and conditions for determining Slovenian audiovisual works):



<https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina?urlid=2001105&stevilka=5118>

4.31.10. Data compilation

This factsheet was produced based on data compiled by Tanja Kerševan Smokvina, Associate Partner, Wagner-Hatfield.



4.32. SK – Slovakia – National legal summary⁴⁷

4.32.1. Summary

Table 450. Slovakia – Summary of the existing obligations – by type and player

| Obligation | Player | Main feature |
|---|----------------------------------|---|
| Financial investment obligations | Linear AVMS providers | Broadcasters shall reserve at least 10% of their transmission time for European works created by producers who are independent from broadcasters (15% for the public service media Rozhlas a Televízia Slovenska – RTVS), but this obligation is also considered to be fulfilled if the broadcaster has reserved at least 10% (15% for RTVS) of its programming budget, including programme purchase and production costs, for European works created by independent producers. |
| | Non-linear AVMS providers | No obligation. |
| | Distributors | No obligation. |
| Levies | Linear AVMS providers | Private broadcasters whose programming consists of more than 15% of audiovisual works with nationwide or multi-regional coverage and whose programming is not dedicated exclusively to self-promotion are subject to a levy of 2% (5% for RTVS) of the revenues generated by advertising and teleshopping in the previous calendar year. |
| | Non-linear AVMS providers | VOD services are subject to a levy of 0.5% of the revenues generated by the service in the previous calendar year. |
| | Distributors | Distributors are subject to a levy of 1% of the revenues raised from their subscribers in the previous calendar year. |
| | Theatres | Theatres are subject to a levy of 1% of the price of cinema tickets. |
| | Video industry | No obligation. |
| | Other | Distributors of audiovisual works are subject to a levy of 1% of the revenues raised from the distribution of such works on the territory of the Slovak Republic in the previous calendar year |

⁴⁷ The factsheet on Slovakia incorporates the feedback received from Michal Hradický (Council for Broadcasting and Retransmission) during the checking round with the national film funds.



| | | |
|------------------|---|---|
| Promotion | Quotas European works linear AVMS providers | Broadcasters shall reserve a majority proportion of their quarterly transmission time (excluding the time allotted to news, sports events, games, advertising, teleshopping and teletext services) for European works |
| | Quotas independent works linear AVMS providers | Broadcasters shall reserve at least 10% (15% for RTVS) of their monthly transmission time (excluding the time allotted to news, sports events, games, advertising, teleshopping and teletext services) for European works created by producers who are independent from broadcasters. |
| | Quotas non-linear AVMS providers | VOD services shall reserve at least 20% of the total duration time of the programmes made available in their catalogue per calendar month for European works. |
| | Prominence non-linear AVMS providers | No obligation. |

Source: Slovakian response to European Audiovisual Observatory standardised survey

4.32.2. Definitions

Section 22 of the Act on Broadcasting and Retransmission defines European works as follows:

“(1) For the purposes of this act, “European work” means work originating from:

- a) one of the Member States of the European Union,*
- b) one of the European States which is a contracting party to the European Convention on Transfrontier Television, if there are in this State no discriminatory measures against work under (a) and the work fulfils the conditions under subsection (2),*
- c) a co-production within the framework of agreements related to the audiovisual sector concluded between the European Union and third countries that fulfil the conditions defined in each of those agreements, if such third countries do not have discriminatory measures against works under (a).*

(2) The work referred to in subsections (1)(a) and (b) shall specifically be work made by authors and employees residing in or having a long-term residence in one or more Member States of the European Union or in one or more States which are contracting parties to the European Convention on Transfrontier Television and that satisfies the following conditions:

- a) it is made by one or more producers whose headquarters, business establishment or residence is in one or more of these States, or*
- b) the production of the work is controlled by one or more producers with headquarters, a business establishment or residence in one or more of these States, or*



c) the contribution of the co-producers of these States to the total co-production costs is preponderant and the co-production is not controlled by one or more producers with their headquarters, business establishment or residence outside of these States.

(3) a European work is also a work made within the framework of bilateral co-production treaties concluded between the Member States of the European Union and third States, if the co-producers from the Member States of the European Union bear most of the total costs of the production, and their production is not controlled by one or more producers having their headquarters, business establishment or residence outside the territory of the Member States of the European Union.”

