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Annex to the

**Sixth Communication from the Commission to the Council
and the European Parliament**

**on the application of Articles 4 and 5 of Directive 89/552/EEC "Television without
Frontiers", as amended by Directive 97/36/EC, for the period 2001-2002**

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This document complements the Sixth Communication from the Commission to the Council and the European Parliament on the application of Articles 4 and 5 of Directive 89/552/EEC¹ of 3 October 1989, as amended by Directive 97/36/EC² - hereinafter referred to as the “Television without frontiers” Directive - for the period 2001-2002. It contains additional detailed information on the application of Articles 4 and 5³ of the “Television without Frontiers” Directive:

- Annex 1 defines indicators in order to better evaluate the application of Articles 4 and 5;
- Annex 2 contains summary tables giving an overview of the application of Articles 4 and 5;
- Annex 3 includes a detailed analysis of the application of Articles 4 and 5 in each Member State;
- Annex 4 lists the summaries of the reports of the EU Member States;
- Annex 5 exposes a brief analysis of the application of Articles 4 and 5 in the European Free Trade Association (EFTA) Member States participating in the European Economic Area (EEA) and reproduces the national reports of these countries;
- Annex 6 records television channels not achieving the majority proportion of European works (Article 4);
- Annex 7 lists television channels by audience shares and their average transmission time of European works (Article 4);
- Annex 8 lists television channels not achieving the minimum proportion of 10% of European works by independent producers (Article 5).

¹ OJEC L 298, 17.10.1989.

² OJEC L 202, 30.07.1997.

³ All Articles without specification are Articles of the “Television without Frontiers” Directive (“the Directive”)

ANNEX 1 – PERFORMANCE INDICATORS

The following indicators facilitate to evaluate the achievement of the proportions referred to under Articles 4 and 5 of the Directive. They are based on criteria which are set out in Articles 4 and 5:

Article 4 (European works):

- Indicator 1: *average transmission time* reserved for European works by channels with the highest audience ratings⁴ in each Member State concerned.
- Indicator 2: *compliance rate* of all channels (achieving or exceeding the majority proportion) of all types, in each Member State concerned⁵.
- Indicator 3: *general trend*, in terms of number of channels of all types, in the scheduling of European works *over the reference period (2001-2002)*⁶.

Article 5 (European works made by independent producers):

- Indicator 1: *average transmission time*, or alternatively, depending on the choice made by the Member State when transposing the Directive, the average proportion of the programming budget allocated to European works by independent producers.
- Indicator 2: *compliance rate* of channels of all types (achieving or exceeding the minimum of 10%) in the Member State concerned⁷.
- Indicator 3: *general trend*, in terms of number of channels of all types, in the proportion of European works by independent producers broadcast in each Member State concerned over the reference period (2001-2002).

⁴ For each year under consideration, the audience share is based on the most recent figures published by the European Audiovisual Observatory: Statistical Yearbook 2002 (Volume 2) “Household audiovisual equipment, transmission, television audience”. Except in specific cases, all channels with **over 3% audience share** (whole day) over each of the two years under consideration were taken into account (“de minimis criterion”).

⁵ This percentage figure was obtained by determining the number of channels achieving or exceeding 50% and applying that figure to the total number of channels directly concerned by Article 4 of the Directive in each Member State, i.e. total number of reported channels less the number of channels which were exempted due to the nature of their programmes (entire programme made up of news, sports events, games, advertising, teletext services or teleshopping), less the number of non-operative channels and **less those channels for which Member States failed to communicate data**.

⁶ This was obtained by determining the balance of the channels showing an increase, a decrease, or no change, irrespective of the actual proportion of transmission time allocated to European works.

⁷ This percentage figure was obtained by determining the number of channels achieving or exceeding the minimum of 10% and applying that figure to the total number of channels directly concerned by Article 5 in each Member State, i.e. total number of reported channels less the number of channels which were exempted by the report due to the nature of their programmes (entire programme made up of news, sports events, games, advertising, teletext services or teleshopping), less the number of non-operative channels and **less those channels for which Member States failed to communicate data**.

- Indicator 4: *average transmission time*, or alternatively, depending on the choice made by the Member State when transposing the Directive, *the proportion of the programming budget* allocated to recent works by independent producers.
- Indicator 5: *general trend*, in terms of number of channels of all types, in the proportion of recent works by independent producers.

ANNEX 2 : TABLES ON THE APPLICATION OF ARTICLES 4 AND 5

Table 1: Overview of the showing of European works (Article 4)

MS				<u>Indicator 1</u>			<u>Indicator 2</u>		
	Total number of reported and operative channels covered by Article 4 ⁸			Average percentage transmission time of European works (channels with highest viewing figures) ⁹			Compliance rate (percentage of channels achieving or exceeding the majority proportion)		
	2001	2002	Growth	2001	2002	Growth	2001	2002	Growth
B	15	19	4	60,00	68,42	8,42	60	68	8
DK	6	6	0	77,13	64,60	-12,53	67	67	0
D	26	26	0	59,41	59,82	0,41	62	68	6
EL	33	35	2	77,02	73,53	-3,49	69	74	5
E	48	51	3	56,06	61,71	5,65	73	73	0
F	70	75	5	70,98	71,73	0,75	92	96	4
IRL	4	4	0	49,17	48,67	-0,50	50	75	25
I	53	69	16	62,66	60,72	-1,94	78	77	-1
L	10	10	0	80,00	80,00	0,00	80	90	10
NL	41	41	0	87,00	73,83	-13,17	64	68	4
A	7	7	0	74,47	79,13	4,66	86	86	0
P	12	12	0	46,98	49,83	2,85	75	75	0
FIN	4	4	0	70,75	66,25	-4,50	100	100	0
S	18	21	3	59,08	59,47	0,39	38	43	5
UK	125	123	-2	73,60	73,80	0,20	55	58	3
Total	472	503	31						
EU average				69,95	66,10	-0,85	69,93	74,53	4,60

⁸ Number of channels reported by Member States less the number of exempted and non-operative channels.

⁹ Considered were only channels with an audience share of over 3% (“de minimum criterion”)

Table 2: Overview of the showing of European works by independent productions (Article 5)

MS	Total number of reported and operative channels covered by Article 5 ¹⁰			Indicator 1 Average percentage transmission time or average programming budget reserved for European works by independent producers			Indicator 2 Compliance rate (percentage of channels achieving or exceeding the minimum of 10 %)			Indicator 4 Average percentage transmission time or average programming budget reserved for recent European works by independent producers		
	2001	2002	Growth	2001	2002	Growth	2001	2002	Growth	2001	2002	Growth
B	15	19	4	41,85	41,27	-0,58	86	89	3	61,98	59,74	-2,24
DK	6	6	0	30,7	28	-2,7	83	100	17	83,57	82,85	-0,72
D	26	26	0	43,09	41,56	-1,53	85	86	1	75,26	77,42	2,16
EL	33	35	2	25,37	29,32	3,95	72	79	7	27,66	31,93	4,27
E	48	51	3	33,86	34,50	0,64	87	86	-1	22,72	23,75	1,03
F	70	75	5	50,03	46,33	-3,7	95	100	5	69,48	61,95	-7,53
IRL	4	4	0	26,50	26,75	0,25	100	100	0	98,75	98,75	0,00
I	53	69	16	21,33	18,78	-2,55	91	91	0	68,69	76,62	7,93
L	10	10	0	25,63	27,50	1,87	90	80	-10	12,18	16,49	4,31
NL	41	41	0	68,92	33,45	-35,47	100	90	-10	64,46	89,26	24,8
A	7	7	0	61,10	61,42	0,32	100	100	0	66,65	69,27	2,62
P	12	12	0	41,53	26,91	-14,62	92	83	-9	90,05	74,29	-15,76
FIN	4	4	0	28,50	25,50	-3,00	100	100	0	77,00	76,75	-0,25
SV	18	21	3	35,40	37,87	2,47	100	71	-29	82,26	65,48	-16,78
UK	125	123	-2	32,43	31,35	-1,08	79	82	3	26,05	24,78	-1,27
Total	472	503	31									
EU average				37,75	34,03	-3,72	90,67	89,13	-1,54	61,78	61,96	0,18

¹⁰ Number of channels reported by Member States less the number of exempted and non-operative channels.

ANNEX 3 – APPLICATION OF ARTICLES 4 AND 5 IN EACH MEMBER STATE

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INTRODUCTION

This text complements the Sixth Communication from the Commission to the Council and the European Parliament on the application of Articles 4 and 5 of Directive 89/552/EEC¹¹ “Television without Frontiers” (TWF), as amended by Directive 97/36/EC¹² for the period 2001-2002 and drawn up pursuant to Article 4(3)¹³. The Sixth Communication constitutes the Commission’s opinion on the application of Articles 4 and 5 and presents the principal conclusions which can be drawn from the Member States’ reports. This document contains a detailed analysis on the application of Articles 4 and 5 in each Member State.

Under Article 4(3) of the “Television without Frontiers” Directive, the Commission is responsible for ensuring the application of Articles 4 and 5 in accordance with the provisions of the Treaty. The Member States are under an obligation to provide the Commission with a **report** every two years on the application of Articles 4 and 5. Summaries of these reports are reproduced in Annex 4.

This document includes two parts:

- Part I – Application of Articles 4 and 5: General remarks;
- Part II – Application of Articles 4 and 5: Detailed analysis.

¹¹ OJEC L 298, 17.10.1989.

¹² OJEC L 202, 30.07.1997.

¹³ All Articles without specification are Articles of the “Television without Frontiers” Directive

1. APPLICATION OF ARTICLES 4 AND 5: GENERAL REMARKS

The following general remarks concern the differences in methodology used by each Member State when applying Articles 4 and 5 of the Directive.

1.1. Monitoring and control methods

Member States' reports refer to monitoring and control methods varying in form (actual records, monitoring of daily programmes, collection of data from broadcasters, survey, sampling) and sometimes differing according to the means of transmission (e.g. monitoring of daily programmes for terrestrial channels and survey for cable). In this respect, there was generally more monitoring and control of terrestrial and cable channels than of satellite channels.

The Commission observes that the obligation under Article 4(3) of the "Television without Frontiers" Directive applies to each of the television programmes falling within the jurisdiction of the Member State concerned, irrespective of the means or mode of transmission (terrestrial, satellite, cable – analogue and/or digital).

1.2. Reasons for the cases of non-compliance

Member States with channels under their jurisdiction which failed to meet the proportions referred to under Articles 4 and 5 gave the following reasons for the cases of non-compliance. In practice, these reasons are frequently combined in Member States' reports. Often, the reasons given related exclusively to non-compliance with the majority proportion of Article 4 while not commenting on Article 5 or no differentiation was made between Article 4 and Article 5. The channels in question are often the same in the various Member States concerned.

- Groups of channels belonging to the same broadcaster meet the majority proportion or minimum proportion if taken together, but not individually

This situation, which fails to guarantee equal competition between the various TV broadcasters and isolates the scheduling of European works on one or more specific channels, can in some cases lead to artificial aggregation of the results of "small" channels (in terms of audience share) or special-interest channels with those of a "major" general interest channel. The Commission observes that, whereas Article 4(1) speaks of "broadcasters" having to reserve proportions of their transmission time, Article 4(3) refers to "television programmes" when it comes to monitoring the achievement of the above-mentioned proportions. Consequently, the broadcaster is responsible for the achievement of the proportions by **each** channel broadcast.

- Special-interest nature of the channels' programmes and progress achieved

In many cases, the majority or minimum proportion of transmission time could not be met due to the special-interest theme of the programmes (very specific niche markets).

- The recent nature of the channel

Notwithstanding the recent nature of a channel, many new entrants achieved the proportions referred to under Articles 4 and 5 in their first years of operation in order to penetrate the market.

- Subsidiaries of non-EU companies

Such channels tend to make systematic use of their own catalogue material and rarely show European works.

1.3. Measures envisaged or adopted to remedy cases of non-compliance

Various types of measures were reported by Member States: ongoing dialogue, subjecting the channels concerned to surveillance, formal notices and other sanctions against broadcasters which may result in fines or – ultimately – in the withdrawal of the licence. There are, however, cases in which no measures were taken or envisaged.

In this regard, the Commission would point out the need for the Member States concerned to ensure increased control and monitoring of these channels and to ensure, where practicable and by appropriate means, that the television broadcasters concerned achieve the proportion of transmission time laid down by Articles 4 and 5 of the Directive, in accordance with the principle of progressive improvement.

2. APPLICATION OF ARTICLES 4 AND 5: DETAILED ANALYSIS

2.1. Belgium¹⁴

- **French Community**¹⁵

The channels RTBF 1, RTBF 2, RTL-TVI and Club RTL, which together represented an audience share¹⁶ of 45.2% in 2001 and 43.0% in 2002, broadcast an average of 66.68% and 62.59% European works in 2001 and 2002 respectively, representing an average decrease of 4.09 points over the reference period and a decrease of 4.24 points over four years (1999-2002).

In 2001, of a total of 8 channels covered¹⁷ by Article 4 of the Directive, 3 exceeded the majority proportion of transmission time laid down in that Article. Club RTL, AB3 and Canal+ Belgique failed to meet the majority proportion (48.58%, 27.28% and 46.1% respectively). No figures were supplied for 2 channels in 2001¹⁸. The compliance rate in terms of number of channels was therefore 50%.¹⁹

¹⁴ Two separate reports for the Flemish and the French Community were sent in. This distinction is therefore also reflected in this Communication and in the Commission's opinion. The figures were however aggregated for the Community-level assessment.

¹⁵ The Commission would point out that channels RTL TVi and Club RTL broadcast in the French Community of Belgium by TVI s.a. are identical to those broadcast by CLT S.A. in Luxembourg. They were included in the reports of both countries. The same applies to Liberty TV, which is broadcast in Belgium by Event Network s.a. and in Luxemburg by Liberty TV.com.

¹⁶ Noteworthy is the high penetration of the French channels TF1, France 2 and France 3 in Belgium, which represented an audience share of over 26% in the French speaking Community over the reference period.

¹⁷ "Covered" denotes in this context the total number of reported channels (whether operative or non-operative, whether or not data were communicated) less the number of exempted channels

¹⁸ In addition to Liberty TV and MCM Belgique, for which no data were reported for 2001, the report indicated that two Canal + digital TV channels were not mentioned due to lack of data.

¹⁹ 1 channel (Channel Canal Z), devoted exclusively to economic and financial news, was exempted by the report over the entire reference period.

For 2002, of a total of 8 channels covered by Article 4 of the Directive and for which full data were communicated, 6 exceeded the majority proportion of transmission time laid down in that Article. AB 3 and Canal+ Belgique both managed to raise their proportion, from 27.28% to 51.9% and from 46.1% to 57.1% respectively. Club RTL remained, with 49.47%, slightly below the majority proportion. RTL TVI decreased its allocation from 55.53% to 41.49%. The compliance rate in terms of number of channels was therefore 75%.

According to the report, AB3 was charged with a financial sanction for non-respect of the obligation arising from Article 4 of the Directive. Concerning the two digital TV variants of the basic Canal+ programme, the report did not indicate any measures taken or envisaged in order to obtain the required data.

The Commission would point out that the proportion defined in Article 4(1) applies for each year and to each of the television programmes falling within the jurisdiction of the Member State concerned. All these programmes must supply data providing an appropriate basis for measuring the extent to which the proportion referred to in Article 4 is progressively being achieved²⁰.

Of the 6 channels for which full data were supplied for the entire reference period, 3 were increasing the proportion of their transmission time allocated to European works, and 3 were reducing it. The general trend, in terms of number of channels of all types, in the programming of European works over the reference period was therefore stable overall.

European works made by independent producers

The average allocation to European works by independent producers for all channels was 29.17% in 2001 and 27.46% in 2002, representing a decrease of 1.71 points over the reference period and a decrease of 6.38 points over four years (1999-2002).

In 2001, the compliance rate, in terms of number of channels, was 100%. Of a total of 8 channels covered by Article 5 of the Directive²¹, 5 exceeded the minimum 10% allocation to works by independent producers (percentages ranging from 14.4% to 40.2%). The report contained no data on AB3. No reasons were given for this lack of communication. In addition, no data were submitted for the channels MCM Belgique and Liberty TV for 2001 and two further Canal+ digital TV programmes for the entire reference period. In 2002, the compliance rate, in terms of number of channels, was 88%. Of a total of 8 channels concerned by Article 5, 7 exceeded the minimum 10% allocation to works by independent producers (percentages ranging from 19.81% to 47.5%).

The general trend, in terms of number of channels, was positive over the reference period. Of a total of 5 channels for which full data were available, 3 increased their allocation to works by independent producers (RTBF 2, Club RTL and Canal + Belgique), while 2 showed a decrease (RTBF 1 and RTL TVi).

²⁰ Cf. second subparagraph of Article 4(3) of the Directive and point 2.2 of the suggested guidelines of the Contact Committee for the monitoring of the implementation of Articles 4 and 5 of the “Television without Frontiers” Directive, dated 11 June 1999.

²¹ Channel Canal Z, devoted exclusively to economic and financial news, was exempted by the report over the entire reference period.

The average relative proportion of recent European works made by independent producers for all channels was 21.5% in 2001 and 21.49% in 2002²², representing an insignificant 0.01 point decrease over the reference period and an important decrease of 37.44 points over four years (1999-2002).

There was an overall upward trend, in terms of number of channels, in the proportion allocated to recent works. Of a total of 6 channels, for which relevant data over the entire reference period were available, 4 showed an increase and 2 a decrease (proportions ranging from 3.52% to 34.6% in 2001 and from 8.7% to 41% in 2002. One channel (Club RTL) scheduled over the entire reference period less than 10% recent European works by independent producers.

- **Flemish Community**

The channels TV1, Canvas/Ketnet, VTM and Kanaal 2, which together accounted for an audience share of 74.4% in 2001 and 74.1% in 2002, broadcast an average of 55.39% and 52.26% of European works in 2001 and 2002 respectively, representing an average 3.13 point decrease over the reference period and an increase of 0.51 points over four years (1999-2002).

For 2001, of a total of 9 channels mentioned in the report, 6 exceeded the majority proportion of transmission time laid down in Article 4 of the Directive, while 3 were well below it. These were Kanaal 2 (31%) and the special-interest channels of the Canal+ group (Canal+ grijs/rood 34%, Canal+ blauw 33%). The compliance rate, in terms of number of channels, was 67%.

For 2002, of a total of 11 channels mentioned in the report, 7 exceeded the majority proportion of transmission time laid down in Article 4 of the Directive, while 4 were below it. These were: Kanaal 2 (47%) and the special-interest channels of the Canal + group, Canal+ grijs/rood and Canal+ blauw, whose broadcasting figures of European works stayed unaltered compared with the previous year. The compliance rate in terms of number of channels was 64%.

In the case of Kanaal 2, the report cited the steady increase in the proportion of European works (from 25% in 1999 to 47% in 2002) and the fact that the channels of the VMM broadcasting organisation taken together exceeded the majority proportion of transmission time laid down in Article 4 of the Directive. In the case of the Canal + group's channels, the reason was essentially the special-interest nature of their programmes (films and sports).

Concerning Kanaal 2 the Commission points out that the proportion laid down in Article 4(1) applies to all television programmes of a broadcaster falling within the jurisdiction of the Member State concerned. However, in line with the principle of progressive improvement, the Commission takes note of the considerable progress achieved over the reference period by Kanaal 2 (a 16% increase). On the other hand, no progress at all has been achieved by Canal+ group's channels.

Of the 9 channels for which full data were supplied, 4 had increased the proportion of their transmission time allocated to European works, 4 were stable (2 at 100%) and 1 channel (VTM) decreased the proportion over the reference period though still

²² Percentages are calculated in relation to European works made by independent producers.

achieving the majority proportion. The trend, in terms of number of channels of all types, in the scheduling of European works was therefore upward overall over the reference period.

European works made by independent producers

The average allocation to European works by independent producers for all channels was 54.54% in 2001 and 55.08% in 2002, representing a 0.55 point increase over the reference period and a decrease of 0.36 points over four years (1999-2002).

For 2001, the compliance rate, in terms of number of channels, was 78%. Of a total of 9 channels mentioned in the report, 7 exceeded the minimum 10% allocation to works by independent producers (percentages ranging from 11.63% to 100%). Only Canvas/Ketnet and Vitaya failed to reach the minimum proportion of works by independent producers.

For 2002, the compliance rate, in terms of number of channels, was 91%. Of a total of 11 channels mentioned in the report, 10 exceeded the minimum of 10% (percentages ranging from 10.95% to 100%). Only 1 channel (Vitaya) did not meet the minimum proportion.

There was an overall upward trend in terms of number of channels. Of a total of 9 channels for which full data were available for the entire reference period, 6 increased their allocation to European works by independent producers, 2 remained stable and 1 decreased its allocation.

The average relative proportion of recent European works by independent producers for all channels of all types was 88.96% in 2001 and 87.55% in 2002, representing a 1.41 point decrease over the reference period and an increase of 8.88 points over four years (1999-2002).

There was an overall upward trend, in terms of number of channels, in the proportion allocated to recent works. Of a total of 9 channels for which full data were available, 5 showed an increase, 2 were stable (at 100%) and 2 showed a decrease.

- **German Community**

No report was received from the competent authorities.

2.1. Denmark

The channels DR 1, DR 2 and TV 2 represented together an audience share of 65.6% and broadcast an average of 77.13% of European works in 2001. In 2002, the above-mentioned channels and the channel TV 2 Zulu, which reached in 2002 for the first time an audience share above 3%, represented a combined audience share of 73.7% and broadcast an average of 64.6% of European works. This represents a 12.53 point decrease over the reference period but an increase of 3.94 points over four years (1999-2001).

For 2001, of a total of 6 channels concerned by Article 4 of the Directive, 4 exceeded the majority proportion of transmission time laid down in that Article. Only TV 2 Zulu and Tv Danmark 2 were below this threshold, with 31% and 47% respectively. The compliance rate, in terms of number of channels, was 67%.

In 2002, the same 4 channels exceeded the majority proportion of transmission time laid down in Article 4 of the Directive, while the remaining 2, TV 2 Zulu (35.3%) and Tv Danmark 2 (38%), were below it. The compliance rate, in terms of number of channels, remained unchanged at 67%.

The report gave no reasons for the cases of non-compliance. It indicated that TV Danmark 2 will possibly achieve an output of more than 50% of European works due to a sharp rise in 2003.

The Commission observes that Denmark is in the specific situation of a country with low audiovisual production capacity and restricted language area, and notes that TV 2 Zulu is a fairly recent channel which began broadcasting shortly before the beginning of the reference period.

Of the 6 channels with complete data, 2 increased the proportion of their transmission time allocated to European works, 1 remained stable (at 100%), and 3 showed a reduction over the reference period. The general trend, in terms of number of channels of all types, in the scheduling of European works over the reference period, was therefore downward overall.

European works made by independent producers

The average allocation to European works by independent producers for all channels was 30.7% in 2001 and 28% in 2002, representing a 2.7 point decrease over the reference period and a decrease of 12.2 points over four years (1999-2002).²³

For 2001, the compliance rate, in terms of number of channels, was 83%. Only DK 4 failed to achieve the minimum of 10% allocation to works by independent producers (8.1%), but managed to exceed this proportion in 2002; as a consequence the compliance rate rose to 100% with percentages ranging from 10.1% to 46.67%.

Over the reference period, 2 channels increased their allocation to works by independent producers, 2 remained stable and the other 2 showed a reduction. The general trend, in terms of numbers of channels, was therefore stable over the reference period.

The average relative proportion of recent European works by independent producers for all channels was 83.57% in 2001 and 82.85% in 2002, representing a 0.72 point decrease over the reference period and an increase of 1.45 points over four years (1999-2002). All channels exceeded 50% over the reference period (with proportions ranging from 64.9% to 100% in 2001 and from 69.6% to 100% in 2002).

²³ The channels TV 2, TV 2 Zulu and TV Danmark apparently submitted figures on Article 5 which were calculated as percentage figures of European works rather than as percentages of total qualifying transmission time. Denmark did not adjust its statistical statement accordingly, so that the figures in the summary report of Denmark (cf. Annex 4) are misleading. For the calculation of the average allocation to European works made by independent producers the Commission adjusted the submitted figures as percentages of total qualifying transmission time respectively.

The general trend, in terms of number of channels, in the allocation to recent works, was downward overall. Of a total of 6 channels for which full data were available, 1 showed an increase, 3 were stable and 2 showed a decline.

2.3. Germany

ARD, ZDF, Kabel 1, ProSieben, RTL, RTL 2, SAT.1 and Vox, which together represented an audience share of 72% in 2001 and 71.3% in 2002, broadcast on average 59.41% and 59.82% of European works in 2001 and 2002 respectively, representing an average 0.41 point increase over the reference period and a slight decrease of 0.4 points over four years (1999-2002).

For 2001, of a total of 33 channels mentioned in the report²⁴, 13 exceeded the majority proportion of transmission time laid down in Article 4 of the Directive, 8 were below it²⁵ and 5 supplied no data. These channels were n-tv, ONYX, Planet TV, TM 3 (stopped broadcasting in 2002) and VH-1. The compliance rate in terms of number of channels was 62%. For 2002, of a total of 33 channels mentioned in the report, 15 exceeded the majority proportion of transmission time laid down in Article 4 of the Directive, 7 were below it and no data were provided for 4 channels²⁶. The compliance rate, in terms of number of channels of all types, was 68%. For the entire reference period, 6 local channels were exempted by the report in application of Article 9 of the Directive. 1 channel (TM3) stopped operating in 2002 and became 9Live.

The 7 channels which were below the target for the whole reference period were: Kabel 1 (21.65% in 2001 and 21.15% in 2002), Premiere (30.5% in 2001 and 30% in 2002), ProSieben (42.23% in 2001, 46.87% in 2002), RTL 2 (40% both in 2001 and 2002), 13 TH Street (10.53% in 2001, 10.74% in 2002), Studio Universal (32.06% in 2001, 31.41% in 2002) and Super RTL (41.3% in 2001 and 43.8% in 2002). VOX increased its allocation of European works from 49% in 2001 to 51% in 2002.

The reasons for non-compliance included, depending on the case, the fact that the broadcaster was a new market entrant and the special-interest nature of the programmes. Concerning remedial measures adopted or envisaged the report made reference to planned or ongoing dialogues with the broadcasters concerned.

Concerning the channels not achieving the majority proportion, the Commission points out that the proportion laid down in Article 4(1) applies to all television programmes of a broadcaster falling within the jurisdiction of the Member State concerned. However, in line with the principle of progressive improvement, the Commission takes note of the progress achieved over the reference period by ProSieben (4.64% increase). On the other hand, no progress has been achieved by 13th Street (which decreased its allocation by almost 50% compared to the previous reference period), Kabel 1, Premiere, RTL 2 and Studio Universal. The Commission notes in particular the recurring difficulties of three channels with an audience share

²⁴ This amounts to a 43% increase in the total number of channels compared to the preceding reference period (23 channels reported in 1999 and 24 in 2000).

²⁵ Since only non-point-accurate percentage figures were submitted by Discovery Channel, the 50% reported were considered to represent a majority proportion according to Article 4(1).

²⁶ These were the same channels as in 2001 (except TM 3 which became 9live and reported in 2002).

above 3%: Kabel 1, RTL 2 and ProSieben (the latter being close to achieving the target in 2002).

As regards the high number of cases of non-communication of data, the Commission would point out that all these programmes must supply data which can provide an appropriate basis for measuring the extent to which the majority proportion is progressively being achieved²⁷.

Of the 21 channels for which complete data were provided, 10 increased the proportion of their transmission time allocated to European works, 3 were stable and 8 reduced it over the reference period. The general trend, in terms of number of channels of all types, in the scheduling of European works over the reference period, was therefore upward overall.

European works made by independent producers

The average allocation to European works by independent producers for all channels was 43.09% in 2001 and 41.56% in 2002, representing a 1.53 point decrease over the reference period and a decrease of 4.74 points over four years (1999-2002).²⁸

For 2001, of a total of 33 channels mentioned²⁹ in the report, 17 exceeded the minimum of 10% laid down in Article 5 of the Directive. No data were provided in respect of 6 channels. The following 3 channels failed to meet this proportion: Phoenix (1%), VIVA (2.35%), VIVA 2 (0.73%). The compliance rate, in terms of number of channels of all types, was 85% in 2001. For 2002, 18 channels exceeded the minimum 10% proportion. No data were supplied for 5 channels. The following 3 channels failed to meet the minimum proportion: Phoenix (1 %), VIVA (0%), VIVA 2 (0.29%). The compliance rate, in terms of number of channels of all types, was 86% in 2002.

The general trend, in terms of number of channels, was downward overall. Of a total of 20 channels for which full data were available, 6 increased the proportion allocated to works by independent producers, 4 remained stable and 10 showed a reduction.

The average relative proportion of recent European works for all channels was 75.26% in 2001 and 77.42% in 2002, representing a 2.16 point increase over the reference period and an increase of 17.15 points over four years (1999-2002).

²⁷ Cf. second subparagraph of Article 4(3) of the Directive and point 2.2 of the suggested guidelines for the monitoring of the implementation of Articles 4 and 5 of the “Television without Frontiers” Directive, dated 11 June 1999.

²⁸ The channels Discovery Channel, Kabel 1, ProSieben, SAT.1 and Super RTL apparently submitted figures on Article 5 which were calculated as percentage figures of European works rather than as percentages of total qualifying transmission time. Germany did not adjust its statistical statement accordingly, so that the figures in the summary report of Germany (cf. Annex 4) are misleading. For the calculation of the average allocation to European works made by independent producers the Commission adjusted the submitted figures as percentages of total qualifying transmission time respectively.

²⁹ 6 local channels were exempted by the report in application of Article 9 of the TWF Directive. One channel (TM 3) stopped operating in 2002 and became 9live.

The general trend, in terms of number of channels, in the proportion allocated to recent works, was upward overall. Of a total of 21 channels for which full data were available, 9 showed an increase, 7 were stable and 5 were decreasing.

