

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.

Since the implementation there has been no modification. Article 13 AVMSD has been transposed in article 157 of the Flemish Act on Radio and Television Broadcasting of 27 March 2009:

“The non-linear television broadcasters will promote the production of and access to European productions, insofar as this is feasible and is implemented with suitable resources. Such promotion could relate, inter alia, to the financial contribution made by the non-linear television broadcasters to the production and rights acquisition of European productions or to the share and/or prominence of European productions in the catalogue of programmes offered by the on-demand programme catalogue of the non-linear television service.

A considerable share of the promotional resources, referred to in the first indent, has to be used for Dutch-language European productions.

The Flemish Government can lay down the potential resources and measures, as mentioned in the first indent.”

The situation in the Flemish Community of Belgium is that the Flemish Government did not impose fixed quotas related to an obligatory share of European works in catalogues, neither to the use of prominence tools or to a financial contribution.

The Flemish Regulator for the Media asks all Flemish non-linear television services to report how they put the article 157 of the Flemish Act on Radio and Television Broadcasting of 27 March 2009 into practice. In this way the Flemish Regulator for the Media can assess how they promote the production of and access to European productions.

The offer of the on-demand services in the Flemish Community consists basically of programmes and films which are also offered by the linear television services and contains a very large share of European productions. The Flemish Government supports the production of and the access to these productions, inter alia, by the Flemish Audiovisual Fund (Vlaams Audiovisueel Fonds – VAF).

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

There is no obligatory share.

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 Flemish Government did not lay down any further rules or implementation orders.

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.).

We ask all Flemish non-linear services how they put into practice the provisions of article 157 of the Flemish Act on Radio and Television Broadcasting of 27 March 2009. We are making random checks to control this.

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?

As the Flemish non-linear television services make and offer a very large share of European productions, no further regulation seems to be necessary.

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?

The Flemish Government did not lay down any further rules or implementation orders.

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

There is no obligation 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.)

The Flemish Government did not lay down any further rules or implementation orders.

3.2 In particular, do you have elaborated any specific prominence tools in your system, such as for example: **No**

- 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).

We ask all Flemish non-linear services how they put into practice the provisions of article 157 of the Flemish Act on Radio and Television Broadcasting of 27 March 2009. We are making random checks to control this.

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

As the Flemish non-linear television services make and offer a very large share of European productions no further regulation seems to be necessary.

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. No

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? No

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

There is no obligation 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 Flemish Government did not lay down any further rules or implementation orders.

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).

We ask all Flemish non-linear services how they put into practice the provisions of article 157 of the Flemish Act on Radio and Television Broadcasting of 27 March 2009.

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. No

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?

As the Flemish non-linear television services make and offer a very large share of European productions no further regulation seems to be necessary.

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? No

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.

Several non-linear television services report that they promote the production of and access to European works by using promotion spots, on line mentions, mentions in the end credits, trailers, banners, advertisements, etc.

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

Giving prominence to European works in catalogues might be the most transparent and efficient method.

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

Giving prominence to European works in catalogues might also be the most simple method. Financial contributions are most burdensome for operators.

8. According to your experience in monitoring the fulfilment of such obligations, are there special difficulties regarding monitoring? No

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. No objection