Section 8 of the Act on Audiovision and on the Amendment and Supplementation of Certain Acts defines an independent producer as follows:

“(1) An independent producer in audiovision (hereinafter referred to as “independent producer”) is the producer of audiovisual work, registered in the list of independent producers, who meets the following conditions:

a) he/she is not a broadcaster;

b) he/she is not personally or materially connected with a broadcaster and

c) the run-time of the audiovisual work originally produced by an independent producer for television broadcasting by one television broadcaster does not represent more than 90% of the total run-time of the audiovisual works, including cinematographic works produced by him/her.

(2) An independent producer is also the producer of audiovisual work who is not personally or commercially connected with the broadcaster and is deemed to be an independent producer in the EU Member State or in the State which is a contractual party to the European Convention on Cross-Border Television.”

Table 451. Slovakia – Definition of the main concepts in terms of the promotion of EU works

| Concept | Definition |
|----------------------|------------|
| European works | Yes. |
| Independent producer | Yes. |
| Prominence | No. |

Source: Slovakian response to European Audiovisual Observatory standardised survey



4.32.3. Financial investment obligations

4.32.3.1. Financial investment obligations by linear AVMS providers (broadcasters)

Broadcasters shall reserve at least 10% of their transmission time for European works created by producers who are independent from broadcasters (15% for the public service media Rozhlas a Televízia Slovenska – RTVS), but this obligation is also considered to be fulfilled if the broadcaster has reserved at least 10% (15% for RTVS) of his programming budget, including programme purchase and production costs, for European works created by independent producers (section 25 of the Act on Broadcasting and Retransmission).

Table 452. Slovakia – Main features of the financial investment scheme for broadcasters

| Feature | Description |
|--|---|
| Legal basis for the investment | Act on Rebroadcasting and Retransmission. |
| Level of investment | 10% of the programming budget (15% for the public service media). |
| Mandatory, optional or voluntary investment | Optional. |
| Nature of the investment | Pre-acquisition, co-production or production. |
| Distinction between genres in which to invest | No. |
| Distinction between public or private broadcasters | Yes. |
| Level of investment in European works | No. |
| Level of investment in independent works | Yes. |
| Level of investment in works in a national language | No. |
| Investment scheme applicable to foreign broadcasters | No. |
| Other type of investment | No. |

Source: Slovakian response to European Audiovisual Observatory standardised survey

4.32.3.2. Financial investment obligations by non-linear AVMS (VOD) providers

Table 453. Slovakia – Main features of the investment scheme for VOD providers

| Feature | Description |
|--------------------------------|-------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |



| | |
|--|------|
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Distinction between public or private services | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Investment scheme applicable to foreign VOD providers | N/A. |
| Other type of investment | N/A. |

Source: Slovakian response to European Audiovisual Observatory standardised survey

4.32.3.3. Financial investment obligations by distributors

Table 454. Slovakia – Main features of the investment scheme for distributors

| Feature | Description |
|--|--------------------|
| Legal basis for the investment | N/A. |
| Level of the investment | N/A. |
| Mandatory, optional or voluntary investment | N/A. |
| Nature of the investment | N/A. |
| Distinction between genres in which to invest | N/A. |
| Level of investment in European works | N/A. |
| Level of investment in independent works | N/A. |
| Level of investment in works in a national language | N/A. |
| Other type of investment | N/A. |

Source: Slovakian response to European Audiovisual Observatory standardised survey



4.32.4. Levies

4.32.4.1. Levies on linear AVMS providers (broadcasters)

Private broadcasters whose programming consists of more than 15% of audiovisual works with nationwide or multi-regional coverage and whose programming is not dedicated exclusively to self-promotion are subject to a levy of 2% (5% for RTVS) of the revenues generated by advertising and teleshopping in the previous calendar year (sections 24 and 25 of the Act on the Audiovisual Fund and the amendment and supplement of certain acts).

Table 455. Slovakia – Main features of the levies on broadcasters

| Feature | Description |
|--|---|
| Legal basis of the levy | Act on the Audiovisual Fund and the amendment and supplement of certain acts. |
| Criteria used to determine the levy | Revenues generated by advertising and teleshopping. |
| Mandatory or optional obligation | Mandatory. |
| Ceiling to the levy imposed | No. |
| Distinction between genres on which to spend the levy | No. |
| Distinction between public and private broadcasters | Yes. |
| Authority gathering and controlling the amount due | Slovak Audiovisual Fund. |
| Authority benefiting from the amount due | Slovak Audiovisual Fund. |
| Levy applicable to foreign broadcasters | No. |

Source: Slovakian response to European Audiovisual Observatory standardised survey

4.32.4.2. Levies on non-linear AVMS providers (VOD services)

VOD providers are subject to a levy of 0.5% of the revenues generated by their service in the previous calendar year (section 28a of the Act on the Audiovisual Fund and the amendment and supplement of certain acts).

