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**Workshop**

# Study on the application of measures concerning the promotion of the distribution and production of European works in audiovisual media services

**Centre de conférence ALBERT BORSCHETTE**
**Brussels, 14 September 2011**

attentional headway international O&O Gide Loyrette Nouel

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# AVMS 2011 Study Workshop

**Today's agenda**

| | |
|---|---|
| 10:00 - 10:10 | Welcome & Opening of workshop (European Commission) |
| **10:10 - 10:50** | **Legal analysis (Gide Loyrette Nouel)**<br>Implementation of Articles 16, 17 and 13 of AVMS Directive (with 20mn Q&A) |
| **10:50 - 11:30** | **Economic analysis (Oliver & Ohlbaum)**<br>Content industry economics and value chain (with 20mn Q&A) |
| **11:30 - 12:30** | **Content analysis (Headway)**<br>European works and Independent works in media services (with 20mn Q&A) |
| 12:30 - 14:00 | Lunch break |
| **14:00 - 14:40** | **Monitoring analysis (Headway)**<br>Practicability of monitoring procedures and indicators (with 20mn Q&A) |
| **14:40 - 16:20** | **Prospective analysis (Attentional)**<br>Market perspectives and possible regulatory issues (with 80mn Q&A) |
| 16:20 - 16:40 | Concluding remarks (Attentional) (with 10mn Q&A) |
| 16:40 - 16:45 | Conclusion and farewell (European Commission) |

Legal analysis

# Implementation of Articles 16, 17 and 13 of AVMS Directive

(Alexandre Entraygues, Gide Loyrette Nouel)

# Implementation of Articles 16, 17 and 13

## Introduction

**Scope of the study:**

- Article 16 and 17: linear services
- Article 13: on-demand services
- 27 Member States + Liechtenstein, Norway and Iceland

**Objectives of the legal part of the 2011 study:**

- Update of the 2008 data, especially regarding Articles 16 and 17 (TV services)
- Extension of the scope of the Study, regarding Article 13 (on-demand services)
- Identification and analysis of the main changes/trends in national legislations between 2008 and 2010 (as of December 31, 2010)
- Discover which legislations are restrictive (many obligations on operators ) / flexible (less obligations on operators)

**Methods for collecting data :**

- Questionnaire sent to the 31 National Regulatory Authorities
- Independent review thanks to on-line sources

# Implementation of Articles 16, 17 and 13

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# Implementation of Articles 16 and 17 – Linear services

**Key notions**

**Qualifying hours:** a broadcaster's transmission time « *excluding the time appointed to news, sport events, games, advertising, teletext services and teleshopping* »

**Where practicable:** exemptions and flexible approaches are tolerated by the Directive

**Independent producer:** no definition in Article 17 but guidelines in Recital 71

- Ownership of the production company
- Amount of programs supplied to the same broadcaster
- Ownership of secondary rights

**Percentage of independent productions:** alternative in Article 17 between transmission time or programming budget

**Adequate proportion of recent works:** no further details in the Directive

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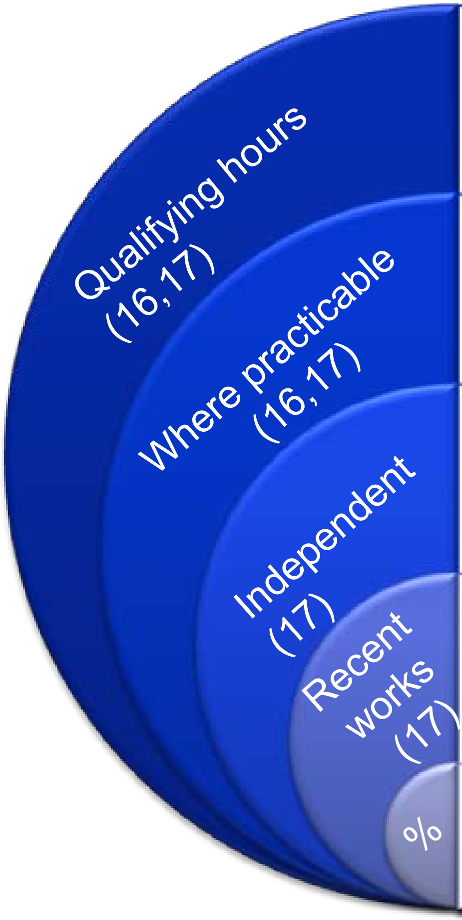
# Implementation of Articles 16 and 17 – Linear services

**Different implementation of key terms**

Flexible




- Broader than the Directive : 2 countries (e.g. Hungary)
- Equivalent to the Directive : 24 countries
- Narrower than the Directive : 5 countries (e.g. France)

- Fully flexible : 8 countries
- Semi-flexible : 9 countries (e.g. Slovakia)
- No flexibility : 14 countries (e.g. Spain)

- No definition : 6 countries (e.g. Germany)
- Flexible definition : 3 countries (e.g. Belgium – Flemish)
- Strict definition – multi criteria - : 22 countries (e.g. Portugal)

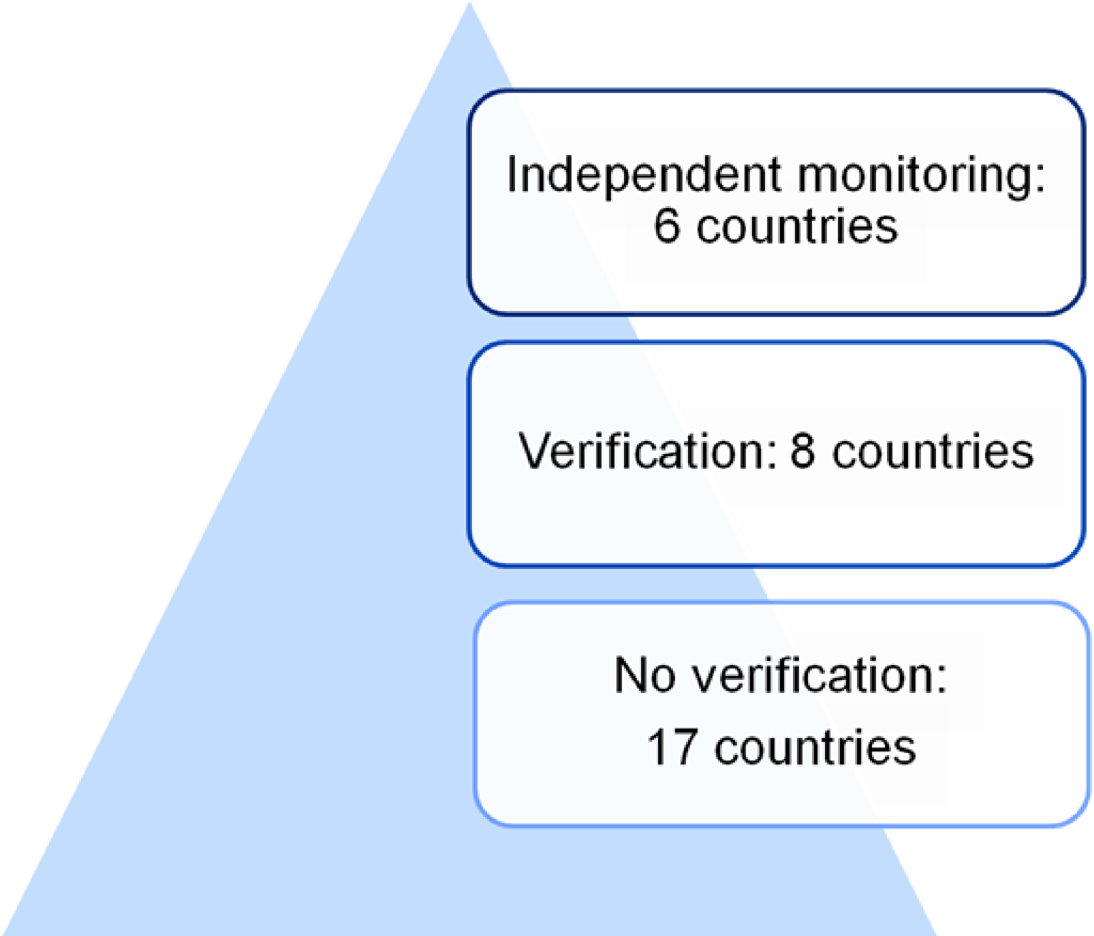
- No reference to recent works : 2 countries (Greece & Germany)
- Identical to the Directive : 14 countries
- Definition of “adequate” : 10 countries (e.g. Netherlands)
- All independent productions shall be recent (e.g. Lithuania)

- Choice : 12 countries (e.g. U.K)
- Transmission time : 17 countries (e.g. Poland)
- Programming budget : only 2 countries (France & Italy)

Prescriptive

# Implementation of Articles 16 and 17 – Linear services

## Monitoring



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# Implementation of Articles 16 and 17 – Linear services
**Sanctions**

- Only 3 Member States without any legal powers to apply sanctions
- Range of sanctions :
  - Warning (21 States)
  - Fine (23 States)
  - Shortening / Withdrawal of the licence (16 States)
- In most countries : no due compliance with the requirements by at least one national broadcaster
- Nevertheless **only 6 Member States** applied sanctions

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# Implementation of Articles 16 and 17 – Linear services

**Stricter requirements than Directive**

| Quantity of production | Quality of production | Film Funding |
|---|---|---|
| • Higher percentage of European works<br>• Higher percentage of Independent productions | • Type of content<br>• National language / culture<br>• Original production language<br>• Regional provisions | • Limited to public broadcasters / all broadcasters<br>• Direct contribution / through a film fund |
| 7 states | 30 states | 15 states |

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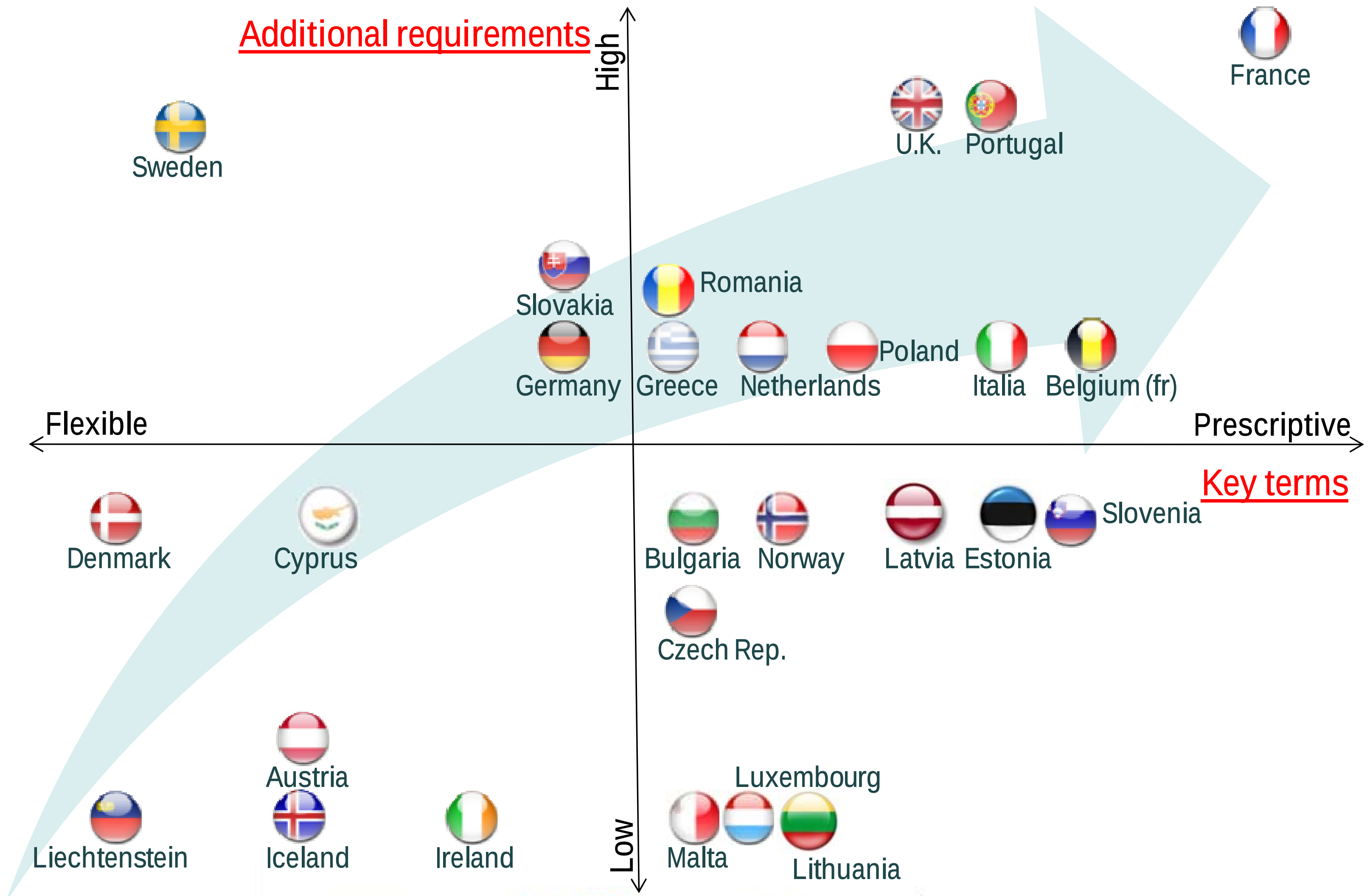
# Implementation of Articles 16 and 17 – Linear services

## Mapping



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# Implementation of Article 16 and 17– Linear services

**Evolution since 2008**

In 4 States, national legislation has been amended in a less restrictive way

(e.g. Italy)

In 14 States, national legislation has kept the same approach

(e.g. Sweden)

In 13 States, national legislation has been amended in a more restrictive way

(e.g.Bulgaria)

# Implementation of Articles 16, 17 and 13

## Table of contents

# Implementation of Article 13 – On-demand services

**Three key issues**

| | |
|---|---|
| **Effective implementation?** | • On December 31, 2010:<br>  • 25 countries had implemented<br>  • 3 MS and the 3 EEA EFTA countries had not proceeded to implementation |
| **Definition of on-demand audiovisual media services** | • Incorporation of the Directive 's Definition<br>• Uncertainty: new services<br>• Inclusion of catch-up TV: 11 countries<br>• Exclusion: 6 countries |
| **Means to promote European Works** | • Less restrictive than the Directive: 2 countries<br>• Same wording as the Directive: 13 countries<br>• Share/prominence (% set): 7 countries<br>• Share *and* financial contribution (% set): 3 countries |

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# Implementation of Article 13 – On-demand services

**Few additional requirements**

## Prominence

- Adequate identification or labels (Austria)
- Advertising on home page, news articles (Fr. Belgium)
- Trailers/visuals on home page (France)

4 states

## National culture / language

- ¼ of the total length of programs (Hungary)
- Financial contribution to works produced in national language (France)
- Original production language
- Regional provisions

4 states

## Film Funding

- Either through a tax
- (e.g. France)
- Investment requirement in film productions or acquisition of exploitation rights (e.g. Spain)

4 states

# Implementation of Article 13 – On-demand services

## Implementation modes

Only 5 Member States have implemented Article 13 in a **prescriptive manner**:

- Belgium: French and Flemish Communities
- France
- Germany
- Spain

A **« wait and see » policy** of most Member States

# Implementation of Article 13 – On-demand services

**Update**

Act 8/2011, *Television and on-demand services Act*, adopted on April 11, 2011 in **Portugal:**

- Promotion of European works through :
  - financial contribution to the production, or
  - progressive incorporation in catalogues.
- Special visibility of European works in catalogues. On-demand services must adopt applications that allow viewers to search by work's origin.
- Annual review by the national regulation authority.

➔ Implementation Mode: <u>flexible</u>

As of today, **2 Member States** have not implemented Article 13: Slovenia, Poland

Adoption by Poland of a new Broadcasting Act on May 23, 2011 ➔ no implementation of Article 13 (expected in 2011 by the national regulation authority)

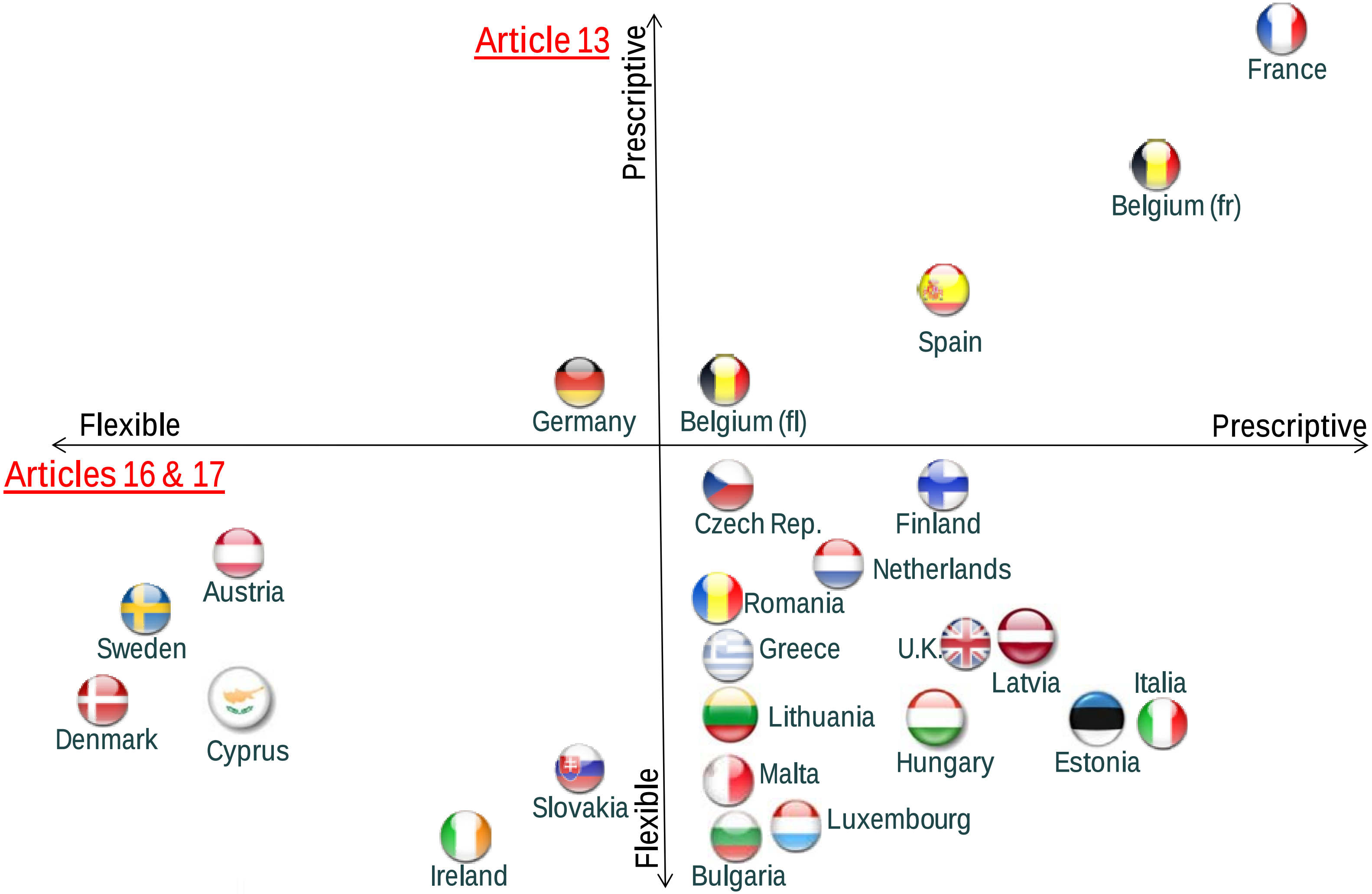
# Implementation of Articles 16, 17 and 13

## Table of contents

- Implementation of Articles 16 and 17 – linear services
- Implementation of Article 13 – on-demand services
- **Conclusion: overview of the implementation in E31**

# Conclusion

## Overview of the implementation in E31



# Any Questions ?

**Economic analysis**

# Content industry economics and value chain

**(Theresa Vimmerslev, Oliver & Ohlbaum)**

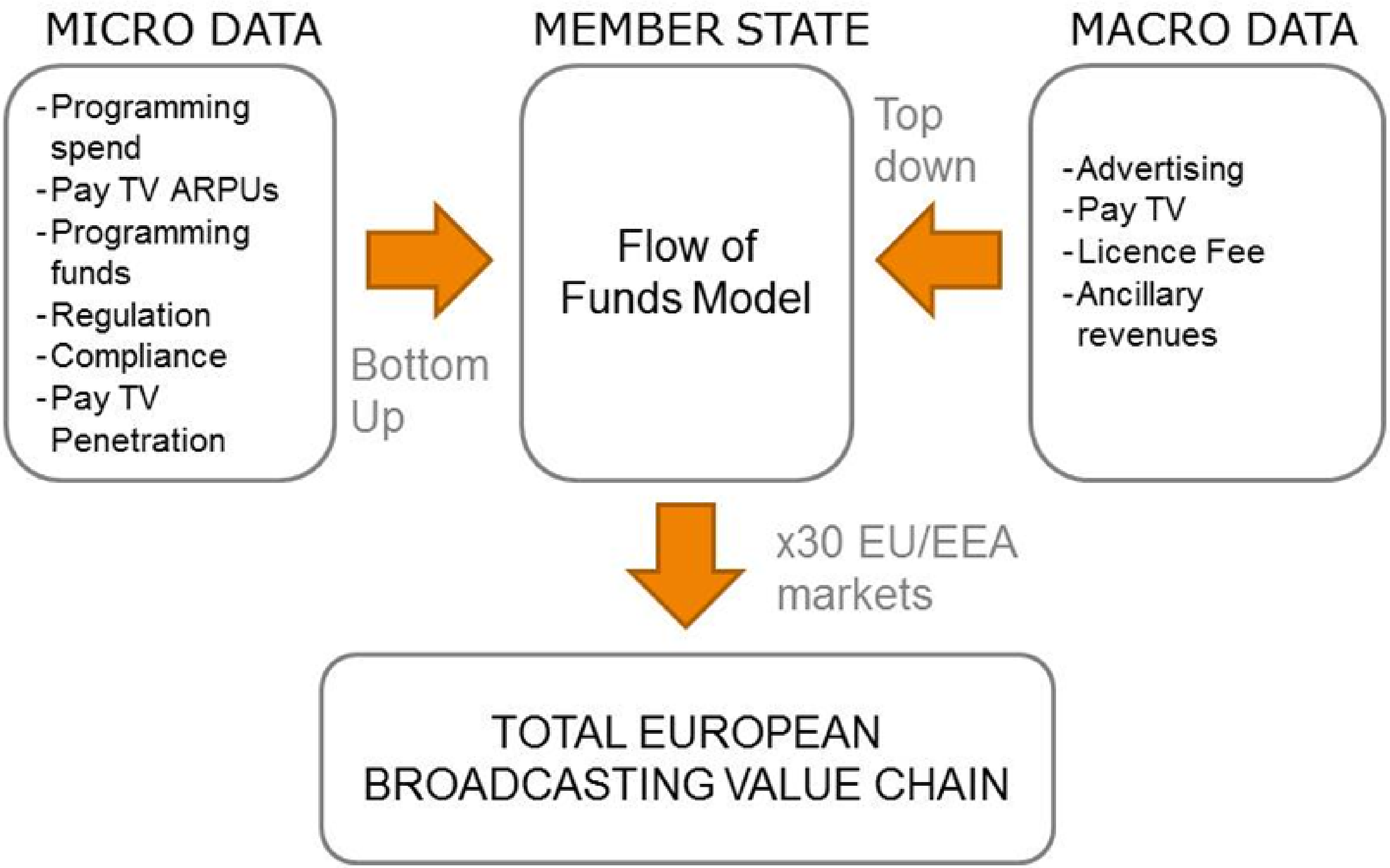
# European market for audiovisual works

## Objectives of our research

- To develop an informed analysis of the market for audiovisual works in the EU and EEA
- Explore the structure of the broadcasting industry on a country by country basis
- Quantify sources of turnover: advertising, consumer payments (pay TV and pay VoD), public funding and ancillary revenues
- Explore developments in independent production in each member state
- Explore the evolution of business models for content creation