2.4. Greece

The channels ET 1, NET, ALPHA, ANTENNA, STAR and MEGA CHANNEL, together representing an audience share of 81% in 2001 and 77% in 2002³⁰, broadcast an average of 77.02% and 73.53% of European works in 2001 and 2002 respectively, representing a 3.49 point decrease over the reference period but an increase of 2.07 points over four years (1999-2002).

For 2001, of a total of 39 channels mentioned in the report, 22 exceeded the majority proportion of transmission time laid down in Article 4 of the Directive. 4 channels were not operating in 2001 and the required data for 1 channel were not communicated by the Greek authorities. 10 channels were below the threshold of 50%, among which 3 channels did not broadcast European works at all (Mega, Supersport 3, MAD); the other channels not achieving the majority proportion were National Geographic (29.64%), Filmnet (21.13%), Filmnet 2 (19.87%), Supersport (6.87%), Supersport 2 (36.86%), Cartoon Network (1.56%), TCM (31.03%). 2 channels were exempted by the report. The compliance rate, in terms of number of channels, was 69%.

In 2002, 25 channels exceeded the majority proportion of transmission time laid down in Article 4 of the Directive, while 9 were below it: National Geographic (32.78%), MGM (23.31%), Star (22.13%), Filmnet (27.82%), Filmnet 2 (25.93%), Filmnet Summer (30.89%), Fox Kids (28.05%), Cartoon Network (10.02%), TCM (40.65%). The compliance rate, in terms of number of channels, was 74% which amounts to a 5 point increase compared to 2001.

Of the 29 channels for which complete data were available, 16 increased the proportion of their transmission time allocated to European works and 13 reduced it over the reference period. To this should be added the new channels Antenna Gold, Filmnet Summer, and GBC, which respectively devoted 100%, 30.89% and 96.15% of their broadcasting schedule to European works in 2002. The general trend, in terms of number of channels of all types, in the scheduling of European works was upward overall over the reference period.

European works made by independent producers

The average allocation to European works by independent producers for all channels was 25.37% in 2001 and 29.32% in 2002, representing an increase of 3.96 points over the reference period and an increase of 8.15 points over four years (1999-2002).

In 2001, of a total of 39 channels mentioned in the report, 23 exceeded the minimum of 10% laid down in Article 5 of the Directive. 9 TV channels failed to do so (ERT-3, BBC World, MGM, Supersport, Supersport 2, Supersport 3, Cartoon Network, TCM, MAD). No data were provided for VOULI. 4 channels were not operating that year (Antenna Gold, FILMNET SUMMER, FOX KIDS, GBC). 2 channels were exempted.

³⁰ Alter channel reached an audience share of 9.1% in 2002.

In 2002, of a total of 39 channels, 27 exceeded the minimum proportion of 10%. 7 channels failed to meet the minimum proportion (BBC World, MGM, Supersport, Supersport 2, Supersport 3, FOX KIDS, and Cartoon Network). No data were provided for VOULI channel. 2 channels were exempted and 2 channels were not operating.

The compliance rate, in terms of number of channels of all types, was 72% in 2001 and 79% in 2002. Proportions allocated to works by independent producers were ranging from 0% to 91.91% in 2001 and from 0% to 98.43% in 2002.

There was an overall upward trend in terms of number of channels. Of a total of 29 channels for which full data were available, 14 had increased their allocation to works by independent producers, 4 were stable and 11 showed a reduction. 4 new channels entered the market in 2002: Antenna Gold (66.3%), FILMNET SUMMER (26.25%), FOX KIDS (1.16%), GBC (30.39%).

The average relative proportion of recent European works by independent producers for all channels was 27.66% in 2001 and 31.93% in 2002, representing an increase of 4.27 points over the reference period but a decrease of 13.61 points over four years (1999-2002).

11 channels (MAKEDONIA TV, BBC World, MGM, ET1, FILMNET 2, Supersport, Supersport 2 and 3, Cartoon Network, TCM, and MAD) had a relatively low allocation to this type of work in 2001 (below 10%). Out of these 11 channels, 8 did not broadcast this type of work at all in their programme. No figures were provided for ERT-1 and VOULI channel for the entire reference period.

There was an overall upward trend in terms of number of channels. Of a total of 28 channels for which full data were available, 14 showed an increase and 5 a decrease. 9 channels remained stable in their allocation (8 channels at 0%). Added to this, however, 2 of four new channels entering the market in 2002 had allocations of recent European works by independent producers which were above average: Antenna Gold (49.96%), FILMNET SUMMER (89.19%).

2.5. Spain

The channels TVE-1 “La Primera”, TVE-2 “La 2”, Telecinco and Antena 3 Television, together representing an audience share of 74% in 2001 and 72.8% in 2002, broadcast an average of 56.06% and 61.71% of European works in 2001 and 2002 respectively, representing an average 5.65 point increase over the reference period and an increase of 8.77 points over four years (1999-2002).

For 2001, of a total of 56 channels mentioned in the report, 35 exceeded the majority proportion of transmission time laid down in Article 4 of the Directive, and 13 were below it. These were the following digital satellite channels: AXN (33.11%), Fox (0.58%), Fox Kids (38.41%), Canal Cinemania (39%), Disney Channel (36.06%), Disney Channel+1, Toon Disney and Playhouse Disney (all three 32.41%), Canal Canarias (21.94%), Studio Universal (27.25%), Turner Classic Movies (38.91%), Nickelodeon (22%), and Calle 13 (20.07%). The compliance rate, in terms of number of channels of all types, was 73%. 3 channels were not operating in 2001 and 5 channels were exempted by the report for the reference period due to the nature of their programmes (news, sports events, games, and advertising).

For 2002, of 56 channels mentioned in the report, 37 exceeded the majority proportion of transmission time laid down in Article 4 of the Directive, while 14 were below it. The 14 concerned were the terrestrial channel Televisión de Canarias (41.92%) and the digital satellite channels AXN (49.1%), Fox (5.8%), Fox Kids (42.2%), Canal Cinemania (29.09%), Disney Channel (35.83%), Disney Channel+1, Toon Disney and Playhouse Disney (all constant at 30.03%), Canal Canarias (10.33%), Studio Universal (43.5%), Turner Classic Movies (40.92%), Nickelodeon (24.7%), and Calle 13 (8.43%). The compliance rate, in terms of number of channels of all types, remained stable at 73%.

The report did not indicate the reasons for non-compliance. Neither did it contain any statement or comment on measures taken or envisaged to prevent non-compliance.

The Commission would point out that the majority proportion of transmission time laid down in Article 4(1) applies each year, with a view in particular to ensuring equal competition for all the television programmes of broadcasters falling within the jurisdiction of the Member State concerned³¹. According to Article 4(3) the Member States' reports on the application of Articles 4 and 5 "shall in particular include (...) the reasons, in each case, for the failure to attain that proportion and the measures adopted or envisaged in order to achieve it." The Commission observes that 4 of the five new entrants to the market failed to meet the majority proportion as foreseen in Article 4 of the Directive thus taking into account the particular circumstances of new television broadcasters.

The Commission takes note, in accordance with the principle of progressive improvement, of the advancement achieved over the reference period by the channels which did not meet the majority proportion (except for the Disney channel group, Canal Cinemania, Calle 13 and Canal Canarias). However, no significant progress in terms of number of channels was achieved compared to the previous reference period 1999-2000.

Of the 48 channels for which full data are available for the reference period, 26 increased the proportion of their transmission time allocated to European works, 1 showed no change (maintaining the 100% maximum) and 21 showed a reduction. In terms of the number of channels of all types, scheduling of European works showed a general upward trend over the reference period.

European works made by independent producers

The average allocation to European works created by independent producers for all channels was 33.86% in 2001 and 34.5% in 2002, representing a 0.64 point increase over the reference period and a decrease of 1.94 points over four years (1999-2002).

For 2001, the compliance rate, in terms of number of channels, was 87%. Of a total of 48 channels for which data were available, only 2 had an allocation to works by independent producers below 10%: AXN (3.94%) and Fox (0.58%). For 2002, with the number of channels increasing (3 additional channels were reported), the

³¹ Cf. second paragraph of Article 4(3) of the Directive and point 2.2 of the suggested guidelines for the monitoring of the implementation of Articles 4 and 5 of the "Television without Frontiers" Directive, dated 11 June 1999.

compliance rate was 86%. Of a total of 51 channels, 3 were below the minimum proportion: AXN (6.04%), Fox (5.8%), and Calle 13 (8.43%).

There was an overall upward trend in terms of number of channels having reached and exceeded the 10% threshold. Of a total of 48 channels for which full data were available, 24 increased their percentage allocation to works by independent producers, 1 remained stable (at 100%) and 23 showed a reduction.

The average relative proportion of recent European works by independent producers for all channels was 22.72% in 2001 and 23.75% in 2002, representing a 1.02 point increase over the reference period and an increase of 2.95 points over four years (1999-2002).

The following channels had a relatively low rate (below 10%): Telemadrid, Fox, Turner Classic Movies, AXN, Nostalgia, Canal Cinemania, Television des Canarias and Calle 13 (in 2002 only). Cine 600 did not show such work at all.

There was an overall upward trend in terms of the number of channels of all types. Of a total of 48 channels for which full data were available for the reference period, 30 showed an increase, 17 showed a reduction and 1 remained at 0%. The 3 new market entrants in 2002 reinforced this trend (with percentages ranging from 8.84% to 45.53%).

2.6. France

The channels France 2, France 3, La 5ème, TF1, Canal+ and M6, together representing an audience share of 92.6% in 2001 and 92.1% in 2002, broadcast an average of 70.98% and 71.73% of European works in 2001 and 2002 respectively, representing an average 0.75 point increase over the reference period and an increase of 4.31 points over four years (1999-2002).

For 2001, of a total of 87 channels mentioned in the report, 59 exceeded³² the majority proportion of transmission time laid down in Article 4 of the Directive. The 5 channels failing to meet the target were: Action (25%), La Chaîne Histoire (49%), Mangas (37%), Monte Carlo TMC (42%), and 13ème Rue (42%). The compliance rate, in terms of number of channels of all types, was 92%. While for 6 channels no data were communicated, 6 channels were not operating in 2001 and 11 channels were exempted by the report for the reference period due to the nature of their programmes (news, sports events, games, advertising, and teleshopping).

For 2002, of a total of 87 channels mentioned in the report, 66 exceeded the majority proportion of transmission time laid down in Article 4 of the Directive. The 3 channels which failed to meet the target were Action (30%), BRTV (32%), and KTO (49%). The compliance rate, in terms of number of channels of all types, was 96%. No data were available for 6 channels. 1 channel was not operating in 2002.

The report indicated the reasons for the cases of non-compliance, as for example the fact that channel BRTV is a new market entrant. It stressed also the fact that the

³² Since only non-point-accurate percentage figures were submitted by France, 50% reported for Multivision were considered to represent a majority proportion according to Article 4(1) of the Directive.

average lies well above the majority proportion and pointed to the overall improvement compared to the last reference period. The Commission observes that measures had been taken for all cases of non-compliance: formal demand for the broadcasters to comply and penalty procedures including financial penalties.

Of the 58 channels for which full data were available for the reference period, 31 increased the proportion of their transmission time allocated to European works, 3 showed no change and 24 reduced their allocation. Account should be taken of the new entrants to the market: 5 of these six new channels scheduled more than 50% of European works. In terms of number of channels of all types, there was a general upward trend in the scheduling of European works over the reference period.

European works made by independent producers

The average allocation to European works by independent producers³³ for all channels of all types was 50.03% in 2001 and 46.33% in 2002, representing a 3.71 decrease over the reference period and a decrease of 12.67 points over four years (1999-2002).

In 2001, of a total of 70 qualifying and operative channels, 61 exceeded the minimum 10% proportion and 3 were lying below the threshold: Allocinéinfo (9%), Game One (4%) and Santé Vie (4%). No data were provided for 6 channels. In 2002, of a total of 75 channels, 67 exceeded the proportion. No data were given for 8 channels. The compliance rate, in terms of number of channels, was 95% in 2001 and 100% in 2002, representing a maximum increase.

Of a total of 57 channels for which full data were available, 25 increased their allocation to works by independent producers and 32 showed a reduction. Therefore, the general trend was downward overall. However, 4 of the five new entrants to the market devoted a significant allocation to this type of work (percentages ranging from 11% to 60%).

The average relative proportion of recent European works by independent producers, for all channels of all types was 69.48% in 2001 and 61.95% in 2002, representing a substantial 7.53 point decrease over the reference period and an increase of 1.25 points over four years (1999-2002).

One channel allocated less than 10% to recent European works by independent producers (M6 Music with 1%).

There was a general downward trend in the allocation to recent European works by independent producers in terms of number of channels. Of a total of 56 channels for which full data were available for the reference period, 17 showed an increase, 5 remained stable (4 at 100%) and 34 showed a reduction. In addition, 4 of the six new entrants broadcast an “adequate proportion” of this type of work in 2002 (percentages ranging from 13% to 66%).

³³ In the case of the terrestrial channels and 4 cable and satellite channels, the percentage of independent production calculated on the basis of the company's turnover.

2.7. Ireland

The channels RTE, Network2, and TV3, which together accounted for an audience share of 53.6% in 2001 and 52.7% in 2002, broadcast an average of 49.17% and 48.67% of European works in 2001 and 2002 respectively, representing an average decrease of 0.5 points over the reference period and a decrease of 5.5 points over four years (1999-2002).

For 2001, of a total of 4 channels mentioned in the report, 2 exceeded the majority proportion of transmission time laid down in Article 4 of the Directive. Network2 was with 41% below and TV 3 with 49.5% only slightly below the majority proportion. The compliance rate, in terms of number of channels, was 50%. For 2002, only 1 of the four reported channels failed to meet the majority proportion (Network2 with 38%). The compliance rate was therefore 75%.

Explaining the cases of non-compliance, the report mentioned that, while a single channel (Network2) did not meet the 50% requirement for European works, the broadcaster (RTE), taking all its services together, easily surpassed the target. The Commission observes that, whereas Article 4(1) speaks of “broadcasters” having to reserve proportions of their transmission time, Article 4(3) refers to “television programmes” when it comes to monitoring the achievement of the above-mentioned proportions. Consequently, the broadcaster is responsible for the achievement of the proportions by **each** channel broadcast. The Commission notes that one operator (TV3) was very close to the majority proportion of transmission in 2001 and exceeded it in 2002. However, the other operator’s (Network2) transmission time of European works declined by 3%. Ireland is in the specific situation of a country with low audiovisual production capacity and/or restricted language area. In view of the requirement for progressive improvement, efforts to increase this proportion should be improved. The report mentioned that RTE has adopted measures to ensure that Network 2 complies in the future with the provisions of Article 4.

Of 4 channels mentioned in the report, 2 increased the proportion of their transmission time allocated to European works and the other 2 reduced it. The general trend, in terms of number of channels, was therefore stable over the reference period.

European works made by independent producers

The average allocation by all channels to European works by independent producers was 26.50% in 2001 and 26.75% in 2002, representing a 0.25 point increase over the reference period and a decrease of 2.25 points over four years (1999-2002).

All four channels reached or exceeded the minimum proportion of 10% laid down in Article 5 of the Directive (percentages ranging from 11% to 59% in 2001 and from 10% to 64% in 2002). The compliance rate, in terms of number of channels, was therefore 100% over the whole reference period.

There was an overall downward trend in terms of number of channels. Of a total of 4 channels mentioned in the report, 1 increased its allocation to works by independent producers and the other 3 showed a reduction.

The average relative proportion of recent European works was stable at 98.75% over the reference period. Recent European works accounted for almost the entirety of the

allocation to European works created by independent producers for all four channels. There was decrease of 1.25 points over four years (1999-2002).

The general trend, in terms of number of channels, was stable over the reference period. All 4 channels remained stable (three at 100%) in their allocation of recent European works by independent producers.

2.8. Italy

The channels Rai Uno, Rai 2, Rai 3, Canale 5, Italia 1 and Rete 4, which together accounted for an audience share of 91% in 2001 and 89.4% in 2002, broadcast an average of 62.66% and 60.72% European works in 2001 and 2002 respectively, representing a decrease of 1.94 points over the reference period and a decrease of 5.18 points over four years (1999-2002).

For 2001, of a total of 69 reported channels which were covered by Article 4 of the Directive³⁴, 39 exceeded the majority proportion of transmission time laid down in that Article. 16 reported channels were not operating in 2001. 11 failed to meet the majority proportion of transmission time. These were the terrestrial channels Italia 1 (43.25%) and the satellite channels Cinema Stream (39.99%), Comedy Life (43.78%), Disney Channel (36.04%), Duel (15.27%), Fox Kids (39.55%), MT Channel (44.99%), Palco (43.45%), Tele + Bianco (44.43%), Tele+ 16/9 (42.85%), and La 7 – TMC (44.82%). The compliance rate, in terms of number of channels of all types, was 78%. No figures were available for 3 channels (Coming Soon Tv, Salute e Benessere and Rete Capri).

For 2002, of a total of 71 reported channels which are covered by Article 4 of the Directive³⁵, 49 exceeded the majority proportion of transmission time laid down in that Article. 14 channels failed to meet the majority proportion of transmission time. These were the terrestrial channels Italia 1 (45.33%) and the satellite channels Cinema Stream (30.31%), Disney Channel (46.27%), Duel (29.98%), Fox Kids (31.34%), Tele+ Grigio (47.28%), Tele + Bianco (42.03%), Tele+ 16/9 (40.11%), Tele+ 30 (44.57%), Palco (45.05%), Primafila (43.23%), Canal Jimmy (39.83%), Studio Universal (39.02%) and TELELAZIO RETE BLU (0%). The compliance rate, in terms of number of channels of all types, was 77%. No figures were available for 6 channels (Classica, Coming Soon TV, Video Italia Solo Musica Italiana, Salute e Benessere, Tuscany Sat and Rete Capri).

The reasons for cases of non-compliance were not given in the extensive report of which a summary is attached in Annex 4. The report stated that "... some broadcasters or groups of broadcasters failed to meet the percentages of scheduling and investment laid down in Italian law. The sanctions procedure will not be applied to those broadcasters who (...) while not complying with the obligation to set aside for European works 50% of their scheduling, nonetheless broadcast a percentage of

³⁴ For 2001, the report exempted 27 channels broadcasting exclusively *news, sports events, games, teleshopping* and showing "mainly interactive programmes and which therefore cannot be considered as part of the traditional schedule".

³⁵ For 2002, the report exempted 25 channels broadcasting exclusively *news, sports events, games, teleshopping* and channels showing "mainly interactive programmes and which therefore cannot be considered as part of the traditional schedule".

European works in excess of 43%”³⁶, without indicating the reasons for each case of non-compliance.

The Commission would point out that the majority proportion of transmission time laid down in Article 4(1) applies each year with a view in particular to ensuring equal competition for all the television programmes of broadcasters falling within the jurisdiction of the Member State concerned.³⁷ In addition, the Commission observes that according to Article 4(3) the report of the Member States on the application of Articles 4 and 5 “shall in particular include (...) the reasons, in each case, for the failure to attain that proportion and the measures adopted or envisaged in order to achieve it.”

Of the 49 channels for which data for the reference period were available, 18 increased the proportion of their transmission time allocated to European works, 10 channels remained stable (all at 100%), and 21 registered a reduction. The general trend, in terms of number of channels of all types, in the scheduling of European works over the reference period, was therefore downward overall.

European works made by independent producers

The average allocation to European works by independent producers for all channels was 21.33% in 2001 and 18.78% in 2002, representing a 2.55 point decrease over the reference period and a considerable decrease of 49.27 points over four years (1999-2002).

For 2001, the compliance rate, in terms of number of channels, was 91%. Of a total of 69 reported channels covered by Article 5³⁸, 10 achieved the minimum proportion and only 1 channel (MTV-TMC2) made no allocation to works by independent producers. No data were supplied for 42 channels³⁹. 16 channels were not operating. In 2002, the compliance rate was 91%. Of a total of 71 reported channels covered by Article 5⁴⁰, 10 channels exceeded the minimum proportion and only 1 channel (Tele+ Nero) made an allocation to works by independent producers below 10%. No figures were supplied for 58 channels. 2 channels did not operate in 2002.

The Commission observes that the minimum proportion of Article 5 applies each year with a view in particular to ensuring equal competition for all the television programmes of broadcasters falling within the jurisdiction of the Member State concerned⁴¹, and this regardless of different transmission modes. The reasons for the

³⁶ In accordance with Article 2 of the Italian Quota Regulation, a shortfall of under 7% in relation to the reserve obligation for European works of 50% of scheduling time means for the broadcaster only the obligation to provide reasons for his failure to achieve the quota. The reasons cannot be investigated by the Authority.

³⁷ Cf. second paragraph of Article 4(3) of the Directive and point 2.2 of the suggested guidelines for the monitoring of the implementation of Articles 4 and 5 of the “Television without Frontiers” Directive, dated 11 June 1999.

³⁸ 27 channels were exempted due to the nature of their programmes.

³⁹ In addition, the report “exempted” satellite channels from the reporting obligation under Article 5. The Commission is currently examining this case as to its conformity with Community law.

⁴⁰ 25 channels were exempted due to the nature of their programmes.

⁴¹ Cf. second paragraph of Article 4(3) of the Directive and point 2.2 of the suggested guidelines for the monitoring of the implementation of Articles 4 and 5 of the “Television without Frontiers” Directive, dated 11 June 1999.

systematic non-communication of satellite and cable channels are to be found in the national legislation transposing the provision of the Directive.⁴² The Italian legislation⁴³, which exempts satellite and cable channels from the obligation to broadcast a minimum proportion of European works made by independent producers and from their obligation to report on the performance under Article 5 of the TWF Directive, is currently under examination by the Commission as to its conformity with Community law. The Commission observes that Member States do not have the faculty to provide for general “exemptions” from obligations under the Directive except for cases specified by the Directive.

Of a total of 11 channels for which full data were available, 5 increased their allocation to works by independent producers and 6 showed a decrease. The general trend, in terms of number of channels, was downward overall.

The average relative proportion of recent European works, whether or not made by independent producers⁴⁴, was 68.69% in 2001 and 76.62% in 2002, representing a 7.93 point increase over the reference period and an increase of 18.17 points over four years (1999-2002).

The following 7 channels had a relatively low proportion (below 10%) of recent European works: Studio Universal (3.1% in 2001), Classica (0% in 2001), Video Italia solo musica Italiana (0% in 2002), RTB International (4.98% in 2002), Canale Promo (INTV) (0% in 2001), TVL (0% in 2001) and Telelazio Rete Blu (0% in 2002).

The general trend, in terms of number of channels of all types, was upward overall. Of a total of 48 channels for which full data were available over the reference period, 17 showed an increase, 17 were stable (16 at 100%) and 14 showed a decline.

⁴² The report makes a distinction between terrestrial and satellite channels. In the case of the former, the report explains that under Article 2(3) of Law No 122/98 transposing the “Television without Frontiers” Directive, national television broadcasters have to broadcast a minimum of 10% (20% for RAI) of European works by independent producers, and that under Article 2(5) of this Law they must invest, through purchase or production, not less than 10% (20% for RAI) of their net annual advertising revenue in European works, including those created by independent producers. The data on European works by independent producers were supplied directly by broadcasters on the basis of self-certification, as were the data on investment obligations.

⁴³ Articles 13 and 14 of the Satellite and Cable Broadcasting Regulation stipulate respectively:

- satellite broadcasts under Italian jurisdiction must comply with the relevant rules on quotas concerning broadcasting and production set out in the applicable legislation for national television broadcasters;
- satellite and cable broadcasters are not subject to the rules declared to be applicable only to the holders of concessions for the broadcasting of television programmes on terrestrial frequencies, e.g. the obligation to broadcast the works of independent producers; for satellite and cable broadcasters this obligation is replaced by an obligation to set aside a minimum of 20 minutes weekly for the promotion and advertising of Italian and European Union audiovisual works.

⁴⁴ The figures forwarded by the Italian authorities were calculated, in accordance with Article 2 of Law 122/98, in relation to European works overall, whether or not by independent producers. It is therefore not possible to determine the actual proportion allocated to works by independent producers within the meaning of the final sentence of Article 5 of the “Television without Frontiers” Directive.

2.9. Luxembourg⁴⁵

RTL Télé Lëtzebuerg, which represented an audience share of 15.7% in 2001⁴⁶, broadcast 80% of European works in 2001 and 2002, the situation therefore showing no change over the reference period. However, there has been a decrease of 20 points over four years (1999-2002).

For 2001, of a total of 10 channels mentioned in the report⁴⁷, 8 exceeded the majority proportion of transmission time laid down in Article 4 of the Directive, representing a compliance rate of 80% in terms of number of channels. The 2 channels failing to meet this proportion of transmission time were Club RTL (49%) and RTL 4 (42%). For 2002, of a total of 10 channels mentioned in the report, 9 exceeded the majority proportion of transmission time laid down in Article 4 and only RTL TVi was below the threshold (41%). The compliance rate, in terms of number of channels, was 90%.

The report mentioned economic reasons for the two cases of non-compliance. The broadcaster concerned has undertaken to rectify the situation.

The Commission would point out that the proportion of transmission time defined in Article 4(1) of the “Television without Frontiers” Directive applies to each of the television programmes of broadcasters falling within the jurisdiction of the Member State concerned⁴⁸ for each year under consideration. It also observes that, in accordance with the principle of progressive improvement, there was an improvement over the reference period resulting in a more positive situation in 2002 (only one operator was slightly below the minimum proportion of transmission time).

Of the 10 channels for which full data were available for the reference period, 3 increased the proportion of their transmission time allocated to European works, 4 were stable (2 at 100%) and 3 showed a decrease. The general trend, in terms of number of channels of all types, in the scheduling of European works over the reference period, was stable overall.

European works made by independent producers

The average allocation to European works by independent producers for all channels was 25.63% in 2001 and 27.5% in 2002, representing a 1.87 point increase over the reference period but a decrease of 2.43 points over four years (1999-2002).

In 2001, of a total of 10 channels, 9 exceeded the minimum proportion of 10% laid down in Article 5 of the Directive. As in previous years⁴⁹ Nordlicht TV was alone in broadcasting no works of this type. The compliance rate, in terms of number of

⁴⁵ The channels RTL TVi and Club RTL broadcast in the French Community of Belgium by TVI S.A. are identical to those broadcast by CLT S.A. in Luxembourg. They were included in the reports of both countries. The same applied to Liberty TV, which is broadcast in Belgium by Event Network S.A. and in Luxembourg by Liberty TV.com.

⁴⁶ No data on audience shares was available for 2002.

⁴⁷ For 9 channels, 10 different sets of data were submitted; for the channel RTL9, one set of data was submitted for its terrestrial transmission and one for its transmission via satellite.

⁴⁸ Cf. second paragraph of Article 4(3) of the Directive and point 2.2 of the suggested guidelines for the monitoring of the implementation of Articles 4 and 5 of the “Television without Frontiers” Directive, dated 11 June 1999.

⁴⁹ Cf. Fifth Communication from the Commission on the application of Articles 4 and 5, 8 November 2002, COM(2002) 612 final

channels, was 90%. In 2002, of a total of 10 channels, 8 exceeded the minimum proportion of 10% laid down in Article 5 of the Directive. The 2 channels failing the minimum proportion for European works by independent producers were Liberty TV (9.98%) and Nordlicht TV with no allocation. The compliance rate, in terms of number of channels, was 80% in 2002. As reasons for the cases of non-compliance, the report indicated financial difficulties and the fact that the channel concerned was a new entrant into the market.

The general trend, in terms of number of channels, was upward overall. Of a total of 10 channels for which full data were available, 5 increased their percentage allocation to works by independent producers, 3 channels were stable (Nordlicht TV at zero) and 2 showed a reduction.

The average relative proportion of recent European works by independent producers for all channels was 12.18% in 2001 and 16.49% in 2002, representing an increase of 4.31 points over the reference period and an increase of 3.01 points over four years (1999-2002).

No data were supplied for the channel RTL Télé Lëtzebuerg for the entire reference period. For the following channels recent European works accounted for a proportion below 10%: RTL 9 (6.7% in 2001), Club RTL (4% in 2001 and 9% in 2002), Liberty TV (9.98% in 2002), Nordlicht TV and Tango TV (both stable with no broadcasting of such works over the entire reference period).

The general trend, in terms of number of channels, was upward overall. Of a total of 9 channels for which full data were available over the reference period, 6 showed an increase, 2 channels remained stable (both with no broadcasting of such type) and 1 channel decreased its allocation.

2.10. Netherlands

The channels Ned 1, Ned 2/TV 2, Ned 3, which together accounted for an audience share of 36%, broadcast an average of 87% of European works in 2001. NED 1, Ned 2/TV 2, Ned 3, Veronica, SBS 6, Net 5, which together accounted for an audience share of 54.3 % in 2002, broadcast an average of 73.83% of European works in 2002 representing a 13.17 point decrease over the reference period and an increase of 5.83 points over four years (1999-2002). Considering only the first three channels, for which full data were communicated for 2001 and 2002, there was a 1.67 point increase over the reference period.

For 2001, of a total of 44 channels mentioned in the report, 9 exceeded⁵⁰ the majority proportion of transmission time laid down in Article 4 of the Directive. 3 channels were not operating. The 5 channels failing to meet the proportion of transmission time were: Yorin (41%), Film 1 (40%), Innergy (31%), Mr. Zap (25%) and Playboy TV (27%). No data were available in the case of 27 channels. The compliance rate, in terms of number of channels of all types, was 64%.⁵¹

⁵⁰ Since non-point-accurate percentage figures were submitted by the NL, 50% is considered to represent a majority proportion according to Article 4(1) of the TWF Directive.