Table 456. Slovakia – Main features of the levies on VOD services

| Feature | Description |
|--|---|
| Legal basis of the levy | Act on the Audiovisual Fund and the amendment and supplement of certain acts. |
| Criteria used to determine the levy | 0.5% of the revenues generated by the service. |



| | |
|--|--------------------------|
| Mandatory or optional obligation | Mandatory. |
| Ceiling to the levy imposed | No. |
| Distinction between genres on which to spend the levy | No. |
| Distinction between public and private VOD services | No. |
| Authority gathering and controlling the amount due | Slovak Audiovisual Fund. |
| Authority benefiting from the amount due | Slovak Audiovisual Fund. |
| Levy applicable to foreign VOD services | No. |

Source: Slovakian response to European Audiovisual Observatory standardised survey

4.32.4.3. Levies on distributors

Theatrical distributors are subject to a levy of 1% of the revenues raised from their subscribers in the previous calendar year (section 27 of the Act on the Audiovisual Fund and the amendment and supplement of certain acts).

Table 457. Slovakia – Main features of the levies on distributors

| Feature | Description |
|--|---|
| Legal basis of the levy | Act on the Audiovisual Fund and the amendment and supplement of certain acts. |
| Criteria used to determine the levy | 1% of the revenues raised from subscribers. |
| Mandatory or optional obligation | Mandatory. |
| Ceiling to the levy imposed | No. |
| Distinction between genres on which to spend the levy | No. |
| Authority gathering and controlling the amount due | Slovak Audiovisual Fund. |
| Authority benefiting from the amount due | Slovak Audiovisual Fund. |

Source: Slovakian response to European Audiovisual Observatory standardised survey

4.32.4.4. Levies on theatres (cinema tickets)

Theatres are subject to a levy of 1% of the price of a cinema ticket (section 26 of the Act on the Audiovisual Fund and the amendment and supplement of certain acts).

Table 458. Slovakia – Main features of the levies on theatres (cinema tickets)

| Feature | Description |
|----------------|--------------------|
|----------------|--------------------|



| | |
|--|---|
| Legal basis of the levy | Act on the Audiovisual Fund and the amendment and supplement of certain acts. |
| Criteria used to determine the levy | 1% of the price of a cinema ticket. |
| Distinction between genres on which to spend the levy | No. |
| Authority gathering and controlling the amount due | Slovak Audiovisual Fund. |
| Authority benefiting from the amount due | Slovak Audiovisual Fund. |

Source: Slovakian response to European Audiovisual Observatory standardised survey

4.32.4.5. Levies on the video industry

Table 459. Slovakia – Main features of the levies on the video industry

| Feature | Description |
|--|--------------------|
| Legal basis of the levy | N/A. |
| Criteria used to determine the levy | N/A. |
| Distinction between genres on which to spend the levy | N/A. |
| Authority gathering and controlling the amount due | N/A. |
| Authority benefiting from the amount due | N/A. |

Source: Slovakian response to European Audiovisual Observatory standardised survey

4.32.4.6. Other levies

Theatrical distributors of audiovisual works are subject to a levy of 1% of the revenues raised from the distribution of such works on the territory of the Slovak Republic in the previous calendar year (section 28 of the Act on the Audiovisual Fund and the amendment and supplement of certain acts).

Section 2 (6) of the Act on the Audiovisual Fund and the amendment and supplement of certain acts defines the distributor of audiovisual works as “a person who publicly distributes a copy of the audiovisual work or makes the audiovisual work accessible to the public for a charge; any person who publicly distributes a copy of the audiovisual work solely in the form of the transfer of the title to the end consumer or via on-demand audiovisual media services or the operator of a mediatheque shall not be considered a distributor of the audiovisual work.”



4.32.5. Quota obligations

4.32.5.1. Quotas for linear AVMS providers (broadcasters) – EU works

Broadcasters shall reserve a majority proportion of their quarterly transmission time (excluding the time allotted to news, sports events, games, advertising, teleshopping and teletext services) for European works (section 23 of the Act on Broadcasting and Retransmission).

The regulatory authority (Council for Broadcasting and Retransmission) can set lower quotas in the licence conditions for a broadcaster who has been granted a licence for the first time and for monothematic services such as news or sports channels. At the same time the regulatory authority can also set an increase of the share of these works during the duration of the license, taking into account the economic situation of the broadcaster and the availability of the European works.

Local broadcasters are exempt.