# European market for audiovisual works

## Methodology



# European market for audiovisual works

## Total Industry Income by Segment

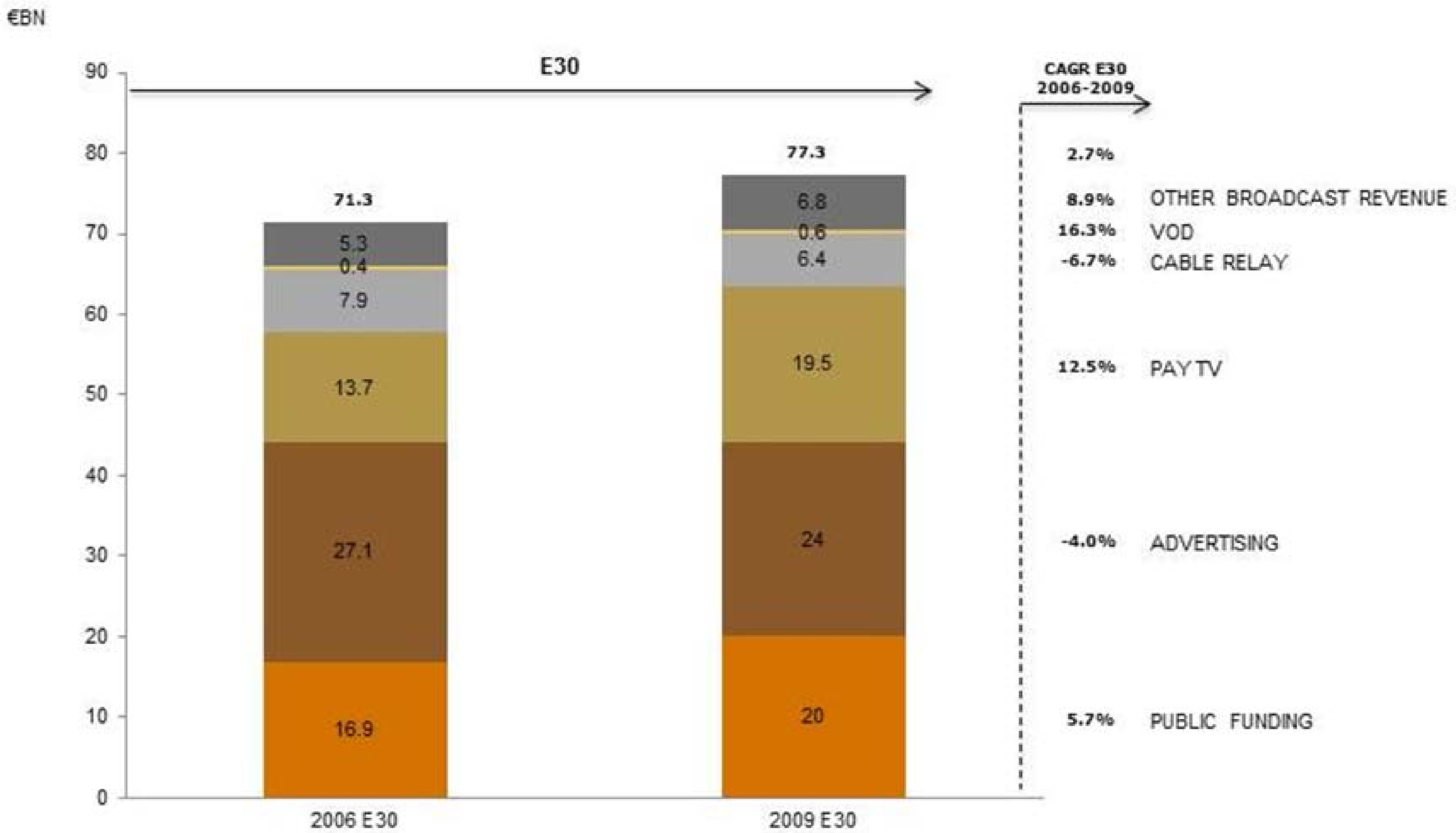
**Advertising revenues** are **down**

**Heavier reliance** on **public funding**

**Pay TV** continues to be the **main growth driver**

**Cable relay continues to decline** with migration to digital

**Other revenues** small, but **gaining in importance**



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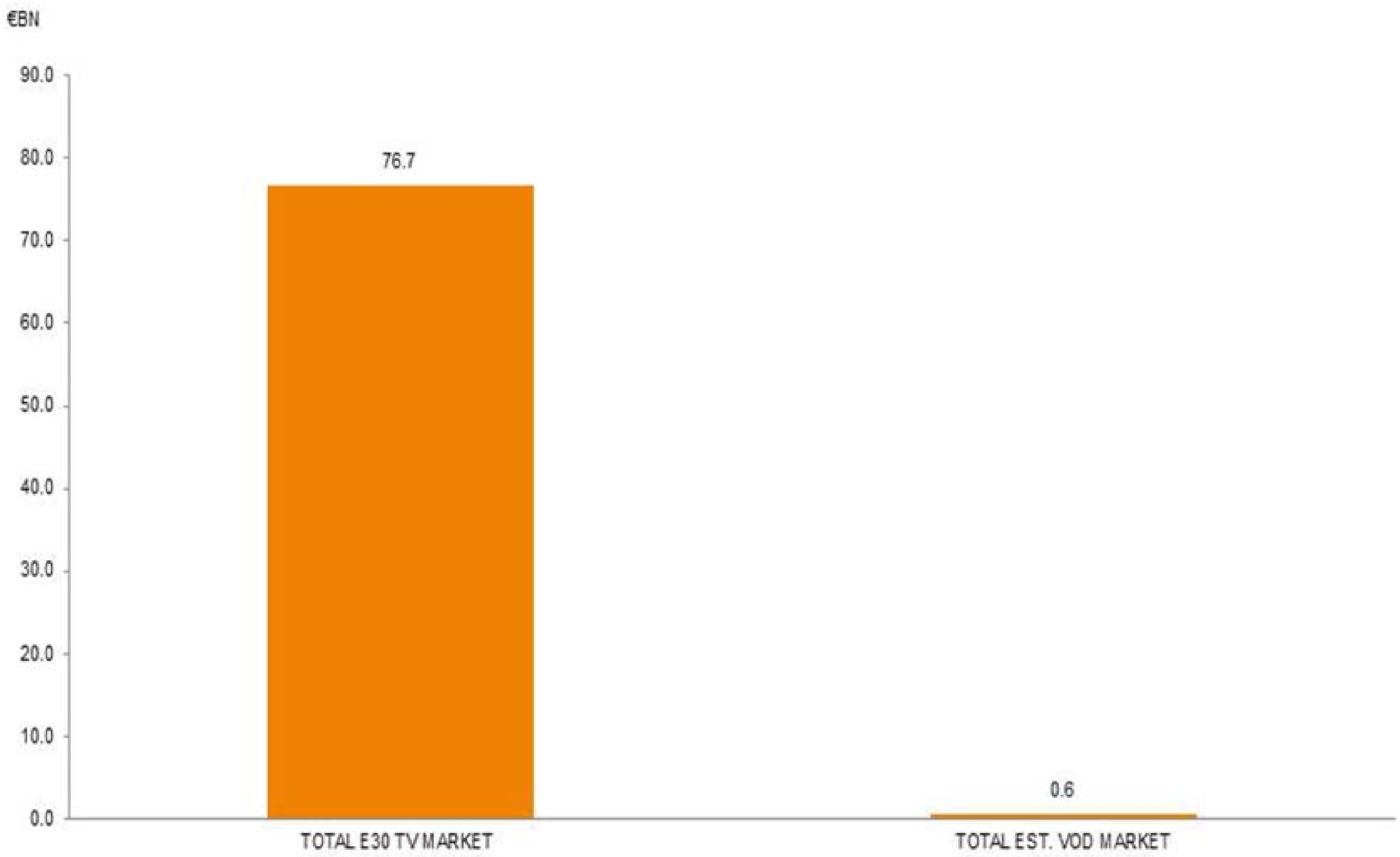
# European market for audiovisual works

**The comparable size of the estimated video-on-demand market**

Still a **nascent market** representing less than 1% of the TV industry

Of this revenue **very little flows to content owners**

Most **growth** now **from advertising rather than pay**



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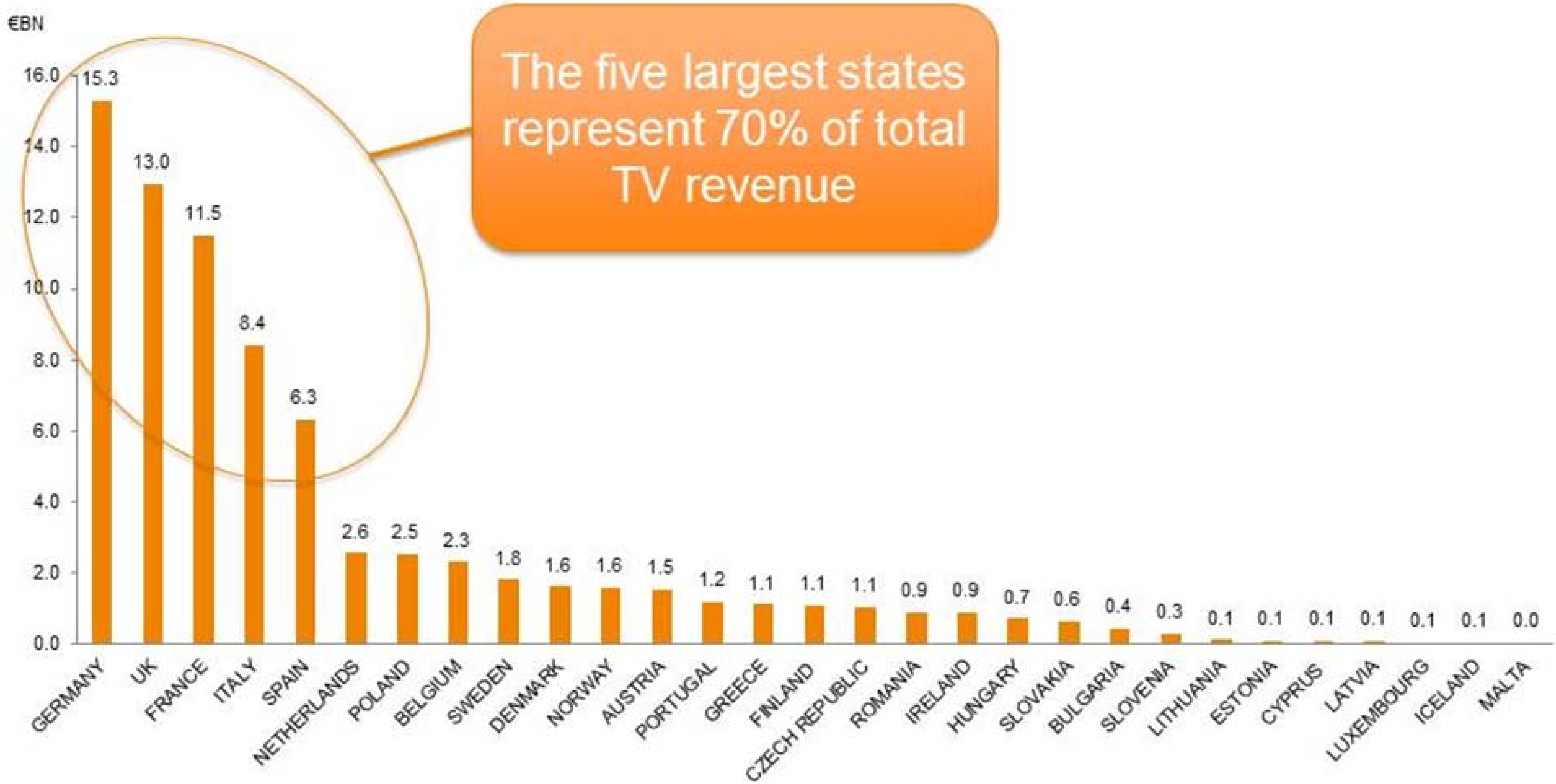
# European market for audiovisual works
**TV revenue by member state**



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# European market for audiovisual works

## Differences in TV market structure

**Public funding** in Germany accounts for 46%

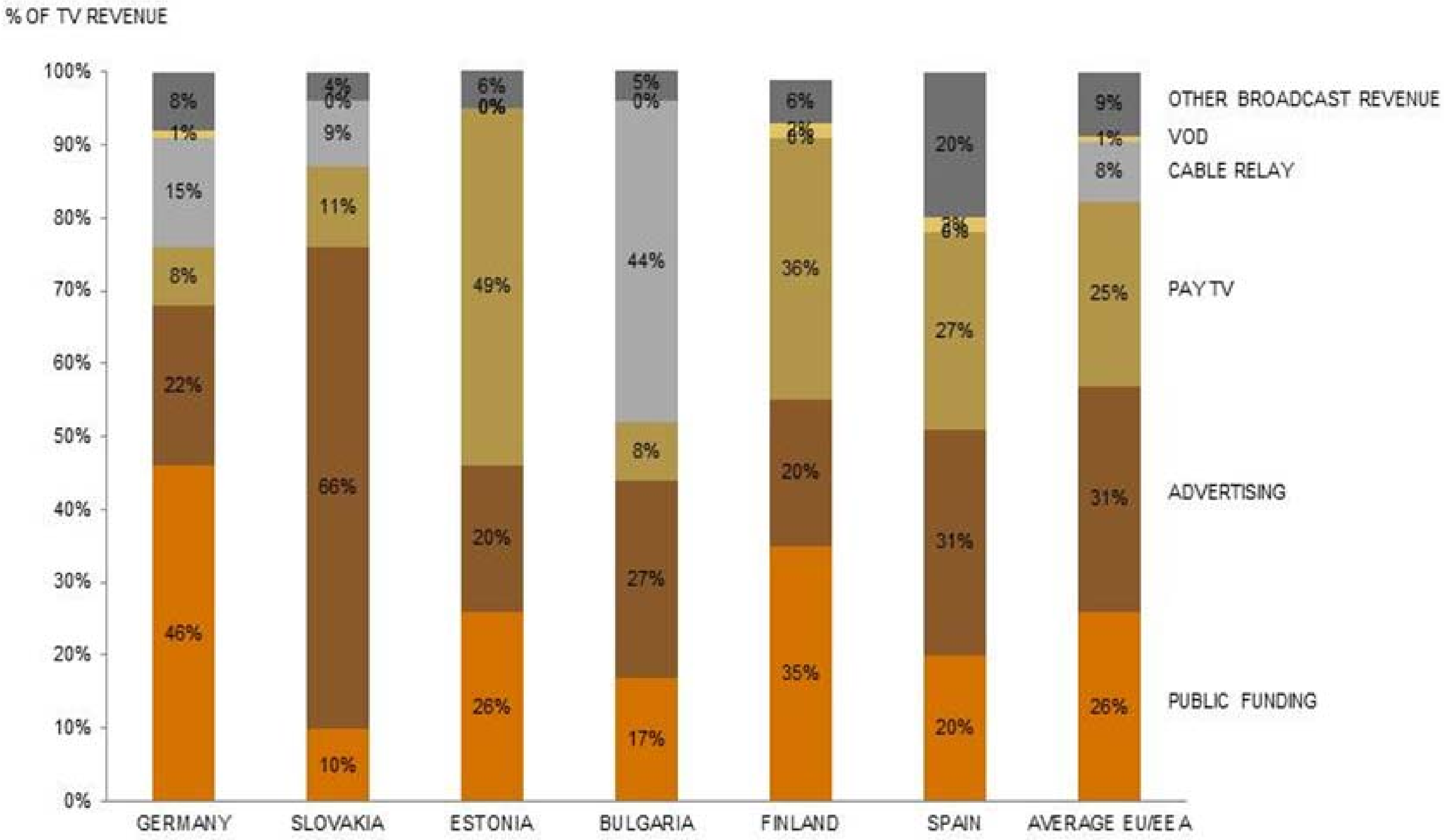
2/3rd of revenue is derived from **advertising** in Slovakia

Almost half of revenue is from **pay TV** in Estonia

**Cable relay** is prevalent in Bulgaria and Germany

**VoD** is gaining in Finland and Spain

**Other revenues** are important in Spain



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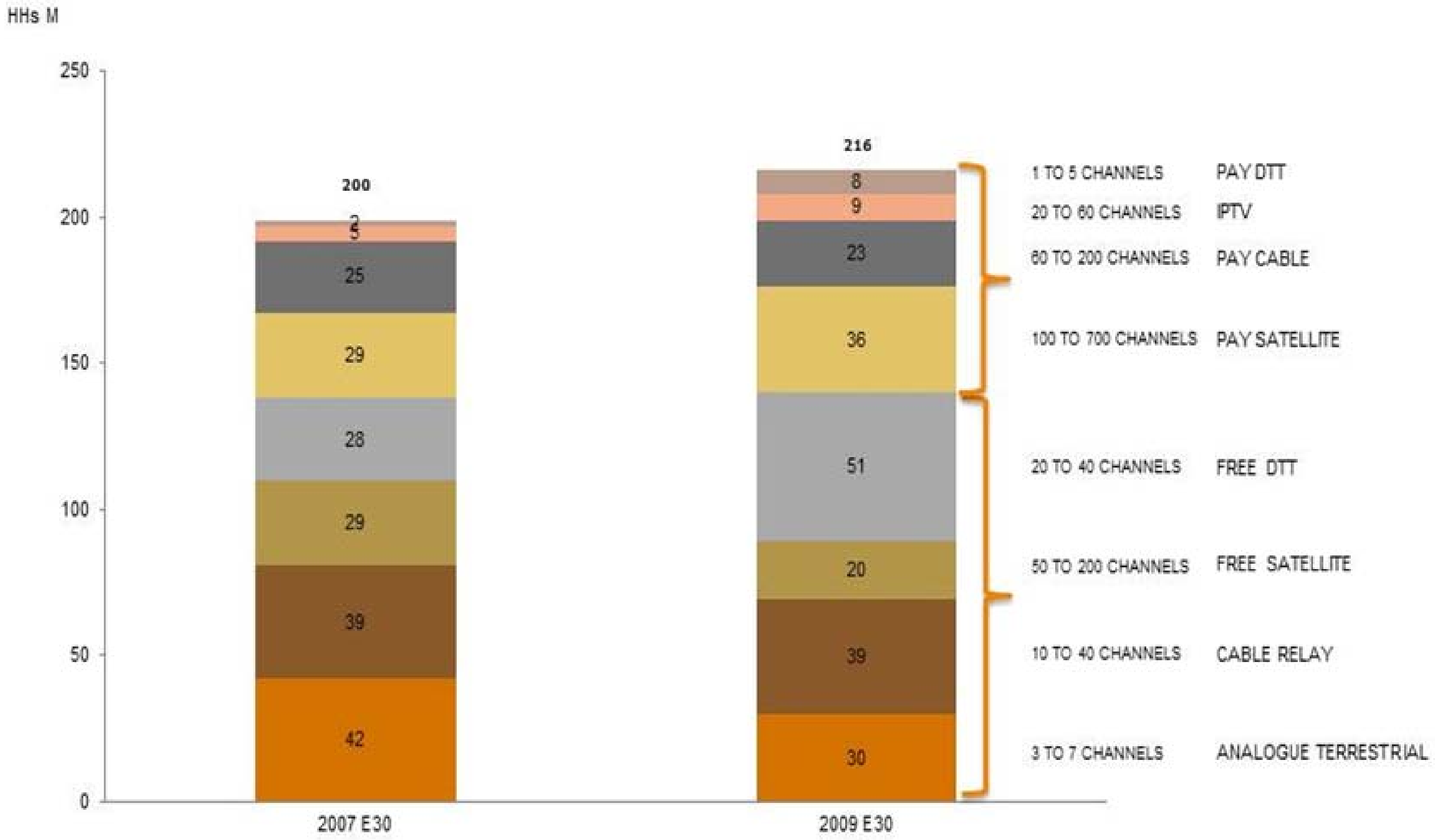
# European market for audiovisual works