⁵¹ The Commission observes that the compliance rate in 2001 must be seen in relation to the fact that no data were communicated for more than 65% of all operating channels. This clearly violates Article 4(3) of the Directive according to which all Member States have to submit a statistical statement on the

For 2002, of a total of 44 reported channels, 25 exceeded the majority proportion of transmission time laid down in Article 4 of the Directive. 3 channels were not operating. The 12 channels failing to meet the proportion of transmission time were: SBS6 (43%), Net 5 (34%), V8/Foxkids (38%), Yorin (38%), Club (26%), Mr. Zap (22%), Kindernet (40%), Avante (47%), Filmtime (22%), Canal+1 (28%), Canal+2 (29%) and Playboy TV (34%). No data were available in the case of 27 channels. The compliance rate, in terms of number of channels of all types, was 68%.

The reasons for the cases of non-compliance were specified in the report: special interest, the target group of the channel, the recent nature of the channel, “the change to the daytime programme” for children in late 2001, and non-availability of European works at competitive prices. One of the reasons given for the high degree of non-communication in 2001 was the introduction of the New Policy Rules in January 2002 and the previous transition period of technical and legal uncertainty. The Commission welcomes the adoption by the Dutch Media Authority of guidelines to facilitate controls. The Commission would point out, however, that the proportion defined in Article 4(1) applies, for each year and to each of the television programmes falling within the jurisdiction of the Member State concerned. All these programmes must supply data for an appropriate basis in order to measure the extent to which the proportions provided for by Article 4 of the Directive are progressively being achieved⁵².

The general trend, in terms of number of channels of all types, in the scheduling of European works over the reference period, was downward overall. Of the 11 channels for which full data were available for the reference period, 4 increased the proportion of their transmission time allocated to European works, 2 showed no change and 5 registered a reduction. There were 3 new market entrants with proportions of European works in their broadcasting schedule ranging from 50% to 100%.

European works made by independent producers

The average allocation to European works by independent producers for all channels was 68.92% in 2001 and 33.45% in 2002, representing a considerable 35.47 point decrease over the reference period and a decrease of 18.55 points over four years (1999-2002).⁵³

In 2001, of a total of 41 operating channels, 13 exceeded the minimum proportion of 10% laid down in Article 5 of the Directive. No data were supplied for 28 channels.⁵⁴ The compliance rate, in terms of number of channels, was 100%. In 2002, of a total of 41 operating channels, 28 exceeded this proportion, and no data were supplied for

achievement of the proportion referred to in Articles 4 and 5 for each of the television programmes falling within the jurisdiction of the Member State concerned.

⁵² Cf. second subparagraph of Article 4(3) of the Directive and point 2.2 of the suggested guidelines for the monitoring of the implementation of Articles 4 and 5 of the “Television without Frontiers” Directive, dated 11 June 1999.

⁵³ This considerable drop is to a large extent due to non-fulfilment of the reporting obligation for a number of channels in 2001. As already pointed out, Article 4(3) of the TWF foresees a legal obligation for every Member State to provide a statistical statement on the achievement of the proportion referred to in Articles 4 and 5 for each of the television programmes falling within the jurisdiction of the Member State concerned.

⁵⁴ Cf. above.

10 channels. 3 channels failed to reach the minimum level of 10% in 2002: Veronica (0%), TMF Vlaanderen (4%) and Omroep Gelderland (3%). The compliance rate, in terms of number of channels, was 90%.

There was an overall downward trend in terms of number of channels of all types. Of a total of 10 channels for which full data were available, 4 increased their allocation to works by independent producers and 6 showed a reduction. There were also 3 new entrants to the market, whose allocation to European works by independent producers for 2002 varied between 0% and 49%.

The average relative proportion of recent European works for all channels of all types was 64.46% in 2001 and 89.26% in 2002, representing a significant 24.8 point increase over the reference period and an increase of 9.26 points over four years (1999-2002).

The general trend, in terms of number of channels, was upward overall. Of a total of 10 channels for which full data were available for the reference period, 4 showed an increase, 4 were stable (all with a level of or approaching 100%) and 2 showed a decline. There were 3 new entrants to the market all devoting 100% of their output of European productions made by independent producers to recent works.

2.11. Austria

ORF 1, ORF 2 and SAT.1 Österreich, which together represented an audience share of 59.2% in 2001 and 58.3% in 2002, broadcast 74.47% and 79.13% of European works in 2001 and 2002 respectively, representing an average increase of 4.66 points over the reference period and a considerable increase of 22.53 points over four years (1999-2002).

For 2001, of a total of 7 channels, 6 exceeded the majority proportion of transmission time laid down in Article 4 of the Directive. The compliance rate, in terms of number of channels, was 86%. For 2002, of a total of 7 channels, again 6 exceeded the majority proportion of transmission time laid down in Article 4 of the Directive. The compliance rate, in terms of number of channels, was 86%. 1 channel failed to achieve the majority proportion for the entire reference period (ORF 1 with 38% and 48.4% respectively).

The reasons for the case of non-compliance were given in the report: main point made was that the proportion of European works broadcast by ORF as a whole had increased compared to the last reference period by 9.7%. No particular measures have been taken or were envisaged to rectify the situation.

The Commission observes that Austria is in the specific situation of a country with low audiovisual production capacity and takes account of the progress that has been achieved. In 2002, ORF1 failed to meet the majority proportion by 1.6% and increased its share by 11.8 points compared to the beginning of the previous reference period (1999-2000). However, it has to be pointed out that one of the reasons for the proportion defined in Article 4(1), which applies each year, is to

ensure equal competition between all television programmes of broadcasters falling within the jurisdiction of the Member State concerned⁵⁵.

Of the 7 channels mentioned in the report, 3 had increased the proportion of their transmission time allocated to European works and 4 showed no change. The general trend, in terms of number of channels of all types, was an overall increase in scheduling of European works over the reference period.

European works made by independent producers

The average proportion reserved for European works by independent producers for all channels was 61.1% in 2001 and 61.42% in 2002, representing a 0.32 point increase over the reference period and a considerable increase of 20.79 points over four years (1999-2002).

Over the entire reference period, the compliance rate, in terms of number of channels, was 100%. All 7 channels referred to in the report exceeded the minimum of 10% allocation to works by independent producers (percentages ranging from 18.7% to 100% in 2001 and from 16.7% to 100% in 2002).

The general trend, in terms of number of channels, was upward. With the exception of ORF1 (18.7% in 2001 to 16.7% in 2002), all channels increased their allocation to works by independent producers over the reference period. Two new channels on the market, Fashion TV and SAT1 Österreich, devoted 100% of their output to works by independent producers.

The average relative proportion of recent European works for all channels was 66.65% in 2001 and 69.27% in 2002, representing an increase of 2.62 points over the reference period and an increase of 23.2 points over four years (1999-2002).

The general trend, in terms of number of channels, is stable. 2 channels increased their proportion over the reference period, 2 decreased it and 3 channels showed no change. In two consecutive years, 6 channels exceeded with their output of recent works 50% of their output of works by independent producers (percentages ranging from 58% to 100% in 2001 and from 57.4% to 100% in 2002).

2.12. Portugal

The channels RTP 1, RTP 2, SIC and TVI, which together accounted for an audience share of 91.6% in 2001 and 89.3% in 2002, broadcast an average of 46.98% and 49.83% of European works in 2001 and 2002 respectively, representing an average 2.85 point increase over the reference period and an increase of 1.13 points over four years (1999-2002).

For 2001, of a total of 12 channels covered by Article 4 of the Directive⁵⁶, 9 exceeded the majority proportion of transmission time laid down in Article 4 of the Directive. The 3 channels which failed to meet the proportion of transmission time

⁵⁵ Cf. the second paragraph of Article 4(3) of the Directive and point 2.2 of the suggested guidelines of 11 June 1999 for the monitoring of the implementation of Articles 4 and 5 of the “Television without Frontiers” Directive.

⁵⁶ Out of a total of 15 channels mentioned, 3 channels were exempted by the report due to the nature of their programmes.

were: SIC (40.9%), SIC Radical (39.7%) and TVI (36.2%). The compliance rate, in terms of number of channels, was 75%. For 2002, of a total of 12 channels concerned⁵⁷, 9 exceeded the majority proportion of transmission time laid down in Article 4 of the Directive. The 3 channels which failed to meet the proportion of transmission time were the same as for 2001, i.e. SIC (39.1%), SIC Radical (17.8%) and TVI (47%). The compliance rate, in terms of number of channels, was 75%.

The reasons for the 3 cases of non-compliance were given in the report: the Portuguese authorities acknowledged that SIC and SIC Radical failed to comply with the objectives laid down in Article 4 of the Directive in 2001 and 2002 but observed that the proportion for the group channels taken together was 58.6% and 52.4% respectively and that the recent establishment of SIC Radical played a decisive role. In the case of TVI, the report pointed out that there had been steady progress achieved since 1993 and referred to the specific characteristics of the Portuguese television market (programme production industry, advertising and financial instability).

As far as measures were concerned, the report stated that the competent authorities had drawn the attention of the operators concerned, in particular TVI, to the situation in the course of a regular dialogue but did not intend to take action in view of the considerable progress made.

The Commission observes that Portugal is in the specific situation of a country with low audiovisual production capacity and/or restricted language area. Also, it observes that there has been a considerable improvement over the current reference period in the proportion scheduled by TVI (from 36.2% in 2001 to 47% in 2002), which has a large audience share on the Portuguese market (over 31%). However, as to the average transmission time of European works, no progress has been made compared with the previous reference period⁵⁸. In this regard, the Commission would point out that the proportion of transmission time laid down in Article 4(1) applies each year to all the television programmes of broadcasters within the jurisdiction of the Member State concerned, with a view, in particular, to ensuring equal competition⁵⁹.

Of the 12 channels for which full data were available for the reference period, 6 increased the proportion of their transmission time allocated to European works, while also 6 reduced it. The general trend, in terms of number of channels of all types, in the scheduling of European works over the reference period, was therefore stable.

European works made by independent producers

The average allocation to European works by independent producers for all channels was 41.53% in 2001 and 26.91% in 2002, representing a 14.63 point decrease over the reference period but an increase of 1.95 points over four years (1999-2002).

⁵⁷ Cf. footnote above.

⁵⁸ The channels with the largest audience share broadcast 48.7% and 49.5% of European works in 1999 and 2000.

⁵⁹ Cf. second paragraph of Article 4(3) of the Directive and point 2.2 of the suggested guidelines for the monitoring of the implementation of Articles 4 and 5 of the "Television without Frontiers" Directive of 11 June 1999.

In 2001, of a total of 12 channels covered by Article 5 of the Directive, 11 exceeded the minimum proportion of 10% laid down in Article 5 of the Directive. In 2002, only 10 out of 12 exceeded this threshold. The compliance rate, in terms of number of channels, declined from 92% in 2001 to 83% in 2002. SIC TV was alone in failing to meet the minimum proportion in 2001 (9.3%) and 2002 (0%). RTP Africa lowered its proportion in its allocation to European works by independent producers from 43% in 2001 to 7.7% in 2002.

The general trend, in terms of number of channels, was downward overall. Of a total of 12 channels for which full data were available, 3 increased the proportion of their allocation to works by independent producers and 9 registered a reduction; 2 out of these lowered their proportion considerably (RTP Africa by 35.3% and SIC Radical by 27.3%).

The average relative proportion of recent European works was 90.05% in 2001 and 74.29% in 2002, representing a 15.76 point decrease over the reference period and a substantial increase of 49.33 points over four years (1999-2002). One channel (SIC Noticias) did not broadcast such works at all in 2002.

The general trend, in terms of number of channels, was negative. Of a total of 12 channels for which full data were available for the entire reference period, 1 showed an increase, 3 were stable (at 100%) and 8 fell considerably, though still representing an adequate proportion of works created by independent producers.

2.13. Finland

The channels TV1, TV2, MTV3 and Nelonen, which together accounted for an audience share of 94% in 2001 and 93.9% in 2002, broadcast an average of 70.5% and 66.25% of European works in 2001 and 2002 respectively, representing an average 4.5 point decrease over the reference period. Compared with the previous reference period, there was no change in the average allocation to European works over four years (1999-2002).

Over the reference period, all 4 channels referred to in the report reached or exceeded the majority proportion of transmission time laid down in Article 4 of the Directive (proportions varying between 50%⁶⁰ and 89% in 2001 and 50% and 86% in 2002). The compliance rate, in terms of number of channels, was therefore 100%.

Of the 4 channels referred to in the report, 3 decreased the proportion of their transmission time allocated to European works and 1 remained stable. The general trend, in terms of number of channels of all types, in the scheduling of European works over the reference period, was therefore negative.

European works made by independent producers

The average allocation to European works by independent producers for all channels was 28.5% in 2001 and 25.5% in 2002, representing a 3 point decrease over the reference period and an increase of 2.5 points over four years (1999-2002).

⁶⁰ Since only non-point-accurate percentage figures were submitted by Finland, 50% were considered to represent a majority proportion according to Article 4(1) of the TWF Directive.

Over the reference period as a whole, all four channels referred to in the report exceeded the minimum proportion of 10% laid down in Article 5 of the Directive (percentages ranging from 23% to 35% in 2001 and from 23% to 34% in 2002).

The general trend, in terms of number of channels, was downward overall. 1 channel increased its allocation to works by independent producers and 3 channels decreased it.

The average relative proportion of recent European works was 77% in 2001 and 76.75% in 2002, representing a 0.25 point decrease over the reference period and a decrease of 3.25 points over four years (1999-2002).

The general trend, in terms of number of channels, was negative. Of a total of four channels, one showed an increase, one was stable at 100% and two fell slightly by 1%, though still representing a majority proportion.

2.14. Sweden

The channels SVT 1, SVT 2, TV 4 and Kanal 5, which together accounted for an audience share of 75.9% in 2001 and 76% in 2002, broadcast an average of 59.08% and 59.47% of European works in 2001 and 2002 respectively, representing an average 0.39 point increase over the reference period and a 14.36 decrease over four years (1999-2002).⁶¹

For 2001, of the 38 channels referred to in the report, 6 exceeded the majority proportion of transmission time laid down in Article 4 of the Directive. The 10 which failed to meet this proportion of transmission time were: Kanal 5 (17.5%), TV 1000 (22%), TV 1000 Cinema (22%), Canal+ (27%), Canal+ Gul (25%), Canal+ Bla (22%), Canal+ Kiosk (9.7%), Cinema (31%), Skanekanalen (28.6%) and DTU 7 (28.6%). 15 channels were not operating in 2001 and 5 channels were exempted by the report over the entire reference period due to the nature of their programmes (SVT24, SVTExtra, Eurosport, TV Butiken and Sirius). For 2 channels no data were supplied. Reasons given for these cases of non-communication were subsequent bankruptcy in 2002 and non-availability of information. The compliance rate, in terms of number of channels of all types, was 38%.

For 2002, of a total of 38 channels mentioned in the report, 9 exceeded the majority proportion of transmission time laid down in Article 4 of the Directive. The 12 channels failing to meet the proportion of transmission time were: Kanal 5 (16%), TV 1000 (21%), TV 1000 Cinema (22%), "6" (i logotype) (45%), E! (4.1%), Canal+ (33%), Canal+ Gul (32%), Canal+ Bla (30%), Canal+ Kiosk (11.85%), Skanekanalen (17.8%), DTU 7 (17.8%) and Nickelodeon (22.48%). 12 channels were not operating and 5 channels were exempted by the report. The compliance rate, in terms of number of channels of all types, was 43%.

Among the reasons for the cases of non-compliance given in the report was the special-interest nature of some channels' programme (nature films of exotic origin, American entertainment and Hollywood news), their operating method (pay-per-

⁶¹ TV 3 AB and TV 5 AB/Kanal 5 were not included in the average transmission of 1999 because there were no data for 1999 (digital transmission began in 2000).

view) or their target audience (immigrants). Only in one case of non-compliance did the report indicate that programme changes are planned.

The Commission would point out that, as to the average transmission time of European works, which is calculated on the basis of data submitted by channels with the highest audience shares, the situation appears positive, and slight progress has even been made. However, looking at the compliance rate, which is calculated on the basis of the data of all reported channels, a less positive picture appears. It has to be pointed out that the proportion of transmission time laid down in Article 4(1) applies each year to all the television programmes of broadcasters within the jurisdiction of the Member State concerned, with a view, in particular, to ensuring equal competition⁶².

Of the 15 channels for which complete data were available for the reference period, 5 increased the proportion of their transmission time allocated to European works, 2 showed no change and 8 a reduction. The general trend, in terms of number of channels of all types, in the scheduling of European works over the reference period, was therefore downward overall.

European works made by independent producers

The average allocation to European works by independent producers for all channels was 35.4% in 2001 and 37.87% in 2002, representing an increase of 2.48 points over the reference period and an increase of 9.93 points over four years (1999-2002).

In 2001, of a total of 38 reported channels, 11 exceeded the minimum proportion of 10% laid down in Article 5 of the Directive. No data were supplied for 7 channels. The report gave for these cases of non-communication of data the following reasons: non-availability of information due to end of operation in 2002 and non-availability of information on origin of programmes because of purchase from distributor. 15 channels were not operating in 2001 and 5 channels were exempted by the report due to the nature of their programmes. Of the channels concerned, none failed to allocate less than 10%. The compliance rate, in terms of number of channels, was therefore 100% in 2001. In 2002, 12 channels exceeded this threshold. No data were supplied for 4 channels without indicating reasons for this non-communication. The following 5 channels failed to meet the minimum threshold of 10%: UR (6.3%), “6” (9%), E!(4.1%), Skanekanalen and DTU 7 (both 9.6%). The compliance rate, in terms of number of channels, was 71% in 2001. This represents a decrease of 29% compared to the previous year.

The general trend, in terms of number of channels, was downward overall. Of a total of 11 channels for which full data were available, 2 increased their allocation to works by independent producers, 2 were stable and 7 showed a decrease. However, this reduction must be seen in relative terms, as six new channels appeared on the market which varied in the extent of their allocation to independent productions (proportions ranging from 4.1% to 81.37% in 2002).

⁶² Cf. second paragraph of Article 4(3) of the Directive and point 2.2 of the suggested guidelines for the monitoring of the implementation of Articles 4 and 5 of the “Television without Frontiers” Directive of 11 June 1999.

The average relative proportion given over to recent European works was 82.26% in 2001 and 65.48% in 2002, representing a 16.78 point decrease over the reference period and an increase of 11.51 points over four years (1999-2002).

The general trend, in terms of number of channels, was stable overall⁶³. Of a total of 8 channels for which full data were available over the reference period, 3 showed an increase, 2 were stable (both at 100%) and 3 showed a decrease. In addition, however, 4 of the 6 new channels focused their efforts to some extent on recent works (rates ranging from 24.18% to 50% in 2002).

2.15. United Kingdom

The channels BBC 1, BBC 2, ITV, Channel 4 and Channel 5, which together accounted for a audience share of 81% in 2001 and 78% in 2002, broadcast an average of 73.6% and 73.8% of European works in 2001 and 2002 respectively, representing an average 0.2 point increase over the reference period and an increase of 9.8 points over four years (1999-2002).

For 2001, of a total of 192 channels mentioned in the report, 68 exceeded the majority proportion of transmission time laid down in that Article. 61 channels were exempted by the report due to the nature of their programmes⁶⁴. 6 channels were not operating in this period. The data for 2 channels were not communicated with the remark “no data available”. The compliance rate for channels of all types was 55%.

The following 55 channels failed to meet the proportion of transmission time: 3+ Denmark (18%), Biography Channel (19%), Bravo (15%), Cartoon Network (28%), Cartoon Network – Boomerang (26%), Cartoon Network – Dutch Language (23%), Cartoon Network – EMEA (13%), Cartoon Network – French Language (25%), Cartoon Network – Italian Language (25%), Cartoon Network – Nordic (22%), Cartoon Network – Spanish Language (28%), Cinenova (16%), Discovery Health (39%), Discovery Kids (26%), Discovery Wings (45%), Disney Channel UK (34%), Film Four (46%), Fox Kids UK (29%), Fox Kids Scandinavia (40%), Front Row - with the Barker channel⁶⁵ (47%), God Channel (29%), Granada Breeze (32%), GSB Men + Motors/Breeze (48%), History Channel (33%), Kanal 5 (14%), Kerrang (45%), Living (37%), National Geographic (31%), National Geographic France (12%), Nickelodeon (16%), Nickelodeon Nordic (8%), Paramount Comedy Channel (7%), Playboy TV (20%), Reality TV (37%), Revival Channel (42%), Sci-Fi Channel (11%), Sky Cinema (10%), Sky Movie Max (3%), Sky One (29%), Sky Premier (8%), Sky Travel Channel (39%), Studio Channel (19%), Studio Universal (45%), TCM French (41%), TCM Spain (40%), , TCM UK (41%), Television X (31%), Trouble (former TCC) (19%), TV3 Denmark (18%), TV3 Norway (14%), TV3 Sweden (18%), TvDanmark1 (4%), VT4 (28%), and ZTV Norway (11%).

⁶³ This is a relative assessment in so far as no information was supplied for a large number of channels (8 channels in 2001 and 10 in 2002). Again, no reasons were given by the report for these frequent cases of non-communication.

⁶⁴ The report included the following six news and sports events channels: BBC News 24, Sky News, Sky Sports 1, Sky Sports 2, Sky Sports 3, Sky Sports extra. Their proportions of European works were considered after accounting for excluded transmissions.

⁶⁵ Without the Barker Channel (25%).

For 2002, of a total of 120 channels covered⁶⁶ by Article 4 of the Directive, 69 exceeded⁶⁷ the majority proportion of transmission time laid down in Article 4 of the Directive. No data were available for 3 channels. 8 channels were not fully operating in 2002. The compliance rate for channels of all types was 58%.

The following 51 channels failed to meet the proportion of transmission time: 3+ Denmark (18%), Biography Channel (22%), Bravo (28%), Cartoon Network (35%), Cartoon Network – Boomerang (22%), Cartoon Network – EMEA (17%), Cartoon Network – French Language (29%), Cartoon Network – Italian Language (25%), Cartoon Network – Nordic (25%), Cartoon Network – Spanish Language (24%), Cinenova (17%), Cinenova 2 (14%), Discovery Health (49%), Discovery Kids (35%), Discovery Wings (40%), Disney Channel UK (34%), Film Four (45%), Film Four Extreme (48%), Fox Kids UK (27%), Fox Kids Scandinavia (34%), Front Row - with the Barker channel⁶⁸ (27%), God Channel (23%), History Channel (37%), Kanal 5 (12%), Kerrang (45%), Living (30%), National Geographic (34%), Nickelodeon (21%), Nickelodeon Nordic (23%), Nicktoons TV (28%), Paramount Comedy Channel (7%), Playboy TV (24%), Reality TV (29%), Sci-Fi Channel (8%), Sky Cinema (12%), Sky Movie Max (3%), Sky One (21%), Sky One Mix (43%), Sky Premier (9%), Sky Travel Channel (44%), Sky Travel Extra (46%), Studio Channel (15%), TCM French (40%), TCM Spain (40%), TCM UK (40%), Television X (47%), Trouble (former TCC) (19%), TV3 Denmark (21%), TV3 Norway (19%), TV3 Sweden (24%), TvDanmark1 (4%), and ZTV Norway (48%).

The following reasons for the cases of non-compliance were given in the report: the special-interest or recent nature of the channel, the difficulty in finding European programmes or in finding them at competitive prices, subsidiaries of companies based in non-member countries broadcasting programmes mostly from their own stock.

The Commission would point out that the proportion of transmission time laid down in Article 4 (1) applies each year to each of the television programmes of broadcasters within the jurisdiction of the Member State concerned⁶⁹.

Of the 114 channels for which complete data were available for the reference period, 48 increased the proportion of their transmission time allocated to European works, 16 showed no change and 50 showed a reduction. The general trend, in terms of number of channels of all types, in the scheduling of European works over the reference period, was downward overall.

⁶⁶ This does not include 61 channels which were exempted by the report due to the nature of their programmes, 8 channels which were not operational and 3 channels for which no data were communicated.

⁶⁷ Since only non-point-accurate percentage figures were submitted by the UK, 50% were considered to represent a majority proportion according to Article 4(1) of the TWF Directive.

⁶⁸ Without the Barker Channel (20%).

⁶⁹ Cf. second paragraph of Article 4(3) of the Directive and point 2.2 of the suggested guidelines for the monitoring of the implementation of Articles 4 and 5 of the “Television without Frontiers” Directive, dated 11 June 1999.

European works made by independent producers

The average allocation to European works by independent producers for all channels of all types was 32.43% in 2001 and 31.35% in 2002, representing a 1.08 point decrease over the reference period but an increase of 2.94 points over four years (1999-2002).

In 2001, of a total of 123 channels concerned by Article 5 of the Directive⁷⁰, 97 exceeded the minimum proportion of 10% laid down in that Article. The 26 channels which failed to reach this proportion were: BBC News 24, Bravo, Cartoon Network (EMEA), Dating Channel, Disney Channel UK, Front Row (including Barker Channel), Front Row (excluding Barker Channel), God Channel, Granada Breeze, GSB Men + Motors/Breeze, Living, Nickelodeon Nordic, Paramount Comedy Channel, Reality TV, Sci-Fi Channel, Sky Movie Max, Sky News, Sky One, Sky Premier, Sky Travel Channel, Studio Channel, Trouble (formerly known as TCC), TV3 Norway, TvDanmark1, UK Drama, ZTV Norway. The 2 channels for which no data were communicated in 2001 were BBC Prime and Hallmark Entertainment Network.

In 2002, of a total of 120 channels concerned by Article 5 of the Directive⁷¹, 98 exceeded this proportion. The 22 channels which failed to achieve the minimum were: BBC News 24, BBC World, Dating Channel, Disney Channel UK, Front Row (including Barker Channel), Front Row (excluding Barker Channel), God Channel, Paramount Comedy Channel, Reality TV, Sci-Fi Channel, Sky Movie Max, Sky News, Sky One, Sky One Mix, Sky Premier, Sky Travel Channel, Sky Travel Extra, Studio Channel, TV3 Norway, TvDanmark1, UK Drama, ZTV Norway. For the following 3 channels no data were communicated in 2002: BBC Prime, Hallmark Entertainment Network and National Geographic France.

The compliance rate, in terms of number of channels of all types, was 79% in 2001 and 82% in 2002.

The general trend, in terms of number of channels, was downward overall. Of a total of 114 channels for which full data were available, 48 increased their allocation to works by independent producers, 14 were stable and 52 showed a decline. Added to this there were 6 new market entrants which allocated a variable proportion to this type of work (between 1% and 51%).

The average relative proportion given over to recent European works by independent producers for all channels was 26.05% in 2001 and 24.78% in 2002, representing a 1.27 point decrease over the reference period but an increase of 2.37 points over four years (1999-2002).

⁷⁰ This amounts to an increase of 26% in the number of channels compared to the beginning of the previous reference period (1999). This figure does not include the 61 exempted channels or those which were not operational (6 channels) or for which no data were communicated (2 channels) in 2001.

⁷¹ This does not include the exempted 61 channels or those which were not operational (8 channels) or for which no data were communicated (3 channels) in 2002.

The proportional allocation to recent European works by independent producers by the following channels was particularly low⁷²: BBC News 24, BBC World, Biography Channel, Bravo, Cartoon Network (all channels of the Turner Group except Cartoon Network in Spanish Language), Challenge TV, Cinenova, Dating Channel, Discovery Kids, Disney Channel UK, Film Four, Film Four World, Front Row (including Barker Channel), Front Row (excluding Barker Channel), God Channel, Granada Breeze, GSB Granada Plus, GSB Men + Motors/Breeze, History Channel, ITV2, Kanal 5, Living, National Geographic (France), NBC Europe, Nickelodeon, Nickelodeon Nordic, Nicktoons TV, Paramount Comedy Channel, Reality TV, Sci-Fi Channel, Sky Cinema, Sky Movie Max, Sky News, Sky One, Sky One Mix, Sky Premier, Sky Travel Channel, Sky Travel Extra, Studio Channel, Studio Universal, TCM (France, Spain, UK), Trouble (former TCC), TV3 Norway, TvDanmark1, UK Drama, UK Gold, ZTV Norway.

The general trend, in terms of number of channels, was downward overall. Of a total of 73 channels for which full data were available for the reference period, 20 showed an increase, 14 were stable and 39 decreased its allocation of recent works.

⁷² These channels failed to reach 10% of European works made by independent producers during the entire reference period or during one of the two years.

ANNEX 4 - SUMMARY OF THE REPORTS FROM THE MEMBER STATES

Keys :

"NR" : data not reported

"NO" : channel not in operation over the period in question

"EXEMPT": channel exempted by the Member State's report

BELGIUM

The Commission received two reports, one from Belgium's French Community (*Communauté française de Belgique, CFB*) and one from the Flemish Community (*Vlaamse Gemeenschap, VLG*). No report was received from the German-speaking Community (*Deutschsprachige Gemeinschaft, GSG*).

A) Statistical statement

1. Summary table

	<i>Number of channels</i>	<i>Reference period</i>	<i>Method(s) of monitoring</i>
Flemish channels	11	2001 / 2002	
French speaking channels	9		Overall figures or sampling

2. Proportions (%)

2.1. FLEMISH BROADCASTERS

<i>Broadcaster</i>	<i>Channel</i>	<i>European productions (EP)</i>		<i>Independent productions (IP)</i>		<i>Recent productions (RP)</i>	
		<i>2001</i>	<i>2002</i>	<i>2001</i>	<i>2002</i>	<i>2001</i>	<i>2002</i>
VRT	TV 1	63,54%	71,07%	11,63%	12,51%	95,54%	90,98%
	Canvas/ Ketnet	65,02%	66,95%	9,70%	10,95%	83,64%	83,87%
VMM	VTM	62%	54%	65%	63%	96%	73%
	Kanaal 2	31%	47%	61%	90%	90%	94%
	Jim Tv	NO	100%	NO	11%	NO	100%
Canal+ nv	Canal+ grijs/rood	34%	34%	70%	95%	70%	100%
	Canal+ blauw	33%	33%	72,5%	95%	72,5%	100%
	Canal+ 16/9	55,7%	55,7%	93%	99%	93%	100%

Event Tv Vlaanderen	Liberty Tv.com	100%	100%	100%	100%	100%	100%
Media ad infinitum	Vitaya	75%	79%	8%	8%	100%	100%
SBS Belgium nv	VT4	NO	22,30%	NO	21,45%	NO	21,20%

B) Reasons given by Member State for failure to reach proportion

VRT

In 2001, the percentage of independent productions for the broadcaster Ketnet / Canvas was 9.70%. This figure does not pose any problem for the Flemish Community, given that it rose to 10.95% in 2002.