Table 460. Slovakia – Main features of the quota for broadcasters – EU works

| Feature | Description |
|--|---|
| Legal basis of the obligation | Act on Broadcasting and Retransmission. |
| Level of the quota | 50% of the monthly transmission time. |
| Flexibility in achieving the quota (“where practicable...”) | No. |
| Distinction between public or private broadcasters | No. |
| Derogations available for certain types of broadcasters | Yes. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Slovakian response to European Audiovisual Observatory standardised survey

4.32.5.2. Quotas for linear AVMS providers (broadcasters) – independent works

Broadcasters shall reserve at least 10% (15% for RTVS) of their monthly transmission time (excluding the time allotted to news, sports events, games, advertising, teleshopping and teletext services) for European works created by producers who are independent from broadcasters (section 25 of the Act on Broadcasting and Retransmission). For the purposes of the calculation of the total time this excludes the time allotted to news, sports events and games.



This obligation is optional and can be replaced by financial investment obligations detailed under 4.32.3.1.

Table 461. Slovakia – Main features of the quota for broadcasters – independent works

| Feature | Description |
|--|--|
| Legal basis of the obligation | Act on Broadcasting and Retransmission. |
| Level of the quota | 10% of the transmission time (15% for RTVS). |
| Flexibility in achieving the quota (“where practicable...”) | No. |
| Distinction between public or private broadcasters | Yes. |
| Derogations available for certain types of broadcasters | No. |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Slovakian response to European Audiovisual Observatory standardised survey

4.32.5.3. Quotas for non-linear AVMS providers (VOD services)

VOD services shall reserve at least 20% of the total duration time of the programmes made available in their catalogue per calendar month for European works (section 27a of the Act on Broadcasting and Retransmission). For the purposes of the calculation for the calculation of the total time this excludes the time allotted to news, sports events and games.

The regulatory authority (Council for Broadcasting and Retransmission) may determine a lower quota, taking into account the economic situation of the service, the availability of European works or the focus of the service.

Table 462. Slovakia – Main features of the quota for VOD services – EU works

| Feature | Description |
|--|--|
| Legal basis of the obligation | Act on Broadcasting and Retransmission. |
| Level of the quota | 20% of the total duration time of the programmes in the catalogue. |
| Flexibility in achieving the quota (“where appropriate...”) | No. |
| Distinction between public or private VOD services | No. |
| Derogations available for certain types of | Yes. |



| | |
|--|-----|
| VOD services | |
| Quotas for specific genres | No. |
| Quotas for national works or works in a national language | No. |
| Quotas for non-national EU works | No. |

Source: Slovakian response to European Audiovisual Observatory standardised survey

4.32.6. Prominence obligations

Table 463. Slovakia – Main features of the prominence obligation for VOD services

| Feature | Description |
|---|--------------------|
| Legal basis of the obligation | N/A. |
| Means of giving prominence imposed | N/A. |
| Distinction between public or private VOD services | N/A. |
| Derogations available for certain types of VOD services | N/A. |
| Prominence to give to specific genres | N/A. |
| Prominence to give to national works or works in a national language | N/A. |
| Prominence to give to non-national EU works | N/A. |

Source: Slovakian response to European Audiovisual Observatory standardised survey

4.32.7. Envisaged amendments to the regulatory framework

The work on the transposition of the AVMSD has already started more than one year ago at the Ministry of Culture (a temporary working group has been established for that purpose) that will also impact the areas that are described in this questionnaire. The process foresees that a totally new law will be created by joining the Act on Broadcasting and Retransmission and the Act on Digital Broadcasting. At this stage it is not possible to foresee the concrete shape of the new provisions. At this stage it is not clear if there is going to be a revision of the Act on the Audiovisual Fund, where the provisions on the levies are located.



4.32.8. Studies, reports and researches

N/A.

4.32.9. Applicable regulatory framework

- Primary legislation:
 - In Slovak – Zákon 308/2000 o vysielaní a retransmisii (Act on Broadcasting and Retransmission): <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2000/308/20180901>
 - In Slovak – Zákon č.516/2008 o Časová verzia predpisu účinná (Act on the Audiovisual Fund and the amendment and supplement of certain acts): <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2008/516/20180901>
 - In Slovak – Zákon o audiovízii a o zmene a doplnení niektorých zákonov (Act on Audiovision and on the Amendment and Supplementation of Certain Acts): <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2015/40/20180901>
 - In English – Act on Broadcasting and Retransmission, Act on the Audiovisual Fund and the amendment and supplement of certain acts, Act on Audiovision and on the Amendment and Supplementation of Certain Acts, (not consolidated): <http://www.culture.gov.sk/legislation-1ce.html>

4.32.10. Data compilation

This factsheet was produced based on data compiled by Juraj Polak, Senior Lawyer at Markiza-Slovakia.



