

**Questionnaire on the tools used in the application of Article 13 AVMSD**  
**(Promotion of European works in on-demand services)**

The European Commission Services would like to ask your input for a reflection about best practices and experiences regarding the means used in application of Article 13 AVMSD (Directive 2010/13/EU). We would therefore be grateful if you could provide us with your comments on the following issues **by 10 October 2013** the latest.

**1. Since your Member State notified its measures to the Commission related to the implementation of Article 13 AVMSD, has there been any modification to the legislation or the other notified measures? In the case you have not yet notified such measures to us, please indicate if you have adopted any such (implementing) measures in the meantime? Please indicate also any additional co- or self-regulatory initiatives in this field and any other similar measures that have not been notified. Please provide specific details about the form and content of such measures.**

Notification made by Decision 320/2012 concerning the provision of on demand audiovisual media services – secondary legislation adopted by the Council in keeping with the provisions of Art. 17, par. 1, let. d in the Audiovisual Law, that transposes AVMS Directive provisions, at the level of effects, in the national legislation.

**2. In case you are applying a certain obligatory share of European works in catalogues:**

**2.1 Please describe any detailed rules in your national system regarding such a share (including any type of rules (legislative or non-legislative) but also recommendations, guidance, self-regulative measures etc.)**

Provisions stipulated in **Decision 320/2012 on VoD services:**

“Section 6 *Cultural responsibilities*

**Art. 25.** – Rules on cultural responsibilities of suppliers, applicable to on demand audiovisual media services are provided in Art. 83 and Art. 84 of the Broadcasting Code.

**Art. 26.**

(1) Video on demand service providers will ensure within the catalogue of programs a percentage of minimum 20% reserved for European audiovisual works, except for the time allotted to news, sports events, games, advertising, as well as teletext and teleshopping services.

(2) Providers are required to promote the home page of the web site, equally, and European audiovisual works of fiction available in the catalogue.

(3) For the purposes of par. (1) and (2), providers are required to specify the country of origin of each audiovisual program available in the catalogue.

(4) Video on demand service providers report yearly to the Council, according to the model presented in Appendix no. 2, which is integral part of the present decision.”

**2.2 How do you monitor and enforce compliance with such requirements (please provide details regarding method/monitoring frequency/sanctions etc.) Beyond compliance, do you monitor and measure the efficiency of the measures (obligatory share in catalogues)? Please provide data about the findings of any such monitoring (see also question 2.4.).**

Since the Romanian market for VoD is a very young one and the financial and economic effects of the crisis are still producing effects, it has been too early for NAC to be able to monitor and to measure the efficiency of the measures adopted by Decision 320 on VoD services in 2012.

At present, we focus on stimulating VoD services providers to notify us and to make them aware of the importance to comply with their obligations to provide visibility in EPG to European works.

Decision 320/2012 - Compliance starts with VoD obligation to notify the Council regarding the provisions of VoD service(s)

“Chapter III *Conditions for issuing, modification and withdrawal of on demand audiovisual service provision note*”

“CHAPTER VI *Recording of broadcasts within on demand audiovisual media services*”

“CHAPTER VIII *Penalties, transitional and final provisions*”

**See also APPENDIX No 1 to the NAC Decision no. 320/2012:**

NOTIFICATION concerning the providing of on demand audiovisual media services

Chapter III. SERVICE/SERVICES SUMMARY

**A. Editorial Project**

***The applicant specifies in a document attached to this form the following:***

- *service overview (type of service, presentation of how the website is organized, indicating that it is fully specialized in providing on demand audiovisual media*

- services or contains sections that are not dedicated to on demand audiovisual media services);*
- *categories of audiovisual programs gathered in each catalog and list of audiovisual content providers;*
  - *editorial measures provided for minors' protection;*
  - *measures to implement the legal provisions regarding the promotion of European audiovisual works;*
  - *professional conduct code adopted or at which the audiovisual media services provider publicly joined, attached copy.*

*and APPENDIX No. 2 for NAC Decision no. 320 /2012: “REPORT concerning the European works broadcast between .....”*

(<http://www.cna.ro/Decision-no-320-2012.html>)

**2.3 On the basis of your experience in that field, do you consider such measures efficient? What are its advantages/disadvantages in your view?**

From the point of view of such a young market as the one in Romania, it is difficult to make statements on efficiency of the regulatory framework.

Nevertheless, the simpler and the more standardized procedures in all 28 Member states, the better.

**2.4 If possible, please provide data regarding the real presence of European works in the catalogues (e.g. in percentages, but if you have such data also regarding the time that the works remain in the catalogues, please share also that data), and if available, data regarding consumption of European works.**

For the purposes of Art. 26 par. (4) of the Decision 320/2012 on VoD services (mentioned above), video on demand service providers should report each year to the Council on the amount of European works in their catalogue on at least one reference date picked ad random each year. The NAC has currently no such data because all the provision notes issued by the Council to the VOD providers are less than a year.

**2.5 How could such a system be improved in your view, based also on your experience?**

Too early for us to tell. We need to learn more from Member States that have already gathered some experience in this field.

**2.6 If you are not using such a measure in your national system, do you have a view about such a system, including reasons why you opted against the introduction of such rules?**

See answers in 2.1 and 2.2.