## TV households by reception method in EU/EEA




Number of **analogue terrestrial** homes **continues to fall**

**Cable relay** and **free satellite** have been **stagnant** following some growth from newer member states

**DTT** (free and pay) now reaching almost 60m homes

Number of **premium pay TV** homes has **increased**

**IPTV growth continues** but more prevalent in certain markets

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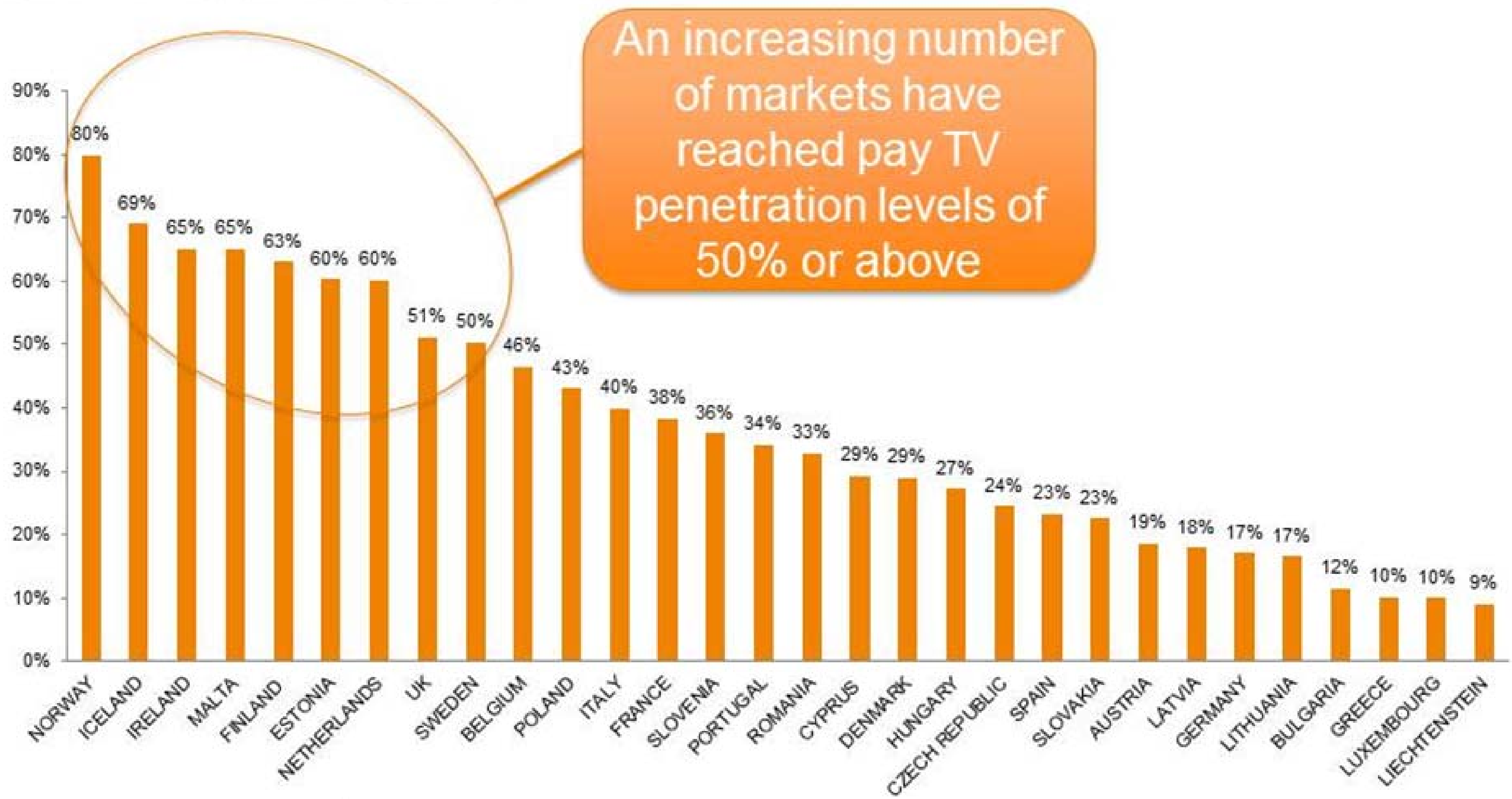
# European market for audiovisual works

**Pay TV proportion of total households by member state 2009**



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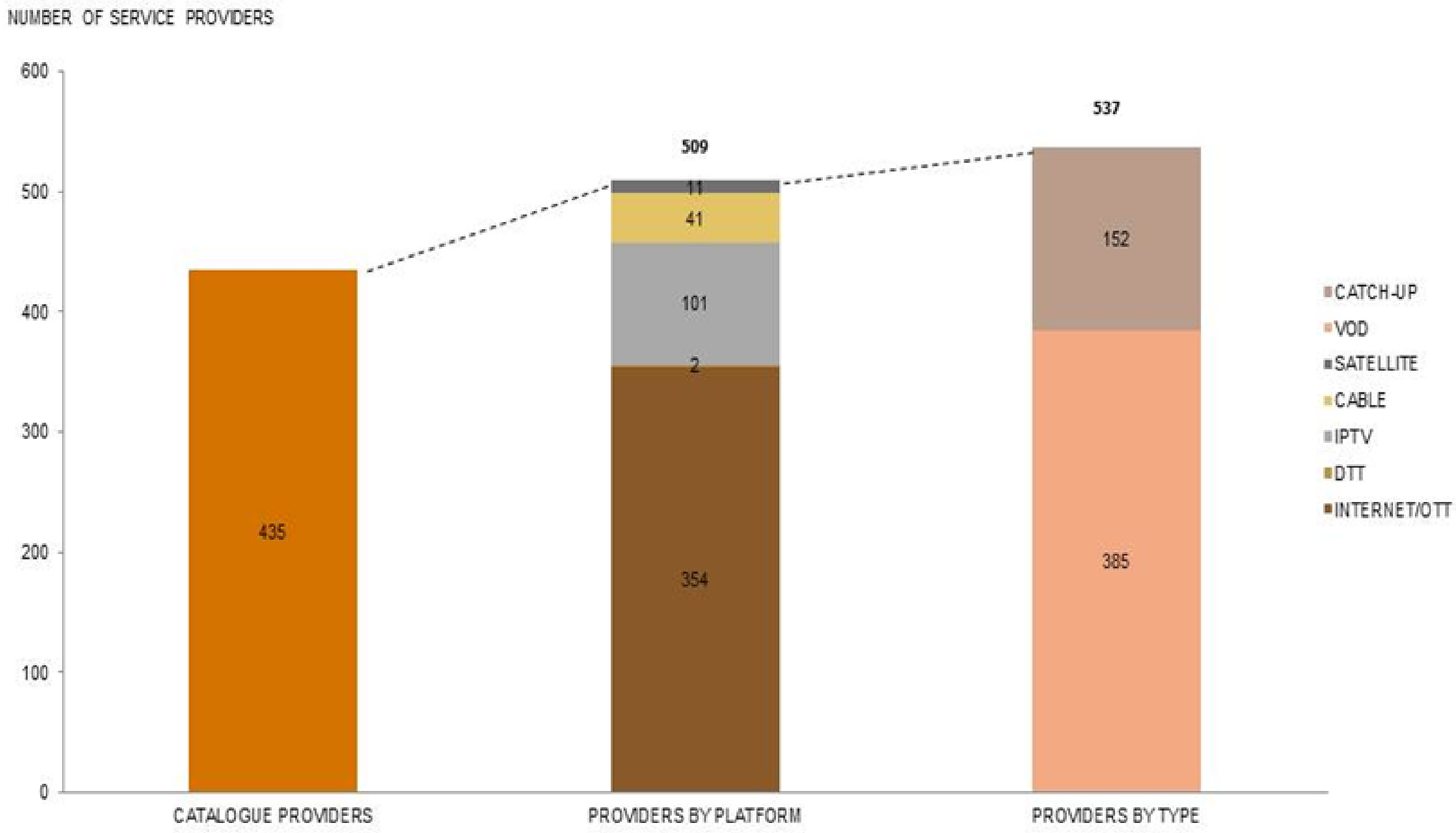
# European market for audiovisual works

**Total number of video-on-demand service providers across the EU/EEA (2009)**

The **main delivery method** for VoD and catch-up services is the **internet**, followed by IPTV and cable

This does not necessarily reflect main **usage**

**Majority of offerings** are **VoD** rather than catch-up services, but **catch-up** still **accounts for** around **half of usage**



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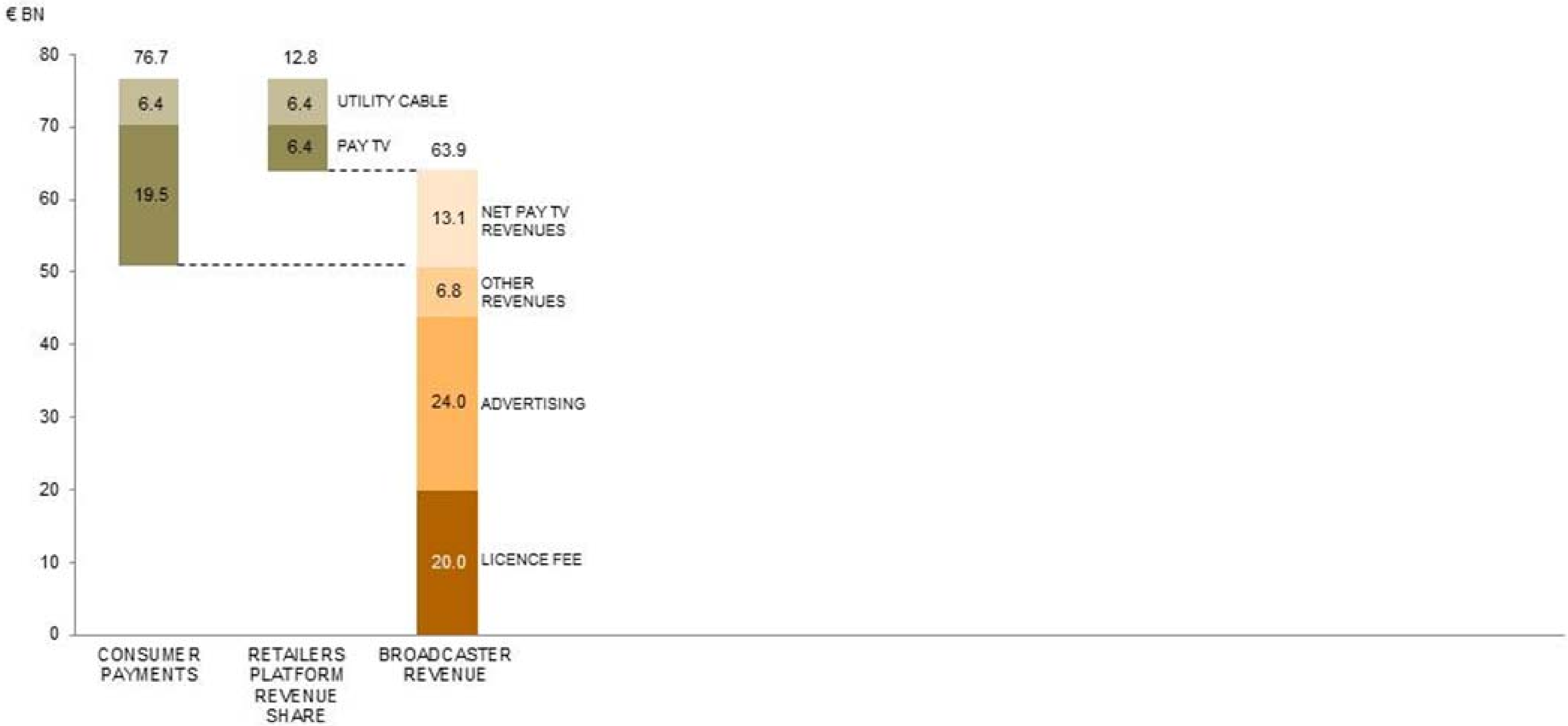
# European market for audiovisual works

## The overall European TV value chain



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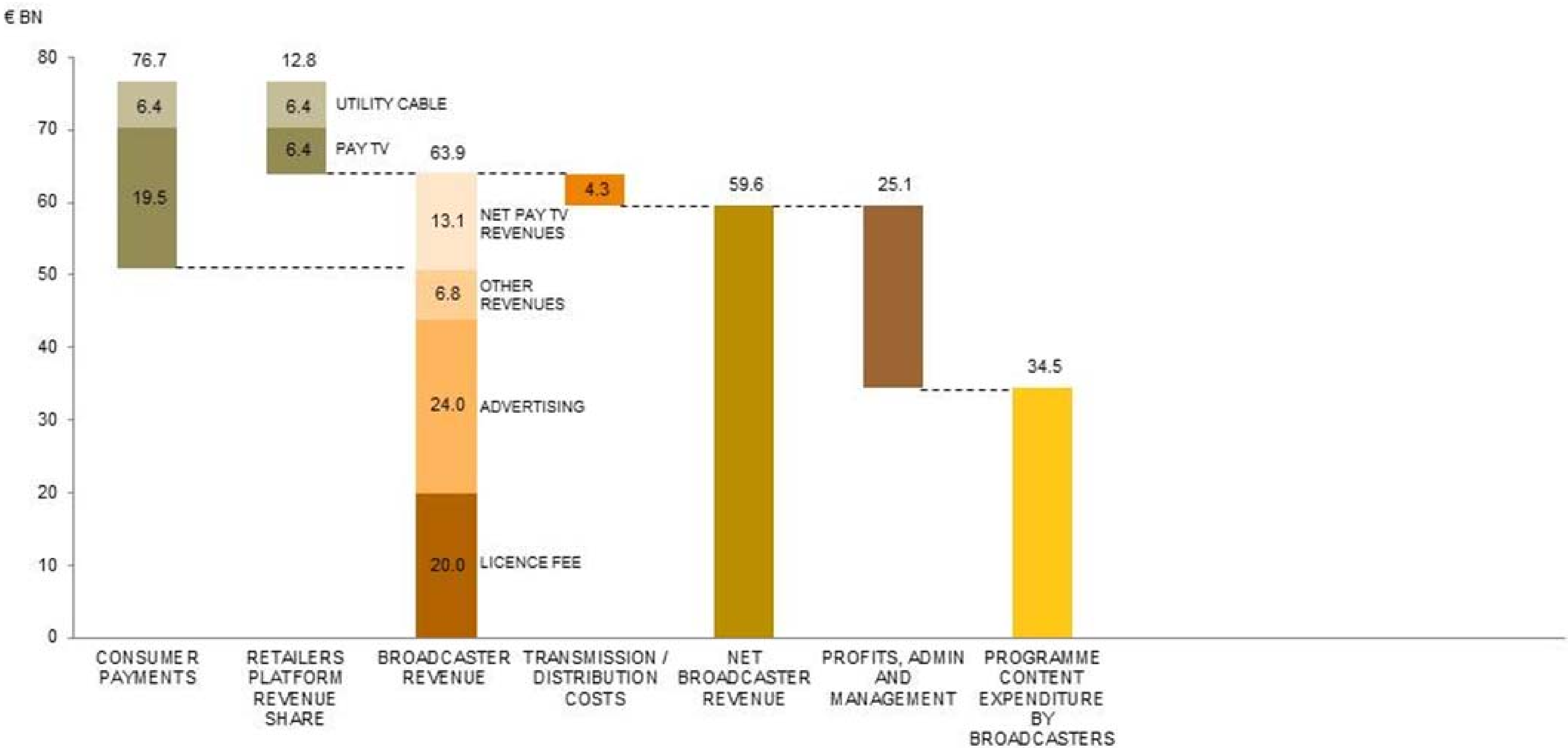
# European market for audiovisual works

## The overall European TV value chain



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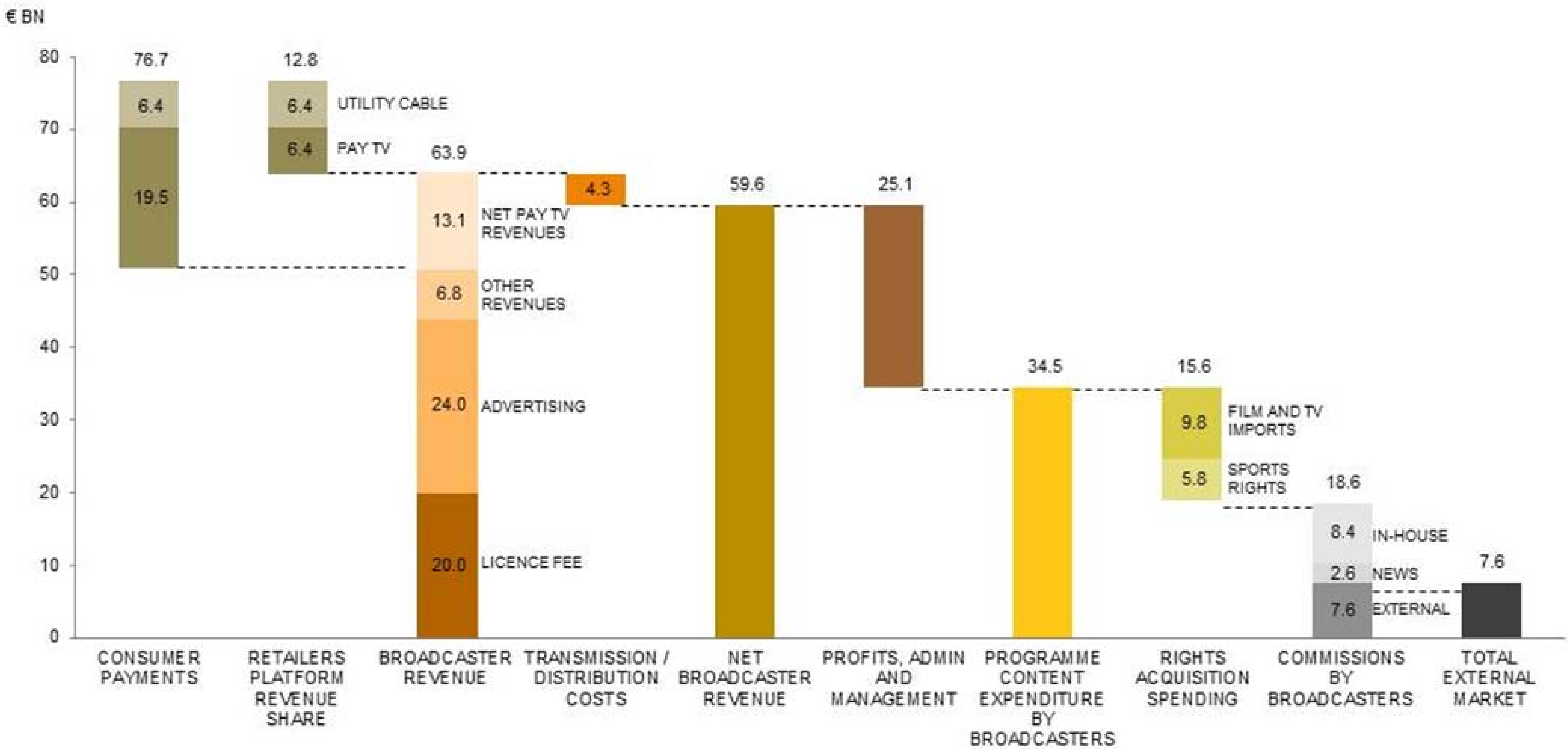
# European market for audiovisual works
## The overall European TV value chain



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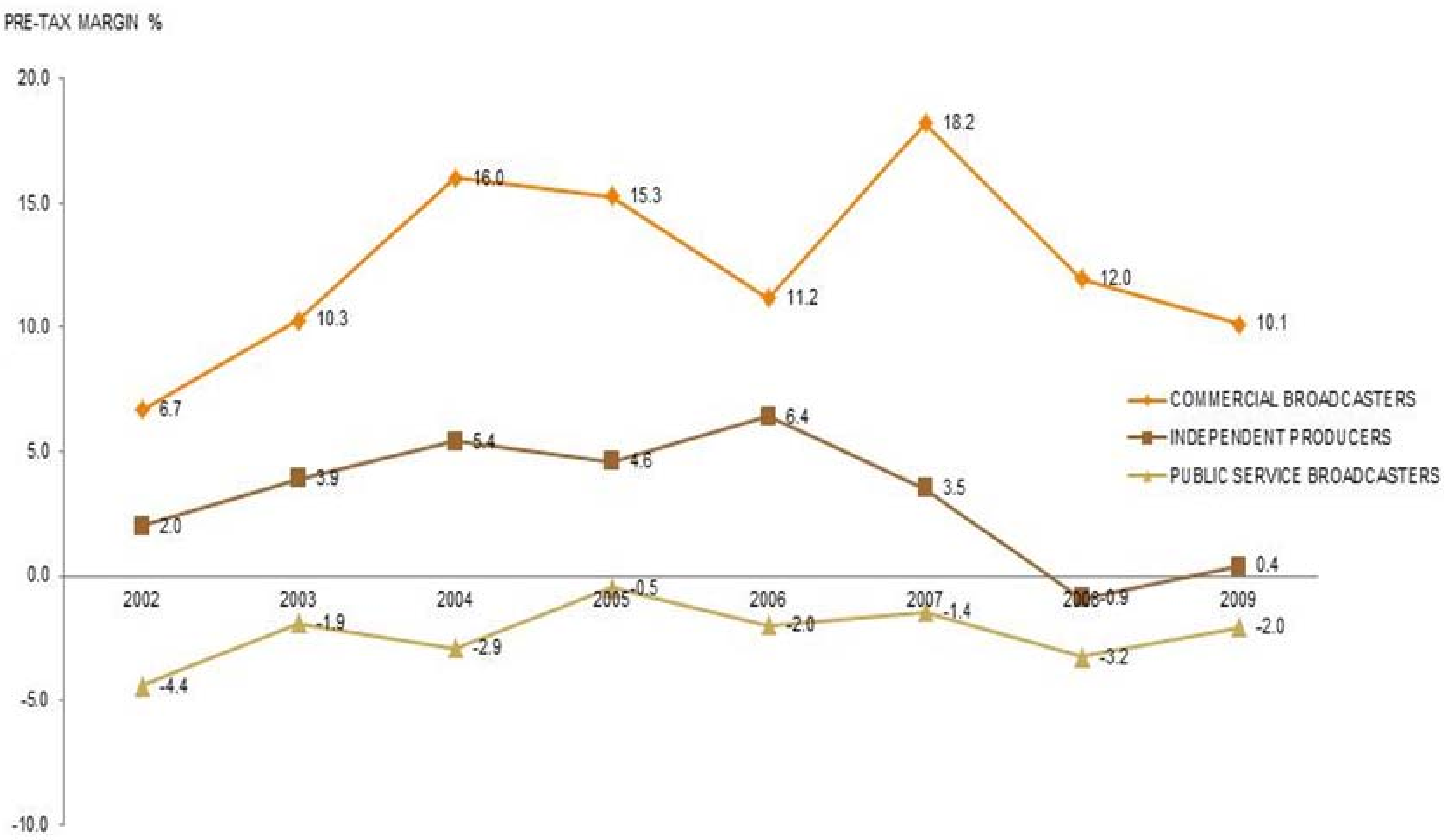
# European market for audiovisual works

## Broadcaster and independent producer profitability in the EU/EEA 27 markets, 2002-2009

The global **softening of the economy** in recent years has affected **broadcaster margins**…