VMM

The figures for VTM require no comment.

The channel Kanaal 2 does not achieve a rate of 50% European productions. However, it should be noted that this percentage is on the increase compared with 1999 (25%) and 2000 (30%).

Launched in 2002, the channel Jim TV broadcasts only European productions and thus achieves a rate of 100%.

Looking at the VMM channels as a whole, the Flemish Community does not see any need for action.

Canal + Televisie

Canal + Televisie is a pay TV company that broadcasts over three channels: Canal + grijs, Canal + blauw and Canal + 16/9.

Canal + Televisie broadcasts mainly films and sport.

Canal + 16/9 does nevertheless achieve a rate of 55.7% European productions.

Given their specific nature, however, there is no evident need for these channels to achieve the quota. No intervention is therefore required.

Event TV Vlaanderen (LibertyTV.com)

These figures require no comment.

Media ad infinitum (Vitaya)

Vitaya has been broadcasting programmes on health and lifestyle since August 2000. It broadcasts mostly its own productions. For the year 2000, no figures could be provided for the number of independent productions. For 2001 and 2002, the proportion was 8%, which represents an advance for Vitaya.. The Flemish Community welcomes this development and therefore does not consider there is any need for intervention.

SBS Belgium nv (VT4)

VT4 was launched as a British channel targeting exclusively the Flemish Community. It has been recognised as a Flemish broadcaster since 2002.

VT4 achieves a rate of only 22.30% European productions. However, it is only in its first operating year as a Flemish broadcaster. The proportion of European productions may be expected to rise in the coming years. The Flemish Community will of course monitor developments.

C) Measures adopted or envisaged by the Member State

No comments.

D) Further comments

No comments.

2.2. FRENCH-SPEAKING BROADCASTERS

<i>Broadcaster</i>	<i>Channel</i>	<i>European productions (EP)</i>		<i>Independent productions (IP)</i>		<i>Recent productions (RP)</i>	
		<i>2001</i>	<i>2002</i>	<i>2001</i>	<i>2002</i>	<i>2001</i>	<i>2002</i>
RTBF	RTBF 1	71,3%	70,8%	40,2%	33,6%	24%	21,5%
RTBF	RTBF 2	91,3%	88,6%	28,7%	29,9%	22%	25,6%
TVI s.a.	RTL TVI	55,53%	41,49%	27,44%	22,91%	19,53%	18,83%
TVI s.a.	CLUB RTL	48,58%	49,47%	14,40	19,81%	3,52%	8,70%
YTV s.a.	AB3	27,28%	51,9%	-	47,5%	25,33%	41%
Canal+ Belgique s.a.	Canal+ Belgique	46,1%	57,1%	35,1%	42,3%	34,6%	39,9%
MCM Belgique s.a.	MCM Belgique	-	70,26%	-	23,65%	-	16,39%
Event Network s.a.	LIBERTY TV	-	100%	-	0	-	0

Belgian Business TV s.a.	CANAL Z	Exempt	Exempt	Exempt	Exempt	Exempt	Exempt
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B) Reasons given by Member State for failure to reach proportion

1. European works

RTL TVI and CLUB RTL The overall proportions for these two channels owned by TVI s.a. were: 2001: 52%; 2002: 46.57%. These two proportions are higher than the threshold established for the Belgian French Community (41.6%).

CANAL + Belgium: In 2001, this proportion was higher than the threshold established for the Belgian French Community (41.6%).

2. Independent producers:

No comment.

3. Recent works:

RTL TVI and CLUB RTL: The quotas for these two channels, owned by TVI s.a., were: 2001: 11.5%; 2002: 12.38%.

C) Measures adopted or envisaged by the Member State

AB3: YTV was censured for not respecting the quotas for European works during 2001 and fined.

LIBERTY TV: Event Network was censured for not respecting the quotas for works from independent producers in 2002 and fined.

D) Further comments

CANAL+ offers its digital TV subscribers two versions of its basic analogue programme. No figures could be given for the years 2001 and 2002.

DENMARK

A) Statistical statement

1. Summary table

<i>Number of channels</i>	<i>Reference period</i>	<i>Method(s) of monitoring</i>
6	2001/2002	No comment.

2. Proportions (%)

<i>Channel</i>	<i>Broadcaster</i>	<i>European works (EW)</i>		<i>European works created by independent producers (IP)</i>		<i>Recent works (% of IP)</i>	
		<i>2001</i>	<i>2002</i>	<i>2001</i>	<i>2002</i>	<i>2001</i>	<i>2002</i>
DR 1	DR	81	82	21	21	76,2	76,2
DR 2	DR	87	86	23	23	69,6	69,6
TV 2	TV2	63,4	55,1	93,6	84,7	99,7	81,5
TV 2 Zulu	TV2	31	35,3	96,8	97,9	64,9	83,8
Tv Danmark 2	BroadcastDanmark	47	38	91	86	91	86
DK 4	DK4	100	100	8,1	10,1	100	100

B) Reasons given by Member State for failure to reach proportion

1. European works

TvDanmark 2 says that there was a sharp rise in the proportion of European works in 2003. Although the number of broadcasting hours has not yet been assessed, the channel will possibly achieve an output of 50% European works.

C) Measures adopted or envisaged by the Member State

No comments.

D) Further comments

TV 2's eight regional television stations broadcast between 30 minutes and one hour a day in slots on TV 2. They mainly broadcast locally produced news and magazine programmes. The statistics do not take account of these programmes.

TV 2 says that, in defining independent producers, they have used the definitions of parent and subsidiary company from the field of company law – see § 2 of the Act on public limited

companies (aktieselskabslov) and § 2 of the Act on private limited companies (anpartsselskabslov).

The following television stations had a broadcasting licence in 2001-2002 but have discontinued broadcasting :

NESA Kabel TV A/S

SBS Broadcast Danmark – Big Brother 1, 2 and 3

Go Marketing, Goto Denmark and Erotic TV 69

Pay Per View Danmark TV Bio+

The following television stations are not included in the statistics:

Dan Toto Racing Live – only broadcasts sports news

Mesopotamia Broadcast – only broadcasts programmes in Kurdish.

Germany

A) Statistical statement

1. Summary table

<i>Number of channels</i>	<i>Reference period</i>	<i>Method(s) of monitoring</i>
33	2001 / 2002	No comment.

2. Proportions (%)

Channel	Broadcaster	European works (EW) Article 4		Independent productions (IP) Article 5		Recent works Article 5	
		2001	2002	2001	2002	2001	2002
ARD	ARD	89,6	88,1	41,2	40,9	86,82	85,41
ZDF	ZDF	88,89	87,22	34,73	33,65	64,74	73,18
Phoenix	ARD/ZDF	99,0	99,0	1,0	1,0	100	100
Kinderkanal	ARD/ZDF	83,18	85,7	31,68	40,12	77,29	85,34
3sat	ARD/ZDF/ ORF/SRG	96,0	96,8	32,3	31,6	83,9	83,2
9Live	Euvia Media AG	NO	73,91	NO	38,27	NO	100
13 TH Street	Universal Studios Networks Deutschland GmbH	10,53	10,74	NR	NR	10,0	10,0
Discovery Channel	Discovery Channel Betriebs GmbH	50	52	100	100	80	80
DSF	DSF Deutsches Sportfernsehen GmbH	76,0	87,0	59,0	56,0	95,0	98,0
Kabel 1	ProSiebenSat1 Media AG	21,65	21,15	98,92	98,85	11,62	16,56
N 24	ProSiebenSat1	99,2	97,11	32,5	33,04	93,58	92,84

Channel	Broadcaster	European works (EW) Article 4		Independent productions (IP) Article 5		Recent works Article 5	
		2001	2002	2001	2002	2001	2002
	Media AG						
n-tv	n-tv Nachrichten- sender	NR	NR	30-60	30-60	99,0	99,0
ONYX	Onyx Television GmbH	NR	NR	100	100	50,0	50,0
Planet TV	Multi Thematiques GmbH	NR	NR	NR	NR	NR	NR
Premiere	Premiere	30,5	30,0	NR	NR	NR	NR
ProSieben	ProSiebenSat1 Media AG	42,23	46,87	80,93	79,15	65,14	53,0
RTL	RTL Television GmbH	69,0	72,0	69,0	67,0	77,0	79,0
RTL.2	RTL 2 Fernsehen GmbH & Co. KG	40,0	40,0	59,0	64,0	60,0	63,0
SAT.1	ProSiebenSat1 Media AG	74,92	72,25	82,13	81,13	74,95	78,27
Studio Universal	Universal Studios Networks Deutschland GmbH	32,06	31,41	NR	NR	NR	NR
Super RTL	RTL Disney Fernsehen GmbH	41,3	43,8	100	100	78	80,5
TM 3	TM3 Fernsehen GmbH & Co KG	NR	NO	NR	NO	NR	NO
VH-1	MTV Europe	NR	NR	NR	NR	NR	NR

Channel	Broadcaster	European works (EW) Article 4		Independent productions (IP) Article 5		Recent works Article 5	
		2001	2002	2001	2002	2001	2002
VIVA	VIVA Fernsehen GmbH & Co KG	71,0	70,0	2,35	0	99,4	99,4
VIVA 2	VIVA Fernsehen GmbH & Co KG	70,0	70,0	0,73	0,29	98,1	97,5
VOX	VOX Film- und Fernsehen GmbH & Co KG	49,0	51,0	70,0	73,0	92,0	92,0
XXP	DCTP Entwicklungsge sellschaft für TV Programme	94,0	97,0	95,0	95,0	84,0	87,0

B) Reasons given by Member State for failure to reach proportion

9Live	Newcomer, Interactive TV, primarily quiz shows; data to be forwarded at a later date
13 TH Street	Special interest broadcaster, subscription TV
Discovery Channel	Special interest broadcaster, subscription TV
DSF	Sports broadcaster, special-interest broadcaster
Kabel	Particular type of programme occupying a special position within the group of broadcasters offering classic films from the 1950s to the 1980s
N 24	News broadcaster, special-interest broadcaster
n-tv	News broadcaster, special-interest broadcaster
ONYX	Special interest music broadcaster
Planet TV	Special interest broadcaster
Premiere	Subscription TV, special-interest channels, percentage of independent

	productions and recent works difficult to ascertain, if at all
ProSieben	-
RTL.2	-
Studio Universal	Subscription -TV, special-interest broadcaster
Super RTL	-
TM 3	Broadcasting abandoned
VH-1	Special-interest music broadcaster
VIVA	Special-interest music broadcaster
VIVA 2	Special-interest music broadcaster
VOX	-
XXP	Information-based full programme
Hamburg 1	Local TV broadcaster, Article 9
RNF-plus	Local TV, Article 9
Tele 5	Newcomer since 28 April 2002. Rising proportion of domestic in-house and outside productions
TV Illa	Local programme for the local broadcasts of Sat.1 covering Hessen and Rhineland-Palatinate
Tv. Berlin	Local television for Berlin, Article 9
Tv. München	Local television for Munich, Article 9

C) Measures adopted or envisaged by the Member State

Regarding the programmes which do not meet the proportions of Article 4 and 5 of the „Television without Frontiers“ Directive, the competent authorities will enter into dialogues with the relevant broadcasters in order to improve the situation, unless the fulfilment of these proportions should prove to be not feasible in the light of the special nature of these programmes.

D) Further comments

Local TV channels covered by the exemption from the terms of Article 9 of Directive 1989/0552/EEC: Hamburg, RNF plus, tv.München, Tele 5, TV Illa, tvBerlin.

GREECE

A) Statistical statement

1. Summary table

<i>Number of channels</i>	<i>Reference period</i>	<i>Method(s) of monitoring</i>
39	2001 / 2002	No comment.

2. Proportions (%)

<i>Channel</i>	<i>Broadcaster</i>	<i>European productions (EP)</i>		<i>Independent productions (IP)</i>		<i>Recent productions</i>	
		<i>%</i>		<i>%</i>		<i>(RP) %</i>	
		<i>2001</i>	<i>2002</i>	<i>2001</i>	<i>2001</i>	<i>2002</i>	<i>2001</i>
ET-1	ERT	80,2	64	12	15	NR	NR
NET	ERT	94,4	89	54	47	89	76
ERT-3	ERT	84,2	86,4	9	11	38	57
ALPHA	Alpha Doriforiki Tileorasi Ltd	84	89	19	37	52	73
ANTENNA	Antenna TV Ltd	64,3	64	29	28	83	94
ALTER CHANNEL	Elevtheri Tileorasi Ltd	87,3	86	37	38	46	47
STAR	Nea Tileorasi Ltd	51,2	52,2	23	22	100	100
SEVEN TV	Seven Radiofoniki Kai Tileoptiki Ltd	93,7	82,4	58	40	77	64
MAKEDONIA TV	Tileoptikes Epichirisis Ltd Karavlsili	87	88	69	71	7	9
MEGA CHANNEL	Tiletipos Ltd Tileoptikon Programmaton	88	83	34	41	20	34,8

BBC World	European Channel Management Ltd	51,56	51,95	6,06	3,56	0	0
Animal Planet	Discovery Communication Europe	96,22	83,53	91,91	81,14	37,82	27,67
Discovery	Discovery Communication Europe	79,38	81,36	76,33	75,07	13,43	29,34
National Geographic	NGC- UK Partnership	29,64	32,78	18,82	23,41	15,47	18,46
MGM	MGM Films Ltd	0	23,31	0	0	0	0
VOULI	Vouli	NR	NR	NR	NR	NR	NR
Eurosport News	Eurosport Sales Organisation	EXEMPT	EXEMPT	EXEMPT	EXEMPT	EXEMPT	EXEMPT
Eurosport International	Eurosport Sales Organisation	EXEMPT	EXEMPT	EXEMPT	EXEMPT	EXEMPT	EXEMPT
Alter 5	Kanali 6 Eleftheri Tileorasi	87,32	81,68	37,59	38,35	46,29	46,67
STAR	Star Channel A.E.	51,25	22,13	23,29	22,13	23,29	22,13
MEGA	Tiletipos Ltd Tileoptikon Programmaton	88,38	83,17	34,07	40,9	20,22	34,82
Antenna Gold	Antenna Pay TV Ltd	NO	100	NO	66,3	NO	49,96
TEMPO	Neo Kanali Radiotileoptiki Ltd	61,6	NO	33,79	NO	29,5	NO
ET1	ERT A.E.	80,25	64,2	11,76	15,18	0	0
NET	ERT A.E.	94,26	75,24	48,63	22,59	48,63	36,51
FILMNET	Netmed Hellas S.A.	21,13	27,82	10,99	15,18	10,14	16,18

FILMNET 2	Netmed Hellas S.A.	19,87	25,93	10,95	14,77	8,92	11,16
FILMNET SUMMER	Netmed Hellas S.A.	NO	30,89	NO	26,25	NO	89,19
Supersport	Netmed Hellas S.A.	6,87	56,48	0	0	0	0
Supersport 2	Netmed Hellas S.A.	36,86	57,17	0	0	0	0
Supersport 3	Netmed Hellas S.A.	0	98,25	0	0	0	0
KTV	Netmed Hellas S.A.	65	NO	16,25	NO	42,39	NO
FOX KIDS	Fox Kids Entertainment Ltd	NO	28,05	NO	1,16	NO	1,15
Cartoon Network	Turner Broadcasting System Europe Distribution System	1,56	10,02	1,56	0	0	0
TCM	Turner Broadcasting System Europe Distribution System	31,03	40,65	0	9843	0	0
GBC	Thematika Diktya	NO	96,15	NO	30,39	NO	30,39
CNN	Turner Broadcasting System Europe Distribution System	EXEMPT	EXEMPT	EXEMPT	EXEMPT	EXEMPT	EXEMPT
TRAVEL	Landmark Travel Channel Ltd	78,41	77,6	45,7	37,65	45,7	48,93
MAD	MAD TV Ltd	0	84,67	0	34,48	3,69	36,4

B) Reasons given by Member State for failure to reach proportion

No comments.

C) Measures adopted or envisaged by the Member State

No comments.

D) Further comments

The available data refer to nine legally operating national radio and television broadcasters, specifically:

- 1) The public radio and television broadcaster ERT;
- 2) The private radio and television broadcasters which broadcast nation-wide programmes via the following television channels: ALPHA, ANTENNA, ALTER CHANNEL, STAR, SEVEN TV, MAKEDONIA TV, MEGA CHANNEL;
- 3) The pay-TV broadcaster belonging to MULTICHOICE Hellas A.E.E.

One general conclusion from the data presented is that the Greek television broadcasters have fully satisfied their obligations under Articles 4 and 5 of the ‘Television without Borders’ Directive. It should also be noted that in some cases the compliance rates very much exceed the broadcasting organisations’ specific obligation under the Directive.

SPAIN

A) Statistical statement

1. Summary table

<i>Number of channels</i>	<i>Reference period</i>	<i>Method(s) of monitoring</i>
56	2001 / 2002	

2. Proportions (%)

a) Terrestrial analogue channels with national and regional coverage

(Data on compliance with articles 4 and 5 of the “Television Without Frontiers” Directive)

<i>Broadcaster</i>	<i>Channels</i>	<i>European productions (EP) %</i>		<i>Independent productions (IP) %</i>		<i>Recent productions (RP) %</i>	
		<i>2001</i>	<i>2002</i>	<i>2001</i>	<i>2002</i>	<i>2001</i>	<i>2002</i>
<i>Ente Público RTVE</i>	<i>TVE-1 “La Primera”</i>	62,60	75,39	29,10	35,41	21,78	27,36
	<i>TVE-2 “La 2”</i>	53,79	58,52	17,30	17,50	8,02	13,67
	<i>TVE International</i>	79,33	79,68	20,49	21,85	18,12	19,00
<i>Gestevisión Telecinco S.A.</i>	<i>Telecinco</i>	53,85	57,34	43,99	49,57	41,39	48,50
<i>Antena-3 Televisión S.A.</i>	<i>Antena 3 Televisión</i>	54,01	55,60	47,78	48,19	32,53	33,48
<i>Sogecable S.A.</i>	<i>Canal+</i>	53,32	50,66	20,28	17,59	16,22	13,90
<i>Televisió de Catalunya</i>	<i>TV3</i>	62,74	57,60	38,02	32,28	30,57	26,80
	<i>K3/33</i>	54,43	51,01	30,67	32,44	8,89	19,88
<i>Televisión Valenciana</i>	<i>Canal Nou</i>	56,26	54,32	50,01	45,43	25,69	24,68
	<i>Punt 2</i>	76,02	76,81	55,91	63,36	40,01	45,08
<i>Televisión de Galicia S.A.</i>	<i>Televisión de Galicia</i>	90,07	77,26	13,75	17,45	13,75	17,45

Televisión Aut. Madrid S.A.	Telemadrid	61,62	67,61	12,88	14,15	5,87	7,13
E.P.Radiotelevisión Vasca	ETB-1	88,23	91,88	23,50	24,76	11,87	13,65
	ETB-2	56,72	57,89	29,37	28,56	15,39	16,18
E.P.Radio y TV-Andalucía	Canal Sur	79,73	74,58	26,70	25,43	13,91	13,25
	Canal Andalucía 2	84,40	87,42	22,32	21,56	12,79	12,57
Televisión Aut. Canaria	Televisión de Canarias	NO	41,92	NO	37,53	NO	8,84
Televisión Aut. Castilla La Mancha	TV Castilla La Mancha	NO	53,97	NO	25,31	NO	10,26

b) Television operators' channels broadcast using digital platforms

(Data on compliance with articles 4 and 5 of the "Television Without Frontiers" Directive)

<i>Broadcaster</i>	<i>Channels</i>	<i>European productions (EP) %</i>		<i>Independent productions (IP) %</i>		<i>Recent productions (RP) %</i>	
		<i>2001</i>	<i>2002</i>	<i>2001</i>	<i>2002</i>	<i>2001</i>	<i>2002</i>
<i>Fox Int. Channel España S.L.</i>	<i>Fox *Began broadcasting 01/06/01</i>	0,58	5,80	0,58	5,80	0,00	1,76
<i>Fox Kids España S.L.</i>	<i>Fox Kids *Began broadcasting 04/12/98</i>	38,41	42,20	38,41	42,20	31,45	27,65
<i>Nickelodeon International Ltd</i>	<i>Nickelodeon *Began broadcasting 01/03/99</i>	22,00	24,70	18,00	19,60	8,50	13,60
<i>Paramount Comedy Chan. España</i>	<i>Paramount Comedy</i>	51,56	55,13	42,94	41,38	37,39	39,96
<i>Turner Broadcast System España</i>	<i>Cartoon Network</i>	53,34	51,88	25,67	16,00	25,67	16,00

	Turner Classic Movies *Began broadcasting 01/09/99	38,91	40,92	38,91	40,92	3,00	5,00
Planeta 2010	Geoplaneta	90,00	80,00	32,18	40,00	24,70	33,99
	Beca	60,00	96,00	41,96	38,38	25,20	36,46
Televisión Española S.A.	Canal Clásico	84,36	88,34	30,35	21,21	10,93	11,13
	Grandes Documentales	88,97	94,71	10,19	18,20	8,87	16,25
	Nostalgia	92,55	89,77	12,27	11,71	1,87	1,78
Factoria de Ficción	Factoria de Ficción	69,32	80,88	65,91	74,65	51,31	61,15
AXN Spain LLC	AXN *Began broadcasting 05/11/98	33,11	49,10	3,94	6,04	2,18	3,11
Comopolitan Iberia S.L.	Canal Cosmopolitan *Began broadcasting 01/03/2000	64,28	64,77	55,70	55,22	53,20	52,80
Sogecable Música S.L.	Canal 40 TV	65,09	65,97	57,77	56,55	53,98	53,24
	Canal 40 TV Latino	57,50	54,99	57,16	54,29	39,53	45,34
<i>Walt Disney Company Iberia.</i>	Disney Channel (began broadcasting 16/11/2001)	36,06	35,83	22,24	19,91	16,56	18,07
	Disney Channel 1 (began broadcasting 17/04/98)	32,41	30,03	22,32	19,97	17,75	18,63
	Toon Disney (began broadcasting 16/11/2001)	32,41	30,03	22,32	19,97	17,75	18,63

	Playhouse Disney (began broadcasting 16/11/2001)	32,41	30,03	22,32	19,97	17,75	18,63
Cinemanía S.L.	Canal Cinemanía	39,00	29,09	31,63	20,76	5,87	3,48
DTS S.A. (Via Digital)	Gran Via	57,52	53,38	38,02	42,84	24,44	27,69
	Gran Via 2	55,96	52,38	34,53	45,34	22,80	28,13
	Gran Via Cine	55,48	51,97	34,68	46,96	22,78	29,16
	Cine 600	100,00	100,00	100,00	100,00	0,00	0,00
Canal Cocina S.L.U.	Canal Cocina	87,50	82,10	82,24	76,35	82,24	76,35
CIT S.L.	Documanía	66,08	67,80	59,85	54,10	58,24	50,75
	Canal Estilo	58,00	63,13	27,46	30,55	20,56	17,75
	Canal Viajar	82,98	86,66	44,25	44,98	31,78	30,74
Universal Studios Networks España	Studio Universal (began broadcasting 18/05/2002 and ended broadcasting 31/05/2002)	27,25	43,50	27,25	43,50	15,47	17,80
.	Calle 13	20,07	8,43	20,07	8,43	20,07	8,43
Productora Canaria de Programas S.A.	Canal Canarias (began broadcasting 1999)	21,94	10,33	21,94	10,33	21,94	10,33

c) Digital terrestrial channels run by licensed operators

(Data on compliance with articles 4 and 5 of the “Television Without Frontiers” Directive)

<i>Broadcaster</i>	<i>Channels</i>	<i>European productions (EP) %</i>	<i>Independent productions (IP) %</i>	<i>Recent productions (RP) %</i>
--------------------	-----------------	--------------------------------------------	-----------------------------------------------	------------------------------------------

		2001	2002	2001	2002	2001	2002
<i>Sociedad Gestora TV Net S.A..</i>	<i>NET TV *Began broadcasting 18/06/02</i>	NO	55,00	NO	55,00	NO	45,53

B) Reasons given by Member State for failure to reach proportion

No comments.

C) Measures adopted or envisaged by the Member State

No comments.

D) Further comments

Thematic channels not required to comply with articles 4 and 5 of the “Television without Frontiers” Directive owing to their content: EXPANSIÓN TV (DTT channel broadcast by VEO TELEVISIÓN S.A.), OPERACIÓN TRIUNFO, REAL MADRID MULTIMEDIA, CANAL CONGRESO DE LOS DIPUTADOS, SPORTMANIA.

FRANCE

A) Statistical statement

1. Summary table

<i>Number of channels</i>	<i>Reference period</i>	<i>Method(s) of monitoring</i>
70 in 2001, 75 in 2002	2001 / 2002	<p><u>Broadcasting:</u> <u>Terrestrial channels:</u> monitoring of daily programming based on data from CSA <u>Cable channels:</u> declaration by broadcaster analysed and monitored by CSA</p> <p><u>Production:</u> <u>Terrestrial channels:</u> declaration by broadcaster monitored by CSA <u>Cable channels:</u> declaration by broadcaster</p>

2. Proportions (%)

a) Terrestrial channels

<i>Channels</i>	<i>Broadcasters</i>	<i>European works (EW)</i>		<i>Independent productions⁽¹⁾ (IP)</i>		<i>Recent works (RW)</i>	
		<i>2001</i>	<i>2002</i>	<i>2001</i>	<i>2002</i>	<i>2001</i>	<i>2002</i>
France 2	France Télévision	76.5	79.8	18.57	15.43	97.3%	97.8%
France 3	France Télévision	70.2	74.6	18.3	16.23	95.1%	92.1%
La 5 ^{ème}	France Télévision	88.7	84.5	16.85	15.44	100%	92.7%
TF1	Télévision Française(1)	64.7	65.1	15.08	15.06	100%	91%
Canal +	Canal + SA	61.8	62.8	12	10.54	98.3%	90.6%
M6	Métropole Télévision	64	63.6	17.37	15.25	86.3%	90.8%

(1) Percentage evaluated on basis of turnover of company

b) Cable and satellite services

Channels	Broadcasters	European works (EW)		Independent productions (IP)		Recent works (RW)	
		2001	2002	2001	2002	2001	2002
ABI ^(a)	ABsat SA	60%	52%	33%	42%	94%	100%
AB Moteurs ^(a)	ABsat SA	95%	78%	NR	27%	NR	NR
Action ^(a)	ABsat SA	25%	30%	24%	25%	67%	100%
ALLOCINEI NFO ⁽¹⁾	Ciné Info SA	NR	63%	9%	36%	100%	100%
Animaux ^(a)	ABsat SA	82%	80%	74%	75%	100%	75%
BRTV ^(a)	BRTV	NO	32%	NO	11%	NO	38%
Canal J ^(a)	Canal J SA	70%	61%	51%	49%	57%	25%
Canal Jimmy ^(a)	Canal Jimmy SA	67%	52%	35%	24%	23%	33%
Chasse et Pêche ^(a)	ABsat SA	77%	90%	77%	90%	96%	90%
C.C1/C.C PREMIER	Multithématiques	52%	55%	39%	23%	42%	39%
C.C1/C.C EMOTION	Multithématiques	51%	53%	38%	25%	36%	31%
C.C1/C.C FRISSON	Multithématiques	52%	51%	41%	25%	42%	38%
Ciné Classics/C.C CLASSIC	Multithématiques	63%	54%	48%	43%	34%	12%
Ciné Palace/CINE BOX	ABsat SA	89%	NR	89%	NR	NR	NR

(a) Percentage of broadcasting time.

(b) Budget.

¹ Allociné and Ciné Info merged in 2002.

Cinéfaz^(a)	TPS Cinéma	54%	63%	54%	63%	40%	25%
Cinéstar 1^(a)	TPS Cinéma	52%	59%	52%	59%	70%	39%
Cinéstar 2^(a)	TPS Cinéma	53%	58%	53%	58%	70%	38%
Cinétoile^(a)	TPS Cinéma	53%	64%	53%	64%	16%	13%
Comédie !^(b)	SECC	72%	69%	11%	12%	54%	71%
Cuisine TV^(b)	TV Gourmand	96%	94%	50%	20%	97%	97%
Disney Channel^(a)	Disney Channel France SA	60%	61%	42%	34%	77%	87%
ENRyclopédia^(a)	ABSat SA	74%	66%	70%	33%	100%	33%
Equidia^(a)	Paris Mutuel Urbain (PMU)	74%	84%	74%	67%	79%	43%
Escalaes^(a)	ABSat SA	97%	66%	94%	66%	100%	66%
Festival^(a)	France Téléfilms	83%	75%	79%	75%	37%	19%
Forum Planète^(b) ⁽²⁾ /Planète Future	Planète Câble SA	NR	60%	NR	39%	NR	76%
Fox Kids^(a)	Fox Kids France	58%	59%	27%	32%	87%	72%
Fun TV^(a) ⁽³⁾	Fun TV SNC	NR	78%	46%	37%	100%	96%
Game One	I-line SA	90%	96%	4%	10%	100%	100%
Gourmet TV	Gourmet SA	NO	98%	NO	26%	NO	17%
Histoire^(a)	Histoire SA	81%	86%	68%	71%	30%	34%
Kiosque^(a)	Kiosque SNC	60%	60%	NR	NR	NR	NR
KTO^(a)	Association Notre Dame de Paris	95%	49%	83%	49%	74%	79%

² Forum Planète changed its programming in September 1999. After that date, it showed only repeat broadcasts of debates which it produced itself. It was replaced in September 2001 by *Planète Future*.

