

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.

There are no additional measures that were implemented in the meantime.

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 issue is regulated by the law and secondary legislation (Electronic Media Act and **The Rules for the Criteria and Manner of Increasing the Share of European Works** (Official Gazette No. 43 of 9 April 2010)).*

The prescribed minimum initial share of European works is 20% .

An on-demand audiovisual media service provider with a license to provide audiovisual media services whose share of European works represents more than 20% and less than 40% of the programme catalogue is obliged to increase the said share within the subsequent four (4) years after obtaining the licence.

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.).

It is prescribed that each on-demand audiovisual media service provider is obliged to submit to the Agency for Electronic Media the data regarding European works in its catalogue for the previous year by 31 March of the subsequent year. Due to the small market where, until recently, only one provider had requested and obtained the relevant licence, the first monitoring has been planned for the Q4 2013. Consequently, no detailed data are available so far. As a first step, we plan on verifying the number and amount of European works in the total number of all works within a programme catalogue. Once the state of play is established, certain aspects regarding method/monitoring, frequency/sanctions and so on shall be considered in the months to come.

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 no monitoring hasn't been finish yet, we are in no position to comment.

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.

According to the data submitted by the media service provider, presence of the European works in 2012 is around 50 % of all works in the programme catalogues. The shares vary 46.3% to 59%.

Detailed data regarding the time that the works remain in the catalogues and consumption of European works are not available at this point. However, according to the information received from on-demand service providers, it shall be possible for them to submit the said data in the future.

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

We believe that without a common European reference point which enables verification of the data submitted by on-demand service providers it is impossible to be certain of the accuracy of the data acquired from the providers. Therefore the creation of a single European database on European works would greatly improve the monitoring of the implementation of Article 13 AVMSD.

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?

N/A

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

N/A

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?

The measure from question 3.2. will be considered when the monitoring from question 2.2 be done

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 contribution of on-demand service providers to the production of European works is ensured through the Law on Audiovisual Activities. The said act regulates the performance, organization and financing of audiovisual activities in the Republic of Croatia. Its provisions, inter alia, stipulate that on-demand service providers, among other relevant subjects, are obliged to make financial contribution of 2% of their aggregate annual gross revenue accrued by performing audiovisual activities the Croatian Audiovisual Centre, the Government-backed strategic agency for the audiovisual sector in Croatia.

The Centre's main role is to systematically encourage audiovisual creativity through the implementation of the National Programme for promoting audiovisual activities and in particular creativity. The Programme stimulates, inter alia, the production of various formats of AV content, the development of projects and scenarios, the creation of favourable condition for the development of the Croatian and European cultural products, the development of international audiovisual cooperation and co-productions etc.

Consequently, information regarding questions from 4.2 to 4.7 is in the Croatian Audiovisual Centre's domain.

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

N/A

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

We believe a combination of prominence tools and share in catalogues to be the most efficient method.

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

We consider that the share of EU works in catalogue is the lightest burden.

On the other hand, the additional financial contribution would certainly be perceived as a heavy burden. According to the providers, the current state of play in the on-demand service providing industry does not enable sufficient revenue to enable larger financial contribution to the development of European works

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

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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.

Share of EU works prominence tools excepted EU works in front of first page as consider as most efficient

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

Yes, we agree.