… causing a **knock on effect** on the **independent production sector**



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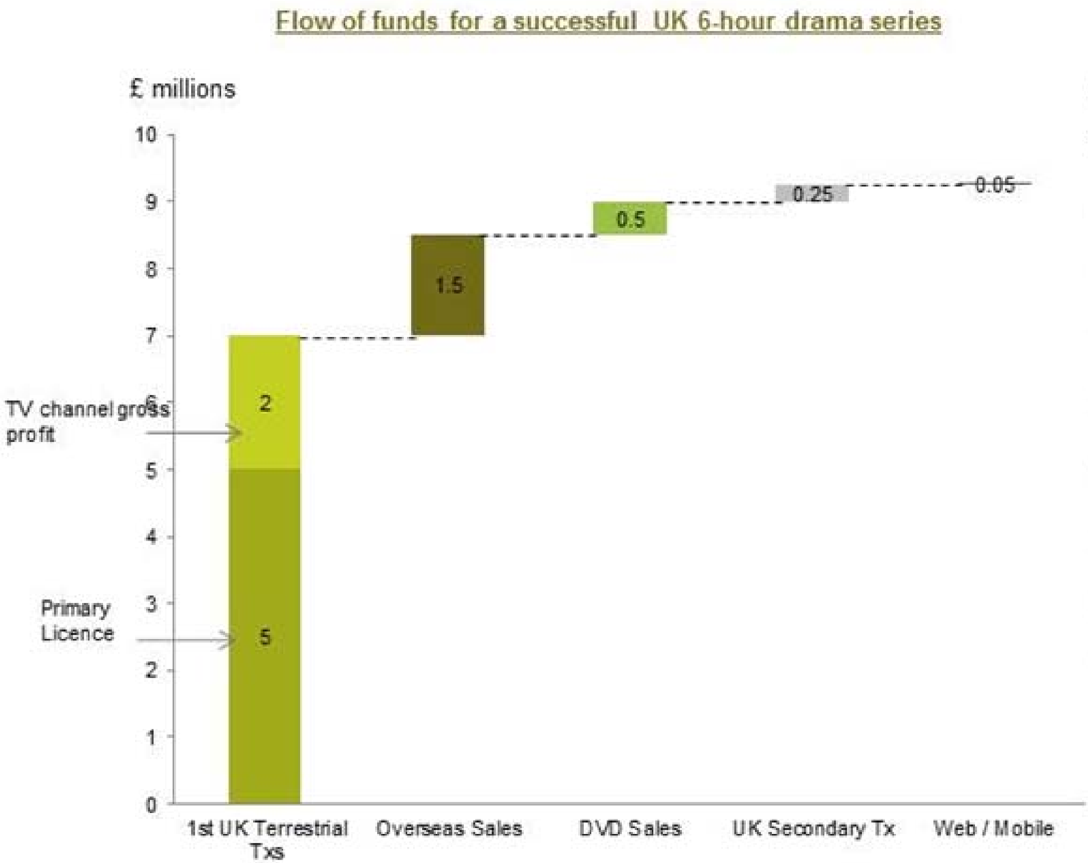
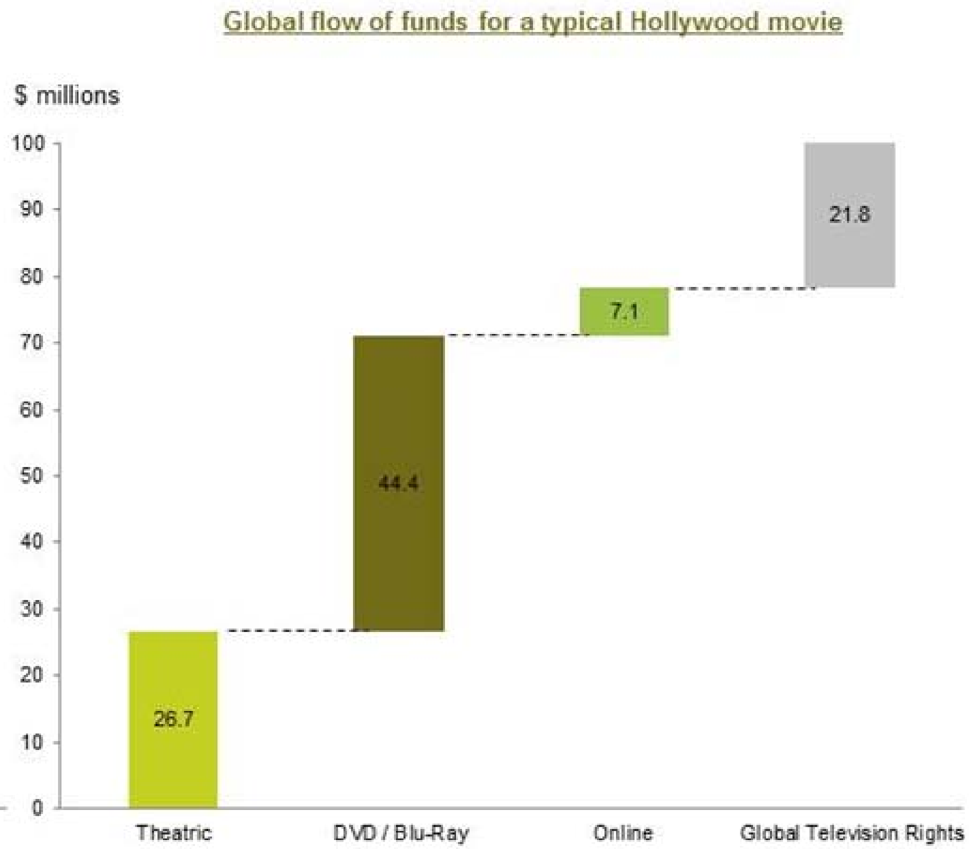
# European market for audiovisual works

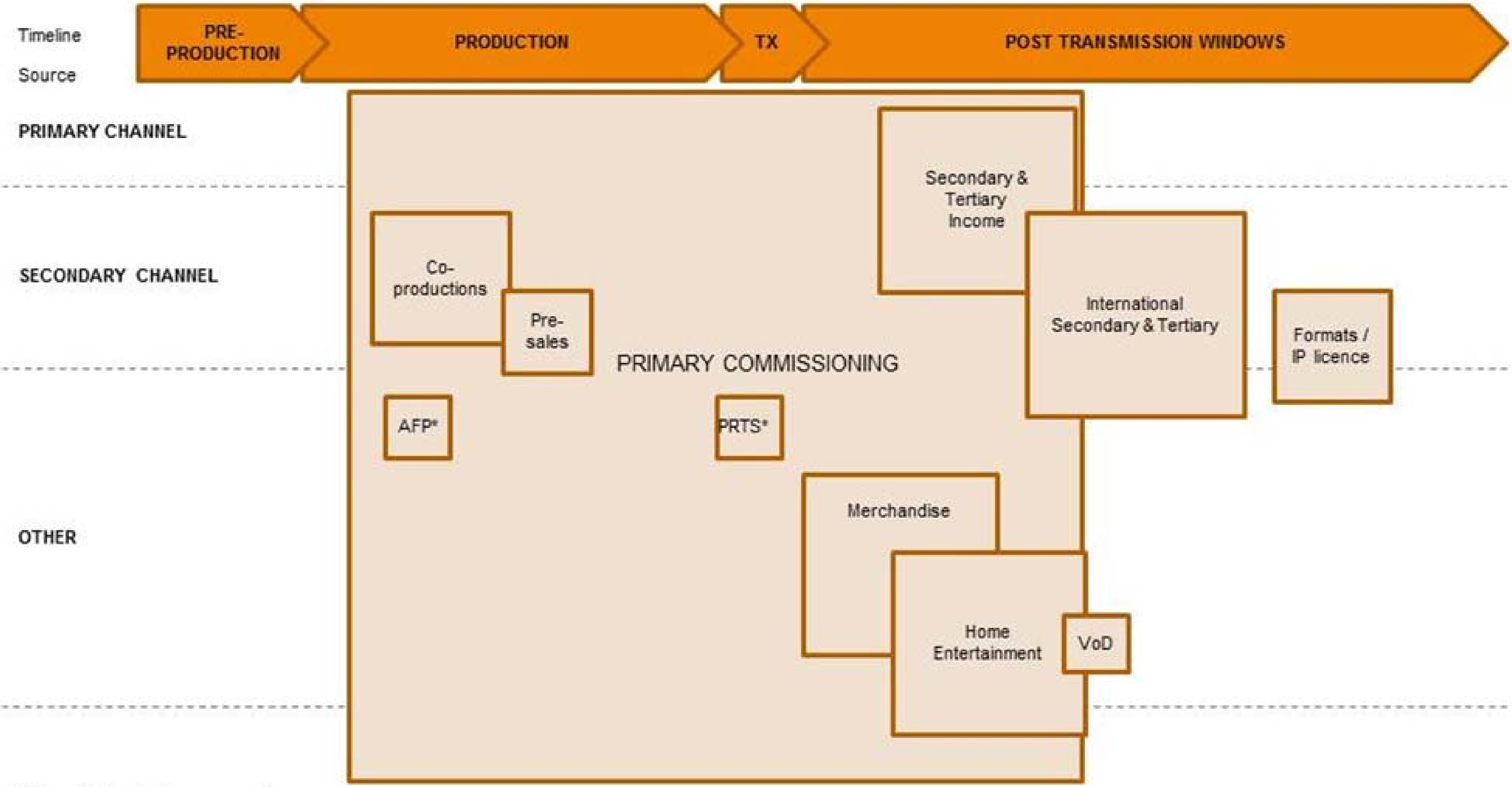
## Funding along the TV value chain - Traditional sources



# European market for audiovisual works

## Funding along the TV value chain - New sources




- AFP = Ad funded programming
- PRTS = Premium rate telephony services

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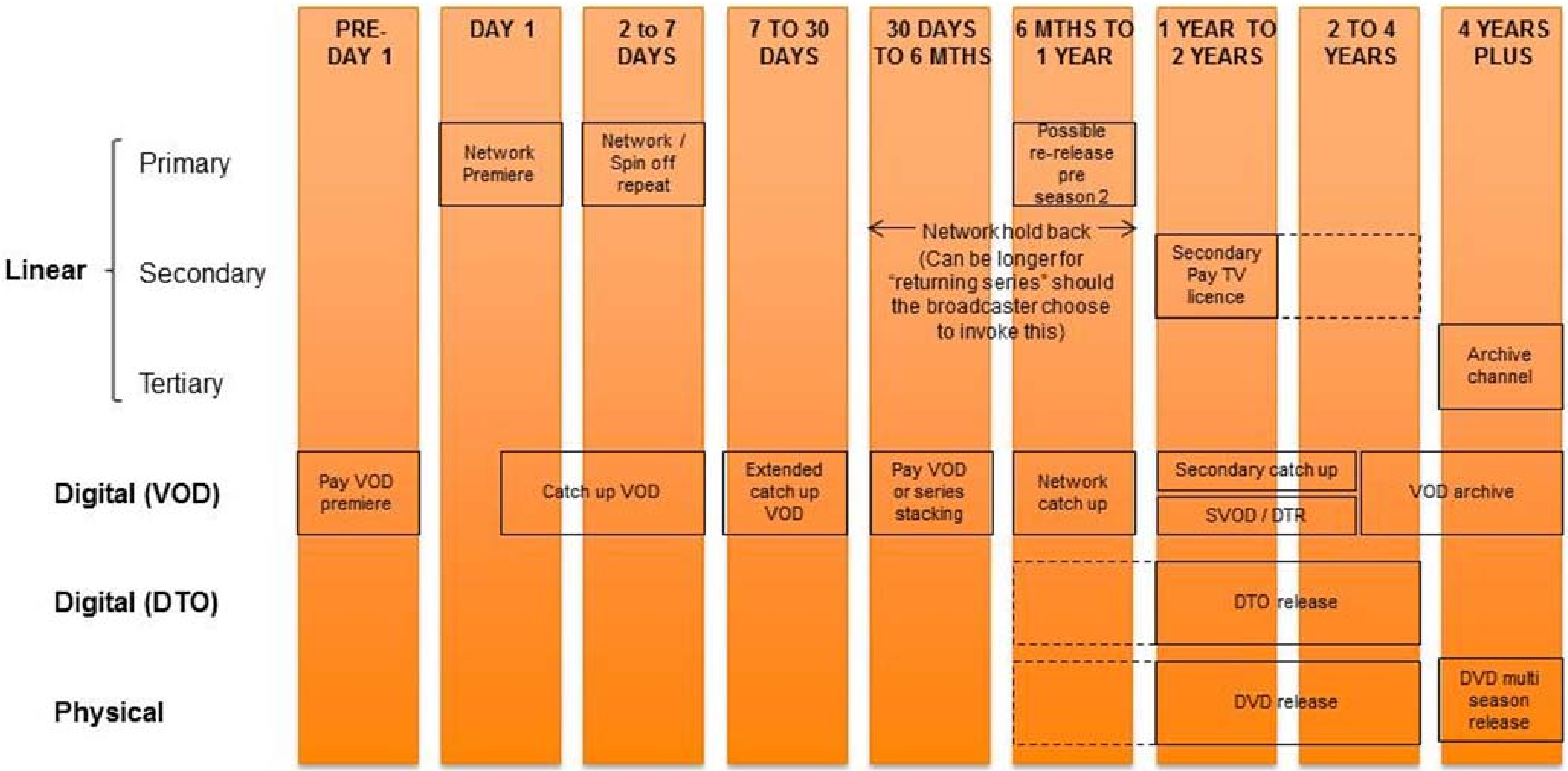
# European market for audiovisual works

## TV windowing schedule – Evolution of secondary TV content release windows

| | TRADITIONAL WINDOWS | EARLY DIGITAL RIGHTS MODEL | EMERGING DIGITAL RIGHTS MODEL | COMMENTS: |
|---|---|---|---|---|
| LINEAR | SECONDARY LINEAR | SECONDARY LINEAR | SECONDARY LINEAR | |
| DIGITAL | | CATCH-UP ONLY VOD | CATCH-UP ONLY VOD | Additive to linear windows |
| | | | ADVERTISING VOD | Overlap with SVOD |
| | | | SUBSCRIPTION VOD | Overlap with SVOD / DTR |
| | | | DOWNLOAD TO RENT VOD | Replaces DVD rental |
| | | DOWNLOAD TO OWN VOD | DOWNLOAD TO OWN VOD | Limited traction |
| PHYSICAL | TV DVD | TV DVD | TV DVD | Market contracting rapidly |

# European market for audiovisual works

## TV windowing schedule – On demand and linear windows blurring



Content analysis

# European works and Independent works in media services

(Arnaud Dupont, Headway International)

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# Linear performance indicators

## Methodology

Objective to provide data relevant to Articles 16 and 17 of the Directive (consistent methodology across Member States and over time):

- **54 broadcasters (*) from 11 Member States (**)**.
- **2 weeks of programmes (***)** codified by genre, origin, production and recency (Spring/Fall 2010) representing 33,200 transmissions and 3.8% of yearly output.
- **4 main indicators**: proportions of <u>qualifying works</u> in total schedules, of <u>European works</u> in total qualifying schedules, of <u>European independent works</u> in total qualifying schedules, of <u>recent European independent works</u> in total European independent qualifying schedules.
- **2 measures**: <u>transmission hours</u> (proportion of broadcast time) and <u>viewer hours</u> (proportions of time spent by viewers from target groups “all individuals” and “young adults”).

(*) Channels have been selected according to ownership (private or public), revenue model (advertising, government or pay) and audience leadership (leader or non-leader in their respective markets). Channels have been selected according to their country of destination (in order to ensure the best representativeness of total TV viewing) thus four channels have been monitored in countries which do not have responsibility over them (RTL-TVI and RTL 4 target Belgium and the Netherlands but their country of origin is Luxemburg; TV3 and Kanal 5 target Sweden but their country of origin is the United Kingdom).

(**) Member States have been selected according to size (large or small), geography (North or South) and EU membership (old or recent).

(***) Raw data have been sourced through Eurodata TV from official sources in each market (e.g. AGF in Germany, Médiametrie in France, Auditel in Italy, Barb in the UK, etc.).

# Linear performance indicators
## Channel sample

| Country | Channel | Ownership | Revenue model | Leader | Group | Audience share ALL VIEWERS (equivalent to 4+) 2008 by channel |
|---|---|---|---|---|---|---|
| Belgium (Flemish) | EEN | Public | Gvt | Yes | VRT | 33.0 |
| Belgium (Flemish) | VTM | Private | Ad | Yes | VMMa | 21.7 |
| Belgium (French) | La Une | Public | Gvt | Yes | RTBF | 15.7 |
| Belgium (French) | RTL-TVI | Private | Ad | Yes | RTL | 25.3 |
| Czech Republic | CT1 | Public | Gvt | Yes | CT | 21.2 |
| Czech Republic | CT2 | Public | Gvt | No | CT | 7.6 |
| Czech Republic | Nova | Private | Ad | Yes | CME | 37.9 |
| Czech Republic | Prima | Private | Ad | No | Viasat | 17.9 |
| Estonia | ETV | Public | Gvt | Yes | ERR | 16.5 |
| Estonia | Kanal 2 | Private | Ad | Yes | Schibsted | 19.3 |
| Estonia | TV3 | Private | Ad | Yes | Viasat | 17.0 |
| France | TF1 | Private | Ad | Yes | Bouygues | 27.4 |
| France | France 2 | Public | Gvt | Yes | FTV | 18.5 |
| France | France 3 | Public | Gvt | No | FTV | 13.6 |
| France | M6 | Private | Ad | No | RTL | 11.0 |
| France | Canal+ | Private | Pay | No | Vivendi | 4.1 |
| France | Direct8 | Private | Ad | No | Bolloré | <3% |
| Germany | ARD1 | Public | Gvt | Yes | ARD | 13.8 |
| Germany | ZDF | Public | Gvt | Yes | ZDF | 13.5 |
| Germany | Sat.1 | Private | Ad | Yes | P7S1 | 10.5 |
| Germany | RTL | Private | Ad | Yes | RTL | 11.9 |
| Germany | Pro7 | Private | Ad | No | P7S1 | 6.5 |
| Germany | VOX | Private | Ad | No | RTL | 5.5 |
| Italy | Canale 5 | Private | Ad | Yes | Mediaset | 20.6 |
| Italy | Italia 1 | Private | Ad | No | Mediaset | 9.8 |
| Italy | La7 | Private | Ad | No | Telecom Italia | 3.2 |
| Italy | Rai1 | Public | Gvt | Yes | Rai | 22.6 |
| Italy | Rai2 | Public | Gvt | No | Rai | 10.8 |
| Italy | Sky Cinema 1 | Private | Pay | No | Sky | <3% |

| Country | Channel | Ownership | Revenue model | Leader | Group | Audience share ALL VIEWERS (equivalent to 4+) 2008 by channel |
|---|---|---|---|---|---|---|
| Netherlands | NL1 | Public | Gvt | Yes | NPO | 21.9 |
| Netherlands | NL2 | Public | Gvt | No | NPO | 7.1 |
| Netherlands | RTL4 | Private | Ad | Yes | RTL | 13.0 |
| Netherlands | SBS6 | Private | Ad | Yes | P7S1 | 11.1 |
| Poland | TVP1 | Public | Gvt | Yes | TVP | 22.9 |
| Poland | TVP2 | Public | Gvt | No | TVP | 17.4 |
| Poland | Polsat | Private | Ad | Yes | Polsat | 15.2 |
| Poland | TVN | Private | Ad | Yes | TVN | 17.2 |
| Poland | Canal+ | Private | Pay | No | Vivendi | <3% |
| Poland | TV4 | Private | Ad | No | Polsat | 1.8 |
| Spain | TVE1 | Public | Gvt | Yes | TVE | 17.8 |
| Spain | Antena 3 | Private | Ad | Yes | RTL | 15.6 |
| Spain | Tele 5 | Private | Ad | Yes | Mediaset | 18.5 |
| Spain | Cuatro | Private | Ad | No | Mediaset | 8.4 |
| Spain | La Sexta | Private | Ad | No | Mediapro | 5.6 |
| Sweden | SVT1 | Public | Gvt | Yes | SVT | 19.9 |
| Sweden | TV4 | Private | Ad | Yes | TV4 | 20.9 |
| Sweden | TV3 | Private | Ad | No | Viasat | 9.0 |
| Sweden | Kanal 5 | Private | Ad | No | P7S1 | 8.1 |
| United Kingdom | BBC1 | Public | Gvt | Yes | BBC | 22.8 |
| United Kingdom | BBC2 | Public | Gvt | No | BBC | 8.2 |
| United Kingdom | ITV1 | Private | Ad | Yes | ITV | 19.1 |
| United Kingdom | Channel 4 | Public | Ad | No | Channel 4 | 8.2 |
| United Kingdom | Five | Private | Ad | No | Richard Desmond | 5.1 |
| United Kingdom | SKY One | Private | Pay | No | Sky | <3% |
| **SAMPLE AVERAGE** (simple avg) | | | | | | 16.2 |

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# Linear performance indicators
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| Country | Channel | Ownership | Revenue model | Leader | Group | Audience share ALL VIEWERS (equivalent to 4+) 2008 by channel |
|---|---|---|---|---|---|---|
| Netherlands | NL1 | Public | Gvt | Yes | NPO | 21.9 |
| Netherlands | NL2 | Public | Gvt | No | NPO | 7.1 |
| Netherlands | RTL4 | Private | Ad | Yes | RTL | 13.0 |
| Netherlands | SBS6 | Private | Ad | Yes | P7S1 | 11.1 |
| Poland | TVP1 | Public | Gvt | Yes | TVP | 22.9 |
| Poland | TVP2 | Public | Gvt | No | TVP | 17.4 |
| Poland | Polsat | Private | Ad | Yes | Polsat | 15.2 |
| Poland | TVN | Private | Ad | Yes | TVN | 17.2 |
| Poland | Canal+ | Private | Pay | No | Vivendi | <3% |
| Poland | TV4 | Private | Ad | No | Polsat | 1.8 |
| Spain | TVE1 | Public | Gvt | Yes | TVE | 17.8 |
| Spain | Antena 3 | Private | Ad | Yes | RTL | 15.6 |
| Spain | Tele 5 | Private | Ad | Yes | Mediaset | 18.5 |
| Spain | Cuatro | Private | Ad | No | Mediaset | 8.4 |
| Spain | La Sexta | Private | Ad | No | Mediapro | 5.6 |
| Sweden | SVT1 | Public | Gvt | Yes | SVT | 19.9 |
| Sweden | TV4 | Private | Ad | Yes | TV4 | 20.9 |
| Sweden | TV3 | Private | Ad | No | Viasat | 9.0 |
| Sweden | Kanal 5 | Private | Ad | No | P7S1 | 8.1 |
| United Kingdom | BBC1 | Public | Gvt | Yes | BBC | 22.8 |
| United Kingdom | BBC2 | Public | Gvt | No | BBC | 8.2 |
| United Kingdom | ITV1 | Private | Ad | Yes | ITV | 19.1 |
| United Kingdom | Channel 4 | Public | Ad | No | Channel 4 | 8.2 |
| United Kingdom | Five | Private | Ad | No | Richard Desmond | 5.1 |
| United Kingdom | SKY One | Private | Pay | No | Sky | <3% |
| **SAMPLE AVERAGE** (simple avg) | | | | | | 16.2 |