³ In 2001, Fun TV did not declare a quota for European works but, having complied with the stricter FreNRh rules, it can be assumed that the European quota exceeded 50 %.

⁴ Muzzik merged with Mezzo in 2002.

La Chaîne Histoire^(a) Toute l'Histoire	ABsat SA	49%	70%	NR	52%	NR	52%
M6 Music^(a)	EDI TV	64%	65%	63%	61%	1%	94%
Mangas^(a)	ABsat SA	37%	50%	37%	28%	100%	100%
Match TV	Match TV SA	NO	78%	NO	NR	NO	NR
MCM ^(a)	Euromusique SA	66%	63%	59%	47%	63%	60%
MCM 2	Euromusique SA	73%	77%	57%	77%	40%	37%
MCM Africa	Euromusique SA	64%	62%	79%	62%	52%	67%
Mezzo ^(a)	France Télémusique	95%	79%	80%	77%	67%	29%
Monte Carlo TMC ^(a)	Monégasque des ondes	42%	65%	30%	53%	24%	21%
Multivision ^(a)	Telcarte SA	50%	55%	50%	100%	97%	96%
Musique Classique ^(a)	ABsat SA	94%	98%	94%	98%	94%	100%
Muzzik ⁽⁴⁾	France Télémusique	77%	NO	66%	NO	21%	NO
Odyssée	Société d'exploitation de documentaires SA	74%	81%	61%	63%	82%	55%
Paris Première ^(a)	Paris Première SA	75%	74%	74%	72%	94%	57%
Planète ^(a)	Planète Câble SA	77%	74%	71%	61%	43%	64%
Planète 2/Planète Thalassa	Planète Câble SA	75%	78%	70%	51%	49%	58%
Polar/Ciné Polar	ABsat SA	62%	NR	62%	NR	NR	NR
RFM TV ^(a)	ABsat SA	NR	70%	NR	63%	NR	100%
Rire/Ciné Comic	ABsat SA	66%	NR	66%	NR	NR	NR
Romance ^(a)	ABsat SA	69%	NR	68%	NR	NR	NR

Santé Vie ^(a)	Santé Vie	100%	NR	4%	NR	63%	NR
Seasons ^(a)	Multithématique SA	91%	89%	70%	18%	74%	49%
Série Club ^(a)	Extension TV SA	60%	60%	55%	13%	49%	13%
Télé Mélody	Senior Communications (SAS)	NO	55%	NO	55%	NO	13%
Télétoon ^(a)	TPS Jeunesse	65%	68%	65%	68%	63%	68%
Téva ^(a)	Sedi TV SNR	63%	56%	33%	30%	67%	70%
T.F.J.	Télévision Française Juive	NR	NR	NR	NR	NR	NR
TF6	TF6 (SCS)	55%	56%	30%	34%	100%	68%
TIJI	Canal J	83%	84%	80%	65%	33%	38%
TPS STAR	TPS Cinéma	NO	60%	NO	60%	NO	66%
13 ^{ème} Rue ^(a)	Société Universal Studios Channels FranRe	42%	55%	42%	48%	67%	57%
TV BREIZH	TV Breizh SA	81%	65%	20%	35%	88%	34%
TV5 ^(a)	Société Satellimages TV5	89%	89%	75%	79%	NR	NR
123 SAT	123 Multimédia SA	NO	67%	NO	27%	NO	NR
Voyage ^(a)	SAS Voyage	83%	73%	43%	71%	100%	58%
XXL ^(a)	ABsat SA	84%	98%	82%	90%	100%	100%
ZIK	ABsat SA	NR	50%	NR	48%	NR	100%

(a) Transmission time

(b) Budget

B) Reasons given by Member State for failure to reach proportion

1. European works

Compliance with the quota has improved. In 2001, four services did not achieve the minimum quota for European works (10 in 2000), and one of those was very close (49%); in 2002, there were three (one of which reached 49%).

On the whole, quotas are considerably above the levels required, with only three services out of 70 still experiencing difficulties.

2. Independent producers

Calculated either according to broadcasting time (a) or programme budget (b), the percentage reserved for works from independent producers has been observed by all services, with the exception of Game One in 2001, although it reached the 10% target in 2002.

Kiosque gave no precise figures for 2002, but declared that almost all the European works it showed were from independent producers, and that the vast majority of these were recent.

C) Measures adopted or envisaged by the Member State

The various services which had not achieved the percentages required by French rules in 1997, 1998, 1999 and 2000, they were issued with formal demands to comply with broadcasting quotas in future. As the French rules were stricter than the requirements in Article 4 of the TWF Directive, these formal notices obviously covered non-compliance with this Article.

On 23 July 2002, the *Conseil supérieur de l'audiovisuel* (broadcasting standards council) opened proceedings against Action and Mangas for non-compliance, and against TFJ for not forwarding its report, thus giving the CSA no opportunity for monitoring. A formal demand was issued to the Histoire channel.

On 24 July 2003 it was noted that Mangas, which had been having particular difficulties owing to its content, had changed its programming, and the European quota had been reached. In contrast, since Action's quota was still far below the level needed, the CSA decided to introduce new sanction proceedings. It also began proceedings against those services which had not forwarded reports (Ciné Palace, Rire, Polar and TFJ). While it considered that BRTV, which had experienced significant start-up difficulties owing to large-scale pirating of its programmes in Algeria, making its financial situation more precarious, and Santé Vie, which was experiencing economic difficulties which could compromise its broadcasting, should not be punished, it nevertheless forwarded comments to each service calling upon them to significantly increase their quotas.

D) Further comments

List of channels which broadcast no audiovisual or cinematographic works: Club Téléachat, Demain!, Euronews, Eurosport France, Fashion TV, i>Télévision, Infosport, Initiés TV, LCI, L'Equipe TV, NTL TV, Pathé Sport.

For 2001, BRTV, Gourmet TV, Télé Mélody, TPS Star and 123 Sat broadcast few programmes, if any, as they were only established during or at the end of the year.

IRELAND

A) Statistical statement

1. Summary table

<i>Number of channels</i>	<i>Reference period</i>	<i>Method(s) of monitoring</i>
4	2001 / 2002	No comment.

2. Proportions (%)

<i>Channel</i>	<i>Broadcaster</i>	<i>European works (EW)</i>		<i>European works created by independent producers (IP)</i>		<i>Recent works (% of IP)</i>	
		<i>2001</i>	<i>2002</i>	<i>2001</i>	<i>2002</i>	<i>2001</i>	<i>2002</i>
RTE One	RTE	3427 57%	3246 54%	1157 19%	1094 18%	100%	100%
Network 2	RTE	2614 41%	2331 38%	665 11%	603 10%	100%	100%
TG4	RTE	3005 67%	3204 71%	2676 59%	2875 64%	100%	100%
TV3	TV3	49.50%	54%	17%	15%	95%	95%

B) Reasons given by Member State for failure to reach proportion

While Network 2 did not meet the 50% requirement for European works, RTE, taking all its services together, easily surpassed the target.

<i>Channel</i>	<i>Broadcaster</i>	<i>European works (EW)</i>		<i>European works created by independent producers (IP)</i>		<i>Recent works (% of IP)</i>	
		<i>2001</i>	<i>2002</i>	<i>2001</i>	<i>2002</i>	<i>2001</i>	<i>2002</i>
RTE1, Network 2 and TG4	RTE	9046 54%	8781 53%	4498 26%	4572 28%	100%	100%

C) Measures adopted or envisaged by the Member State

RTE has adopted measures to ensure that Network 2 complies in the future with the provisions of Article 4.

D) Further comments

- The data are comprehensive for each year and not based on samples

- In relation to the RTE and Teilifis na Gaeilge services, the definition of an independent producer is that as set out in section 5 of the Broadcasting Authority (Amendment) Act, 1993 which deems a producer to be independent of broadcasters if the producer has control over the making of the programme and is neither a subsidiary nor a holding of a broadcaster.

- With regard to TV3, the definition of an independent producer is that set out in the suggested guidelines for the monitoring of the TVWF Directive.

ITALY⁷³

Introduction

The basic rules governing broadcasters' schedules in Italy, concerning in particular the promotion of the production and distribution of European works, pursuant to Council Directive 89/552/EEC and Directive 97/36/EC of the European Parliament and of the Council, are laid down by Law No 122 of 30 April 1998, by the regulation on the promotion of distribution and production of European works (hereinafter referred to as the "Quotas Regulation") approved by the Communications Authority by its Decision No 9/99 of 16 March 1999 and by the regulation concerning the satellite broadcasting of television programmes (hereinafter referred to as the "Satellite and Cable Broadcasting Regulation") approved by the same Authority by its Decision No 127/00/CONS of 1 March 2000 and partially amended by Decision No 289/01/CONS of 5 July 2001 which extended its scope to cover broadcasting via cable. The following paragraphs will summarize the main obligations for the broadcasters:

- **scheduling obligations** – national broadcasters, irrespective of broadcasting standard, must –where practicable- reserve more than 50% of the monthly transmission time for European works, excluding time devoted to news, sports events, games, advertising, teletext services, talk shows and teleshopping, including during peak viewing times;
- this percentage must be divided between the different types of European works and at least 50% thereof must be made up of recent works (produced in the past five years);
- national broadcasters must –where practicable- reserve at least 10% of broadcasting time to European works by independent producers, not counting time devoted to news, sports events, games, advertising, teletext services, talk shows and teleshopping. The holder of the public-service broadcasting concession must earmark a quota of at least 20% for independent producers;
- **investment obligations** – broadcasters under Italian jurisdiction, irrespective of the broadcasting standard, must reserve at least 10% of their net annual revenue from advertising for the production and purchase of European-produced audiovisual programmes, including films, programmes by independent producers⁷⁴ and programmes specifically for children. At least 40% of this quota must be invested in the production and purchase of European films;

⁷³ As a modified version of the summary of Italy's statistical statement was only submitted by Italy after the work by the Commission on the assessment of Member States statistical statements were completed, Part II of the Communication is based on an earlier version of 12 February 2004 which slightly diverges from this text.

⁷⁴ Under the terms of Law No 122/98, independent producers are European operators who pursue audiovisual production activities and are not controlled by or connected with holders of a concession, licence or authorisation for radio and television broadcasting or which for a period of three years do not earmark at least 90% of own production to a single broadcaster.

- **exceptions** – Article 11(2) stipulates that “the provisions under this article do not apply to national broadcasters whose broadcasts consist mainly of telesales programmes and do not include traditional programmes”.

In implementing the provision just mentioned, the Quotas Regulation introduces certain additional provisions:

- Article 2(3) introduces the obligation to give reasons for any shortfalls in the quotas set for European works under Law No 122/98; the Authority does not need to look into such reasons where the shortfalls do not exceed 7% of the quota laid down;
- Article 2(4): where several channels belong to or are controlled by a single operator the quota reserved for European works is determined on the basis of the channels’ overall schedules (with a minimum 20% for each channel) and of the total net proceeds from yearly advertising perceived by all the channels controlled by the operator.

Finally, Articles 13 and 14 of the Satellite and Cable Broadcasting Regulation stipulate respectively that:

- Satellite broadcasts under Italian jurisdiction⁷⁵ must comply with the relevant rules on quotas concerning broadcasting and production set out in the applicable legislation for national television broadcasters;
- satellite and cable broadcasters are not subject to the rules declared to be applicable only to the holders of concessions for the broadcasting of television programmes on terrestrial frequencies, e.g. the obligation to broadcast the works of independent producers; for satellite and cable broadcasters this obligation is replaced by an obligation to set aside a minimum of 20 minutes weekly for the promotion and advertising of Italian and European Union audiovisual works.

The Italian Authority, for the purpose of checking compliance with the obligations with regard to scheduling European works, mainly used the self-certifications submitted by the television broadcasting companies themselves. In order to simplify and supplement the compilation of the data for self-certification, from year 2001 the Authority has made available some specific forms — forms Q1, Q2, Q2/C and D — as part of the communication named “Informativa Economica di Sistema” (hereinafter referred to as IES) which the broadcasters, as for all those entered in the register of communications operators, are obliged to submit every year by the end of July⁷⁶. Due to these new forms, the Italian NRA is now able to gather a vast amount of up-to-date and more detailed information, featuring in particular information relating to compliance with the obligation to set aside time for European works even during

⁷⁵ i.e. national broadcasters who broadcast or organise broadcasting by third parties by satellite or cable, whether in encoded or unencoded form, programmes which can be received in states parties and broadcasters in other countries which have uplink facilities on Italian territory and who broadcast programmes which can be received in states parties.

⁷⁶ Pursuant to the combined provision of Article 1(28) of Law No 650 of 23 December 1996 and Article 1(3) of the Authority's decision No 129/02/CONS.

peak viewing times⁷⁷, compliance with the obligation to promote European works for at least 20 minutes weekly by satellite and cable broadcasters, compliance with the obligation to invest the revenue from the sale of advertising space on the purchase or production of European works and the indication of the proportion of these sums specifically set aside for films. Naturally, since these data are gathered on the basis of self-certifications, the Authority will double-check their veracity by means of sample checks on broadcasters.

A) Statistical statement

1. Summary table

<i>Number of channels</i>	<i>Reference period</i>	<i>Method(s) of monitoring</i>
71	2001 / 2002	Self-certification

Broadcaster	Channel	Trans- mission	European Productions (EP)		Independent Productions (IP)		Recent Productions (RP)	
			2001	2002	2001	2002	2001	2002
RAI Spa	Rai Uno	terr	77,06	75,52	17,62	19,12	66,02	63,18
RAI Spa	Rai 2	terr	64,15	61,04	25,76	29,74	65,53	44,1
RAI Spa	Rai 3	terr	74,74	64,65	20,17	22,67	60,02	57,42
RaiSat Spa	Raisat album	sat	95,45	91,36	Exempt	Exempt	39,66	36,15
RaiSat Spa	Raisat Show	sat	88,93	68,84	Exempt	Exempt	78,42	85,77
RaiSat Spa	Raisat ragazzi	sat	83,89	86,03	Exempt	Exempt	86,08	97,95
RaiSat Spa	Raisat art	sat	93,26	86,54	Exempt	Exempt	82,12	70,72
RaiSat Spa	Raisat Gambero rosso	sat	92,12	93,73	Exempt	Exempt	97,62	97,61

⁷⁷ Defined by Article 2(1) of the Quotas Regulation as the period between 6.30 p.m. and 10.30 p.m.

RaiSat Spa	Raisat Fiction	sat	94,97	77,59	Exempt	Exempt	61,1	66,23
RaiSat Spa	Raisat Cinema	sat	91,89	64,59	Exempt	Exempt	55,57	55,57
RTI Spa	Canale 5	terr	57,78	59,71	17,65	14,72	91,51	82,9
RTI Spa	Italia 1	terr	43,55	45,33	13,04	17,08	51,64	49,87
RTI Spa	Rete 4	terr	58,68	58,09	24,2	22,15	58,27	62,17
Mediadigit Spa	Comedy Life	sat	43,78	57,43	Exempt	Exempt	55,05	45,77
Mediadigit Spa	Duel	sat	15,27	29,98	Exempt	Exempt	40,59	58,43
Mediadigit Spa	Happy Channel	sat	90,62	94,67	Exempt	Exempt	42,05	73,03
Mediadigit Spa	MT Channel	sat	44,99	91,24	Exempt	Exempt	90,73	76,35
MTV Italia Srl	MTV TMC2	terr	64,09	71,17	6,38	17,93	100	100
La 7 Spa	La 7 - TMC	terr	44,82	50,08	27,53	18,82	74,83	83,95
Rete A Srl	Rete A	terr	88,71	52,01	50,01	18,2	78,91	70,01
Europa TV Spa	Tele+ Bianco	terr	44,43	42,03	18,21	17,72	91,88	93,36
Europa TV Spa	Tele+ 30	sat	NO	44,57	Exempt	Exempt	NO	91,3
Prima TV Spa	Tele+ Nero	terr	52,51	57,76	14,06	8,44	95,23	94,89
Prima TV Spa	Tele+ Grigio	sat	54,6	47,28	Exempt	Exempt	96,36	93,31
Prima TV Spa	Tele+ 16 / 9	sat	42,85	40,11	Exempt	Exempt	89,92	93,16
Omega TV Spa	Palco	sat	43,45	45,05	Exempt	Exempt	100	100
Omega TV Spa	Formula 1	sat	100	100	Exempt	Exempt	100	100

Omega TV Spa	Calcio	sat	100	100	Exempt	Exempt	100	100
Team TV Spa	Stream Verde	sat	100	100	Exempt	Exempt	100	100
Team TV Spa	Stream News	sat	100	100	Exempt	Exempt	100	100
Stream Spa	Anteprima/ Stream 2	sat	NA	100	Exempt	Exempt	NA	100
Stream Spa	Info	sat	NO	100	Exempt	Exempt	NO	100
Stream Spa	TVL	sat	94,45	90,1	Exempt	Exempt	0	89,18
Stream Spa	Cinema Stream	sat	39,99	30,31	Exempt	Exempt	38,99	31,43
Stream Spa	Canale Viaggi	sat	61,44	61,1	Exempt	Exempt	100	100
Stream Spa	Primafila	sat	56,79	43,23	Exempt	Exempt	100	100
Stream Spa	Stream 1	sat	NO	100	Exempt	Exempt	NO	100
Stream Spa	Canale Promo (INTV)	sat	66,67	NO	Exempt	NO	0	NO
Stream Spa	Sport Stream	sat	NA	85,32	Exempt	Exempt	NA	95,01
Stream Spa	Calcio Stream	sat	NA	92,21	Exempt	Exempt	NA	100
Marco Polo Spa	Marco Polo	sat	100	100	Exempt	Exempt	100	100
Leonardo Spa	Leonardo	sat	NO	100	Exempt	Exempt	NO	100
Nuvolari Spa	Nuvolari	sat	NO	100	Exempt	Exempt	NO	100
INN Spa	INN	sat	NO	100	Exempt	Exempt	NO	100
Alice Spa	Alice	sat	NO	100	Exempt	Exempt	NO	100
Canal Jimmy Srl	Canal Jimmy	sat	51,59	39,83	Exempt	Exempt	25,51	42,35

Cine Cinemas Srl	Cine Cinema 1	sat	60,22	61,45	Exempt	Exempt	18,24	24,9
Cine Cinemas Srl	Cine Cinema 2	sat	59,73	61,45	Exempt	Exempt	18,36	24,9
Cine Cinemas Srl	Cineclassics	sat	59,65	61,45	Exempt	Exempt	Exempt	Exempt
Seasons Srl	Seasons	sat	80,75	92,25	Exempt	Exempt	76	84,83
Planete Srl	Planete	sat	58,45	73,8	Exempt	Exempt	46,48	70,48
Anicaflash	Coming Soon TV	sat	NR	NR	Exempt	Exempt	NR	NR
Universal Studios Network Italia Srl	Studio Universal	sat	60	39,02	Exempt	Exempt	3,1	50,09
Mediolanum Comunicazione Srl	Mediolanum Channel	sat	100	100	Exempt	Exempt	100	100
Telestudio Modena Srl	Studio Europa	sat	100	100	Exempt	Exempt	100	100
Classica GMBH	Classica	sat	97,82	96,94	Exempt	Exempt	0	0
24 Ore TV Spa	24 ore tv	sat	100	78,56	Exempt	Exempt	100	100
RADIO ITALIA SPA	VIDEO ITALIA SOLO MUSICA ITALIANA	sat	NO	NR	Exempt	Exempt	NO	NR
Fox Kids Italy Srl	Fox Kids	sat	39,55	31,34	Exempt	Exempt	21,17	46,8
NUOVA FRANCIA	RTB INTERNA-	sat	NO	95,26	Exempt	Exempt	NO	4,98

CORTA	TIONAL							
Disney Channel Italia Srl	Disney Channel	sat	36,04	46,27	Exempt	Exempt	100	100
IT Media Srl	Salute e Benessere Channel	sat	NR	NR	Exempt	Exempt	NR	NR
ELETV SPA	DeeJay Tv	sat	NO	60,51	Exempt	Exempt	NO	91,13
TuscanySat Srl	Tuscany Sat	sat	NO	NR	Exempt	Exempt	NO	NR
Television Broadcasting System Spa	Rete Capri	terr	NR	NR	Exempt	Exempt	NR	NR
RETE BLU	SAT 2000	sat	NO	51,96	Exempt	Exempt	NO	50,94
RETE BLU	TELELAZIO RETE BLU	sat	NO	0	Exempt	Exempt	NO	0
RETE BLU	BLU SAT 2000	sat	NO	NA	Exempt	Exempt	NO	NA
M.P.1 S.R.L.	milan channel	sat	100	100	Exempt	Exempt	100	100
Class Financial Network Spa	CFN	sat	100	100	Exempt	Exempt	100	100
Game Channel spa	Game Channel	sat	100	100	Exempt	Exempt	100	100

Unlike the report for the period 1999-2000, it has been deemed useful to aggregate in a single table the data referred to all the channels of national terrestrial and satellite or cable broadcasters belonging to a holding or controlled by a single operator. As stated by the abovementioned Articles 2 of the Quotas Regulation, in Italy the compliance with the

obligation to set aside time for European works must be assessed with reference to the full broadcasting schedule (with the exception of a minimum quota of 20% for each channel) of all the channels controlled by a single operator.

Holding or Controller	EW		IP		RW	
	2001	2002	2001	2002	2001	2002
<u>Gruppo RAI</u>	86,93	78,18	21,51	24,11	69,98	69,26
<u>Gruppo Mediaset</u>	49,16	61,29	18,29	18,29	60,83	65,50
<u>Gruppo Telepiù</u>	44,79	45,60	16,37	13,11	98,71	98,27
<u>Gruppo Stream</u>	59,56	55,58	n.a.	n.a.	80,86	96,64
<u>Gruppo Seat</u>	55,74	61,54	15,54	18,34	91,23	94,04
<u>Gruppo SitCom</u>	100	100,00	n.a.	n.a.	100	100,00
<u>Gruppo Multithematique</u>	60,77	62,68	n.a.	n.a.	35,74	44,48

It should be *pointed* out that the tables above do not include those channels (such as *Home Shopping Europe*, *Elefante Telemarket* and *Telegenova Liguria Sat*) which broadcast mainly telesales programmes and information services. As the schedule of the channels in question includes programmes which fall within the definition of traditional programmes⁷⁸ such as news and information services, the Authority reserves the right to assess whether and to what extent Article 2(11) of Law No 122/98 (which sets out the non-applicability of scheduling and investment obligations for “national broadcasters whose broadcasts consist mainly of telesales programmes and do not include traditional programmes within the meaning of the above-mentioned Directive 89/552/EEC as amended by Directive 97/36/CE”) may be applicable.

B) Reasons given by Member State for failure to reach proportion

Some broadcasters failed to meet the percentages of scheduling and investment laid down by the Italian law. The sanctions procedure will not be applied to

- those broadcasters who during the whole year did not broadcast at all (Non Operational);
- those who broadcast only works not covered by the reserve obligations (news, sport events, games, advertising, teletext services or teleshopping);

⁷⁸ As clearly indicated, moreover, in the foreword to the European Directive 97/36/EC.

- those who, while not complying with the obligation to set aside for European works 50% of their scheduling, have nonetheless broadcasted a percentage of European works higher than 43%⁷⁹;
- those channels which have failed to meet the quotas of scheduling and investment but have been part of a group of channels under the control of a single operator. In this case the Italian legislation requires the Authority to take under consideration only the full broadcasting schedule of all the channels belonging to the same group (provided that each channel reserves for European Works a minimum quota of 20% of its transmission time).

The broadcasters and channels falling into this list are shown in the table below, together with their justification.

<i>2001</i>	<i>Broadcaster</i>	<i>Channel</i>	<i>Reserve obligation not complied with</i>	<i>Justification</i>
1	Gruppo Telepiù	-	European works over a 24 hour period (44.79% instead of 50%)	shortfall 7%
2	Gruppo Telepiù	-	European works at peak viewing times (47.44% instead of 50%)	shortfall 7%
3	Universal Studios Network Srl	<i>Studio Universal</i>	Recent European works at peak viewing times ((45.19% instead of 50%)	shortfall 7%
4	Home Shopping Europe Spa	<i>Home Shopping Europe</i>	no scheduling obligation	broadcast only works not subject to scheduling obligations
5	Elefante Tv Spa	<i>Elefante Telemarket</i>	no scheduling obligation	
6	Eurotelevision Spa	<i>Telegenova Liguria Sat</i>	no scheduling obligation	
7	Stream Spa	<i>Anteprima</i>	none	
8	Stream Spa	<i>Sport Stream</i>	none	
9	Stream Spa	<i>Calcio Stream</i>	none	
10	Stream Spa	<i>Stream Calcio 1</i>	none	
11	Stream Spa	<i>Stream Calcio 2</i>	none	
12	Stream Spa	<i>Stream Calcio 3</i>	none	
13	Stream Spa	<i>Stream Calcio 4</i>	none	
14	Stream Spa	<i>Stream Calcio 5</i>	none	did not broadcast at all
15	Nuova Franciacorta Srl	<i>RTB International</i>	none	
16	Leonardo Spa	<i>Leonardo</i>	none	
17	Nuvolari Spa	<i>Nuvolari</i>	none	
18	TuscanySat Srl	<i>Tuscany Sat</i>	none	

⁷⁹ In accordance with Article 2 of the Quotas Regulation, a shortfall of under 7% in relation to the reserve obligation for European works of 50% of scheduling time means for the broadcaster only the obligation to provide reasons for his failure to achieve the quota. The reasons cannot be investigated by the Authority.

19	Radio Italia Spa	<i>Radio Italia</i>	none	radio broadcaster
2002	Broadcaster	Channel	Reserve obligation not complied with	Justification
1	Gruppo Mediaset	-	European works over a 24 hour period (49,16% instead of 50%)	7% shortfall
2	Gruppo Mediaset	-	European works at peak viewing times (49,00% instead of 50%)	7% shortfall
3	Gruppo Telepiù	-	European works a 24 hour period (45,60% instead of 50%)	7% shortfall
4	Gruppo Multithematique	-	Recent European works over a 24 hour period (44,48% instead of 50%)	7% shortfall
5	Gruppo Multithematique	-	Recent European works at peak viewing times (46,64% instead of 50%)	7% shortfall
6	Universal Studios Network Srl	<i>Studio Universal</i>	European works at peak viewing times (44,08% instead of 50%)	7% shortfall
7	Fox Kids Italy Srl	<i>Fox Kids</i>	Recent European works over a 24 hour period (46,80% instead of 50%)	7% shortfall
8	Disney Channel Italia Srl	<i>Disney Channel</i>	European works over a 24 hour period (46,27% instead of 50%)	7% shortfall
9	Rete Blu	-	European works at peak viewing times (45,96% instead of 50%)	7% shortfall
10	Rete Blu	-	Recent European works at peak viewing times (48,91% instead of 50%)	7% shortfall
11	Rete Blu	<i>Blu Sat 2000</i>	none	broadcast only works not subject to scheduling obligations
12	Stream Spa	<i>Stream Calcio 1</i>	none	
13	Stream Spa	<i>Stream Calcio 2</i>	none	
14	Stream Spa	<i>Stream Calcio 3</i>	none	
15	Stream Spa	<i>Stream Calcio 4</i>	none	
16	Stream Spa	<i>Stream Calcio 5</i>	none	
17	Eurotelevision Spa	<i>Telegenova Liguria Sat</i>	no scheduling obligations	
18	Home Shopping Europe Spa	<i>Home Shopping Europe</i>	no scheduling obligations	
19	Elefante Tv Spa	<i>Elefante Telemarket</i>	no scheduling obligations	
20	Rete Blu	<i>Rete Blu Radio</i>	none	Radio broadcaster
21	RTL 102.500 Hit Radio Srl	<i>RTL 102.500 Hit Radio</i>	none	Radio broadcaster
22	Radio Italia Spa	<i>Radio Italia</i>	none	Radio broadcaster

C) Measures adopted or envisaged by the Member State

The parties listed below, on the contrary, failed to meet the investment quota laid down, even allowing for the 7% margin provided for by Article 2(3) of the Quotas Regulation. The information given below has been forwarded to the Authority's Standards and Legal Department and may be subject to a sanctions procedure for the purposes of which the

Authority will assess the reasons given to justify failure to meet the established quotas. As already pointed out, in relation to the channels *Home Shopping Europe*, *Elefante Telemarket* and *Telegenova Liguria Sat*, the Authority reserves the right to assess whether Article 2(11) of Law No 122/98 may be applicable.

The tables also feature parties who have not complied with obligations which are specifically stated by the Italian legislation, such as the obligation to submit a complete IES communication, the obligation to schedule European works or recent works during peak-viewing times and the obligation reserve a quota of the income from advertisements to invest specifically in European films. The Standards and Legal Department may also institute a sanctions procedure in respect of these parties.

