

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.

No, there have been no modifications to the national legislation since the last time we notified the Commission. In the field of co-regulation and self-regulation the Council is cooperating with SPIR (Association of internet advertising and content providing in Czech Republic) which is a self-regulatory body within the field of ODS. SPIR, in cooperation with RRTV, has prepared and published a recommendation to its members on how to gather data on promotion of European works. The recommendation explains how to prepare an annual data report for RRTV and specifies what is meant by European works. SPIR has also prepared with the assistance of RRTV a form which is used by the ODS provides for the annual report on promotion of European works.

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.)

There are no detailed rules (recommendations, guidance etc.) apart from a provision in On-demand audiovisual media services Act.

Section 7

Promotion of European works

(1) An on-demand audiovisual media service provider shall, where practicable, reserve for European works⁸⁾ at least 10% of the total number of programmes offered in its service's catalogue of programmes during a reporting period. The total number of programmes forming the basis for determining the proportion of European works shall not include news programmes, recordings of sports events, or competitive programmes.

(2) The obligation under paragraph (1) above shall be regarded as satisfied if an on-demand audiovisual media service provider spends at least 1% of total revenues generated by the service in a reporting period on:

- a) the production of European works, or
- b) the paid acquisition of rights to use European works through the on-demand audiovisual media service.

(3) An on-demand audiovisual media service provider shall, within 30 days of the end of the reporting period, submit a report to the Council on how it has complied with the obligation under paragraph (1) or (2) above in the reporting period, in which report it indicates the method selected for the promotion of European works and provides specific data on compliance with the obligation under paragraph (1) or (2) above.

(4) For the purposes of paragraphs (1) to (3) above, the “reporting period” means the calendar year.

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.).

An on-demand audiovisual media service provider shall, within 30 days of the end of the reporting period (annual), submit a report to the Council on how it has complied with the obligation under paragraph (1) or (2) above in the reporting period, in which report it indicates the method selected for the promotion of European works and provides specific data on compliance with the obligation under paragraph (1) or (2) above.

The total number of programmes forming the basis for determining the proportion of European works shall not include news programmes, recordings of sports events, or competitive programmes.

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 consider this system as sufficient and adequate.

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.

Please, see the attachment (in an e-mail). Translation of the terminology can be found at the end of the document.

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

The Council has not considered any improvement of the system seeing we had no problem with the system so far.

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.)

We have no prominence tools obligation on our media legislation.

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?

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.)

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(2) The obligation under paragraph (1) **above shall be regarded as satisfied if an on-demand audiovisual media service provider spends at least 1% of total revenues generated by the service in a reporting period on:**

- a) the production of European works, or
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So far no provider of ODS in the Czech Republic has used this option.

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?

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.

None.

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

Due to the fact that there is only one method used in practise in the Czech Republic we are not able to make any comparison.

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

We would recommend to ask the providers directly because our answer would be highly speculative. From informal sources we know that SPIR has commented on the Green paper - Preparing for a Fully Converged Audiovisual World: Growth, Creation and Values.

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

We have not faced any difficulties yet.

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 self-regulatory body (SPIR) has commented on the Green paper. You can find its opinion in its reaction to the Green paper.

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

Yes, we do agree.