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# Linear performance indicators
## Channel sample

| Country | Channel | Ownership | Revenue model | Leader | Group | Audience share ALL VIEWERS (equivalent to 4+) 2008 by channel |
|---|---|---|---|---|---|---|
| Belgium (Flemish) | EEN | Public | Gvt | Yes | VRT | 33.0 |
| Belgium (Flemish) | VTM | Private | Ad | Yes | VMMa | 21.7 |
| Belgium (French) | La Une | Public | Gvt | Yes | RTBF | 15.7 |
| Belgium (French) | RTL-TVI | Private | Ad | Yes | RTL | 25.3 |
| Czech Republic | CT1 | Public | Gvt | Yes | CT | 21.2 |
| Czech Republic | CT2 | Public | Gvt | No | CT | 7.6 |
| Czech Republic | Nova | Private | Ad | Yes | CME | 37.9 |
| Czech Republic | Prima | Private | Ad | No | Viasat | 17.9 |
| Estonia | ETV | Public | Gvt | Yes | ERR | 16.5 |
| Estonia | Kanal 2 | Private | Ad | Yes | Schibsted | 19.3 |
| Estonia | TV3 | Private | Ad | Yes | Viasat | 17.0 |
| France | TF1 | Private | Ad | Yes | Bouygues | 27.4 |
| France | France 2 | Public | Gvt | Yes | FTV | 18.5 |
| France | France 3 | Public | Gvt | No | FTV | 13.6 |
| France | M6 | Private | Ad | No | RTL | 11.0 |
| France | Canal+ | Private | Pay | No | Vivendi | 4.1 |
| France | Direct8 | Private | Ad | No | Bolloré | <3% |
| Germany | ARD1 | Public | Gvt | Yes | ARD | 13.8 |
| Germany | ZDF | Public | Gvt | Yes | ZDF | 13.5 |
| Germany | Sat.1 | Private | Ad | Yes | P7S1 | 10.5 |
| Germany | RTL | Private | Ad | Yes | RTL | 11.9 |
| Germany | Pro7 | Private | Ad | No | P7S1 | 6.5 |
| Germany | VOX | Private | Ad | No | RTL | 5.5 |
| Italy | Canale 5 | Private | Ad | Yes | Mediaset | 20.6 |
| Italy | Italia 1 | Private | Ad | No | Mediaset | 9.8 |
| Italy | La7 | Private | Ad | No | Telecom Italia | 3.2 |
| Italy | Rai1 | Public | Gvt | Yes | Rai | 22.6 |
| Italy | Rai2 | Public | Gvt | No | Rai | 10.8 |
| Italy | Sky Cinema 1 | Private | Pay | No | Sky | <3% |

| Country | Channel | Ownership | Revenue model | Leader | Group | Audience share ALL VIEWERS (equivalent to 4+) 2008 by channel |
|---|---|---|---|---|---|---|
| Netherlands | NL1 | Public | Gvt | Yes | NPO | 21.9 |
| Netherlands | NL2 | Public | Gvt | No | NPO | 7.1 |
| Netherlands | RTL4 | Private | Ad | Yes | RTL | 13.0 |
| Netherlands | SBS6 | Private | Ad | Yes | P7S1 | 11.1 |
| Poland | TVP1 | Public | Gvt | Yes | TVP | 22.9 |
| Poland | TVP2 | Public | Gvt | No | TVP | 17.4 |
| Poland | Polsat | Private | Ad | Yes | Polsat | 15.2 |
| Poland | TVN | Private | Ad | Yes | TVN | 17.2 |
| Poland | Canal+ | Private | Pay | No | Vivendi | <3% |
| Poland | TV4 | Private | Ad | No | Polsat | 1.8 |
| Spain | TVE1 | Public | Gvt | Yes | TVE | 17.8 |
| Spain | Antena 3 | Private | Ad | Yes | RTL | 15.6 |
| Spain | Tele 5 | Private | Ad | Yes | Mediaset | 18.5 |
| Spain | Cuatro | Private | Ad | No | Mediaset | 8.4 |
| Spain | La Sexta | Private | Ad | No | Mediapro | 5.6 |
| Sweden | SVT1 | Public | Gvt | Yes | SVT | 19.9 |
| Sweden | TV4 | Private | Ad | Yes | TV4 | 20.9 |
| Sweden | TV3 | Private | Ad | No | Viasat | 9.0 |
| Sweden | Kanal 5 | Private | Ad | No | P7S1 | 8.1 |
| United Kingdom | BBC1 | Public | Gvt | Yes | BBC | 22.8 |
| United Kingdom | BBC2 | Public | Gvt | No | BBC | 8.2 |
| United Kingdom | ITV1 | Private | Ad | Yes | ITV | 19.1 |
| United Kingdom | Channel 4 | Public | Ad | No | Channel 4 | 8.2 |
| United Kingdom | Five | Private | Ad | No | Richard Desmond | 5.1 |
| United Kingdom | SKY One | Private | Pay | No | Sky | <3% |
| **SAMPLE AVERAGE** (simple avg) | | | | | | 16.2 |



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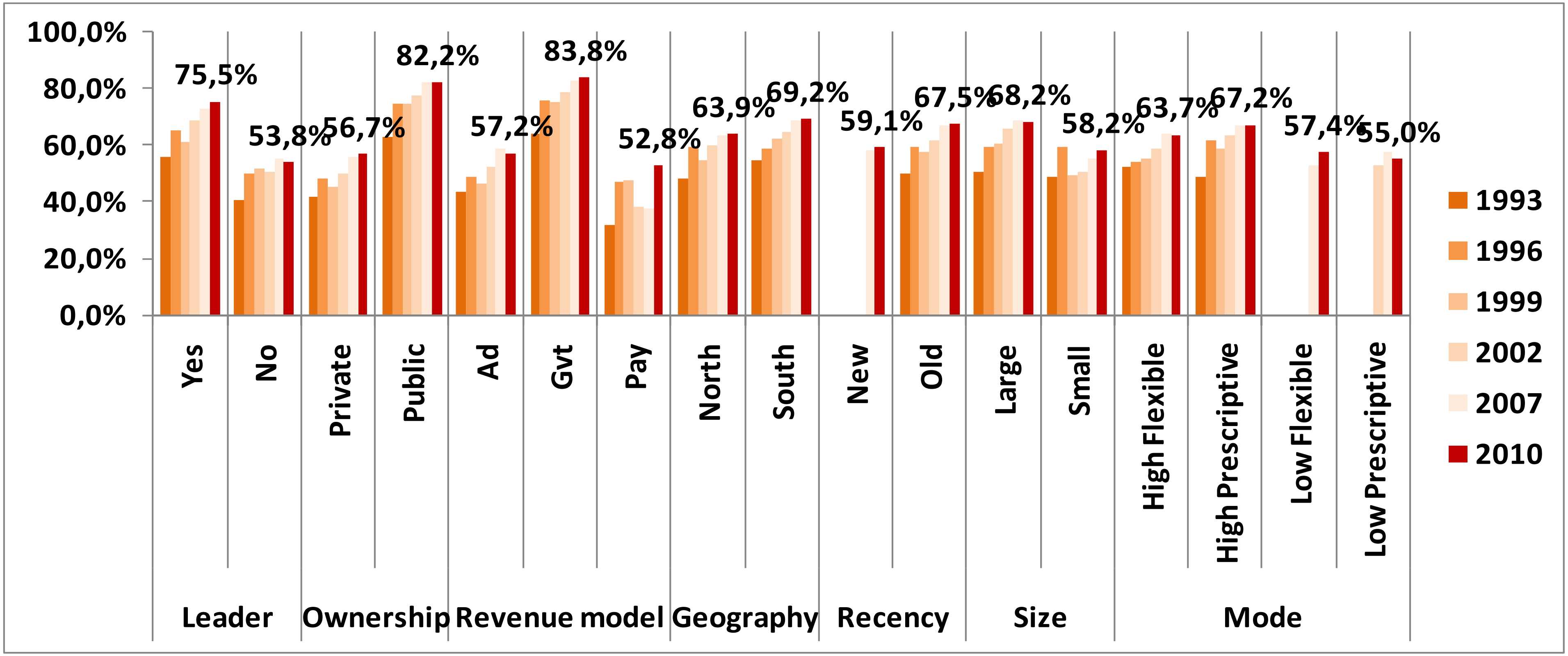
# Linear performance indicators: European works

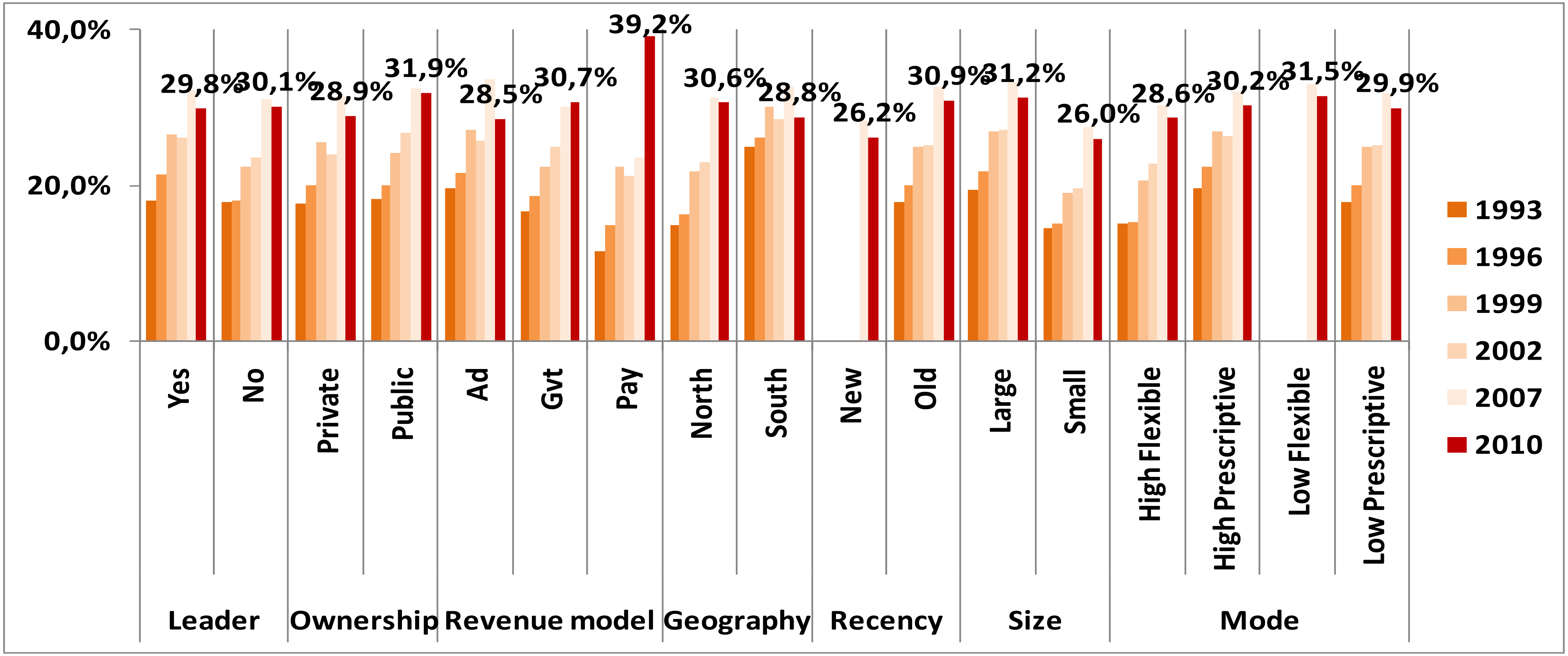
**Proportion of European works to total qualifying hours 1993-2010 (rolling sample of 54 channels)**




**Growth of EW since 1993 is slowing down** between 2007 and 2010. Commercial channels drive this trend, reflecting the appeal of US content (creativity+profitability). Public channels partly compensate.

# Linear performance indicators: Independent works

**Proportion of Independent works to total qualifying hours 1993-2010 (rolling sample of 54 channels)**




**Growth of IW since 1993 is followed by a decline between 2007 and 2010**. Smaller commercial channels drive this trend (lower programme spends in times of crisis). Public channels partly compensate.

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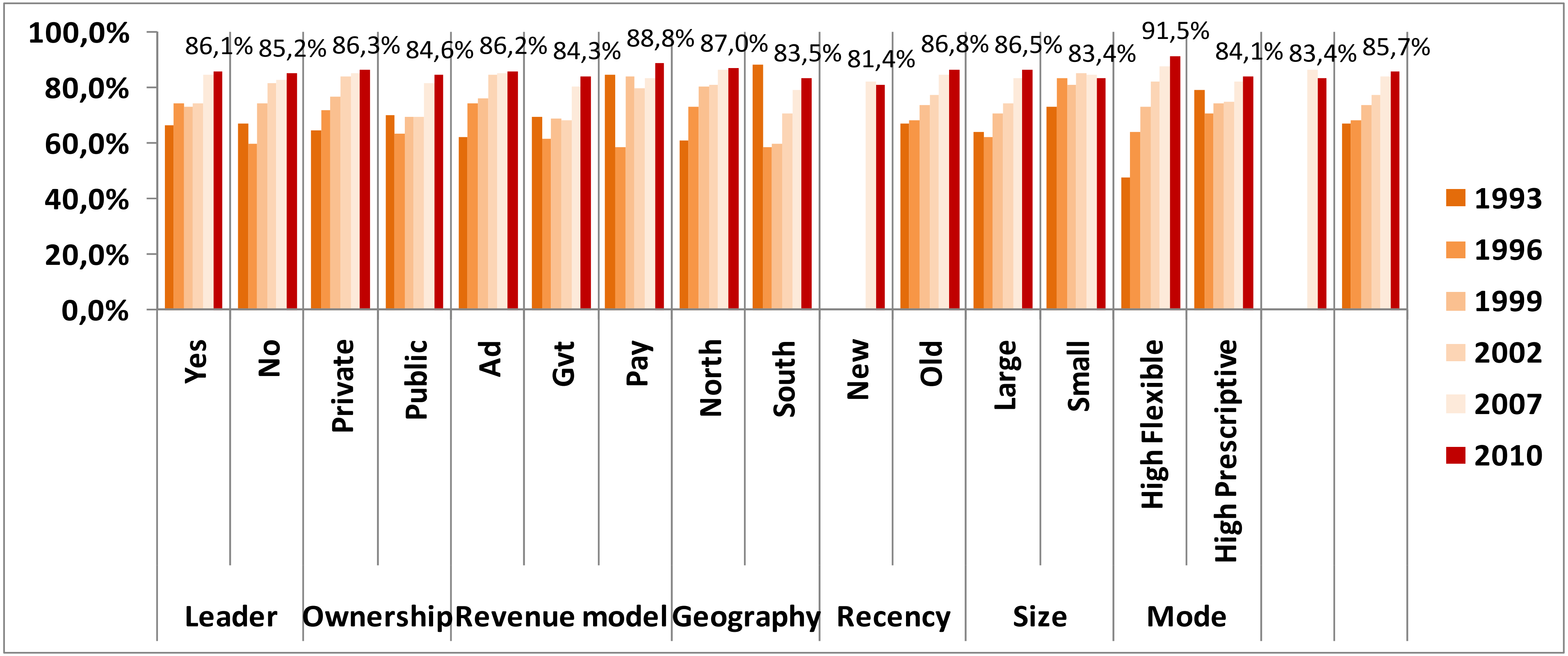
# Linear performance indicators: Recent Independent works

**Proportion of Recent Independent works to total independent hours 1993-2010 (rolling sample of 54 channels)**




**Growth of RW since 1993 is confirmed in 2007-2010**. Findings are very similar across channel and Member State types.



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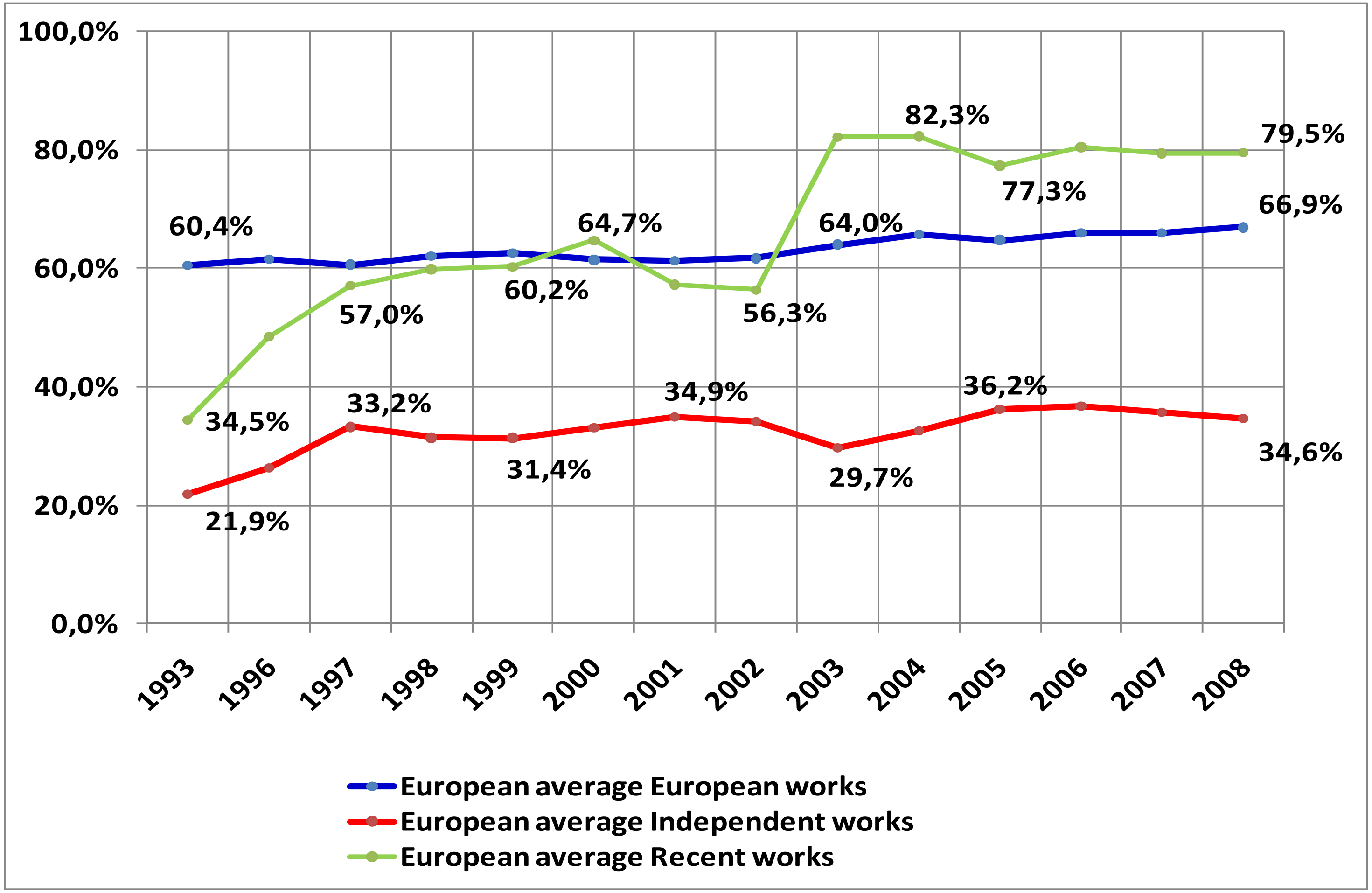
# Linear performance indicators: biannual declarations

**Proportion EW, IW and RW based on national declarations 1993-2010 (constant sample of 45 channels)**

**National biannual declarations show similar trends and levels** as sample estimates.

**Decline of IW started in 2007** (before the economic crisis).



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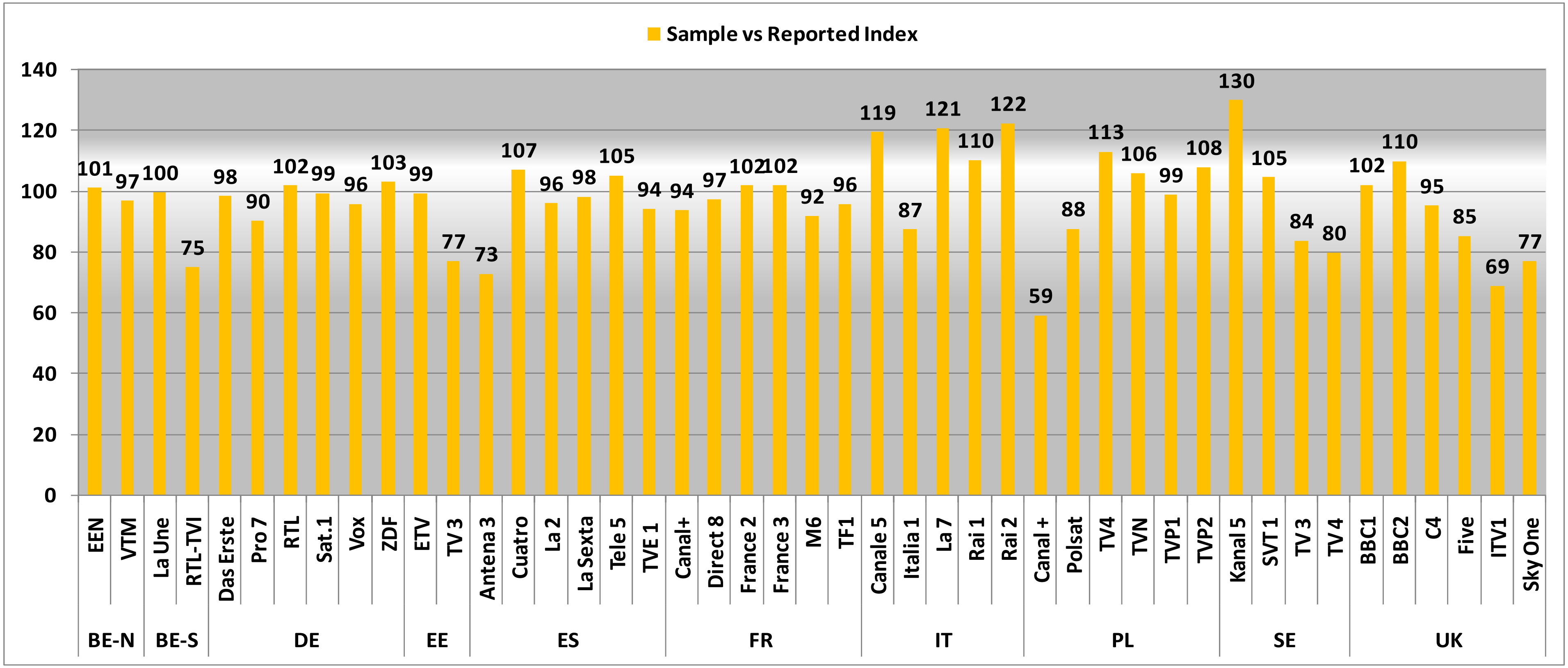
# Linear performance indicators: study sample vs. biannual declarations

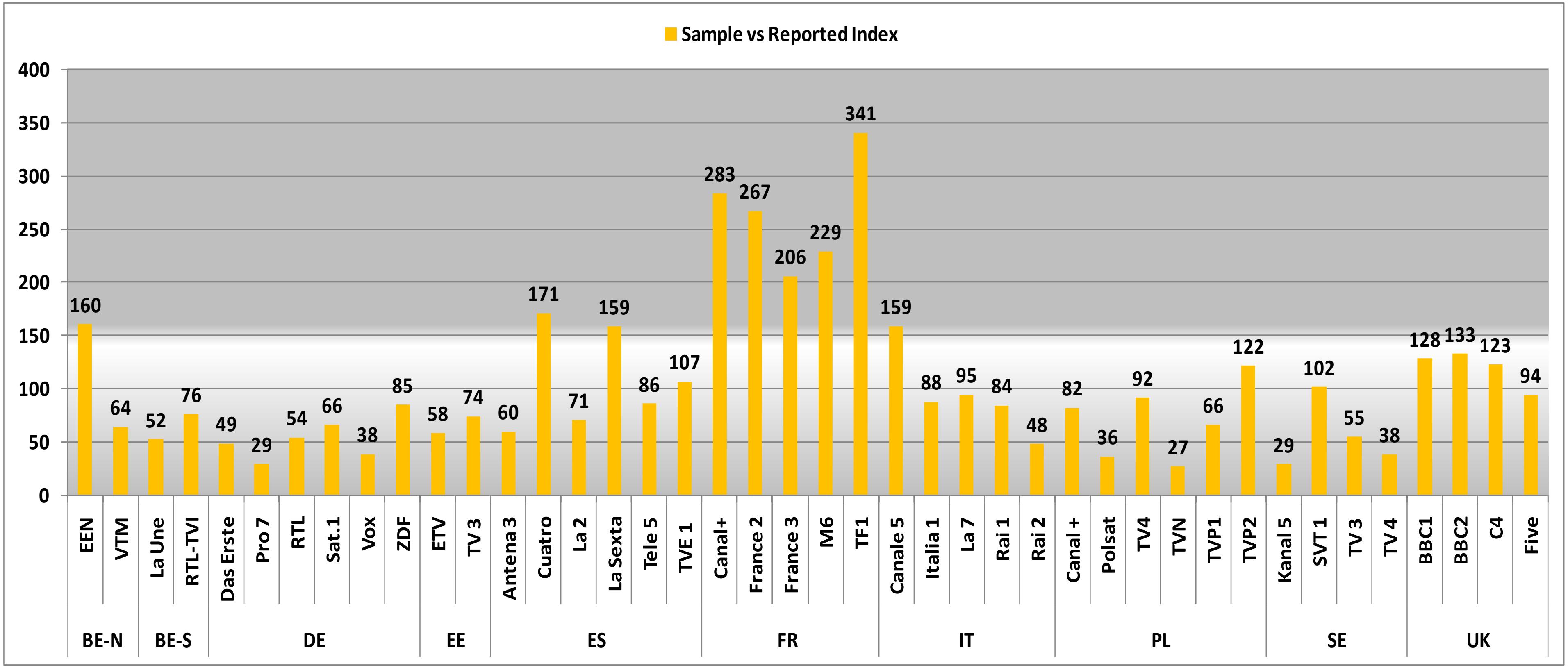
## Proportion of European works index (average 1999, 2002 and 2007)




Sample estimates for EW are generally in line with biannual declarations.