<i>2001</i>	<i>Broadcaster</i>	<i>Channel</i>	<i>Obligation not complied with</i>	<i>%</i>
1	RAISat Spa	-	incomplete IES response	-
2	TBS Spa	<i>Rete Capri</i>	incomplete IES response	-
3	Anicaflash Srl	<i>Coming Soon</i>	incomplete IES response	-
4	IT Media	<i>Salute e Benessere</i>	incomplete IES response	-
5	Gruppo Mediaset	-	investment in films	19,07% instead of 40%
6	Gruppo Telepiù	-	investment in films	11,37% instead of 40%
7	Gruppo SEAT	-	investment in films	6,85% instead of 40%
8	Marco Polo Spa	<i>Marco Polo</i>	investment in films	0% instead of 40%
9	Gruppo Multithematique	-	recent European works	35,74% instead of 50%
10	Gruppo Multithematique	-	recent European works at peak viewing times	41,76% instead of 50%
11	Rete A Srl	<i>Rete A</i>	investment in films	19,68% instead of 40%
12	Universal Studios Network Srl	<i>Studio Universal</i>	recent European works over a 24-hour period	3,10% instead of 50%
13	Universal Studios Network Srl	<i>Studio Universal</i>	European works at peak viewing times	27,30% instead of 50%
14	Telestudio Modena	<i>Studio Europa</i>	investment in films	0% instead of 40%
15	CFN Spa	<i>CFN</i>	investment in films	0% instead of 40%
16	Fox Kids Italy Srl	<i>Fox Kids</i>	European works	39,55% instead of 50%
17	Fox Kids Italy Srl	<i>Fox Kids</i>	European works at peak viewing times	31,92% instead of 50%
18	Fox Kids Italy Srl	<i>Fox Kids</i>	recent European works	21,17% instead of 50%
19	Fox Kids Italy Srl	<i>Fox Kids</i>	recent European works at peak viewing times	33,02% instead of 50%
20	Disney Channel Italia Srl	<i>Disney Channel</i>	European works	36,04% instead of 50%
21	Disney Channel Italia Srl	<i>Disney Channel</i>	European works at peak viewing times	19,11% instead of 50%

<i>2002</i>	<i>Broadcaster</i>	<i>Channel</i>	<i>Obligation not complied with</i>	<i>%</i>
1	RAISat Spa	-	incomplete IES response	-
2	TBS Spa	<i>Rete Capri</i>	incomplete IES response	-
3	Anicaflash Srl	<i>Coming Soon</i>	incomplete IES response	-
4	Tuscany Sat	-	incomplete IES response	-
5	IT Media	<i>Salute e Benessere</i>	incomplete IES response	-
6	Radio Italia Spa	<i>Video Italia</i>	incomplete IES response	-
7	Gruppo Mediaset	-	investment in films	16,84% instead of 40%
8	Gruppo Telepiù	-	European works at peak viewing times	41,27% instead of 50%
9	Gruppo Telepiù	-	investment in films	13,51% instead of 40%
10	Gruppo SEAT	-	investment in films	18,44% instead of 40%
1	Gruppo SitCom	-	investment in films	0% instead of 40%
12	Rete A Srl	<i>Rete A</i>	investment in films	0% instead of 40%
13	Universal Studios Network Srl	<i>Studio Universal</i>	European works	39,02% instead of 50%
14	Mediolanum Comunicazione	<i>Mediolanum Channel</i>	investment in films	0% instead of 40%
15	Telestudio Modena	<i>Studio Europa</i>	investment in films	0% instead of 40%
16	CFN Spa	<i>CFN</i>	investment in films	0% instead of 40%
17	Fox Kids Italy Srl	<i>Fox Kids</i>	European works	31,34% instead of 50%
18	Fox Kids Italy Srl	<i>Fox Kids</i>	European works at peak viewing times	32,15% instead of 50%
19	Fox Kids Italy Srl	<i>Fox Kids</i>	investment in European works	6,25% instead of 10%
20	Fox Kids Italy Srl	<i>Fox Kids</i>	investment in films	0% instead of 40%
21	Nuova Franciacorta	<i>RTB International</i>	recent European works	4,98% instead of 50%
22	Nuova Franciacorta	<i>RTB International</i>	recent European works at peak viewing times	0% instead of 50%
23	Nuova Franciacorta	<i>RTB International</i>	investment in films	0% instead of 40%
24	Ele TV Spa	<i>DeeJay TV</i>	investment in European works	0% instead of 10%
25	Rete Blu	-	European works	18,90% instead of 50%

D) Further comments

The tables shown do not include those channels offering mainly interactive programmes, which therefore cannot be considered as part of the traditional schedule. The Authority reserves the right to check the extent of interactivity of the programmes of these channels and whether or not they are subject to Directive 89/552/EEC and Law No 122/98. The channels in question include *E.BisMedia*,

which claims it broadcasts only video on demand by cable, *Sisal* and *SnaiSat*, which broadcast on satellite frequencies programmes focusing on betting, and the following channels of the satellite broadcasters Stream S.p.A. and Omega TV S.p.A.: *Stream Lotto ITV*, *Viaggi ITV*, *Meteo ITV*, *Cartoni Umani ITV*, *Oroscopo ITV*, *Calcio ITV*, *Borsa ITV*, *Game ITV Action*, *Game ITV Strategy*, *TV Mail*, *Fantacalcio*, *TV Banking*, *Tele+ Giochi*.

	<i>Broadcaster</i>	<i>Channel</i>	<i>Broadcasting mode</i>	<i>Type of programme</i>
1	Sisal Spa	<i>Sisal</i>	satellite	interactive betting
2	SnaiSat Srl	<i>SnaiSat</i>	satellite	interactive betting
3	Stream Spa	<i>Stream Lotto ITV</i>	satellite	interactive channel
4	Stream Spa	<i>Viaggi ITV</i>	satellite	interactive channel
5	Stream Spa	<i>Meteo ITV</i>	satellite	interactive channel
6	Stream Spa	<i>Cartoni Umani ITV</i>	satellite	interactive channel
7	Stream Spa	<i>Oroscopo ITV</i>	satellite	interactive channel
8	Stream Spa	<i>Calcio ITV</i>	satellite	interactive channel
9	Stream Spa	<i>Borsa ITV</i>	satellite	interactive channel
10	Stream Spa	<i>Game ITV Action</i>	satellite	interactive channel
11	Stream Spa	<i>Game ITV Strategy</i>	satellite	interactive channel
12	Stream Spa	<i>TV Mail</i>	satellite	interactive channel
13	Stream Spa	<i>Fantacalcio</i>	satellite	interactive channel
14	Stream Spa	<i>TV Banking</i>	satellite	interactive channel
15	Omega TV Spa	<i>Tele+ Giochi</i>	satellite	interactive channel
16	E.BisMedia Spa	<i>E.BisMedia</i>	cable	TV on demand

LUXEMBOURG

A) Statistical statement

1. Summary table

<i>Number of channels</i>	<i>Reference period</i>	<i>Method(s) of monitoring</i>
9	2001 / 2002	Effective report : RTL9, Nordlicht TV LibertyTV.com Sampling : RTLTVi, Club RTL, RTL4, RTL5 Estimation : RTL TéléLëtzebuerg, Tango TV

2. Proportions (%)

<i>Channel</i>	<i>Broadcaster</i>	<i>European productions (EP)</i>		<i>Independent productions (IP)</i>		<i>Recent productions (RP)</i>	
		<i>2001</i>	<i>2002</i>	<i>2001</i>	<i>2002</i>	<i>2001</i>	<i>2002</i>
RTL Télé Lëtzebuerg	CLT-UFA	80%	80%	15%	15%	NR	NR
RTL9	CLT-UFA Satellite	52,70%	50,60%	46,30%	48%	6,70%	17,70%
	Terrestrial	55,70	54%	46,30%	48%	14,1%	24,80%
RTL TVi	CLT-UFA	52%	41%	21%	22%	12%	18%
Club RTL	CLT-UFA	49%	58%	14%	23%	4%	9%
RTL4	CLT-UFA	42%	50%	37%	36%	31,80%	32%
RTL5	CLT-UFA	50%	62%	41%	48%	30,30%	36,90%
Liberty TV	Liberty TV.com	100%	100%	10,70%	9,98%	10,70%	9,98%
Nordlicht TV	Nordlicht	100%	100%	0%	0%	0%	0%
Tango TV	Everyday Media S.A.	75%	75%	25%	25%	0%	0%

B) Reasons given by Member State for failure to reach proportion

1. European works

As regards RTL programmes, it was not possible, in two cases, to achieve the required majority for European works. The RTL4 channel had to contend with a particularly difficult advertising market in 2001 and, for economic reasons, had to schedule fewer European works. The situation was remedied in 2002. The same reasons have been given by CLT-UFA as regards RTL TVi in 2002.

2. Independent producers

NordlichtTV and TangoTV are low-budget programmes in Luxembourgish. Nordlicht produces its programme entirely on its own. Tango TV is a new programme. It has broadcast some programmes by independent producers, although not recently.

C) Measures adopted or envisaged by the Member State

RTL has promised to take steps to prevent this situation from arising again.

D) Further comments

No comments.

NETHERLANDS

A) Statistical statement

1. Summary table

<i>Number of channels</i>	<i>Reference period</i>	<i>Method(s) of monitoring</i>
44	2001 / 2002	(*)

(*) The public broadcasting service compiles data on public broadcasting on Nederland 1, TV2 and Nederland 3 on the basis of total programming (minus news, sport, etc;)

The other broadcasters reported on the basis of a sample of weeks 8, 20, 30 and 41 (2002) selected by the Netherlands Media Authority (*Commissariaat voor de Media*). For 2001, the broadcasters selected four sample weeks themselves, and these differ depending on the broadcaster.

2. Proportions (%)

<i>Channel</i>	<i>Broadcaster</i>	<i>European works (EW)</i>		<i>Independent productions (IP)</i>		<i>Recent works (RW)</i>	
		<i>2001</i>	<i>2002</i>	<i>2001</i>	<i>2002</i>	<i>2001</i>	<i>2002</i>
Ned. 1	Public service broadcaster	88%	92%	32%	42%	99%	99%
TV2	Public service broadcaster	82%	85%	60%	45%	99%	99%
Ned. 3	Public service broadcaster	91%	89%	30%	33%	91%	71%
SBS6	SBS Broadcasting B.V.	NR	43%	NR	35%	NR	84%
Net 5	SBS Broadcasting B.V.	NR	34%	NR	20%	NR	63%
Veronica	SBS Broadcasting B.V.	NO	100%	NO	0%	NO	100%
V8/Foxkids	TV10 B.V.	NR	38%	NR	35%	NR	66%
Yorin	Yorin TV BV	41%	38%	94%	34%	65%	77%
Kindernet	MTV Networks B.V.	NR	40%	NR	39%	NR	48%
TMF	MTV Networks B.V.	NR	NR	NR	NR	NR	NR
TMF Vlaanderen	MTV Networks B.V.	NR	100%	NR	4%	NR	100%

<i>Channel</i>	<i>Broadcaster</i>	<i>European works (EW)</i>		<i>Independent productions (IP)</i>		<i>Recent works (RW)</i>	
The Box	The Box Holland B.V.	65%	65%	NR	NR	NR	NR
Avante	UPC Programming BV	53%	47%	67%	30%	25%	80%
Club	UPC Programming BV	65%	26%	75%	18%	39%	88%
Film1	UPC Programming BV	40%	NO	100%	NO	0%	NO
Innergy	UPC Programming BV	31%	NO	58%	NO	19%	NO
Expo 24x7	UPC Programming BV	68%	NO	90%	NO	34%	NO
Stichting Servicechannel	Stichting Servicechannel	NR	92%	NR	92%	NR	91%
Connect TV	Limburg Connect BV	80%	93%	80%	93%	80%	93%
Delta TV	ZeelandNet b.v. (regional)	100%	100%	10%	12%	100%	100%
Canal+1	Canal+ Nederland B.V.	NR	28%	NR	21%	NR	78%
Canal+2	Canal+ Nederland B.V.	NR	29%	NR	23%	NR	92%
Canal+ 16 bij 9	Canal+ Nederland B.V.	NR	NR	NR	NR	NR	NR
Mr. Zap	Mediakabel	25%	22%	100%	22%	87%	67%
Arrivo	UPC Programming B.V.	NR	NR	NR	NR	NR	NR
Moviehouse	UPC Programming B.V.	NR	NR	NR	NR	NR	NR
Filmtime	Casema N.V.	NR	22%	NR	22%	NR	69%
Livesex tv	Satellite Data Broadcasting BV	NO	50%	NO	49%	NO	100%
Playboy TV	STV International BV	27%	34%	100%	34%	100%	100%

<i>Channel</i>	<i>Broadcaster</i>	<i>European works (EW)</i>		<i>Independent productions (IP)</i>		<i>Recent works (RW)</i>	
Private Blue	Private Blue and Gold Broadcasting	NO	100%	NO	48%	NO	100%
BVN	Radio Nederland Wereldomroep	NR	100%	NR	13%	NR	100%
RTV Noord	Stichting Regionale Omroep Groningen	NR	100%	NR	NR	NR	100%
Omrop Fryslan	Stichting Omrop Fryslan	NR	100%	NR	10%	NR	100%
Omroep Drenthe	Stichting Omroep Drenthe	NR	100%	NR	100%	NR	100%
RTV Oost	Stichting RTV Oost	NR	100%	NR	44%	NR	100%
Omroep Gelderland	Stichting Omroep Gelderland	NR	96%	NR	3%	NR	60%
Kanaal 9	Regionale Omroep Stichting Utrecht	NR	100%	NR	NR	NR	100%
Omroep Flevoland	Stichting Regionale Omroep Flevoland	NR	100%	NR	47%	NR	100%
TVNH	Stichting Regionale Omroep Noord-Holland	NR	100%	NR	NR	NR	100%
Omroep West	Stichting Regionale Omroep West	NR	100%	NR	NR	NR	100%
TV Rijnmond	Stichting Regionale Omroep Rotterdam-Rijnmond	NR	100%	NR	24%	NR	99%
Omroep Zeeland	Stichting Omroep Zeeland	NR	100%	NR	11%	NR	100%
Omroep Brabant	Stichting Regionale Omroep Brabant	NR	100%	NR	34%	NR	100%
L1	Stichting Omroep Limburg	NR	100%	NR	NR	NR	NR

B) Reasons given by Member State for failure to reach proportion

1. General information

On 1 January 2002, the Policy Rules for programme quotas came into force. These set out the policy on enforcement of the rules on programme quotas. One of the aims of these Rules was to optimise reporting methods. Under the Rules, from 2002 broadcasters are required to report on all programmes transmitted during a period of four weeks selected by the Media Authority. From 2002, the broadcaster is required to specify, for each programme component, whether it counts as part of the transmission time in the reference period, whether it is a European and/or independent production, and the year of production. All broadcasters have to report using a form drawn up by the Media Authority. The different percentages are calculated on the basis of all these data. The Media Authority also assesses the accuracy of the information.

Naturally, it took time to adjust to this new form of reporting and 2001-2002 served as a transition period. The broadcasters have put a lot of time and energy into implementing the new reporting method. Unfortunately, this extra effort meant that not all broadcasters were in a position to provide data for 2001.

2. Information from individual broadcasters:

- Scandinavian Broadcasting B.V. (SBS)

SBS explained that it had not reported on SBS6, Net5 and V8/Foxkids because, in order to satisfy the stricter reporting requirements, the company had had a software module developed, to link up with the Stichting Kijkonderzoek's (SKO) databases. Since the SKO's databases were only available from 1 January 2002, and the software module is geared entirely to the link with the SKO's data, it was unfortunately not possible (any longer) for the SBS to report on the programme quota for 2001.

According to the SBS, the reason the percentage of European productions on SBS6 was not reached was that it could not include the programme "*Hart van Nederland*". The Media Authority regards "*Hart van Nederland*" as a news and current affairs programme, which must be deducted from the transmission time. Since "*Hart van Nederland*" is broadcast every day and repeated in the evening, this means a substantial reduction in the percentage of European productions. Furthermore, the SBS feels that the sample is not representative because most of the Dutch productions are broadcast in March/April and November/December. Finally, failing to reach the percentage was partly due to acquiring the broadcasting rights for the Netherlands football team which left little budget in 2002 for other Dutch productions. For Net5, according to the SBS, there are not enough European productions which are targeted specifically at women aged between 20 and 34, the target group of the channel. Net5 also suffered from SBS's supply position. SBS has a substantial package of "lesser (American) titles" which had to be broadcast, according to SBS. No information was given as to why the required percentages were not met for V8/Foxkids because, according to SBS's information, the required percentages were in fact met. However, the percentages calculated by the Media Authority are lower than those given by SBS because SBS mistakenly included the broadcasting time for self-advertising in the reference broadcasting time.

- MTV Networks BV

In 2001, MTV Networks BV did not report on Kindernet, TMF and TMF Vlaanderen. It appeared that the music programme broadcasters were unclear as to how music clips should be included in the various quotas.

According to MTV Networks B.V.'s own information, the percentage of independent European productions was not reached. The Media Authority has not been able to check the content of this information. Video clips were broadcast by the different broadcasters. A large part of these video clips are European. It is unclear as to how these video clips should be included in the different percentages. This is also a problem for the music broadcaster The Box.

According to **Kindernet**, the reason for not reaching the percentage was that Kindernet C.V. was taken over in 2001 by MTV Networks B.V. MTV Networks B.V. has tried, partly by changing the programme schedule, to make Kindernet profitable again. It has also been extremely difficult to find non-violent programmes suitable for children. The European supply is limited and producing programmes in-house (or having programmes produced) is not financially viable. Kindernet has stated that it will do its best to reach the required minimum, but that it foresees long- and short-term problems in doing so. The percentages established by the Media Authority were lower than the percentages indicated by MTV Networks B.V. because the transmission time devoted to self-promotion was mistakenly included in the reference time.

TMF Vlaanderen only reported on the programme components between music clips. These programme components are produced in-house.

The overview also shows that **Stichting Servicechannel, Canal+, Casema and BVN** also did not report on 2001. This was because of the extra work necessary for the transition to the new form of reporting in 2002.

- UPC

UPC did not report on its programmes Arrivo and Moviehouse.

- Yorin

According to Yorin, the reason the percentage of European productions was not reached was the change to the daytime programme schedule. The "call TV" programmes broadcast until autumn 2001 were replaced by the children's programme "Yorkiddin". This resulted in a considerable increase in the "transmission time to be taken into account". The number of European productions in fact rose sharply in the strict sense. Yorin expects that in the future it will again reach the required percentages.

- **Regional public broadcasting service**

Because the regional public broadcasters broadcast mainly news, current affairs and text television, very little of the transmission time is relevant to the reporting on quotas. Consequently, the regional broadcasters were not involved in the previous reporting periods.

Since the introduction of the rules on programming quotas in January 2002, information is also provided on the regional broadcasters' programmes. Initial experiences show that the regional broadcasters are not yet sufficiently clear as to how the percentages should be calculated. The Media Authority will hold discussions with the sector in order to clear up any uncertainties.

C) Measures adopted or envisaged by the Member State

As stated above, time is needed to adjust to the new form of reporting. The broadcasters have put a lot of time and effort into implementing the new reporting method. The Media Authority has therefore decided to issue a warning to the larger commercial broadcasters Yorin and SBS, which have not met the required quota. The Media Authority will also hold discussions with the sector on reporting on quota in general and on any possible uncertainties, such as what constitutes a European production and which transmission time is to be included in the reference period. All broadcasters have already been informed.

D) Further comments

In the last quarter of 2002, **Veronica** began transmitting broadcasts lasting a couple of hours comprising programmes produced entirely by themselves. In 2003, the proportion of independent productions by Veronica will in all probability increase. **TMF Vlaanderen** only reported on programme sections in between music clips. These programme sections are produced in house. See also the comment below on MTV networks BV. The broadcaster **Private Blue and Gold** only broadcast in the last quarter of 2002 and its programmes are all Spanish and English.

AUSTRIA

A) Statistical statement

1. Summary table

<i>Number of channels</i>	<i>Reference period</i>	<i>Method(s) of monitoring</i>
7	Calendar years 2001 and 2002	Registration of the broadcasters with the public authorities. Failure to register incurs an administrative penalty (§ 64 (1) Z 9 of the Private Television Act – PrTV-G)

2. Proportions (%)

<i>Channel</i>	<i>TV broadcaster</i>	<i>European productions (EP)</i>		<i>Independent productions (IP)</i>		<i>Recent productions</i>	
		2001	2002	2001	2002	2001	2002
ATV+	ATV Privatfernseh-GmbH	3801hrs 15 min 51.14%	2415hrs 35 min 51.43%	7126hrs 53 min 95.88%	4636hrs 13 min 98.71%	4991hrs 58 min 70.04%(% of IP)	3080hrs 50 min 65.59%
FASHION TV	FASHION TV Programmgesellschaft mbH ¹⁾	100%	100%	100%	100%	100%	100%
KTV	KTV Fernseh GmbH & Co KEG ²⁾	98%	98%	21%	21%	73% (% of IP)	73%
SAT1 Österreich	SAT 1 Privatrundfunk und Programmgesellschaft mbH ³⁾	100%	100%	10.7%	32.2%	100%	100%
ORF1	ORF ⁴⁾	2925hrs 38%	4143hrs 48.4%	1439hrs 18.7%	1430hrs 16.7%	847hrs 11% (58% of IP)	821hrs 9.6% (57.4% of IP)
ORF2	ORF ⁴⁾	6082hrs 85.4%	6273hrs 89%	2285hrs 32.1%	2359hrs 33.5%	1367hrs 19.2% (59.8% of IP)	1455hrs 20.6% (61.7%

							of IP)
<u>Total</u>	ORF ⁴⁾	9007hrs	10416hrs	3724hrs	3789hrs	2214hrs	2276hrs
ORF 1+2		60.8%	66.7%	25.1%	24.3%	14.9%	14.6%
TW1	ORF via TW1 Tourismus Fernsehen GmbH ⁵⁾	8672hrs 99%	8672hrs 99%	5256hrs 60%	5256hrs 60%	8322hrs 95%	8322hrs 95%

B) Reasons given by Member State for failure to reach proportion

No comments.

C) Measures adopted or envisaged by the Member State

No comments.

D) Further comments

1. This specialised fashion channel (24 hours a day, including repeats) offers advertising and topical fashion information, particularly coverage of fashion shows in and outside Europe, and also international fashion events, as well as (edited highlights of) fashionable show events (competitions, presentations, society events). No presenters are used for the items broadcast.

Given that the channel is concerned exclusively with presenting the latest fashions, it is logical that its broadcasts consist of items produced fairly recently. In view of the fact that the programmes on offer do not receive attention from other broadcasters and that these programmes are thus not made for any other TV broadcasters, independent productions account for 100% of broadcasts. The producers of the programmes are all based in EU Member States.

The percentage figures are in relation to the channel's total time on air, excluding advertising time. As mentioned, the remaining broadcasting time consists exclusively of fashion shows, fashion information and fashion "news".

2. KTV Fernseh GmbH & Co KEG is a specialised channel showing broadcasts with a Christian/Catholic perspective for an average of 360 hours a month: Programmes are broadcast via satellite according to the following pattern: around 52 hours of broadcasts are shown at the beginning of the week and then re-broadcast repeatedly over the remaining days of the week. The above percentages relate to this number of hours. Of the 52 hours, 98% (51 hours) are European productions, 21% (11 hours) independent productions and 73% of the independent productions (i.e. 15% of the 52 hours) consist of recent productions (8 hours). The broadcasts include coverage of religious services, group discussions on religious topics, as well as research and information on subjects relating to Christianity.

4. SAT 1 Privatrundfunk und ProgrammgesmbH can only be received via the Austrian cable networks (the signal is directed via satellite to the cable network distribution points) and is a "niche" channel (which is used to fill programming gaps in the SAT1's "normal" schedule) accounting for half an hour to an hour a day (with recent productions of a magazine programme being broadcast every 14 days for the most part). Its programmes (motoring programmes, *E-Magazin*, *Babymagazin*, *Happy Life* and *Sportmagazin*) are then repeated a number of times during the week. The above data relate to the initial broadcast of programmes. In 2001, initial broadcasts accounted for 56 hours (2002: 59 hours), of which 6 hours consisted of independent productions in 2001 (2002: 19 hours). All of these productions are fairly recent. The channel's remaining air time is used to show repeats.
5. In 2002, ORF managed to significantly improve its figures when compared with previous years. Whilst European productions accounted for 60.8% in 2001, the 2002 figure was 48.4% for ORF1 (2000: 36.6%) and 89% for ORF2 (2000: 81%), this averages out at 66.7% for 2002 (2000: 58.4%), representing a 9.7% increase. The high figure for independent productions was maintained. The slight decrease in the proportion of independent productions on ORF1 in 2002 was due to a small increase in the number of ORF in-house productions included in its programme figures for 2002.
6. TW1 is a round-the-clock specialised channel (showing repeats from 0.00 to 7.00) broadcasting programmes on travel (topical magazine programme, travel destinations), weather (forecasts, information, data, weather cameras at outside locations), leisure (tips on leisure activities) and sport (live broadcasts and magazine programmes).
7. In addition to the channels mentioned above, a number of other broadcasters show programmes on local and regional cable networks in Austria, and there are two other terrestrial channels broadcasting to a particular province. Since all the programmes on these channels are of local interest and are not linked to the national TV network, they are not, under the provisions of Article 9 of the Directive, subject to reporting requirements.

In 2003, two further satellite TV channels were granted a broadcasting licence by the regulatory authority *KommAustria*. These channels are: X-Gate Multimedia Broadcasting GmbH, which has been broadcasting the TV6 channel since 1 September 2003, and ProSieben Rundfunk und Medienproduktion GmbH, which in October 2003 was granted a licence for a daily half-hour "niche" programme (showing news and "infotainment") on ProSieben. During the 2001–2002 reporting period, the two channels were not yet established.

Another satellite pay-TV channel (broadcasting round the clock), namely Premiere Fernsehen GmbH, has had a valid licence to broadcast since October 2002. Given that it did not begin to broadcast until the end of 2002, it is only subject to reporting requirements and the relevant provisions of the Private Television Act with effect as from 2003.

This report also contains data relating to the satellite TV broadcaster FASHION TV Programmgesellschaft mbH, a specialised fashion channel which received a licence to

broadcast (in Austria) on 1 July 2002. The data for the reporting period under consideration here relate only to the period from July to December 2002.

PORTUGAL

A) Statistical statement

1. Summary table

<i>Number of channels</i>	<i>Reference period</i>	<i>Method(s) of monitoring</i>
12	2001 / 2002	No comment.

2. Proportions (%)

Table 1 : Percentages of EWs, IPs, and RWs broadcast by the public service operator RTP

Broadcaster	Channel	European works		Independent productions		Recent works	
		2001	2002	2001	2002	2001	2002
RTP, SA	RTP1	54.8	58.6	31.0	22.0	94.0	56.6
	RTP2	56.0	56.6	18.9	25.2	81.9	50.7
	RTP Internacional	87.5	92.1	48.8	42.4	97.8	56.8
	RTP África	82.2	73.9	43.0	7.7	70.2	83.6

Table 2: percentages of EWs, IPs, and RWs broadcast by private operators

Broadcaster	Channel	European works		Independent productions		Recent works	
		2001	2002	2001	2002	2001	2002
SIC, SA	SIC	40.9	39.1	26.6	20.0	98.4	84.6
	SIC Internacional	91.3	97.8	77.6	86.6	100.0	84.6
	SIC Gold	62.4	55.0	26.2	19.0	100.0	77.6
	SIC Radical	39.7	17.8	39.3	12.0	100.0	100.0
TVI, SA	TVI	36.2	47.0	35.0	29.0	100.0	97.0
	TVI Eventos	EXEMPT					
Sport TV Portugal, SA	Sport TV	70.0	92.0	42.5	43.0	100.0	100.0
Lisboa TV- Informação e Multimedia, SA	SIC Notícias	76.8	76.6	9.3	0.0	38.3	0.0
	Canal Programação TV Cabo	EXEMPT					
Porto	NTV	100.0	54.0	100.0	16.0	100.0	100.0

Informação e Multimedia, SA							
TV Medicina – canal de TV por Cabo e programas de televisão, SA	TV Medicina/Saúde	EXEMPT					

Table 3 : Weighted averages for EWs, IPs, and RWs broadcast per operator

Broadcaster	European works		Independent productions		Recent works	
	2001	2002	2001	2002	2001	2002
RTP, SA	70.1	69.8	35.4	24.3	86.0	61.9
SIC, SA	58.6	52.4	42.5	34.4	99.6	86.7
TVI, SA	36.2	47.0	35.0	29.0	100.0	97.0
Sport TV Portugal, SA	70.0	92.0	42.5	43.0	100.0	100.0
Lisboa TV Informação e Multimedia SA	76.8	76.6	9.3	0.0	38.3	0.0
Porto TV Informação e Multimedia SA	100.0	54.0	100.0	16.0	100.0	100.0

B) Reasons given by Member State for failure to reach proportion

Comments by operator

RTP-Radiotelevisão Portuguesa, SA

Of all of the channels operated by RTP, only the channel RTP Africa – which is intended for audiences in some of the former Portuguese colonies⁸⁰, but can also be received within Portugal by cable and satellite – failed to reach the minimum figures provided for in respect of independent productions in 2002. This is because, during the reference period and in line with the programming philosophy tailored to the target audience, the channel in question gave priority to broadcasting programmes produced in-house, more specifically programmes intended for the African communities.

In any event, the percentages obtained by the public service television operator taken as a whole⁸¹ show that RTP complied fully with the programming objectives set out in Articles 4 and 5 of the Directive – as was already the case in previous years.

⁸⁰ Angola, Cape Verde, Guinea-Bissau, Mozambique and S. Tomé e Príncipe. Programmes are broadcast by satellite with analogue terrestrial transmission in all of the aforementioned countries, with the exception of Angola where they can only be received via satellite.

⁸¹ See table 3 containing the annual weighted averages for the performance of each operator for the two-year period 2001-2002

SIC-Sociedade Independente de Comunicação. SA

With regard to the broadcasting of European works, “SIC” and “SIC Radical” failed to comply with the objectives laid down in Article 4 of the Directive in 2001 and 2002. The recent establishment of “SIC Radical” in particular played a decisive role in the failure to attain the percentages set.

However, the percentage for the broadcasting of European works in 2001 and 2002 – calculated with reference to SIC as a whole – stands at 58.6% and 52.4% respectively, thus meeting the relevant Community objectives.

Conversely, in terms of the broadcasting of independent productions and recent works, the operator achieved percentages that clearly exceeded the provisions of Article 5 of the TWF Directive in both 2001 and 2002 – irrespective of whether these figures are calculated with reference to SIC as a whole or to any of the individual channels it operates.

