

**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 20 September 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.

*Legislation has not changed since the implementation of Art 13 AVMSD.*

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.)

*Media service providers of on-demand audiovisual media services shall promote European works in the presentation of their catalog of programs by giving due prominence to or appropriately designating such works (§ 40 Federal Act on Audiovisual Media Services - AMS Act).*

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.).

*At the request of the regulatory authority, media service providers shall provide to the regulatory authority a list of measures taken pursuant to paragraph 1. The regulatory authority shall submit to the Federal Chancellor a summary of the data collected (§ 40 Abs. 2 AMS Act).*

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?

*Since Art 13 AVMS contains no obligation to reserve a specific proportion to European Works, the Austrian system is especially for small AVMS-providers applicable because of its simplicity. So the system can be qualified as efficient. A system that is too complex or associated with too many burdens will not be used by small providers, who represent in Austria the majority of the AVMS-providers.* 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.

---

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

---

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:**

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.)

*There are no detailed rules. The implementation is in the responsibility of the AVMS-provider.*

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).

*Upon a request the AVMS-provider has to provide a list of measures taken to the regulatory authority.*

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

*The measures are sufficient to fulfill the requirements of Art 13 AVMD. Additional measures seem to be out of proportion considering there are yet 130 AVMS-providers registered where most of them are very small providers.*

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?

*There are no improvements necessary.*

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.

*No such data available*

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.)

*The financial contributions made by the media sector and funds from the federal budget serve to finance the expenditure of KommAustria. The media sector shall include the Austrian Broadcasting Corporation, broadcasters established in Austria and media service providers that have a reporting obligation pursuant to the Audiovisual Media Services Act (providers liable to contribute).*

*The financial contributions shall be determined and collected according to the respective turnover of the provider liable to contribute in proportion to the total turnover of the sector, with the entire turnover generated by the provision of broadcasting and a media service in Austria, with the exception of programme fees (§ 31 of the ORF Act), being taken as the basis of the calculation. (for the procedure see § 35 Federal Act on the establishment of an Austrian Communications Authority ("KommAustria") and a Federal Communications Board).*

*The contribution is only intended to finance the expenditure of the regulatory authority and has no connexion to European works.*

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.

*cf 4.1*

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).

**cf 4.14.4** 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.

*No, because the contribution concerns the whole media sector and is not splitted in the different categories (AVMS-provider, broadcaster).*

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?

---

**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.

---

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

*The Austrian approach of an open system is considered the most efficient. Every AVMS-provider can designate the most appropriate system that fits the best to his offering.*

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

*The question cannot be answered, because different AVMS-providers have different fundings and facilities. So the lightest burden is the open approach in Art 13 AVMD with no obligation.*

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

---

**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.

---

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