# Linear performance indicators: study sample vs. biannual declarations

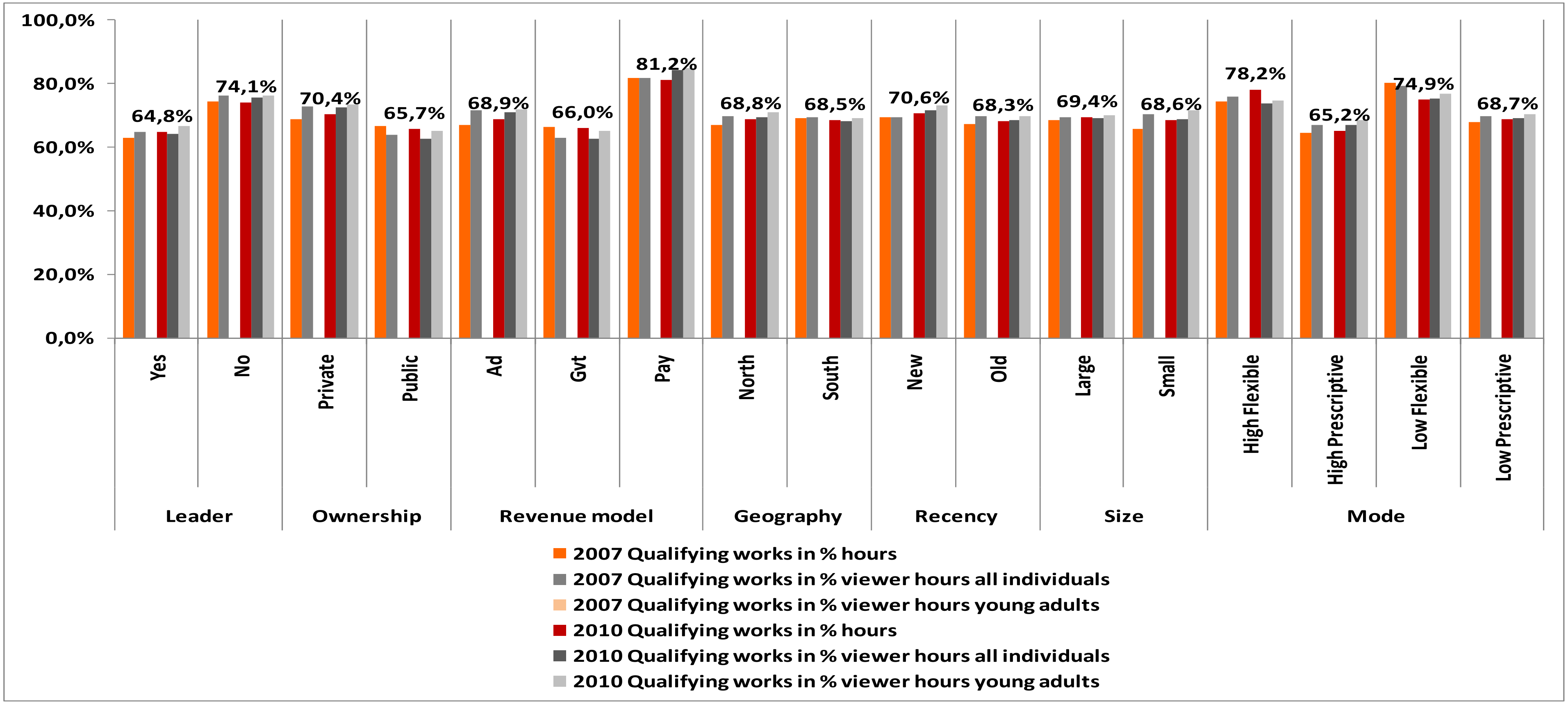
Proportion of independent works index (average 1999, 2002 and 2007)




Sample estimates for IW are <u>most often below declarations</u> (Belgium, Germany, Poland, Sweden) except for France and to a lesser extent the UK and Spain.

# Linear performance indicators: transmission vs. viewer hours

**Proportion of Qualifying works to total broadcast/viewer hours 2007-2010 (rolling sample of 54 channels)**




Findings in viewer hours are very similar to transmission hours. Qualifying works are slightly more successful, especially with the younger adults (lower appeal of non-qualifying genres such as news).

# Linear performance indicators

**Key findings (2010 study sample estimates)**

Main indicators remain in similar ranges to 2007 (NB: Qualifying works make up approximately 2/3 of total linear schedules except Benelux around or below 50%).

- **60-80% of European works** among total qualifying transmission hours (avg 66.4%).
- **10-35% of Independent works** among total qualifying European hours (avg 29.4%).
- **80-100% of recent Independent works** among total qualifying independent European hours (avg 85.2%).

Other key findings:

- EW are more prominent on leading channels and on public channels.
- EW are less attractive to younger viewers.
- Non-domestic EW make up 8.1% of qualifying hours (nearly 15% in small, new Member States).
- IW are more prominent in old, large Member States.
- IW sometimes reach up to 40-50% notably on some private channels.
- IW are more successful with audiences especially on private channels.

# Non-linear performance indicators
## Methodology

Objective to provide data relevant to Articles 16 and 17 of the Directive (consistent methodology across Member States and over time):

●**51 services (*) from 11 Member States (**)**.

●**Catalogue snapshots (***)** codified by genre and origin (April-July 2011) representing 17,350 titles and an average 77.8% of total catalogues.

●**3 main indicators**: proportions of qualifying works in total catalogues, of European works in total catalogues, of European works in total qualifying catalogues.

●**2 measures**: hours (proportion of total catalogue duration) and titles (proportions of total amount of titles in catalogue whatever their duration).

●… **and the addition of "prominence"**: in the absence of clear definitions, qualitative and quantitative analyses have been conducted.

(*) Services have been selected according to ownership (private or public), revenue model (advertising, government or pay), business models (free or pay) and control (broadcaster, telco or independent).

(**) Member States have been selected according to size (large or small), geography (North or South) and EU membership (old or recent).

(***) Raw data have been sourced from the online catalogues as displayed to consumers by non-linear services.

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# Non-linear performance indicators

## Service sample

| Country | Channel | Type | Revenue Model | Ownership | Control | Group | Catalogue size |
|---|---|---|---|---|---|---|---|
| Belgium (French) | Revoir | Catch-up | Gvt | Public | Broadcaster | RTBF | 49 |
| Belgium (French) | Cinemalink | VOD | Pay | Private | Independent | Cinemalink | 97 |
| Belgium (French) | Universciné | VOD | Pay | Private | Independent | Universciné | 743 |
| Czech Republic | ivysilani | Catch-up | Gvt | Public | Broadcaster | CT | 2714 |
| Czech Republic | Voyo | Catch-up | Ad | Private | Broadcaster | CME | 3912 |
| Czech Republic | O2TV Videotéka | VOD | Pay | Private | Telco | O2TV | 481 |
| Estonia | TV 3 | Catch-up | Ad | Private | Broadcaster | Viasat | 417 |
| Estonia | Vaata saadete arhiivi | Catch-up | Gvt | Public | Broadcaster | ERR | 1667 |
| Estonia | DigiTV videolaenutus | VOD | Pay | Private | Telco | Elion | 1735 |
| France | Pluzz | Catch-up | Gvt | Public | Broadcaster | FTV | 1027 |
| France | TF1 videos | Catch-up | Ad | Private | Broadcaster | Bouygues | 4080 |
| France | Canal Play | VOD | Pay | Private | Broadcaster | Canal + | 297 |
| France | Glow ria | VOD | Pay | Private | Independent | Video Futur | 579 |
| France | M6 VOD | VOD | Pay | Private | Broadcaster | RTL | 2763 |
| France | FHV | VOD | Pay | Private | Telco | Free/Iliad | 1043 |
| France | iTunes | VOD | Pay | Private | Independent | iTunes | 751 |
| Germany | Vox Now | Catch-up | Ad | Private | Broadcaster | RTL | 313 |
| Germany | ZDF Mediathek | Catch-up | Gvt | Public | Broadcaster | ZDF | 3991 |
| Germany | Alice Videothek | VOD | Pay | Private | Telco | Alice | 2324 |
| Germany | RTL Now | VOD | Pay | Private | Broadcaster | RTL | 139 |
| Germany | Sky Internet TV | VOD | Pay | Private | Broadcaster | Sky | 59 |
| Germany | Maxdome | VOD | Pay | Private | Broadcaster | P7S1 | 8768 |
| Germany | Lovefilm | VOD | Pay | Private | Independent | Amazon | 367 |
| Italy | Rai Replay | Catch-up | Gvt | Public | Broadcaster | Rai | 1208 |
| Italy | Video Mediaset | Catch-up | Ad | Private | Broadcaster | Mediaset | 256 |
| Italy | Cine1 | VOD | Pay | Private | Independent | Cine1 | 482 |
| Italy | La TV di Fastw eb | VOD | Pay | Private | Telco | Fastw eb | 190 |
| Italy | Film is now | VOD | Pay | Private | Independent | Perseus | 740 |
| Italy | Premium Net TV | VOD | Pay | Private | Broadcaster | Mediaset | 2111 |

| Country | Channel | Type | Revenue Model | Ownership | Control | Group | Catalogue size |
|---|---|---|---|---|---|---|---|
| Netherlands | SBS6 Programma Gemist | Catch-up | Ad | Private | Broadcaster | P7S1 | 1784 |
| Netherlands | Uuitzending gemist | Catch-up | Gvt | Public | Broadcaster | NPO | 50000 |
| Netherlands | Veamer | VOD | Ad | Private | Broadcaster | P7S1 | 589 |
| Netherlands | UPC Live | VOD | Pay | Private | Telco | Liberty Global | 502 |
| Poland | Onet | Catch-up | Ad | Private | Broadcaster | TVN | 2601 |
| Poland | Cineman | VOD | Pay | Private | Independent | Cineman | 918 |
| Poland | TVP VOD | VOD | Gvt | Public | Broadcaster | TVP | 2500 |
| Poland | Waszefilmy Gazetta | VOD | Pay | Private | Independent | Waszefilmy Gazetta | 203 |
| Spain | A la carta | Catch-up | Gvt | Public | Broadcaster | TVE | 22000 |
| Spain | Canal Sur A la carta | Catch-up | Gvt | Public | Broadcaster | RTVA | 649 |
| Spain | Modo salon | Catch-up | Ad | Private | Broadcaster | RTL | 2214 |
| Spain | Filmotech | VOD | Pay | Private | Independent | Filmotech | 1427 |
| Spain | Televeo | VOD | Pay | Private | Independent | Televeo | 111 |
| Sw eden | TV 4 Play | Catch-up | Ad | Private | Broadcaster | TV4 | 62300 |
| Sw eden | Canal Play | VOD | Pay | Private | Broadcaster | Canal + | 391 |
| Sw eden | Voddler | VOD | Ad | Private | Independent | Voddler | 4162 |
| United Kingdom | iPlayer | Catch-up | Gvt | Public | Broadcaster | BBC | 737 |
| United Kingdom | ITV Player | Catch-up | Ad | Private | Broadcaster | ITV | 198 |
| United Kingdom | Sky Player | VOD | Pay | Private | Broadcaster | Sky | 717 |
| United Kingdom | Channel films | VOD | Pay | Private | Independent | Channel Home Ent. | 615 |
| United Kingdom | Blinkbox | VOD | Pay | Private | Independent | Blinkbox/Tesco | 1510 |
| United Kingdom | MSN Video Player | VOD | Pay | Private | Independent | Microsoft | 1005 |

# Non-linear performance indicators
## Service sample

| Country | Channel | Type | Revenue Model | Ownership | Control | Group | Catalogue size |
|---|---|---|---|---|---|---|---|
| Belgium (French) | Revoir | Catch-up | Gvt | Public | Broadcaster | RTBF | 49 |
| Belgium (French) | Cinemalink | VOD | Pay | Private | Independent | Cinemalink | 97 |
| Belgium (French) | Universciné | VOD | Pay | Private | Independent | Universciné | 743 |
| Czech Republic | ivysilani | Catch-up | Gvt | Public | Broadcaster | CT | 2714 |
| Czech Republic | Voyo | Catch-up | Ad | Private | Broadcaster | CME | 3912 |
| Czech Republic | O2TV Videotéka | VOD | Pay | Private | Telco | O2TV | 481 |
| Estonia | TV 3 | Catch-up | Ad | Private | Broadcaster | Viasat | 417 |
| Estonia | Vaata saadete arhiivi | Catch-up | Gvt | Public | Broadcaster | ERR | 1667 |
| Estonia | DigiTV videolaenutus | VOD | Pay | Private | Telco | Elion | 1735 |
| France | Pluzz | Catch-up | Gvt | Public | Broadcaster | FTV | 1027 |
| France | TF1 videos | Catch-up | Ad | Private | Broadcaster | Bouygues | 4080 |
| France | Canal Play | VOD | Pay | Private | Broadcaster | Canal + | 297 |
| France | Glow ria | VOD | Pay | Private | Independent | Video Futur | 579 |
| France | M6 VOD | VOD | Pay | Private | Broadcaster | RTL | 2763 |
| France | FHV | VOD | Pay | Private | Telco | Free/Iliad | 1043 |
| France | iTunes | VOD | Pay | Private | Independent | iTunes | 751 |
| Germany | Vox Now | Catch-up | Ad | Private | Broadcaster | RTL | 313 |
| Germany | ZDF Mediathek | Catch-up | Gvt | Public | Broadcaster | ZDF | 3991 |
| Germany | Alice Videothek | VOD | Pay | Private | Telco | Alice | 2324 |
| Germany | RTL Now | VOD | Pay | Private | Broadcaster | RTL | 139 |
| Germany | Sky Internet TV | VOD | Pay | Private | Broadcaster | Sky | 59 |
| Germany | Maxdome | VOD | Pay | Private | Broadcaster | P7S1 | 8768 |
| Germany | Lovefilm | VOD | Pay | Private | Independent | Amazon | 367 |
| Italy | Rai Replay | Catch-up | Gvt | Public | Broadcaster | Rai | 1208 |
| Italy | Video Mediaset | Catch-up | Ad | Private | Broadcaster | Mediaset | 256 |
| Italy | Cine1 | VOD | Pay | Private | Independent | Cine1 | 482 |
| Italy | La TV di Fastw eb | VOD | Pay | Private | Telco | Fastw eb | 190 |
| Italy | Film is now | VOD | Pay | Private | Independent | Perseus | 740 |
| Italy | Premium Net TV | VOD | Pay | Private | Broadcaster | Mediaset | 2111 |

| Country | Channel | Type | Revenue Model | Ownership | Control | Group | Catalogue size |
|---|---|---|---|---|---|---|---|
| Netherlands | SBS6 Programma Gemist | Catch-up | Ad | Private | Broadcaster | P7S1 | 1784 |
| Netherlands | Uitzending gemist | Catch-up | Gvt | Public | Broadcaster | NPO | 50000 |
| Netherlands | Veamer | VOD | Ad | Private | Broadcaster | P7S1 | 589 |
| Netherlands | UPC Live | VOD | Pay | Private | Telco | Liberty Global | 502 |
| Poland | Onet | Catch-up | Ad | Private | Broadcaster | TVN | 2601 |
| Poland | Cineman | VOD | Pay | Private | Independent | Cineman | 918 |
| Poland | TVP VOD | VOD | Gvt | Public | Broadcaster | TVP | 2500 |
| Poland | Waszefilmy Gazetta | VOD | Pay | Private | Independent | Waszefilmy Gazetta | 203 |
| Spain | A la carta | Catch-up | Gvt | Public | Broadcaster | TVE | 22000 |
| Spain | Canal Sur A la carta | Catch-up | Gvt | Public | Broadcaster | RTVA | 649 |
| Spain | Modo salon | Catch-up | Ad | Private | Broadcaster | RTL | 2214 |
| Spain | Filmotech | VOD | Pay | Private | Independent | Filmotech | 1427 |
| Spain | Televeo | VOD | Pay | Private | Independent | Televeo | 111 |
| Sw eden | TV 4 Play | Catch-up | Ad | Private | Broadcaster | TV4 | 62300 |
| Sw eden | Canal Play | VOD | Pay | Private | Broadcaster | Canal + | 391 |
| Sw eden | Voddler | VOD | Ad | Private | Independent | Voddler | 4162 |
| United Kingdom | iPlayer | Catch-up | Gvt | Public | Broadcaster | BBC | 737 |
| United Kingdom | ITV Player | Catch-up | Ad | Private | Broadcaster | ITV | 198 |
| United Kingdom | Sky Player | VOD | Pay | Private | Broadcaster | Sky | 717 |
| United Kingdom | Channel films | VOD | Pay | Private | Independent | Channel Home Ent. | 615 |
| United Kingdom | Blinkbox | VOD | Pay | Private | Independent | Blinkbox/Tesco | 1510 |
| United Kingdom | MSN Video Player | VOD | Pay | Private | Independent | Microsoft | 1005 |

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# Non-linear performance indicators
## Service sample

| Country | Channel | Type | Revenue Model | Ownership | Control | Group | Catalogue size |
|---|---|---|---|---|---|---|---|
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| Belgium (French) | Cinemalink | VOD | Pay | Private | Independent | Cinemalink | 97 |
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| Czech Republic | ivysilani | Catch-up | Gvt | Public | Broadcaster | CT | 2714 |
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| France | M6 VOD | VOD | Pay | Private | Broadcaster | RTL | 2763 |
| France | FHV | VOD | Pay | Private | Telco | Free/Iliad | 1043 |
| France | iTunes | VOD | Pay | Private | Independent | iTunes | 751 |
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| Germany | ZDF Mediathek | Catch-up | Gvt | Public | Broadcaster | ZDF | 3991 |
| Germany | Alice Videothek | VOD | Pay | Private | Telco | Alice | 2324 |
| Germany | RTL Now | VOD | Pay | Private | Broadcaster | RTL | 139 |
| Germany | Sky Internet TV | VOD | Pay | Private | Broadcaster | Sky | 59 |
| Germany | Maxdome | VOD | Pay | Private | Broadcaster | P7S1 | 8768 |
| Germany | Lovefilm | VOD | Pay | Private | Independent | Amazon | 367 |
| Italy | Rai Replay | Catch-up | Gvt | Public | Broadcaster | Rai | 1208 |
| Italy | Video Mediaset | Catch-up | Ad | Private | Broadcaster | Mediaset | 256 |
| Italy | Cine1 | VOD | Pay | Private | Independent | Cine1 | 482 |
| Italy | La TV di Fastw eb | VOD | Pay | Private | Telco | Fastw eb | 190 |
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| Netherlands | Veamer | VOD | Ad | Private | Broadcaster | P7S1 | 589 |
| Netherlands | UPC Live | VOD | Pay | Private | Telco | Liberty Global | 502 |
| Poland | Onet | Catch-up | Ad | Private | Broadcaster | TVN | 2601 |
| Poland | Cineman | VOD | Pay | Private | Independent | Cineman | 918 |
| Poland | TVP VOD | VOD | Gvt | Public | Broadcaster | TVP | 2500 |
| Poland | Waszefilmy Gazetta | VOD | Pay | Private | Independent | Waszefilmy Gazetta | 203 |
| Spain | A la carta | Catch-up | Gvt | Public | Broadcaster | TVE | 22000 |
| Spain | Canal Sur A la carta | Catch-up | Gvt | Public | Broadcaster | RTVA | 649 |
| Spain | Modo salon | Catch-up | Ad | Private | Broadcaster | RTL | 2214 |
| Spain | Filmotech | VOD | Pay | Private | Independent | Filmotech | 1427 |
| Spain | Televeo | VOD | Pay | Private | Independent | Televeo | 111 |
| Sw eden | TV 4 Play | Catch-up | Ad | Private | Broadcaster | TV4 | 62300 |
| Sw eden | Canal Play | VOD | Pay | Private | Broadcaster | Canal + | 391 |
| Sw eden | Voddler | VOD | Ad | Private | Independent | Voddler | 4162 |
| United Kingdom | iPlayer | Catch-up | Gvt | Public | Broadcaster | BBC | 737 |
| United Kingdom | ITV Player | Catch-up | Ad | Private | Broadcaster | ITV | 198 |
| United Kingdom | Sky Player | VOD | Pay | Private | Broadcaster | Sky | 717 |
| United Kingdom | Channel films | VOD | Pay | Private | Independent | Channel Home Ent. | 615 |
| United Kingdom | Blinkbox | VOD | Pay | Private | Independent | Blinkbox/Tesco | 1510 |
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# Non-linear performance indicators
## Service sample