TVI Televisão Independente, SA

With regard to TVI, this operator showed percentages in 2001 and 2002 which were higher than the provisions laid down in Article 5 of the TWF Directive, although it did not achieve the percentages set out in Article 4.

It is important to note, however, that since the year when its activities began (1993), TVI has continuously and regularly increased its percentages for the broadcasting of European works, thus respecting the guidelines on progressive achievement of the proportion as laid down in Article 4(1) of the TWF Directive. In particular, the percentage for the broadcasting of European works in 2002 (47%) was already very close to the values set in this respect at Community level.

Factors which have prevented TVI from complying with the Community provisions - as noted in previous years – include the fact that it was the last terrestrial operator to start up, with obvious consequences for its market penetration, a situation which was exacerbated by the limited size and continuous contraction of the national advertising market, by the fragility of the national programme production industry, and by a period of increased financial instability, which has only recently eased.

Sport TV Portugal, SA

Since the end of 1998, the operator Sport TV Portugal has been running the sports channel “Sport TV”, which has conditional access and is transmitted by cable and satellite. Despite the fact that, due to its specialised nature, “Sport TV” focuses on coverage of sports events – which are in principle specifically excluded from the broadcasting percentages – it should be noted that it is not exclusively developing this type of programming. In accordance with the principles of the Directive, the rest of the programmes on this channel were examined to determine what proportion of them consisted of European works. The results obtained using this methodology are contained in Table 2.

Reversing the previous trend, we note that the operator in question complied fully with the Community objectives set out in Articles 4 and 5 of the Directive – notwithstanding adverse factors such as the relatively recent existence of the channel in question and the specific nature of the material broadcast.

Lisboa TV Informação e Multimedia, SA

This operator, of which the majority shareholder is the television operator SIC-Sociedade Independente de Comunicação, SA, operates the thematic news channel “SIC-Notícias”, which began regular broadcasts in January 2001.

The recent establishment of this channel and the specific nature of the material it deals with – which is in principle⁸² specifically excluded from the Community broadcasting percentages – meant that, in 2001, the rest of the programming on this channel that could have been included in the percentages for independent productions failed to achieve the objectives set in accordance with the Directive. Furthermore, the figures of 0.0% for 2002 are due to the fact that, over the sampling period, no recent works produced fewer than five years previously were detected. However, we must point out that this situation is extremely atypical and does not reflect this operator’s usual programming, and may be explained by the random method used to select the sampling period.

Porto TV Informação e Multimedia, SA

This operator operates the thematic news channel “NTV”, which began regular broadcasts in October 2001.

Although it shares the same characteristics – and faces the same difficulties – as its sister channel “SIC-Notícias”, NTV managed to fully achieve the Community percentages established for European works, independent productions and recent works over the reference period of this report.

Operators/channels excluded from the exercise

In accordance with Article 4(3) of the Directive, the obligation to submit to the Commission a two-yearly report on the matters covered by the Directive applies, in principle, “to each of the television programmes falling within the jurisdiction of the Member State concerned”.

In order to clearly delineate certain concepts referred to in the Directive, and thus prevent any variations of interpretation or implementation, the Commission has already specified, in clear terms, the scope of the exceptions to this obligation⁸³. However – and bearing in mind that the central objective of the provisions in Chapter 3 of the Directive is to ensure the development and dissemination of *creative* European works – the Portuguese authorities consider that, in addition to the exceptions expressly made by the Commission, there are other cases that must clearly be excluded from the requirements set out in Articles 4 and 5 of the TWF Directive. These include, by virtue of their respective characteristics, certain television channels falling within Portuguese jurisdiction. They are described below.

Canal Programação TV Cabo

This is a themed information channel operated by Lisboa TV Informação e Multimedia, SA, with national coverage and free access, consisting of a daily and weekly guide to the programmes shown on the various cable television channels and services distributed by the

⁸² As is also the case, *mutatis mutandis*, for the channels “Sport TV” and “NTV”.

⁸³ See point 2.2 of the Annex to the document referred to in footnote 1 (Annex 1 to document COM (2000) 442 final, 17 July 2000).

network operator TV Cabo to help viewers choose what to watch and when. In addition to this specific information component, the channel in question also shows entertainment programmes, games, self-promotion, and teleshopping.

TV Medicina/TV Saúde

This is a themed television channel operated by TV Medicina, Canal de Televisão por Cabo e Programas de Televisão, SA, and transmitted by cable and satellite. This channel broadcasts two sets of programmes dealing mainly with the specific subjects of “medicine” and “health”, and named “TV Medicina” and “TV Saúde” respectively. The first set of programmes is on air between 6pm and 2am, is encrypted, and is intended exclusively for members of the medical profession; the second is on air for the remainder of the time (2am to 6pm), is not encrypted, and is intended for the general public.

TVI Eventos

This channel is operated by TVI Televisão Independente, S. A., with national coverage and conditional access. This is a themed channel that broadcasts programmes tying in with basic “event” programmes shown on the generalist channel “TVI” (also operated by the same operator), including live transmissions and themed programmes, specifically competitions, entertainment, and debates on the same topics as those featured in the basic programmes. Since it started up (18 October 2001), the channel has been broadcasting programmes based on various editions of the reality show “Big Brother”, broadcast on channel TVI⁸⁴.

C) Measures adopted or envisaged by the Member State

As we can see above, the only television operators under Portuguese jurisdiction which failed to comply with the programming recommendatory objectives set out in Articles 4 and 5 of the TWF Directive during the reference period were TVI-Televisão Independente (for European works) and Lisboa TV Informação e Multimedia, SA, for independent productions (in 2001) and recent works. In fact, two of the channels run by SIC-Sociedade Independente de Comunicação also failed to achieve the percentages provided for in Article 4 of the TWF Directive, although they were clearly met by this operator taken as a whole, as provided for in the Community rules. The same applies (in respect of independent productions/recent works) to the specific situation of RTP–Africa, owned by the public service operator RTP which – as has already been stated – has largely exceeded the percentages provided for in all areas. Moreover, we must draw attention to the efforts made by TVI to raise the percentages of European works broadcast to the levels provided for in the TWF Directive, and of which the results are now apparent.

Overall, the Portuguese authorities consider the results of the present exercise to be positive. Regarding the rare shortfalls noted – and while keeping the situation constantly under review and remaining in regular contact with all the television operators – the Portuguese authorities have chosen to refrain from applying penalties as they are aware that any sanctions could have serious consequences for the operators and even make the strictly recommendatory objectives set by the TWF Directive more difficult to achieve.

⁸⁴ Mention should also be made of “Canal Parlamento”, broadcast in non-encrypted form by cable and satellite, which is governed by specific provisions and shows the Portuguese Parliament at work.

D) Further comments

List of television operators/channels taken into account for this exercise

RTP – Radiotelevisão Portuguesa, SA

- | | | |
|-----|-------------------|------------------------------|
| (1) | RTP1 | Gen, Ncond, Nac, Hrtz+Cb+Sat |
| (2) | RTP2 | Gen, Ncond, Nac, Hrtz+Cb+Sat |
| (3) | RTP Internacional | Gen, Ncond, Int, Cb+Sat |
| (4) | RTP Africa | Gen, Ncond, Int, Cb+Sat |

SIC – Sociedade Independente de Comunicação, SA

- | | | |
|-----|-------------------|------------------------------|
| (5) | SIC | Gen, Ncond, Nac, Hrtz+Cb+Sat |
| (6) | SIC Internacional | Gen, Cond, Int, Sat |
| (7) | SIC Gold | Gen, Ncond, Nac, Cb+Sat |
| (8) | SIC Radical | Gen, Ncond, Nac, Cb+Sat |

TVI – Televisão Independente, SA

- | | | |
|-----|-----|------------------------------|
| (9) | TVI | Gen, Ncond, Nac, Hrtz+Cb+Sat |
|-----|-----|------------------------------|

Sport TV Portugal, SA

- | | | |
|------|----------|------------------------|
| (10) | Sport TV | Tem, Cond, Nac, Cb+Sat |
|------|----------|------------------------|

Lisboa – TV – Informação e Multimedia, SA

- | | | |
|------|--------------|-------------------------|
| (11) | SIC Notícias | Tem, Ncond, Nac, Cb+Sat |
|------|--------------|-------------------------|

Porto – TV – Informação e Multimedia, SA

- | | | |
|------|-----|-------------------------|
| (12) | NTV | Tem, Ncond, Nac, Cb+Sat |
|------|-----|-------------------------|

List of television channels excluded from this exercise

- | | |
|-------------------------------------------|------------------------------|
| TVI Eventos (TVI, SA) | Gen, Ncond, Nac, Hrtz+Cb+Sat |
| Canal Programação TV Cabo (Lisboa TV, SA) | Tem, Ncond, Nac, Cb+Sat |
| TV Medicina/Saude (TV Medicina, SA) | Tem, Cond (*) Nac, Cb+Sat |

(*) for part of the broadcast time

Key:

- | | |
|-------|--------------------|
| Tem | Themed |
| Gen | General |
| Cond | Conditional access |
| Ncond | Free access |
| Nac | National coverage |

Int	International coverage
Cb	Cable
Sat	Satellite
Hertz	Analogue

FINLAND

A) Statistical statement

1. Summary table

<i>Number of channels</i>	<i>Reference period</i>	<i>Method(s) of monitoring</i>
4	2001 / 2002	No comment

2. Proportions (%)

Broadcaster	Channel	European works				Independent production				New productions	
		2001		2002		2001		2002		2001	2002
		hours	%	hours	%	hours	%	hours	%	%	%
YLE	TV1	5413	89	4674	86	1376	29	1271	23	55	54
	TV2	3742	82	2714	77	1014	35	890	25	54	53
	YLE (TV1 + TV2)	9155	86	7388	83	2390	32	2161	24	55	54
MTV	MTV3	2584	62	1797	52	1107	27	1178	34	99	100
Ruutunelonen	Nelonen	1933	50	1932	50	914	23	765	20	100	100

B) Reasons given by Member State for failure to reach proportion

No comments.

C) Measures adopted or envisaged by the Member State

No comments.

D) Further comments

No comments.

SWEDEN

A) Statistical statement

1. Summary table

<i>Number of channels</i>	<i>Reference period</i>	<i>Method(s) of monitoring</i>
38	2001 / 2002	No comments.

2. Proportions (%)

Broadcaster	Channel	A. European productions		B. Independent productions		C. Recent productions	
		(number of hours and % of total broadcasting time)		(number of hours or % of programme budget and % of total broadcasting time or % of programme budget)		(% of B)	
		2001	2002	2001	2002	2001	2002
Sveriges Television AB	SVT 1	2 869 h 79.17%	2 986 h 82.65%	642 h 17.72%	559 h 15.47%	42.83%	54.38%
Sveriges Television AB	SVT 2	2 046 h 86.66%	2 232 h 86.44%	310 h 13.13%	386 h 14.95%	76.77%	73.58%
Sveriges Television AB	Mälarkanalens ⁸⁵	NO					
Sveriges Television AB	SVT Väst ¹	NO					
Sveriges Television AB	SVT Mitt ¹	NO					
Sveriges Television AB	SVT Syd ¹	NO					
Sveriges Television AB	Digital Öst ¹	NO					
Sveriges Television AB	SVT24 ⁸⁶	EXEMPT					
Sveriges Television AB	SVTEExtra ⁸⁷	EXEMPT					
Sveriges Utbildningsradio AB	UR	707 h 99%	752 h 98.5%	75 h 10.5%	48.4 h 6.3%		

⁸⁵ No scheduled broadcasts in 2001 and no broadcasts in 2002.

⁸⁶ Content not covered by the present report.

⁸⁷ Content not covered by the present report.

TV4 AB	TV4	3 025 h 53%	2 822 h 52.8%	1 999 h 66%	1 632 h 58%	45%	56%
Kanal 5 AB	Kanal 5	1 344 h 17.5%	1 299 h 16%	1 344 h 100%	1 299 h 100%	98%	100%
TV1000 AB	TV 1000	1 915.5 h 22%	1 842.5 h 21%	1 915.5 h 22%	1 842.5 h 21%	100%	100%
TV1000 AB	TV 1000 Cinema	1 950 h 22%	1 966.5 h 22%	1 950 h 22%	1 966.5 h 22%	100%	100%
TV 6 Sverige AB	6 (i logotype)	1 314 h 60%	1 898 h 45%	1 314 h 60%	170 h 9%	60%	
Kunskaps TV i Sverige AB ⁸⁸	K-World	NR	NO	NR	NO	NR	NO
NonStop Television AB ⁸⁹	E!	NO	266 h 4.1%	NO	266 h 4.1%	NO	NR
Canal+ Television AB	Canal+	1 912 h 27%	2 386 h 33%	NR	NR	NR	NR
Canal+ Television AB	Canal+ Gul	1 976 h 25%	2 471 h 32%	NR	NR	NR	NR
Canal+ Television AB	Canal+ Blå	897 h 22%	1 298 h 30%	NR	NR	NR	NR
Canal+ Television AB ⁹⁰	Canal+ Kiosk	17 750 h 9.7%	21 720 h 11.85%	NR	NR	NR	NR
CineCinemas AB ⁹¹	Cinema	1 754 h 31%	NO	NR	NO	NR	NO
Eurosport	Eurosport ⁹²	EXEMPT					
eTV Holding AB ⁹³	eTV	NR	NO	NR	NO	NR	NO
TV-Linköping Länkomedia AB	NollEttan Television	8 760 h 100%	1 100 h 100%	1 056 h 12%	1 100 h 100%	100%	NR
Great Wall TV	GWTV	NO					

⁸⁸ Ceased broadcasting on 1 April 2002.

⁸⁹ Started terrestrial broadcasting at the end of 2001.

⁹⁰ As Canal+ Television AB buys its programmes from distributors it does not know whether the programmes are produced by independent producers or no

⁹¹ Ceased broadcasting in 2002 and does not have access to information.

⁹² Eurosport broadcasts only sports programmes.

⁹³ eTV was declared bankrupt in 2002 and does not have access to information.

AB ⁹⁴		EXEMPT					
Nordic Shopping Sverige Aktiebolag ⁹⁵	TV-Butiken	EXEMPT					
Bethnahrin Institutet/ Assyria International ⁹⁶	Assyria-TV	NO					
Skånekanalen AB (Landskrona Vision AB)	Skånekanalen	870 h 28.6%	1 560 h 17.8%	290 h 33%	150 h 9.6%	100%	75%
DTU Television AB	DTU 7	870 h 28.6%	1 560 h 17.8%	290 h 33%	150 h 9.6%	100%	75%
Discovery Communications Europe ⁹⁷	Animal Planet	NO	5 234.4 h 83.79%	NO	5 083.2 h 81.37%	NO	24.18%
Discovery Communications Europe	Discovery Channel	NO	4 837.2 h 79.24%	NO	4 516.8 h 73.99%	NO	27.58%

MTV Europe ⁹⁸	Nickelodeon	NO	987.4 h 22.48%	NO	812.5 h 18.49%	NO	Nr
MTV Europe	VH1	NO	6 570 h 75%	NO	4 380 h 50%	NO	50%
MTV Europe	MTV Nordic	NO	6 570 h 75%	NO	4 380 h 50%	NO	50%
Nordiska Satellitaktiebolaget AB	Sirius ⁹⁹	EXEMPT					
Didar HB ¹⁰⁰	Didar	NO					
JAPA Production ¹⁰¹	TV-enjoy	NO					

B) Reasons given by Member State for failure to reach proportion

Sveriges Utbildningsradio AB – UR: Programmes produced by other broadcasters accounted for a large proportion of purchases in 2002.

⁹⁴ GWTV did not broadcast in 2001 and 2002.

⁹⁵ Nordic Shopping Sverige AB broadcasts only so-called tele-shopping programmes.

⁹⁶ Bethnahrin Institutet, renamed Assyria International, did not broadcast in 2001 and 2002.

⁹⁷ Started terrestrial broadcasting at the end of 2001.

⁹⁸ Started terrestrial broadcasting at the end of 2001.

⁹⁹ Content not covered by the present report.

¹⁰⁰ Didar did not broadcast in 2001 and 2002.

¹⁰¹ TV-enjoy did not broadcast in 2001 and 2002.

TV 6 Sverige AB – 6 (i logotype): Programmes of American origin and nature films of exotic origin.

NonStop Television AB – BI: The channel specialises in American entertainment and Hollywood news.

Canal+ Television AB – Canal+ Kiosk: Kiosk offers films and concerts on a pay-per-view basis.

Skånekanalen AB (Landskrona Vision AB): Cooperates with DTU, which mainly targets an immigrant audience.

DTU Television AB – DTU 7: The channel mainly targets an immigrant audience.

C) Measures adopted or envisaged by the Member State

Sveriges Utbildningsradio AB – UR: UR is expected to achieve the indicated proportions in 2003 without the need for special measures.

TV 6 Sverige AB – 6 (i logotype): Changes in the programme schedule.

NonStop Television AB – BI: No significant changes in content are foreseen.

Skånekanalen AB (Landskrona Vision AB): In 2003, Skånekanalen will be broadcasting regional programmes.

D) Further comments

No comments.

UNITED KINGDOM

A) Statistical statement

1. Summary table

Number of channels		Reference period	Method(s) of monitoring
2001	125	2001 / 2002	Survey
2002	123		

2. Proportions (%)

Channel	Broadcaster	European Works (EW)		Independent Works (IP)		Recent Works (RW)	
		2001	2002	2001	2002	2001	2002
3+Denmark	Viasat Broadcasting UK Ltd	18	18	11	13	11	13
Adult Channel	Playboy TV	52	54	43	43	41	43
Animal Planet	Discovery Networks Europe	71	83	67	81	30	30
Artsworld	Artsworld	83	77	81	68	50	36
BBC Choice	BBC	97	90	43	29	43	29
BBC Knowledge	BBC	97	Became BBC4	16	Became BBC4	16	Became BBC4
BBC News 24	BBC	100	100	0	0	0	0
BBC Prime	BBC	NR	NR	NR	NR	NR	NR
BBC World	BBC	100	100	10	7	10	7
BBC1	BBC	80	81	12	13	12	13
BBC2	BBC	79	81	11	13	11	13

BBC4	BBC	95	93	16	15	16	15
Cbeebies	BBC	NO	95	NO	51	NO	51
CBBC	BBC	NO	81	NO	11	NO	11
Biography Channel	BSkyB	19	22	14	13	5	9
Bravo	Flextech Television	15	28	5	21	5	12
Cartoon Network	Turner	28	35	24	29	5	12
Cartoon Network (Boomerang)	Turner	26	22	26	22	0	0
Cartoon Network (Dutch Language)	Turner	23	NO	23	NO	13	NO
Cartoon Network (EMEA)	Turner	13	17	0	12	0	0
Cartoon Network (French Language)	Turner	25	29	20	20	6	7
Cartoon Network (Italian Language)	Turner	25	25	21	17	9	4
Cartoon Network (Nordic)	Turner	22	25	13	22	8	4
Cartoon Network (Spanish Language)	Turner	28	24	21	15	11	15
Challenge TV	Challenge TV	94	90	32	26	12	8
Channel 4	Channel 4 Television Corporation	73	72	37	35	30	26
Channel 5	Channel 5 Broadcasting Ltd	56	55	45	46	32	39
Cinenova	Europe Movieco Partners Ltd	16	17	12	11	11	8
Cinenova2	Europe Movieco Partners Ltd	NO	14	NO	16	NO	17
Dating Channel	Euro Digital Corporation Ltd	98	100	0	0	2	0
Discovery Channel (UK)	Discovery Networks Europe	71	81	62	75	33	29
Discovery Civilization	Discovery Networks	78	80	62	66	46	34

	Europe						
Discovery Health	Discovery Networks Europe	39	49	19	43	11	33
Discovery Home & Leisure	Discovery Networks Europe	57	72	46	65	34	52
Discovery Kids	Discovery Networks Europe	26	35	22	17	15	3
Discovery Sci-Trek	Discovery Networks Europe	60	57	58	54	44	30
Discovery Travel & Adventure	Discovery Networks Europe	71	64	70	63	55	37
Discovery Wings	Discovery Networks Europe	45	40	29	35	27	21
Disney Channel UK	Disney Channel UK	34	34	4	5	3	4
E4	Channel Four	73	65	30	25	30	25
FilmFour	Channel 4	46	45	18	18	8	8
Film Four Extreme	Channel 4	58	48	30	33	16	12
Film Four World	Channel 4	52	76	14	35	16	6
Fox Kids	Fox	29	27	24	18	20	12
Fox Kids Scandinavia	Fox	40	34	38	33	15	11
Front Row (with the Barker Channel)	Front Row Television Ltd	47	27	0	0	0	0
Front Row (without the Barker Channel)	Front Row Television Ltd	25	20	0	0	0	0
God Channel	The Christian Channel Europe Ltd	29	23	6	5	6	5
Granada Breeze	Granada Sky Broadcasting	32	became Men & Motors	5	became Men & Motors	5	became Men & Motors
GSB Granda Plus	Granada Sky Broadcasting	65	64	10	12	3	2
GSB Men + Motors/Breeze	Granada Sky Broadcasting	48	56	4	28	4	28

Hallmark Entertainment Network	Hallmark Entertainment Networks Ltd	NR	NR	NR	NR	NR	NR
History Channel	BSkyB	33	37	13	17	9	16
ITV (inc GMTV)	ITV Network	80	80	30	29	20	18
ITV2	ITV Network	60	59	10	13	9	13
Kanal 5	Kanal 5 Ltd	14	12	14	11	13	8
Kerrang	Emap Performance TV	45	45	30	29	26	26
Kiss	Emap Performance TV	59	60	49	47	49	46
Landscape Channel	Landscape Studios	78	77	78	77	11	18
Living	UK Living Ltd	37	30	9	13	8	12
Magic	Emap Performance TV	81	82	70	70	41	43
M2 (MTV2) (STS 259)	MTV Networks Europe	93	87	89	81	89	81
MTV Base (STS 274)	MTV Networks Europe	94	81	87	76	87	76
MTV Central	MTV Networks Europe	92	NO	75	NO	75	NO
MTV Dance (STS 429)	MTV Networks Europe	84	90	82	86	82	86
MTV Espana (STS 363)	MTV Networks Europe	92	92	86	81	86	81
MTV Europe (STS 130)	MTV Networks Europe	88	81	70	64	70	64
MTV Extra (STS 274)	MTV Networks Europe	86	became MTV Hits	86	became MTV Hits	86	became MTV Hits
MTV Fra (STS 352)	MTV Networks Europe	87	78	67	70	67	70
MTV Hits (STS 274)	MTV Networks Europe	85	87	85	87	85	87
MTV Netherlands (STS 352)	MTV Networks Europe	91	82	74	63	74	63
MTV Nordic (STS 238)	MTV Networks Europe	91	83	74	59	74	59

MTV Polska	MTV Networks Europe	97	94	92	82	92	82
MTV UK (STS 182)	MTV Networks Europe	77	71	53	56	53	56
National Geographic	National Geographic Channel	31	34	15	25	12	21
National Geographic France	National Geographic Channel	12	NR	11	NR	4	NR
NBC Europe	NBC	86	99	18	10	10	7
Nickelodeon	Nickelodeon UK	16	21	12	15	6	8
Nickelodeon Junior	Nickelodeon UK	64	57	55	23	22	14
Nickelodeon Nordic	Nickelodeon UK	8	23	5	19	4	9
Nicktoons TV	Nickelodeon UK	NO	28	NO	25	NO	9
Paramount Comedy Channel	Paramount	7	7	5	5	3	2
Performance - The Arts Channel	Performance TV	76	76	34	40	16	43
Play UK	UK TV	88	99	11	24	10	22
Playboy TV	Playboy TV UK	20	24	20	24	20	24
Private Blue	Zone Broadcasting UK Ltd	65	63	23	23	23	23
Private Girls	Zone Broadcasting UK Ltd	57	60	18	18	18	18
Q	Emap Performance TV	62	65	55	53	55	50
Rapture TV	Rapture TV	80	NO (licence revoked)	14	NO (licence revoked)	14	NO (licence revoked)
Reality TV	CNI UK Ltd	37	29	0	0	0	0
Revival Channel	Christian Channel Europe Ltd	42	54	23	32	23	32
S4C - Analogue	S4C	98	98	81	71	80	69

S4C - Digital	S4C	99	96	85	91	81	86
Sci-Fi Channel	Sci-Fi Channel	11	8	2	4	1	3
Sky Cinema	BSkyB	10	12	10	11	3	0
Sky Movie Max	BSkyB	3	3	2	2	3	2
Sky News	BSkyB	78	50	0	0	0	0
Sky One	BSkyB	29	21	6	5	6	5
Sky One Mix	BSkyB	NO	43	NO	3	NO	3
Sky Premier	BSkyB	8	9	8	9	7	8
Sky Sports 1	BSkyB	87	87	28	23	28	23
Sky Sports 2	BSkyB	84	83	59	62	59	62
Sky Sports 3	BSkyB	82	86	60	67	60	67
Sky Sports Extra	BSkyB	90	81	77	70	77	70
Sky Travel Channel	BSkyB	39	44	5	1	4	1
Sky Travel Extra	BSkyB	NO	46	NO	1	NO	1
Smash Hits	Emap Performance TV	66	76	50	65	50	65
Studio Channel	Studio Channel	19	15	3	2	0	0
Studio Universal	Studio Universal	45	NO (not under UK licence)	45	NO (not under UK licence)	0	NO (not under UK licence)
TCM (Turner Classic Movies) French	Turner	41	40	41	27	0	0
TCM (Turner Classic Movies) Spain	Turner	40	40	40	14	0	0
TCM (Turner Classic Movies) UK	Turner	41	40	41	27	0	0

Television X	Portland Enterprises Ltd	31	47	11	16	10	16
The Box (now EMAP TV)	The Box	75	72	60	56	60	54
Trouble (formerly known as TCC)	Flextech Television	19	19	9	10	2	10
TV3 Denmark	Viasat Broadcasting	18	21	10	14	10	14
TV3 Norway	Viasat Broadcasting	14	19	7	9	7	9
TV3 Sweden	Viasat Broadcasting	18	24	14	16	14	16
TvDanmark1	TVDanmark	4	4	0	1	0	0
UK Drama	UK TV	94	96	1	0	0	0
UK Food	UK TV	95	98	73	87	65	71
UK Gold	UK TV	72	68	18	13	8	3
UK Horizons	UK TV	84	83	26	19	22	17
UK Style	UK TV	86	92	30	27	28	25
VH 1 (STS 076)	MTV Networks Europe	86	90	66	30	66	30
VH1 Classic (STS 275)	MTV Networks Europe	93	91	93	91	93	91
VH1 Export (STS 171)	MTV Networks Europe	86	84	74	65	73	65
Vision Channel	Vision Broadcasting	52	54	26	19	26	18
VT4	VT4	28	NO (licence revoked)	26	NO (licenc e revoke d)	25	NO (licenc e revoke d)
ZTV Norway	Viasat Broadcasting	11	48	2	4	2	4
ZTV Sweden	Viasat Broadcasting	63	61	14	13	17	12

B) Reasons given by Member State for failure to reach proportion

1. European Works

a) subject matter of the channel:

Biography Channel, Discovery Health, Cinenova, Cinenova 2, Film Four, Front Row (with Barker Channel, Front Row (without the Barker Channel), History Channel, National Geographic, National Geographic France, Sci-Fi Channel, Sky Cinema, Sky Movie Max, Sky Premier.

b) when the channel commenced broadcasting:

Cinenova 2, Sky One Mix, Sky Travel Extra

c) difficulty in finding European programmes or finding European programmes at competitive prices:

3+Denmark, Bravo, Cartoon Network services, Disney Channel, Front Row (with Barker Channel), Front Row (without Barker Channel), The History Channel, Kanal 5, Living, National Geographic, Nickelodeon Nordic, Playboy TV, Sci-Fi Channel, Sky 1, Sky Travel Channel, Television X, Trouble, TV3 Denmark, TV3 Norway, TV3 Sweden, VT4

d) subsidiaries of companies based in non-member countries broadcasting programmes mostly from their own stock:

Cartoon Network services, Disney Channel, Fox Kids UK, Fox Kids Scandinavia, Paramount Comedy Channel, Turner Classic Movies services.

2. Independent productions

The Dating Channel – entire programming consists of 60 secs video profiles of single people.

Sci-Fi Channel – limited amount of material available in the Sci-Fi genre.

C) MEASURES ADOPTED OR ENVISAGED BY THE MEMBER STATE

Bravo is commissioning some original (European) programming.

Disney Channel UK is keen to take advantage of any future initiatives with independent European companies to further increase their European content levels.

Sci-Fi Channel is launching a new season of independent movies.

Sky One is focusing increased investment in European budgeting on higher cost/quality programming per hour during prime time (18:00 – 24:00).

Responsibility for monitoring the quotas is transferring to the regulator OFCOM.

D) FURTHER COMMENTS

Quota exempt channels = 61

Arab News Network, Asianet, Auction Channel, B4U Movies, B4U Music, Best Direct TV, Bet International, Bid-up TV, Bloomberg Information Television, BBC Parliament, Business Information Channel, Call TV, Chinese Channel (TVBS Europe), Chinese News and Entertainment - Phoenix, CNBC, CNN International, HBO, Home Order Television, Home Shopping Network, Ideal World Home Shopping, Intershop, ITN News Channel, JSTV (previously Japansat), Lashkara, Media Shop Television, Middle East Broadcasting Centre, Minaj Broadcast International, MUTV, Novashop, Novashop 2, Pakistani Channel, Q24, Quantum Channel (previously Quantum Home Shopping), QVC, QVC Deutschland Promotional, Racenet, Racing Channel, S4C2, Satellite Information Services - Racing Facts, Sell-a-Vision, Setanta Sport, Shop America, Shop!, Sima TV, Simply Shopping (previously Simply Money), Sinematurk, SIS, Sony Entertainment Television Asia, Supershop, TESUG TV, TV Jobshop, TV Land, TV Shop TV Shop - Sport, What's In Store, What's in Store 2, Wizja TV, Zee Bangla, Zee Cinema, Zee Music, Zee TV.

