

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.

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.)

The provider of on-demand audiovisual media services shall be obliged to reserve at least 20 % of total time of programmes offered in the catalogue of programmes per calendar month to European works, for each on-demand audiovisual media service individually; for the purpose of the calculation of total time the news, sports events and games shall be excluded.

(2) The Council may decide, taking into account the economic situation of the provider of on-demand audiovisual media service, availability of European works or focus of this on-demand audiovisual media service, to determine to the provider of on-demand audiovisual media service, on his written request, the smaller proportion of European works on total broadcasting time of the programmes offered in the catalogue of programmes per calendar month than the proportion under subsection (1); if the circumstances on the basis of which the proportion of European works on the total time of programmes offered in catalogue of programmes per calendar month have been changed the Council may increase this proportion again.

(3) The provider of an on-demand audiovisual media service shall be obliged, on request, to provide the Council with

a) statistics under Section 16(4),

b) a list of information on European works that are included in the on-demand audiovisual media service of the provider, including information on the number and time range of titles that are European works, their identification and the identification of their producers and information on other measures taken to promote European works.

(4) The provider of on-demand audiovisual media service shall be obliged to provide the Council with the statistics and information under subsection (3) within 15 days on the delivery of the request of the Council to provide statistics or information under subsection (3).

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.).

The provision is very recent. The original idea is to rely on the requested data from on-demand providers who are obliged to send them upon Council's request. Since this provision are new there is no data available so far to share in this respect. We do not measure efficiency of this measure.

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? We lack any practical experience so far in this field.

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. We do not possess any of these data and they are also not available elsewhere.

2.5 How could such a system be improved in your view, based also on your experience? It is too early to say.

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? -

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

There is no obligations related to the 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.)

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?

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).

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

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?

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.

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? Mix of the reasons. Mainly the inexperience of competent authorities in the time of legislative changes and also strong opposition against any obligation in respect with promotion of European works in on-demand services from industry or third sector.

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

No obligation in this respect.

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.)

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.

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).

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.

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?

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

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?

Main reason was the ambition not to restrain the very small and only developing market on on-demand services.

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.

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6. Regarding the different methods mentioned above, which of them do you consider as most efficient?

We do not have enough real experience to draw such conclusions.

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

We do not have enough real experience to draw such conclusions.

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

The prominence tools certainly seems as the most demanding obligation to monitor.

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.

Everyone except regulator and executive is strongly opposed against any obligations towards European promotion in on-demand services. They consider these obligation unconstitutional, ineffective and burdensome.

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

No.