| Country | Channel | Type | Revenue Model | Ownership | Control | Group | Catalogue size |
|---|---|---|---|---|---|---|---|
| Belgium (French) | Revoir | Catch-up | Gvt | Public | Broadcaster | RTBF | 49 |
| Belgium (French) | Cinemalink | VOD | Pay | Private | Independent | Cinemalink | 97 |
| Belgium (French) | Universciné | VOD | Pay | Private | Independent | Universciné | 743 |
| Czech Republic | ivysilani | Catch-up | Gvt | Public | Broadcaster | CT | 2714 |
| Czech Republic | Voyo | Catch-up | Ad | Private | Broadcaster | CME | 3912 |
| Czech Republic | O2TV Videotéka | VOD | Pay | Private | Telco | O2TV | 481 |
| Estonia | TV 3 | Catch-up | Ad | Private | Broadcaster | Viasat | 417 |
| Estonia | Vaata saadete arhiivi | Catch-up | Gvt | Public | Broadcaster | ERR | 1667 |
| Estonia | DigiTV videolaenutus | VOD | Pay | Private | Telco | Elion | 1735 |
| France | Pluzz | Catch-up | Gvt | Public | Broadcaster | FTV | 1027 |
| France | TF1 videos | Catch-up | Ad | Private | Broadcaster | Bouygues | 4080 |
| France | Canal Play | VOD | Pay | Private | Broadcaster | Canal + | 297 |
| France | Glow ria | VOD | Pay | Private | Independent | Video Futur | 579 |
| France | M6 VOD | VOD | Pay | Private | Broadcaster | RTL | 2763 |
| France | FHV | VOD | Pay | Private | Telco | Free/Iliad | 1043 |
| France | iTunes | VOD | Pay | Private | Independent | iTunes | 751 |
| Germany | Vox Now | Catch-up | Ad | Private | Broadcaster | RTL | 313 |
| Germany | ZDF Mediathek | Catch-up | Gvt | Public | Broadcaster | ZDF | 3991 |
| Germany | Alice Videothek | VOD | Pay | Private | Telco | Alice | 2324 |
| Germany | RTL Now | VOD | Pay | Private | Broadcaster | RTL | 139 |
| Germany | Sky Internet TV | VOD | Pay | Private | Broadcaster | Sky | 59 |
| Germany | Maxdome | VOD | Pay | Private | Broadcaster | P7S1 | 8768 |
| Germany | Lovefilm | VOD | Pay | Private | Independent | Amazon | 367 |
| Italy | Rai Replay | Catch-up | Gvt | Public | Broadcaster | Rai | 1208 |
| Italy | Video Mediaset | Catch-up | Ad | Private | Broadcaster | Mediaset | 256 |
| Italy | Cine1 | VOD | Pay | Private | Independent | Cine1 | 482 |
| Italy | La TV di Fastw eb | VOD | Pay | Private | Telco | Fastw eb | 190 |
| Italy | Film is now | VOD | Pay | Private | Independent | Perseus | 740 |
| Italy | Premium Net TV | VOD | Pay | Private | Broadcaster | Mediaset | 2111 |

| Country | Channel | Type | Revenue Model | Ownership | Control | Group | Catalogue size |
|---|---|---|---|---|---|---|---|
| Netherlands | SBS6 Programma Gemist | Catch-up | Ad | Private | Broadcaster | P7S1 | 1784 |
| Netherlands | Uitzending gemist | Catch-up | Gvt | Public | Broadcaster | NPO | 50000 |
| Netherlands | Veamer | VOD | Ad | Private | Broadcaster | P7S1 | 589 |
| Netherlands | UPC Live | VOD | Pay | Private | Telco | Liberty Global | 502 |
| Poland | Onet | Catch-up | Ad | Private | Broadcaster | TVN | 2601 |
| Poland | Cineman | VOD | Pay | Private | Independent | Cineman | 918 |
| Poland | TVP VOD | VOD | Gvt | Public | Broadcaster | TVP | 2500 |
| Poland | Waszefilmy Gazetta | VOD | Pay | Private | Independent | Waszefilmy Gazetta | 203 |
| Spain | A la carta | Catch-up | Gvt | Public | Broadcaster | TVE | 22000 |
| Spain | Canal Sur A la carta | Catch-up | Gvt | Public | Broadcaster | RTVA | 649 |
| Spain | Modo salon | Catch-up | Ad | Private | Broadcaster | RTL | 2214 |
| Spain | Filmotech | VOD | Pay | Private | Independent | Filmotech | 1427 |
| Spain | Televeo | VOD | Pay | Private | Independent | Televeo | 111 |
| Sw eden | TV 4 Play | Catch-up | Ad | Private | Broadcaster | TV4 | 62300 |
| Sw eden | Canal Play | VOD | Pay | Private | Broadcaster | Canal + | 391 |
| Sw eden | Voddler | VOD | Ad | Private | Independent | Voddler | 4162 |
| United Kingdom | iPlayer | Catch-up | Gvt | Public | Broadcaster | BBC | 737 |
| United Kingdom | ITV Player | Catch-up | Ad | Private | Broadcaster | ITV | 198 |
| United Kingdom | Sky Player | VOD | Pay | Private | Broadcaster | Sky | 717 |
| United Kingdom | Channel films | VOD | Pay | Private | Independent | Channel Home Ent. | 615 |
| United Kingdom | Blinkbox | VOD | Pay | Private | Independent | Blinkbox/Tesco | 1510 |
| United Kingdom | MSN Video Player | VOD | Pay | Private | Independent | Microsoft | 1005 |

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# Non-linear performance indicators

## Regulatory/methodological specificities

Article 13 does not feature exactly the same requirements as Article 16 and 17.

●**Requirements only concern the proportion of EW**, but not that of IW (*) or of RW. They do not require that proportions should be calculated after excluding non-qualifying genres.

●**There are no numerical requirements regarding what the proportion of EW should be**. At the time of reporting, only 7 Member States had provided a specific target (**).

●**Requirements concern a new concept named 'prominence'**, which is not defined further except by the regulations of France and the French Community of Belgium (***). We thus further developed the approach used in the 20087 study (****).

(*) Although it provides the option for making a contribution to production.

(**) Cyprus (20%), Germany (largest proportion), Hungary (over 25% of total length), Lithuania (more than 50%), Spain (30%), Czech Republic (10% excluding news and sports events), France (60% of European works and 40% originally produced in French).

(***) France requires prominence on homepages, including through trailers or other visuals; French Community of Belgium through all possible means, including advertising on homepages, a special category dedicated to European works, news articles on European directors or on European festivals.

(****) "Passive prominence" refers to the "pushing" of European works (what proportion of the titles that are pushed to the consumers when they access the service via its homepage and browse its main sections are European?). "Active prominence" refers to the ability for users to search actively for content (does the service offer the possibility of actively searching titles by origin of production? And does it provide information on the origin of production?).

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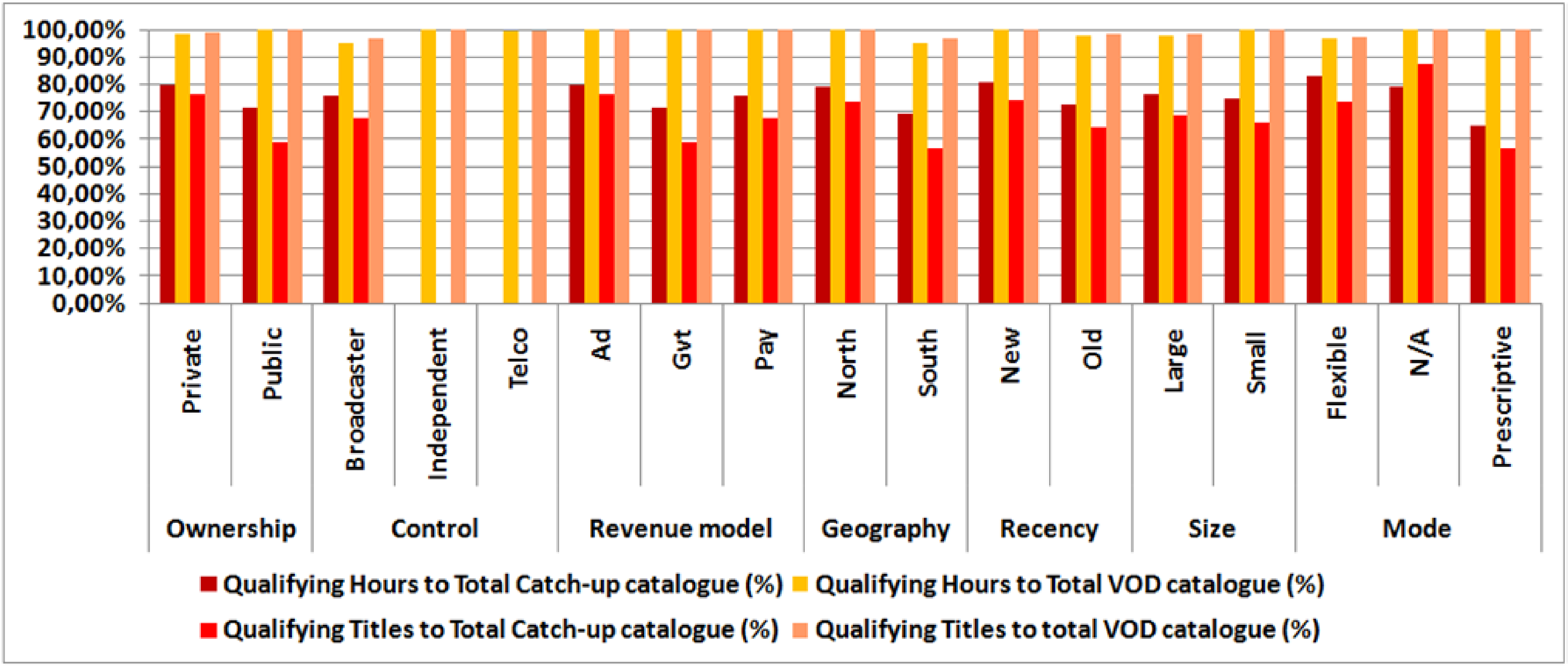
# Non-linear performance indicators: Qualifying works

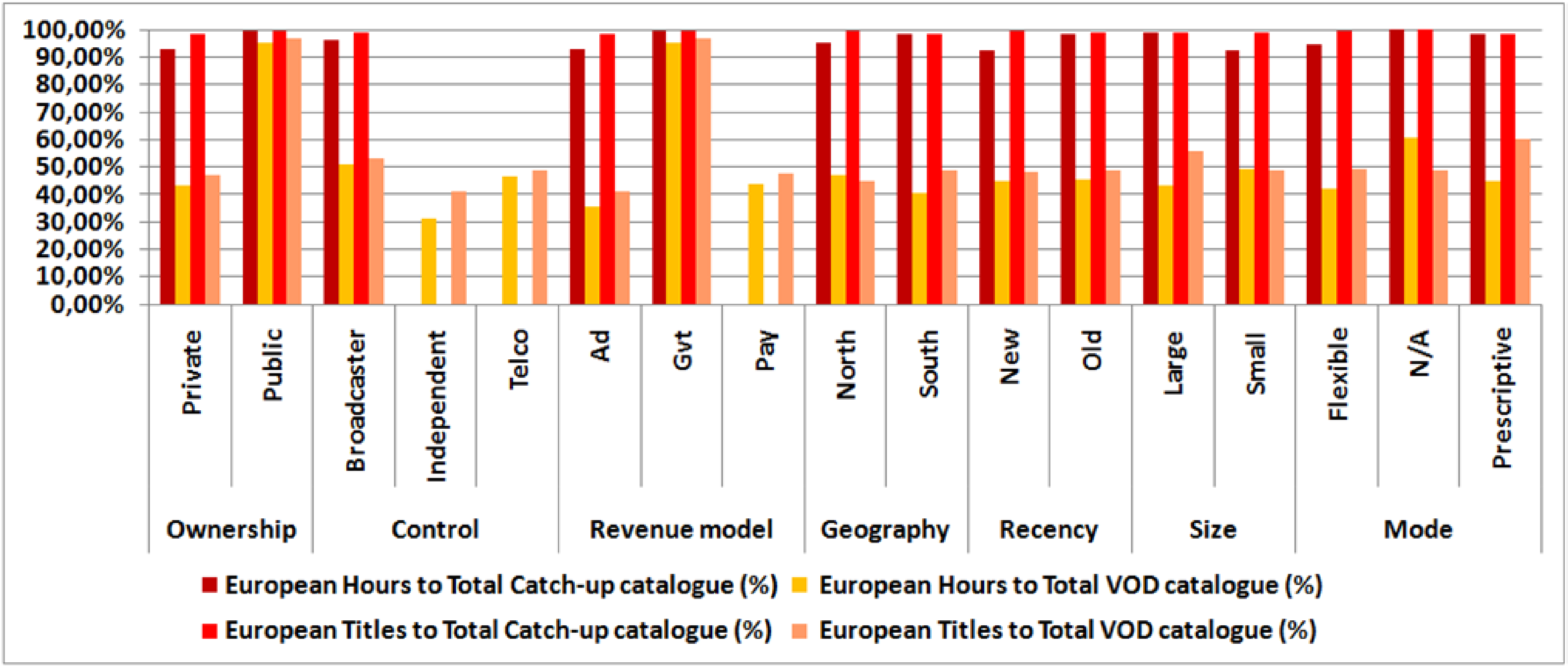
**Proportion of Qualifying works in total catalogue hours and titles 2011 (sample of 51 services)**




**QW make up 98.3% of video-on-demand catalogues vs. 75.6% of catch-up catalogues** (in hours).
QW are more prominent in the catalogues of public channels.

# Non-linear performance indicators: European works

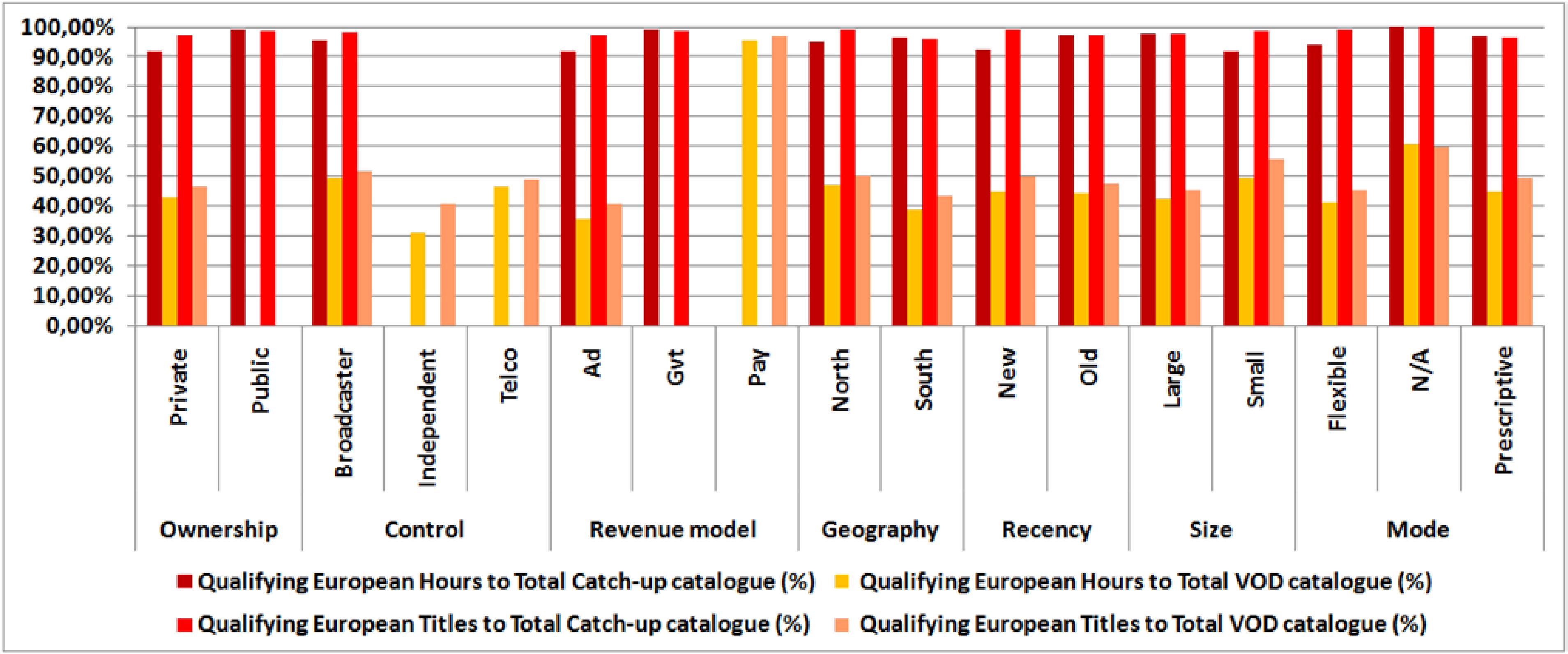
**Proportion of European works in total catalogue hours and titles 2011 (sample of 51 services)**




**EW make up 45.1% of video-on-demand catalogues vs. 96.2% of catch-up catalogues** (in hours).
EW are more prominent in the catalogues of public channels.

# Non-linear performance indicators: Qualifying European works

**Proportion of Qualifying European works in total catalogue hours and titles 2011 (sample of 51 services)**




**QEW make up 44.6% of video-on-demand catalogues vs. 95.4% of catch-up catalogues** (in hours).
QEW are more prominent in the catalogues of public channels.

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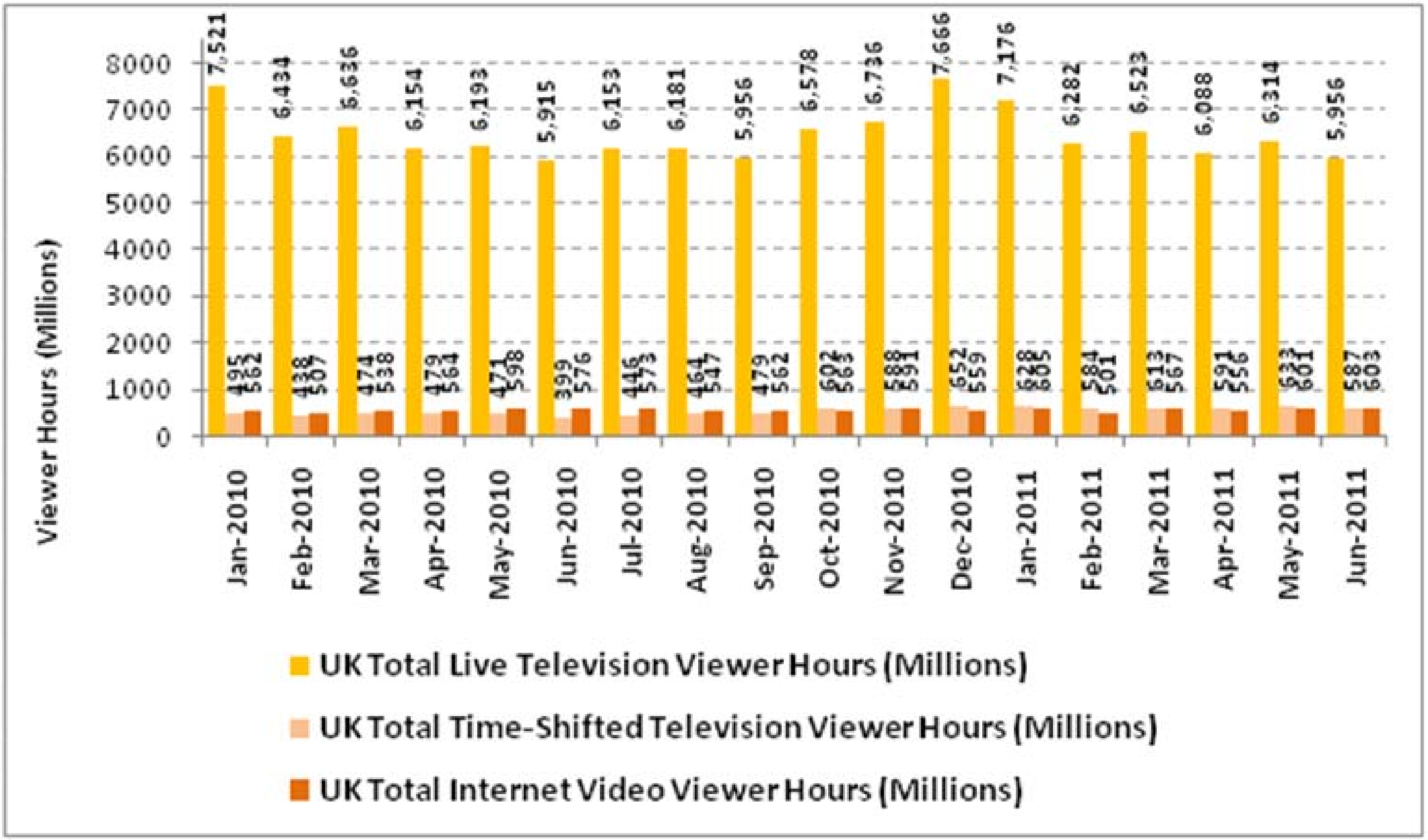
# Non-linear performance indicators: video consumption

**Comparing live, time-shifted and online video consumption Jan. 2010-June 2011 (UK)**

TV-based time-shifted viewing and online video usage is not consistently measured.

UK is best case study in Europe (Barb measures time-shifted since analog VCR + comScore VideoMetrix first launched there).