ANNEX 5 - SUMMARY OF THE REPORTS FROM THE MEMBER STATES OF THE EUROPEAN FREE TRADE ASSOCIATION PARTICIPATING IN THE EUROPEAN ECONOMIC AREA

Part 1 presents a brief analysis on the application in the Articles 4 and 5 in the Member States of the European Free Trade Association (EFTA) participating in the European Economic Area (EEA) over the reference period (2001-2002). Part 2 includes the reports of Iceland and Norway. Liechtenstein submitted a statement, that no channel under its jurisdiction would be covered by Articles 4 and 5. Annex X of the EEA Agreement regulates the application of the Directive –with some adaptations – to the EFTA Member States participating in the EEA.

1. APPLICATION BY THE MEMBER STATES OF THE EUROPEAN FREE TRADE ASSOCIATION PARTICIPATING IN THE EUROPEAN ECONOMIC AREA

1.1. Liechtenstein

Liechtenstein did not submit a report as the only operating television broadcaster under its jurisdiction, X-Media, was broadcasting with XML a programme from Teleostschweiz concerning exclusively news from the region.

1.2. Iceland

The channel Service 1 increased its proportion in the broadcast of European works from 43.6% in 2001 to 53.5% in 2002 thus achieving to exceed the majority proportion in 2002.

The channel Screen One and the three NLC channels, Stöð2 (Channel 2), Sýn (Vision) and Bíórás (The Film Channel), broadcast a very low proportion of European works over the reference period as a whole (percentages ranging from 4.73% to 43.2% in 2001 and 10.4% to 40.6% in 2002). None of these channels achieved the majority proportion of transmission time laid down in Article 4 of the Directive.

Of the 5 channels referred to above, Service 1 and Screen One exceeded the minimum proportion of 10% laid down by Article 5 with percentages of 22.4% and 10% in 2001 and 36.2% and 10% in 2002 respectively. The other 3 channels did not meet the 10% threshold for European works made by independent producers.

The share of recent European Works of all European works by independent producers was for “Service 1” 89% in 2001 and 91% in 2002 and for Screen One it was stable at 100% over the entire reference period. The report does not include data on the proportion of recent works in the programmes of the three NLC channels (Channel 2, Vision and the Film Channel).

1.3. Norway

The channels NRK 1, NRK 2¹⁰², TV2 and TV Norge broadcast an average of 57.75% and 67.75% of European works in 2001 and 2002 respectively, representing an average 10% increase over the reference period.

Over the entire reference period, only TV Norge failed to meet the majority proportion of transmission time provided for by Article 4 of the Directive (24% in 2001 and 35% in 2002 which amounts to an improvement in comparison to the previous reference period). As a

¹⁰² NRK 2 had an audience share of 2.9% over the reference period.

remedial measure, the competent authorities addressed a formal notice to the operator concerned.

2 satellite channels (Norsk Rikstoto and Norsk Radio og Fjernsyn) have been exempted by the report due to the specific nature of their programmes.

The channels NRK 1, NRK 2, TV2 and TV Norge broadcast an average of 23% and 26.75% of European works by independent producers in 2001 and 2002 respectively, representing a 3.75 point increase over the reference period. The situation in this respect appears satisfactory.

The situation in respect of the proportion represented by recent works was particularly positive. For the channels mentioned in the report, this proportion averaged 92% in 2001 and 93.25% in 2002, representing a 1.25 point increase over the reference period with levels ranging from 86% to 98% in 2001 and 87% to 99% in 2002.

2. MEMBER STATES' REPORTS

ICELAND

A) Statistical statement

1. Summary table

<i>Number of channels</i>	<i>Reference period</i>	<i>Method(s) of monitoring</i>
5	Calendar years 2001 and 2002	Sampling

2. Proportions (%)

<i>Channel</i>	<i>Broadcaster</i>	<i>European works (EW)</i>		<i>European works created by independent producers (IP)</i>		<i>Recent works (% of IP)</i>	
		<i>2001</i>	<i>2002</i>	<i>2001</i>	<i>2002</i>	<i>2001</i>	<i>2002</i>
RUV	Service 1	43,6	53,5	22,4	36,2	89	91
ITC	Screen One	35	30	10	10	100	100
NLC	Channel 2	41	39	2,96	2,58		
	Vision	43,2	40,6	5,68	4,63		
	The Film Channel	4,73	10,4	1	0,6		

B) Reasons given by Member State for failure to reach proportion

1. European works

No comments.

2. Independent producers

No comments.

C) Measures adopted or envisaged by the Member State

No comments.

D) Further comments

No comments.

NORWAY

A) Statistical statement

1. Summary table

<i>Number of channels</i>	<i>Reference period</i>	<i>Method(s) of monitoring</i>
4	2001 / 2002	In addition to statistics covering 2001 and 2002 the sampling procedure described in the suggested guidelines is used for one week (selected at random)

2. Proportions (%)

Broadcaster	Channel	European works				Independent production				Recent works	
		2001		2002		2001		2002		2001	2002
		hours	%	hours	%	hours	%	hours	%	%	%
NRK Ltd	NRK1	3075	84	3142	87	553	18	753	24	87	92
NRK Ltd	NRK2	1309	66	1652	74	415	32	496	30	86	87
TV 2 Ltd	TV 2	2815	57	2883	57	921	19	1061	21	97	95
TV Norge Ltd	TVNorge	1050	24	1914	35	1050	23	1914	32	98	99

B) Reasons given by Member State for failure to reach proportion

1. European works

TVNorge Ltd is the only broadcaster that did not reach the proportions for European works in 2001 and 2002. TVNorge Ltd has not given any acceptable reasons for failure to reach the required proportion of European works.

2. Independent producers

No comments.

C) Measures adopted or envisaged by the Member State

The Mass Media Authority has instructed TVNorge Ltd to fulfil its obligations according to the Norwegian Broadcasting Act.

D) Further comments

In addition to the four channels reported there are two Norwegian television companies transmitting nationwide by satellite; Norsk Rikstoto and Norsk Radio og Fjernsyn. Since Norsk Rikstoto is a sport channel broadcasting trotting races, and Norsk Radio og Fjernsyn is only broadcasting in Arabic the report does not include information on these two channels.

**ANNEX 6 - LIST OF TELEVISION CHANNELS IN THE EUROPEAN UNION MEMBER STATES
WHICH FAILED TO ACHIEVE THE MAJORITY PROPORTION ACCORDING TO
ARTICLE 4**

<u>Status</u>	<u>Type</u>	<u>Non-conformity</u>
PR = private channel	GE = general interest	√ = target met
PB = public channel	TH = special interest	x = target not met
PY = pay channel	LA = non-Community	- = data not communicated
BA = channel forming part of a basic service for a cable network or satellite service	language	n.o.= not in operation

Member State	Channel	2001	2002	Status	Type
B	AB3	x	√		
	Canal+ Belgique	x	√		
	Club RTL	x	x		
	RTL TVI	√	x	PR	GE
	KANAAL 2	x	x	PR	GE
	Canal+grijs/rood	x	x	PR/PY	TH
	Canal+blauw	x	x	PR/PY	TH
	VT4	n.o.	x		
DK	TV Zulu	x	x	PR/PY	TH
	TV Danmark	x	x	PR	GE
D	Studio Universal	x	x	PY	TH
	13 th Street	x	x	PY	TH

Member State	Channel	2001	2002	Status	Type
	KABEL 1	x	x	PR	GE
	Onyx	-	-		
	Planet TV	-	-		
	Premiere	x	x	PY	TH
	Pro Sieben	x	x	PR	GE
	RTL 2	x	x	PR	GE
	Super RTL	x	x	PR	GE
	TM 3	-	n.o.		
	VH1	-	-	PR	TH
	n-TV	-	-	PR	TH
EL	Cartoon Network	x	x		
	Filmnet	x	x		
	Filmnet 2	x	x		
	Filmnet Summer	n.o.	x		
	Fox Kids	n.o.	x		
	Mad TV	x	√		
	MGM	x	x		
	National Geographic	x	x		
	STAR	√	x		
	Supersport	x	√		
	Supersport 2	x	√		
	Supersport 3	x	√		
	TCM	x	x		
	Vouli	-	-		
E	Television des Canarias	n.o.	x		

Member State	Channel	2001	2002	Status	Type
	Fox	x	x		
	AXN	x	x	PR	TH
	Fox Kids	x	x	PR	TH
	Turner Classic Movies	x	x	PR	TH
	Cinamania	x	x	PR	TH
	Disney Channel	x	x	PR	TH
	Disney Channel+1	x	x		
	Toon Disney	x	x		
	Playhouse Disney	x	x		
	Nickelodeon	x	x	PR	TH
	Calle 13	x	x	PR	
	Canal Canarias	x	x		
	Studio Universal	x	x	PR	TH
F	Action	x	x	PR/PY	TH
	BRTV	-	x		
	Mangas	x	√ (50)	PR/BA	TH
	Match TV	-	√		
	Monte Carlo TMC	x	√	PR	TH
	Multivision	√(50)	√		
	Muzzik	√	-		
	Polar/Ciné Polar	√	-		
	Rire/Ciné Comic	√	-		
	Romance	√	-		
	Santé Vie	√	-		
	Télé Mélody	-	√		
	T.F.J.	-	-		

Member State	Channel	2001	2002	Status	Type
	TPS Star	-	√		
	13 ^{ème} Rue	x	√	PR	TH
	123 SAT	-	√		
	KTO(a)	√	x		
	La Chaîne Histoire(a)	x	√		
IRL	Network 2	x	x		
	TV 3	x	√	PR	GE
I	Cinema Stream	x	x		
	Canal Jimmy	√	x		
	Classica	√	-		
	Italia 1	x	x	PR	GE
	Tele + 16/9	x	x	PR	
	Tele + 30	n.o.	x		
	Tele + Bianco	x	x	PR/PY	TH
	Tele + Grigio	√	x		
	TMC/ La 7	x	√ (50,08)	PR	GE
	Coming Soon Television	-	-	PR	GE
	Disney Channel	x	x	PR	TH
	Fox Kids	x	x	PR	TH
	Duel	x	x	PR	TH
	Comedy-Life	x	√	PR	TH
	MT Channel	x	√		
	Palco	x	x	PR	
	Primafila	√	x		
	Rete Capri	-	-		

Member State	Channel	2001	2002	Status	Type
	Salute e Benessere Channel	-	-		
	Studio Universal	√	x		
	TELELAZIO RETE BLU	n.o.	x		
	Tuscany Sat	n.o.	-		
	VIDEO ITALIA SOLO MUSICA ITALIANA	n.o.	-		
L	Club RTL	x	√		
	RTL Tvi	√	x	PR	GE
	RTL 4	x	√ (50)	PR	TH
	RTL 5	√ (50)	√	PR	GE
NL	Arrivo	-	-		
	BVN	-	√		
	SBS 6	-	x	PR	GE
	Net 5	-	x	PR	TH
	Canal+ 1	-	x	PY	GE
	Canal+2	-	x	PY	GE
	Canal+ 16 bij 9	-	-		
	Film 1	x	n.o.	PR	
	Innergy	x	n.o.	PR	
	Filmtime	-	x	PR/PY	TH
	Delta TV	x	x	PR	
	V8/Foxkids	-	x		
	Yorin	x	x		
	Kanaal 9	-	√		
	Kindernet	-	x		

Member State	Channel	2001	2002	Status	Type
	TMF	-	-		
	TMF Vlaanderen	-	√		
	Avante	√	x		
	Club	√	x		
	Mr. Zap	x	x		
	Playboy TV	x	x		
	Stichting Servicechannel	-	√		
	Moviehouse	-	-		
	L1	-	√		
	Livesex tv	n.o.	√ (50)		
	Omroep Brabant	-	√		
	Omroep Drenthe	-	√		
	Omroep Flevoland	-	√		
	Omroep Fryslan	-	√		
	Omroep Gelderland	-	√		
	Omroep West	-	√		
	Omroep Zeeland	-	√		
	RTV Noord	-	√		
	RTV Oost	-	√		
	TVNH	-	√		
	TV Rijnmond	-	√		
A	ORF 1	x	x	PB	GE
P	SIC	x	x	PR	GE
	SIC Radical	x	x		
	TVI	x	x	PR	GE

Member State	Channel	2001	2002	Status	Type
FIN	<i>All channels in compliance</i>				
S	E!	n.o.	x		
	eTV	-	n.o.		
	Kanal 5	x	x	PR/PY	TH
	TV 1000	x	x	PR/PY	TH
	TV 1000 Cinema	x	x		
	6(logotype)	√	x	PR	TH
	Canal+	x	x	PR/PY	
	Canal+ Gul	x	x	PR/PY	TH
	Canal + Bla	x	x	PR/PY	TH
	Kiosk	x	x	PR	TH
	K-World	-	n.o.		
	CineCinemas	x	n.o.	PR	TH
	Skaneканалen	x	x		
	DTU7	x	x		
	Nickelodeon	n.o.	x		
UK	3 + Denmark	x	x	PR	GE
	BBC Prime	-	-		
	Biography Channel	x	x	PR	TH
	Bravo	x	x	PR/PY/BA	GE
	Cinenova	x	x		
	Cinenova 2	n.o.	x		
	Discovery Health	x	x	PR	TH
	Discovery Kids	x	x	PR	TH

Member State	Channel	2001	2002	Status	Type
	Discovery Wings	x	x		
	Disney Channel UK UK (Disney Channel, Disney Channel + 1, PlayHouse Disney, Toon Disney)	x	x	PR/PY	GE
	Film Four	x	x	PR/PY	TH
	Film Four Extreme	√	x		
	Fox Kids UK	x	x	PR	TH
	Fox Kids Scandinavia	x	x	PR/PY	TH
	Front Row (with the Barker Channel)	x	x	PR/PY	TH
	Front Row (without the Barker Channel)	x	x	PR	TH
	God Channel	x	x	PR	TH
	Granada Breeze	x	n.o.		
	GSB Men + Motors/Breeze	x	√		
	Hallmark Entertainment	-	-	PR	TH
	History Channel	x	x	PR	TH
	Kanal 5	x	x	PR	GE
	Kerrang	x	x		
	Living	x	x	PR	GE
	National Geographic	x	x	PR	TH
	National Geographic France	x	-		
	Nickelodeon	x	x	PR	TH
	Nickelodeon Nordic	x	x	PR	TH
	Nicktoons TV	n.o.	x		
	Paramount Comedy Channel	x	x	PR/PY/BA	TH
	Playboy TV	x	x	PR/PY	TH
	Reality TV	x	x		
	Revival Channel	x	√	PR	TH

Member State	Channel	2001	2002	Status	Type
	Sci-Fi Channel	x	x	PR/PY/BA	TH
	Sky Cinema (formerly Sly Movie Gold)	x	x	PR/PY	TH
	Sky Movie Max (formerly Scream 1 & Sky Movies)	x	x	PR/PY	TH
	Sky News	√	√(50)		
	Sky One	x	x	PR	GE
	Sky One Mix	n.o.	x		
	Sky Premier	x	x	PR	TH
	Sky Travel Channel	x	x	PR	TH
	Sky Travel Extra	n.o.	x		
	Studio Channel	x	x		
	Studio Universal	x	No U.K. licence	PR	TH
	Turner Cartoon Network	x	x	PR	TH
	Cartoon Network (boomerang)	x	x	PR	TH
	Cartoon Network (Dutch language)	x	n.o.	PR	TH
	Cartoon Network (EMEA)	x	x		
	Cartoon Network (French language)	x	x	PR	TH
	Cartoon Network (Italian language)	x	x	PR	TH
	Cartoon Network (Spanish language)	x	x	PR	TH
	Cartoon Network (Nordic)	x	x	PR	TH
	Television X	x	x		
	TCM UK	x	x	PR	TH
	TCM (Spanish language)	x	x	PR	TH
	TCM (French language)	x	x	PR	TH
	Trouble	x	x	PR	TH

Member State	Channel	2001	2002	Status	Type
	TV Danmark1	x	x		
	TV3 Denmark	x	x	PR	GE
	TV3 Norway	x	x	PR	GE
	TV3 Sweden	x	x	PR	GE
	VT4	x	n.o.	PR	GE
	ZTV Norway	x	x	PR	
EFTA					
ICE	RUV/Service 1	x	√		
	Screen One	x	x		
	Channel 2	x	x		
	Vision	x	x		
	The Film Channel	x	x		
NOR	TV Norge	x	x		

ANNEX 7 – AVERAGE TRANSMISSION TIME OF EUROPEAN WORKS ACCORDING TO ARTICLE 4 TAKING AUDIENCE SHARES OF CHANNELS INTO ACCOUNT (“DE-MINIMIS-CRITERION”)

Member State	Channel	% audience 2001 (*)	% audience 2002 (*)	% European works 2001 (**)	% European works 2002 (**)
B	RTBF1	17.2	17.3	71.3	70.8
	RTBF2	3.6	3.4	91.3	88.6
	RTL TVI	18.9	18.1	55.53	41.49
	Club RTL	5.5	5,2	48.58	49.47
	TV1	25	26.4	63.54	71.07
	Canvas/Ketnet	8.5	9.6	65.02	66.95
	VTM	27.02	25.4	62	54
	Kanaal2	7.3	6.4	31	47
	VT4	n.o.	6.3	n.o.	22.3
DK	DR TV 1	27.6	28.4	81	82
	TV2	34.7	35.2	63.4	55.1
D	ARD	13.9	14.3	89.6	88.1
	ZDF	13.2	13.9	88.89	87.22
	KABEL 1	5	4.5	21.65	21.15
	ProSieben	8	7	42.23	46.87
	RTL	14.7	14.6	69	72
	RTL 2	4	3.8	40	40
	SAT 1	10.1	9.9	74.92	72.25
	VOX	3.1	3.3	49	51
EL	ET 1	5.5	5.9	80.2	64

Member State	Channel	% audience 2001 (*)	% audience 2002 (*)	% European works 2001 (**)	% European works 2002 (**)
	Net	4	5	94.4	89
	ALPHA	14.6	13	84	89
	ANTENNA	-	-	64.3	64
	STAR	12.7	11.2	51.2	52.2
	MEGACHANNEL	21.3	20.1	88	83
	ALTER	-	9.1	87.3	86
E	TVE 1	24,8	24,7	62,6	75,39
	TVE-1/ La 2	7,8	7,7	53,79	58,52
	Tele 5	21	20,2	53,85	57,34
	Antena 3	20,4	20,2	54,01	55,6
F	TF1	32.7	32.7	64.7	65.1
	France 2	21.1	20.8	76.5	79.8
	France 3	17.1	16.4	70.2	74.6
	M6	14	13.6	64	63.6
	Canal +	3.6	3.5	61.8	62.8
	La 5ème	4.1	5.1	88.7	84.5
IRL	RTE 1	27.2	26.6	57	54
	Network 2	13.9	13.9	41	38
	TV 3	12.5	12.2	49.5	54
I	Rai Uno	23.8	23.8	77.06	75.52
	Rai Due	13.5	13	64.15	61.04
	Rai Tre	9.6	9.7	74.74	64.65

Member State	Channel	% audience 2001 (*)	% audience 2002 (*)	% European works 2001 (**)	% European works 2002 (**)
	Canale 5	23.6	22.6	57.78	59.71
	Italia 1	10.3	11.3	43.55	45.33
	Rete 4	9.4	9	58.68	58.09
LUX	Rtl Tele Lëtzebuerg	15.7		80	80
NL	Ned 1	11.9	11.1	88	92
	Ned 2 / TV 2	16.3	17.2	82	85
	Ned 3	7.8	7.6	91	89
	Veronica	5.4	4.9	n.o.	100
	SBS 6	10.2	9.3	-	43
	NET5	3.7	4.2	-	34
A	ORF 1	23.5	22.7	38	48.4
	ORF 2	30.9	30.5	85.4	89
P	RTP 1	20.1	21.1	54.8	56.6
	RTP 2	5.6	5.3	56	56.6
	SIC	34	31.5	40.9	39.1
	TVI	31.9	31.4	36.2	47
FIN	TV 1	22.8	23.6	89	86
	TV 2	20.5	21.7	82	77
	MTV 3	39.1	37	62	52
	Nelonen	11.6	11.6	50	50

Member State	Channel	% audience 2001 (*)	% audience 2002 (*)	% European works 2001 (**)	% European works 2002 (**)
S	SVT 1	25	26.5	79.17	82.65
	SVT 2	16.9	16.4	86.66	86.44
	TV 4	27.5	25.3	53	52.8
	Kanal 5	6.5	7.8	17.5	16
UK	BBC1	26.9	26.2	80	81
	BBC2	11.1	11.4	79	81
	ITV	26.7	24.1	80	80
	Channel 4	10	10	73	72
	Channel 5	5.8	6.3	56	55
EFTA					
ICE	RUV/Service 1	41.5	42	43.6	53.5
	Screen One	18.5	19	35	30
	Channel 2	32	31	41	39
	Vision	7	6	43.2	40.6
NOR					
	NRK1	38.1	39.5		
	TVN	10.1	9.4	24	35
	TV2	31.4	31.7	57	75

(*) Source: European Audiovisual Observatory, *Statistical Yearbook 2003 (Volume 2)* "Household audiovisual equipment — transmission — television audience" — Audience share over the whole day, with the exception of Luxembourg (between 19 h and 20 h).

(**) Source: Declarations by the Member States, period from 1 January 2001 to 31 December 2002.

**ANNEX 8 – LIST OF TELEVISION CHANNELS IN THE EUROPEAN UNION MEMBER STATES
WHICH FAILED TO ACHIEVE THE MINIMUM PROPORTION ACCORDING TO ARTICLE 5**

<u>Status</u>	<u>Type</u>	<u>Non-conformity</u>
PR = private channel	GE = general interest	√ = target met
PB = public channel	TH = special interest	x = target not met
PY = pay channel	LA = non-Community	- = data not communicated
BA = channel forming part of a basic service for a cable network or satellite service	language	n.o.= not in operation

Member State	Channel	2001	2002	Status	Type
B	AB3	-	√		
	Canvas/Ketnet	x	√		
	Liberty TV	n.o.	x	PR	TH
	Vitaya	x	x	PR	TH
DK	Dk4	x	√	PR	GE
D	Phoenix	x	x	PB	TH
	13 th Street	-	-	PR	TH
	Planet TV	-	-		
	Premiere	-	-		
	Studio Universal	-	-	PR	TH
	TM 3	-	n.o.		

Member State	Channel	2001	2002	Status	Type
	Viva	x	x	PR	TH
	Viva 2	x	x	PR	TH
	VH-1	-	-		
EL	BBC-World	x	x		
	Cartoon Network	x	x		
	ERT-3	x	√		
	Fox Kids	n.o.	x		
	Mad TV	x	√		
	MGM	x	x		
	Supersport	x	x		
	Supersport 2	x	x		
	Supersport 3	x	x		
	TCM	x	√		
	Vouli	-	-		
E	AXN	x	x	PR	TH
	Nichelodeon	√	√	PR	TH
	Calle 13	√	x	PR	TH
	Fox	x	x		
F	Canal Jimmy	-	√	PR	TH
	Ciné Cinémas 1,2,3	-	√	PR	TH
	Ciné Classics	-	√	PR	TH
	Ciné Palace	√	-		
	Festival	-	√	PR	TH

Member State	Channel	2001	2002	Status	Type
	Forum Planète	-	√		
	Fun TV	-	√	PR	TH
	Kiosque	-	-	PR	TH
	Monte Carlo TMC	-	√	PR	
	Multivision	-	√	PR	TH
	Téva	-	√	PR	TH
	TFJ	n.o.	-	PR	TH
	TV5	-	-	PB	GE
	Voyage	√	-	PR	TH
	Allocineinfo	X	√		
	Game one	x	√ (10)		
	Santé Vie	x	N.P.		
IRL	<i>All channels in compliance</i>				
I	24ore tv	-	-		
	Alice	n.o.	-		
	Calcio	-	-		
	Canal Jimmy	-	-		
	Canale Promo (INTV)	-	n.o.		
	Canale Viaggi	-	-		
	CFN	-	-		
	Cine Cinema 1	-	-		
	Cine Cinema 2	-	-		
	Cineclassics	-	-		
	Cinema Stream	-	-		TH

Member State	Channel	2001	2002	Status	Type
	Coming Soon Television	-	-	PR	
	Classica	-	-		
	DeeJay TV	n.o.	-		
	Disney Channel Italia	-	-	PR	TH
	Formula 1	-	-		
	Fox Kids	-	-		
	Game Channel	-	-		
	Duel	-	-	PR	TH
	Comedy Life	-	-	PR	TH
	INN	n.o.	-		
	Happy Channel	-	-	PR	TH
	Info	n.o.	-		
	Canale Viaggi	-	-	PR	TH
	Leonardo	n.o.	-		
	Marco Polo	-	-		
	Mediolanum Channel	-	-		
	Milan channel	-	-		
	MT Channel	-	-		
	MTV TMC2	x	√		
	Nuvolari	n.o.	-		
	Palco	-	-		
	Planete	-	-		
	Primafila	-	-		
	Raisat album	-	-		
	Raisat art	-	-		
	Raisat Cinema	-	-		
	Raisat Fiction	-	-		

Member State	Channel	2001	2002	Status	Type
	Raisat Gambero rosso	-	-		
	Raisat ragazzi	-	-		
	Raisat show	-	-		
	Rete Capri	-	-		
	RTB INTERNATIONAL	n.o.	-		
	Salute e Benessere Channel	-	-		
	SAT 2000	n.o.	-		
	Seasons	-	-		
	Stream One	n.o.	-		
	Stream News	-	-		
	Stream Verde	-	-	PR	TH
	Studio Europa	-	-		
	Studio Universal	-	-		
	Tele + 16/9	-	-		
	Tele + 30	n.o.	-		
	Tele + Grigio	-	-		
	Tele + Nero	√	x		
	TELELAZIO RETE BLU	n.o.	-		
	Tuscany Sat	n.o.	-		
	TVL	-	-		
	VIDEO ITALIA SOLO MUSICA ITALIANA	n.o.	-		
LUX	Liberty TV	√	x	PR	TH
	Nordlicht TV	x	x		
NL					

Member State	Channel	2001	2002	Status	Type
	Arrivo	-	-		
	BVN	-	√		
	Canal+1	-	√		
	Canal+2	-	√		
	Canal+ 16 bij 9	-	-		
	Filmtime	-	√		
	Net 5	-	√	PR	
	Kanaal 9	-	-		
	Kindernet	-	√		
	L1	-	-		
	Moviehouse	-	-		
	Omroep Brabant	-	√		
	Omroep Flevoland	-	√		
	Omroep Fryslan	-	√ (10)		
	Omroep Gelderland	-	x		
	Omroep Drenthe	-	√		
	Omroep West	-	-		
	Omroep Zeeland	-	√		
	RTV Noord	-	-		
	RTV Oost	-	√		
	Stichting Servicechannel	-	√		
	TMF	-	-	PR	
	TMF Vlaanderen	-	x		
	The Box	-	-	PR	
	TVNH	-	-		
	TV Rijnmond	-	√		

Member State	Channel	2001	2002	Status	Type
	Delta TV	√ (10)	√	PR	
	Veronica	n.o.	x		
	V8/Foxkids	-	√		
A	<i>All channels in compliance</i>				
P	RTP Africa	√	x	PR	TH
	SIC Noticias	x	x		
FIN	<i>All channels in compliance</i>				
S	E!	n.o.	x		
	DTU7	√	x		
	« 6 »	√	x	PR	
	eTV	-	n.o.		
	Canal+	-	-	PR	
	Canal+ Gul	-	-	PR	TH
	Canal + Bla	-	-	PR	TH
	Kiosk	-	-	PR	TH
	K-World	-	n.o.		
	Cinema	-	n.o.		
	Skanekanalen	√	x		
	UR	√	x		
UK	BBC News 24	x	x	PB	TH
	BBC Prime	-	-		

Member State	Channel	2001	2002	Status	Type
	BBC World	√(10)	x		
	Bravo	x	√	PR	
	Cartoon Network (EMEA)	x	√		
	Dating Channel	x	x	PR	TH
	Disney Channel UK (Disney Channel, Disney Channel + 1, PlayHouse Disney, Toon Disney)	x	x	PR/PY	TH
	Front Row (incl. Barker Ch.)	x	x	PR/PY	
	Front Row (Without Barker Ch.)	x	x	PR/PY	
	God Channel	x	x		
	Granada Breeze	x	n.o.		
	GSB Granada Plus	√(10)	√		
	GSB Men+Motors/ Breeze	x	√	PR/PY	
	Hallmark Entertainment Network	-	-	PR	
	ITV2	√(10)	√		
	Living	x	√		
	National Geographic France	√	-		
	NBC Europe	√	√(10)		
	Nickelodeon Nordic	x	√	PR	TH
	Paramount Comedy Channel	x	x		
	Reality TV	x	x	PR	TH
	Sci-Fi Channel	x	x	PR	TH
	Sky Cinema	√(10)	√		
	Sky Movie Max	x	x	PR/PY	TH
	Sky News	x	x	PR	TH
	Sky One	x	x	PR	GE

Member State	Channel	2001	2002	Status	Type
	Sky One Mix	n.o.	x		
	Sky Premier	x	x	PR	TH
	Sky Travel Channel	x	x		
	Sky Travel Extra	n.o.	x		
	Studio Channel	x	x		
	Trouble	x	√(10)		
	TV3 Denmark	√ (10)	√	PR	GE
	TV3 Norway	x	x	PR	GE
	TVDanmark1	x	x		
	UK Drama	x	x	PR	TH
	ZTV Norway	x	x		
EFTA					
ICE	Channel 2	x	x		
	Vision	x	x		
	The Film Channel	x	x		