5. Glossary

Audiovisual media service provider

The natural or legal person who has editorial responsibility for the choice of the audiovisual content of the audiovisual media service and who determines the manner in which it is organised. An audiovisual media service provider can be either a broadcaster or a video-on-demand service provider.

Broadcaster (linear audiovisual media service provider)

A provider of television broadcasting, that is, an audiovisual media service provided for the simultaneous viewing of programmes on the basis of a programme schedule.

Distributor

The natural or legal person who establishes a contractual relation with audiovisual media service providers with a view to constituting an offer of audiovisual media services which is made available to the public by electronic communications networks within the meaning of point (a) of Article 2 of Directive 2002/21/EC. A person who constitutes such an offer by establishing contractual relations with other distributors is also considered to be a distributor.

European works

“(i) works originating in Member States; (ii) works originating in European third States party to the European Convention on Transfrontier Television of the Council of Europe and fulfilling the conditions of paragraph 3; (iii) works co-produced within the framework of agreements related to the audiovisual sector concluded between the Union and third countries and fulfilling the conditions defined in each of those agreements.” (Article 1 a) n) of the Audiovisual Media Services Directive).

Financial investment obligations

A mandatory financial contribution imposed on film and audiovisual industry stakeholders (broadcasters, VOD providers, distributors, the home video industry, etc.). This can be done in a direct way, by investing in the production of or pre-acquiring national or European films and audiovisual works, or in an indirect way, by financially supporting the financing of a film through an audiovisual fund or an equivalent institution.

Independent works

European works created by producers who are independent from audiovisual media service providers or distributors. Independence can be determined, for example, by taking account of criteria such as the ownership of the production company, the amount of



programmes supplied to the same audiovisual media service provider and the ownership of secondary rights.

Levy

The mandatory financial contribution imposed on film and audiovisual industry stakeholders (broadcasters, VOD providers, distributors, the home video industry, etc.) whose amount is usually calculated based on their annual turnover. The amounts levied usually serve to finance the country's national/federal film and audiovisual fund.

Pre-acquisition of rights

The acquisition by an audiovisual media service provider or a distributor of the distribution rights through one or multiple release windows (free TV, pay TV, DVD, VOD) of a European audiovisual work to be produced by one or several production companies which are independent from the provider or the distributor.

Production

The term production, at large, comprises all the stages conducting to the delivery of the final version of a film or audiovisual work. It includes the pre-production process (developing the concept and script, securing funding and finding the talent, cast and crew). This is followed by the actual shooting or recording of the work, after which, the postproduction process takes place (editing, visual and sound effects, etc.), conducting to the generation of a final copy to be released to the different foreseen windows.

Prominence

The various initiatives taken by a VOD service provider in order to make specific works (such as, for example, European or national works) featured in their catalogue easier to find. This can include practices such as emphasis and attractive presentation in the catalogue; prominence in the catalogue's EPG; prominence on the website of the VOD service; a special category for EU works in the catalogue; a special category for national works in the catalogue; the identification of the country of origin or the original language of the works; making it possible to search by country of origin or the original language of the works; preferential pricing or free of charge offers; the length of the presence of the work in the catalogue; an attractive presentation in other materials such as subscriber magazines and newsletters...

Tax on cinema tickets

The share of the cost of a cinema ticket collected by the Treasury Department of a country on top of the VAT and authors' royalties which is usually reverted to the film production industry, normally as one of the sources of income of a national/federal film fund. As opposed to the abovementioned levies on industry stakeholders, the tax on cinema tickets cannot be considered a levy, as it is not an obligation on the exhibition sector but a tax on consumers (cinema-goers). However, in either case, the amounts raised serve to finance a national film fund or its equivalent institution.

Turnover

The revenues made by a company during a specific period of time (usually one year).



Video industry

Segment of the audiovisual industry which consists in the retailing and renting of physical video.

VOD (Video on demand service provider, that is, non-linear audiovisual media service providers)

A provider of video-on-demand, that is, an audiovisual media service provided for the viewing of programmes at the moment chosen by the user and at his individual request on the basis of a catalogue of programmes selected by the media service provider. VOD can be offered through the streaming of the content through a set-top box, a computer or any other device, allowing viewing in real time, or by download to the device for viewing at any time. Depending on the country, this will include or not catch-up TV.

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