**Time-shifted and online video viewing are 12 times lower than live TV viewing today in the UK.**



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# Prominence case study

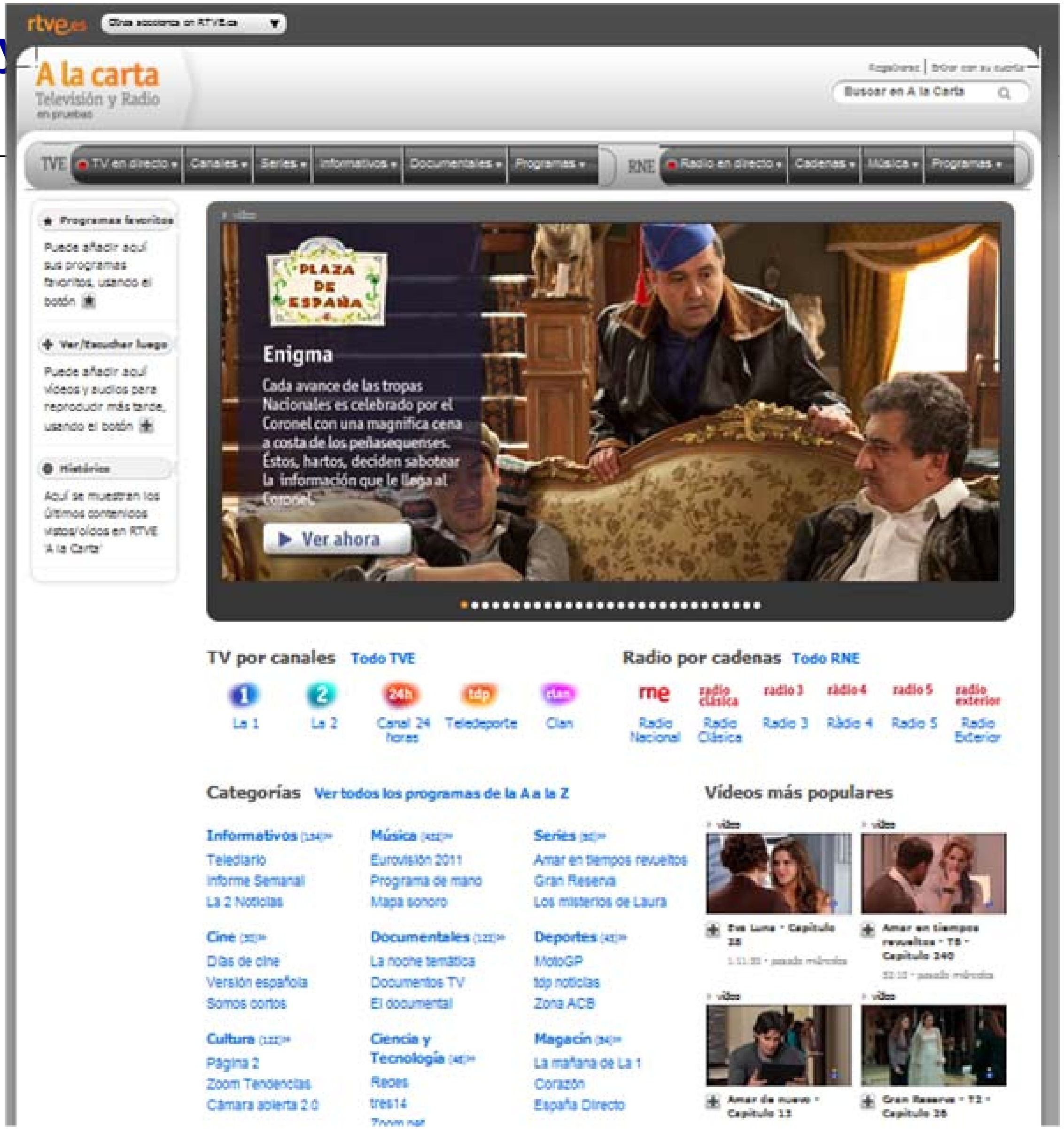
**RTVE a la carta in Spain**

Most catch-up services propose linear content from the last 7 to 30 days displayed by genre, alphabetical order or date.

Not all provide a search bar.

Some display content by linear channel.

Most of them do not provide the geographic origin in content details, as they are mostly European works.



# Prominence case study

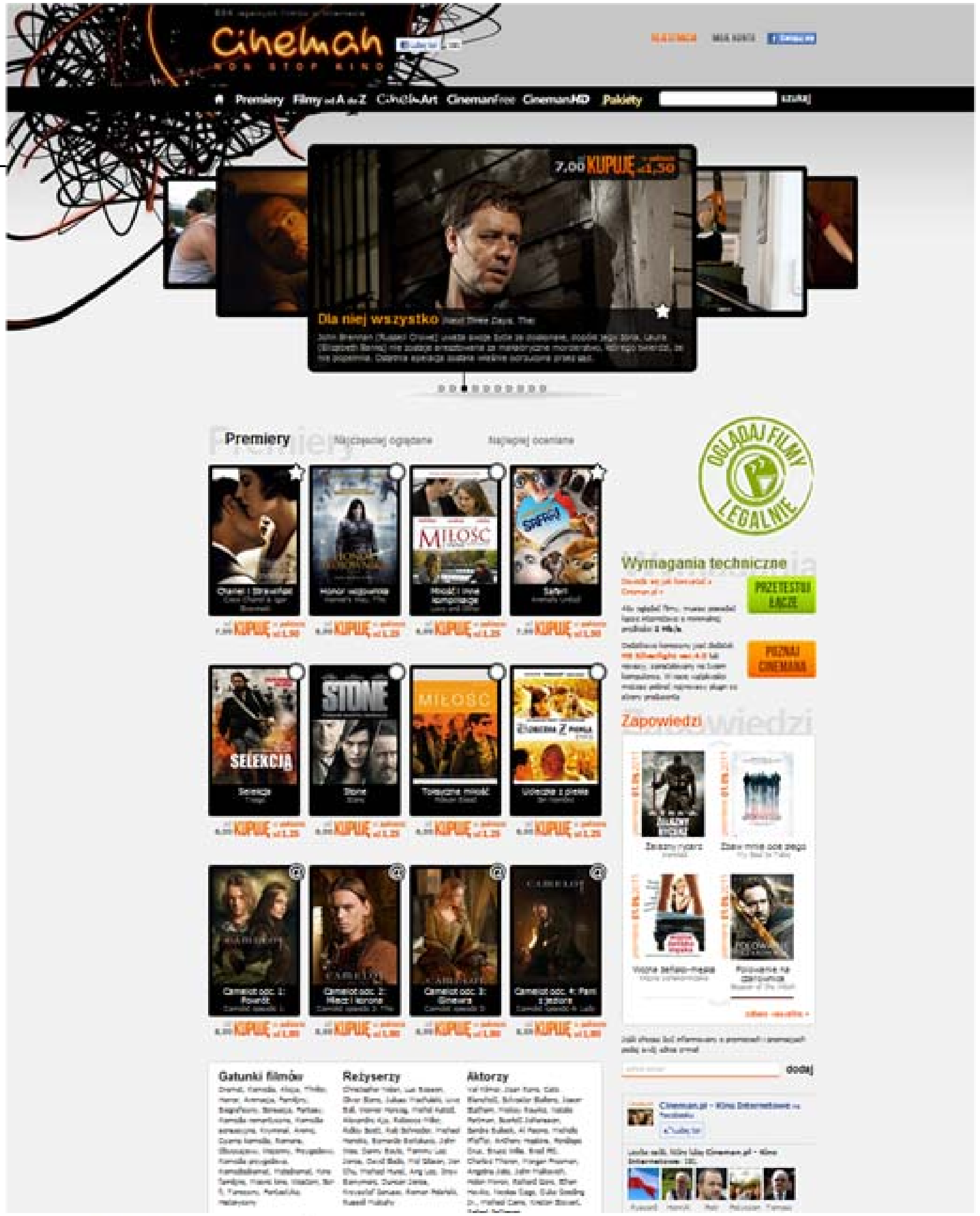
## Cineman in Poland

Most independent on-demand services use a very complete set of prominence techniques.

New and most popular content is generally put forward in top banners and further down the page through pictures.

Right and/or left banners are generally filled with promotions, more content and social media.

Key words allow search into titles or synopsis, but not into content origin.



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# Prominence case study

## Universciné in French Community of Belgium

Universciné developed a quite specific homepage with regards to prominence.

Their homepage is structured in two parts: the page centre is focused on content and the left banner is dedicated to specific sections, promotions, reviews and articles.

In addition, as works are classified according to their origin, using country names in the search bar allows users to access the full list of content originated from that country in the service catalogue.

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# Non-linear performance indicators

**Key findings (2011 study sample estimates)**

Shares of EW in total catalogues are much higher for catch-up services than video-on-demand services (NB: Qualifying works make up 89.4% of total non-linear catalogues, e.g. 98.3% and 75.6% for catch-up and video-on-demand respectively).

●**65.1% of European works on average** among total catalogue hours (68.4% of titles).

●**96.2% of European works among catch-up** total catalogue hours (99.0% of titles).

●**45.1% of European works among video-on-demand** total catalogue hours (48.7% of titles).

Key findings regarding prominence of EW in catalogues are as follows:

●**63.1% of "pushed" works are EW on homepages on average**.

●**93.7% of "pushed" works are EW on homepages of catch-up services**.

●**43.4% of "pushed" works are EW on homepages of video-on-demand services**.

●**13.7% of sampled services allow a search by origin** (overall, non-linear services consider origin of production as non-relevant for their users).

●**29.4% of sampled services provide the origin for each work in the content details** (figure is higher for video-on-demand services -45.2%- as catch-up services, having a majority of their catalogues comprised of domestic works, do not provide origin as a search criterion).

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Monitoring analysis

# Practicability of procedures and performance indicators

(Arnaud Dupont, Headway International)

# Performance indicators and operational procedures

**Indicators for monitoring Article 13 (1)**

Article 13 (1): "*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. 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 of programmes offered by the on-demand audiovisual media service*".

Based on Article 13 (1), three indicators need to be monitored:

- **financial contribution** (applying to the production and rights acquisitions of European works),
- **share of European works in catalogues** and
- **prominence of European works in catalogues**.

How indicators are or could be practically defined? Several Member States are still organizing consultations with stakeholders about such indicators and at this stage only few have gone beyond the mere transposition of Article 13 in their own regulations.

# Performance indicators and operational procedures

**Monitoring "financial contribution"**

**Investment into European content is rather difficult to monitor**, even for non-linear services themselves (no accounting need to monitor the geographic origin of content).

●Video-on-demand services mainly acquire distribution rights for programmes from the back-catalogues of content owners, while catch-up catalogues are a sub-part of broadcasters' linear offers.

●Non-linear services will need to identify their different sources of content rights and estimate how related expenses spread over time and how they split between European and non-European origin.

●**Estimating shares of European content in package deals, and thus in catalogues, is technically possible although sometimes requiring significant amounts of work** (video-on-demand services purchase package deals made up of content of varied origins).

●**Allocating a share of total financial investment to individual programmes inside package deals will be much more tentative**. It could be based on their share of revenue (such a direct measure would be possible for pay video-on-demand services). Or it could be based on share of viewing (problem of the current lack of consistency in digital measurement tools).

# Performance indicators and operational procedures

## Monitoring “share of catalogue”

**Share of catalogue is the most obvious way to translate Article 16 concerning broadcasters into Article 13 concerning on-demand services**. It is the most straightforward indicator among the 3 analysed in this section.

●**Indicator for Article 13 could be based on the cumulative duration of titles** inside non-linear catalogues, as Article 16 requires broadcasters to reserve a majority proportion “of European hours” to European works. But Article 13 does not specify how “share of European work” should be calculated so indicator could also be defined as a proportion of total titles.

●**Hours and titles are equally complicated to monitor**. Non-linear services with editorial responsibility permanently manage databases of titles (enriched with metadata to describe and search for content, including genre, duration and geographic origin).

●Many catalogues provide no programme origin on their search interfaces. They may not have that information available within their internal systems. But **generally, non-linear services will be able to obtain the list of titles available in their catalogues through their IT departments**. They will then need to involve **editorial teams** in order to code programme according to origin and add up titles or their cumulative durations.

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# Performance indicators and operational procedures

**Key lessons from the "reality check"**

How difficult is it for non-linear services to provide the related data? Reality-check based on response rate to Study questionnaire + independent exercise to provide estimates for share of catalogue, prominence and financial contribution.

- **Questions on the description of the services (technology, editorial and business) had the best response rate**. Not confidential and easily answered. Relevant but not central for Article 13.
- **Questions on the share of European works in catalogues were most of the times answered**. Better response rate in titles than in hours.
- **Questions on the financial contribution to European works were to a large extent unanswered**. Commercial sensitivity of data. Significant time needed to gather. But some players already provide such information to their national regulatory bodies and say they would respond when asked as part of a regulatory process (other services are opposed to this indicator rather strongly, saying it is too intrusive or impossible to provide).
- **Questions focusing on the prominence of European works were open questions for which players provided of diversity of answers**. Concept of prominence is still very nascent. Catch-up services are mostly made of European works anyway. Promotional efforts of private players are driven by media planning and the objective to increase audience for new programmes. For some public catch-up services, promotion of European works is a consequence of their cultural remit.

# Performance indicators and operational procedures

**Key conclusions about "practicability"**

Its main conclusions in terms of practicability include:

●**Estimating financial contribution will be technically possible but there will be some discrepancy in approaches when allocating costs to European and non-European content** (the relative value of individual programmes inside package deals can be assessed in different ways).

●**Estimating European shares of catalogues will be technically possible** (non-linear services have access to the databases of programmes over which they have editorial responsibility). Estimates based on shares of titles or cumulative durations require similar amount of work to be reported. Many players operate portfolios of services, making their job increasingly complicated.

●**Estimating prominence is much more complex because the concept has not yet been defined in most Member States**. Views from stakeholders are very diverse: some oppose it and no consensus emerged from our consultation in terms of the way it should be monitored.

**Estimating the share of European works is more difficult for video-on-demand services** than for catch-up services, because origins of films are often very diverse.

**Estimating the financial contribution to European works is more difficult for non-linear services of broadcasters and producers**, because their programmes will be financed through multiple exploitation windows, in which the value of non-linear rights will often be uncertain.

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# Performance indicators and operational procedures

## Key definitions of indicators

| Indicator | Definition |
|---|---|
| **Proportion of European works in catalogues** | **Total duration of European works as a percentage of total durations of all catalogue content** (definition based on percentage of titles not recommended due to services offering a mix of short-form and long-form content). |
| **Financial contribution to production and acquisition of European works** | **Total spend on the production, co-production and acquisition of European works as a percentage of the total programme spend** of the service (definition based on a percentage of service turnover not recommended because less precise and subject to business models). |
| **Prominence on homepage** | **Total visual space allocated to European works as a percentage of total visual space** allocated to works from any origin on the homepage (definition based on percentage of total number of titles not recommended as pages generally display few titles and often give each title a different share of the screens). |
| **Prominence through information on country of origin** | **Proportion of programmes displaying origin or production** as a percentage of total programmes in catalogue. |
| **Prominence through search functionalities** | **Possibility for users to search titles by country of origin**, whether through key words or other selection criteria. |
| **Prominence through recommendation tools** | **Availability of recommendation tools** specifically oriented towards European works (editor's choice, algorithms, social media, etc.). |
| **Prominence through trailers** | **Proportion of video trailers** promoting European works as a percentage of all trailers provided by the service. |
| **Prominence through published promotions** | **Proportion of published promotions** for European works as a percentage of all published promotions provided by the service. |
| **Prominence through dedicated sections** | **Availability of a sub-section in the user interface** that is wholly made up of European works. |

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**Prospective analysis**

# Market perspectives and possible regulatory issues

**(David Graham, Attentional)**

attentional headway international O&O Gide Loyrette Nouel

# Prospective analysis

**Safeguarding European works: Are current provisions sufficient to ensure the achievement of this objective?**

In this session we:

- Review the policy background and provisions of the Directive,
- Assess the ability of current provisions to meet the objectives of the legislation now and in the future,
- And identify areas of potential regulatory development.

But we look first at the impact of the "digital revolution".

# Prospective analysis

**The digital revolution: what is its potential impact?**

- Access to content goes from closed to open.
- Consumption goes from massive and passive to individual and social.
- Content goes from professional to user-generated.

The end of the “captive audience”?

# Prospective analysis

**The digital revolution: traditional business models could be challenged.**

Content loses its exclusivity and thus its economic value:

- Shrinking audiences threaten the commissioning capacities of media services.
- Shrinking commissioning resources threaten quality
- Producers gain access to users but suffer themselves from disintermediation.
- Specialised content develops in pay models with niche audiences.

# Prospective analysis

**The digital revolution: will a new ecosystem emerge?**

Will search and selection drive choice?

As distribution opens up, will many new players may become audiovisual media services?

Will this new model favour large producers, with massive funds available for the production of content, which they licence to multiple users and platforms?

# Prospective analysis

**The digital revolution: could there be positive aspects to these changes?**

For example:

- The rise of reality entertainment at the expense of drama leaves less “stock” for secondary channels to exploit. New players may therefore need to create more of their own new content, and may need to find partners to do that.
- Primary channels have built additional “windows” – catch-up, digital channel bouquets –and are less inclined to release content to third parties.
- The US global channels, a relatively new phenomenon, may wish to retain more content, making less available for distribution to other channels.
- A shortage of quality new content may create incentives for integrated business models.

# Prospective analysis

**The impact of the digital revolution: a balanced view.**

It could take viewers away from traditional businesses without creating a new sustainable market place.

But:

It is a potential driver for European audiovisual culture and has a clear cultural and democratic impact and value.

It contributes to the faster adoption of digital technologies by European citizens, and the development of ICT.

# Prospective analysis

## Safeguarding European content: what are the dangers?

Global services outside European jurisdiction?

Massive switch to non-linear on-demand services which are subject to lighter regulation (Article 13 vs. Articles 16 and 17)?

But:

Europeans have strong preferences for domestic (i.e. European) content.

As yet, there is no massive increase in global services or switch to on-demand, i.e. no revolution yet!

# Prospective analysis

**Safeguarding European content: some regulatory challenges from the digital revolution?**

The digital revolution invents new forms and new definitions, and the services to which these refer are fluid and changing.

“Catch-up” and “video-on-demand” are both non-linear services, and therefore regulated under Article 13 of Directive.

Yet one is a kind of extension of video recorders that permit time-shifted viewing of linear services. The other contains a catalogue of content unrelated to a broadcast service.

…Entrepreneurs are sure to innovate in future, creating hybrid forms.

# Prospective analysis

## Safeguarding European works: A weakening link between content and viewing?

The semi-automatic link or correlation between TV content and viewing of that content seems to be weakening.

In section 5.2.3 we report that European works increased their proportion of qualifying hours – 66.3%, up from 62.4% in 2007 – but viewer hours declined.

In other words, while the correlation remains strong, the effective strength of the preference for European works has declined. The decline is strongest among young adults.

# Prospective analysis

**Safeguarding European works: a change of regulatory strategy?**

Because of the relationship between European content and European audiences in a linear world, focusing the regulation on distribution made sense.

It safeguarded European works both economically and culturally.

The relationship between audiences and investment is very different in on-demand media.

# Prospective analysis

## The AVMS Directive: policy and regulatory framework of the Directive

**Flexibilit**y: Articles 16 and 17 are specific “safeguards”: 50% requirement for European works and 10% for independent works apply to media services “with editorial responsibility”.

●But they are not absolute requirements, since Member States may comply by another route – setting a minimum investment in the creating European works.

●They are flexible: the “where practicable” clause provides latitude, on the basis that the specific circumstances of the channel may preclude compliance.

**Economic and Cultural**: the objective is both *economic* and *cultural*. The legislation has a dual role.

# Prospective analysis

## The AVMS Directive: economic and cultural objectives

The *economic* objectives stress:
“transition from national markets to a common programme production and distribution market … conditions of fair competition”… “optimal conditions of competitiveness and legal certainty for Europe’s information technologies and its media industries and services”
The *cultural* objectives emphasize:
“freedom of information, diversity of opinion and media pluralism — education and culture”, and refer to the diversity of cultures across the Member States.

Recital 2 of the Directive: “Audiovisual media services provided across frontiers by means of various technologies are one of the ways of pursuing the objectives of the Union. Certain measures are necessary to permit and ensure the transition from national markets to a common programme production and distribution market, and to guarantee conditions of fair competition without prejudice to the public interest role to be discharged by the audiovisual media services”.

# Prospective analysis

## The AVMS Directive: diverse objectives

- “encourage” … an “adequate share of co-produced European works or of European works of non-domestic origin”
- “develop… strategies aimed at developing European audiovisual fiction films…addressed to an international audience”.
- support independent production to stimulate “new sources of television production” and the “creation of small and medium-sized enterprises”,
- support “new opportunities…. to employees in the cultural field”.
- encourage ICT?

Recital 58 of the Directive: “On-demand audiovisual media services are different from television broadcasting with regard to the choice and control the user can exercise, and with regard to the impact they have on society. This justifies imposing lighter regulation on on-demand audiovisual media services, which should comply only with the basic rules provided for in this Directive.”

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# Prospective analysis

**Safeguarding European works: the issues and questions (1)**

- The definition of “European works” is relatively narrow in scope, with no specific economic or cultural dimension. Should the scope be broadened? Under current legislation, qualifying European audiovisual works exclude news, sports events and game shows.
- Services falling under AVMS rules must have editorial responsibility. This excludes players with a leading role in the distribution and the consumption of audiovisual content in digital media. Should they be included?

Article 1 (1) (c): “Editorial responsibility means the exercise of effective control both over the selection of the programmes and over their organisation either in a chronological schedule, in the case of television broadcasts, or in a catalogue, in the case of on-demand audiovisual media services..”

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# Prospective analysis

## Safeguarding European works: issues and questions (2)

- Could economic objectives be measured through turnover, profits, employment and other indicators not covered in the current legislation?
- Culture is difficult to define, and “ subsidiarity” allows for local definition, making statutory definition harder. But are there potential indicators that could be used to ensure that European works are culturally valuable?



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# Prospective analysis

## The AVMS Directive: The Current Position (1)

- European works and Independent works are ahead of the statutory minima.
- Majority of work is recent.
- Independent works are three times higher than the minimum 10% requirement, declining slightly in the economic downturn.
- Continuous upward trend in the proportion of European works between 1993 and 2010 is now restricted to “leading” channels.
- Share  of Independent works decreased, with leading private channels largely responsible for the decline.
- Non-catch-up services offer an average 96.2% of European works compared to 45.1% for video-on-demand services.

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# Prospective analysis

## The AVMS Directive: The Current Position (2)

- Many broadcasters have remained below the 50% threshold for some years. The “where practicable” clause allows flexibility.
- European works are mostly national works, with limited circulation or joint development, making little contribution to transition to a common audiovisual market.
- No increase in the proportion of non-domestic European works (8.1% vs. 8.2% in 2007) but some increase in viewing (7% of qualifying viewer hours). (This increase seems to come from broadcasters in new Member States.)

# Prospective analysis

## The AVMS Directive: The Current Position (3)

- If defined exclusively in terms of “cultural and linguistic diversity”, the main cultural objectives of the Directive are being achieved. But that leaves culture with a limited European dimension.
- European productions are not taking full advantage of a single European audiovisual market, with its ability to raise investment in quality, produce strong European content for export, foster the European audiovisual economy and its cultural influence.
- Pan-European successes (*Wallender* from Sweden or *Forbrydelsen* (*The Killing)* from Denmark) have been isolated examples, not enough to sustain producers.

# Prospective analysis

## The AVMS Directive: The Current Position (4)

- Current regulation covers an increasingly narrow part of the European audiovisual economy and culture.
- The scope of audiovisual works could be broadened to cover new narrative forms and sources.
- The emphasis on distribution loses its relevance as a means to ensure consumption.
- Consumption is more and more about search.
- Do we need to:
  - broaden the scope of the regulation in order to reflect the growing importance of new content and new media services?
  - adapt or develop new measures to achieve more framework policy objectives?

# Prospective analysis

**Some Questions for debate**

- Is there a need to broaden the definition of a Qualifying European work?
- Is there a need to broaden the scope of regulated services?
- Is there a need to reinforce the definition of independent producer so that practices become more homogeneous between Member States?
- Is there a need to develop provisions focusing on financial contribution?
- Is there a need to develop provisions focusing on promotion?
- Is there a need to develop provisions focusing on accessibility?
- Is there a need to develop provisions focusing on circulation?
- Is there a need for measures to encourage players to aim not only for national audiences but at international markets within and outside Europe?
- Is there a need to develop provisions focusing on licensing?
- Is there a need to develop provisions focusing on quality?

# Over to You.....

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