**3. In case you are applying obligations related to the use of prominence tools:**

**3.1 Please describe any detailed rules in your national system in that regard (including any type of rules (legislative/non legislative) but also recommendations, guidance, self-regulative measures etc.)**

In Romania, indicator is the percentage of European works contained in the catalogue. Video on demand service providers shall allocate at least 20% of the content in their catalogue for European works and shall provide adequate visibility to such programmes in the catalogue.

Our experience in this issue is quite limited, but percentages in the catalogue seem to be useful to control prominence of European works.

**3.2 In particular, do you have elaborated any specific prominence tools in your system, such as for example:**

- indication of the country of origin in the description of the works in the VoD catalogue,
- titles searchable on the basis of the origin of works in the catalogue,
- displaying European works on the front page of the catalogue / in the start-up menu,
- creation of specific sections dedicated to European works in the catalogue,
- specific marketing features / recommendation tools related to European works,
- use of trailers to promote European works / giving special prominence to trailers of European works,
- other means of giving special prominence to European works in catalogues,
- promotion of European works in all media (not just in the VoD catalogue itself),
- Any other?

If yes, are such tools laid down by legislation / obligatory rules or in a different way (guidance, recommendations, self-regulative measures)? Could you provide a list of these specific tools?

All the required information are provided by VoD service providers in keeping with *APPENDIX No. 2 for NAC Decision no. 320 /2012*: REPORT concerning the European works broadcast between .....

(<http://www.cna.ro/Decision-no-320-2012.html>)

**3.3 How do you monitor and enforce the compliance with such rules? (please provide details regarding method/monitoring frequency/sanctions etc.) Do you measure and monitor the efficiency of these rules? Please provide data about the findings of any such monitoring (see also question 3.6).**

The monitoring method is no different from the one applied with regard to the application of Articles 16 and 17. The NAC will collect the data directly from the on-demand service providers, on the basis of a report concerning the European works (Art. 26 par. (4) of the Decision 320/2012 on VoD services). Too early for us to tell about the efficiency of these rules.

**3.4 On the basis of your experience, do you consider such measures efficient? What are their advantages/disadvantages in your view?**

Too early for us to tell. We need to learn more from Member States that have already gathered some experience in this field.

**3.5 How could such a system be improved in your view, based also on your experience? Do you have specific recommendations for particular prominence tools?**

Too early for us to tell. We need to learn more from Member States that have already gathered some experience in this field.

**3.6 Could you provide data regarding the effect of such prominence tools in terms of their influence on consumption? Give examples regarding the particular ways to measure efficiency: increase of number of views after the use of a particular measure/prominence tool (e.g. the effect of appearance of the work / the trailer on the front page in terms of increased viewing figures). Please provide data in general regarding the consumption of European works in the catalogues in relation to the prominence tools applied.**

The NAC has no currently such data.

**3.7 If you are not using such measures in your national system, do you have view about such a system, including reasons why you opted against the introduction of such rules?**

**4. In case you are applying obligations related to a financial contribution:**

**4.1 Please describe the detailed rules regarding a financial contribution in your national system. (e.g. on which players is it imposed, how is the required contribution defined/calculated including the basis of the imposition, how does it have to be fulfilled.)**

N/A

**4.2 Please describe how the imposed financial contribution is re-attributed if the system includes such reattribution (by which organism etc.) or how the financial contribution otherwise reaches the sector. In particular please describe who can benefit from this financial contribution, on which basis and how is it (re)attributed to them.**

N/A

**4.3 How do you monitor and enforce compliance with that obligation (please provide details regarding method/monitoring frequency/sanctions etc.) Do you measure and monitor the efficiency / effects of the financial obligations? Please provide data about the findings of any such monitoring (see also question 4.6).**

N/A

**4.4 Could you provide data regarding the overall effect of the financial contribution (how much was collected / invested by such players in production overall per year)? If you did not do so already above, if possible, please provide data regarding the consumption of European works in the catalogues.**

N/A

**4.5 On the basis of your experience in that field, do you consider this system efficient? What are its advantages/disadvantages in your view?**

N/A

**4.6 How could such a system be improved in your view, based also on your experience?**

N/A

**4.7 If you are not imposing such an obligation in your national system, do you have view about such a system, including reasons why you opted against the introduction of such rules?**

The Romanian VoD market needs to grow before such provisions and solutions may be adopted.

**5. If you use a different method for the promotion of European works in on-line services in the framework of Article 13 apart from the methods listed (financial contribution/share in the catalogue/prominence tools), please provide more detailed information regarding that method.**

N/A

**6. Regarding the different methods mentioned above, which of them do you consider as most efficient? The EPG, THE WEBSITE VISIBILITY PROVIDED TO EUROPEAN WORKS.**

N/A

**7. Which one of the listed three methods do you consider as most burdensome for operators / which one imposes the lightest burden?**

N/A

**8. According to your experience in monitoring the fulfilment of such obligations, are there special difficulties regarding monitoring?**

Our experience in this issue is quite limited.

**9. Please provide information regarding the view of VoD providers regarding such obligations.** (What are their experiences in that regard / which do they consider as most efficient in their practice / which do they favour / do they have specific practical problems in implementing them?) Please do not hesitate to forward this questionnaire also to VoD providers and integrate their potential views in your answers to the questionnaire.

The NAC has no currently such data.

**10. Please indicate whether you agree to share your answers to this questionnaire with other Members of the Regulators Group.**

Yes