

Q1.

In the Irish jurisdiction, Article 13 of the AVMSD has been transposed via Statutory Instrument 258/2010 which can be viewed here:

<http://www.irishstatutebook.ie/pdf/2010/en.si.2010.0258.pdf>. This legal instrument provides for a regulatory environment that is predominantly self-regulatory. In this regard:-

- Section 13 of the Statutory Instrument requires the Broadcasting Authority of Ireland (BAI) to develop and approve a Code of Conduct, in co-operation with on-demand providers;
- Aside from this function, the BAI has no direct statutory role vis-a-vis the implementation of the Code of Conduct or compliance by on-demand providers with the Code or the Directive, including compliance with requirements in respect of European Works;
- This Code is instead overseen by the ODAS (On-demand Audiovisual Media Services) Group, the self-regulatory body for the industry. The current Code of Conduct and further information on ODAS is available here: <http://www.ibec.ie/IBEC/Press/PressPublicationsdoclib3.nsf/vPages/Newsroom~industry-launches-code-of-conduct-for-on-demand-services-04-05-2011?OpenDocument>;
- Part 2, section 5 of the current ODAS Code of Conduct includes a general requirement vis-a-vis European Works. The Code does not currently include a requirement concerning prominence or financial contributions. An updated version of the Code of Conduct will be considered by the BAI in the last quarter of 2013. This will include a requirement concerning the prominence of European works whereby on-demand providers will ensure that European works will clearly stand out by visual means and/or are listed up front in the catalogue of programmes. This requirement will come into effect following approval of the Code by the BAI.
- The Statutory Instrument also provides for oversight by the Irish Department of Communications, Energy and Natural Resources. In terms of reporting requirements, Section 11(2) of the aforementioned statutory instrument requires on-demand providers to supply, at the request of the Minister for Communications, Energy and Natural Resources or the 'relevant regulatory body', a report with compliance with Article 3i of the AVMS Directive (the statutory instrument refers the European works requirements as per AVMS Directive 2007/65/EC rather than the codified 2010 version). Section 13(7) of the Statutory Instruments also provides that the relevant [regulatory] body shall report to the Minister on the operation of the Codes of Conduct on an annual basis or at such times as the Minister may otherwise direct and in such manner as the Minister may direct. It is our understanding that the "relevant regulatory body" is the self-regulatory body overseeing the on-demand sector, namely the ODAS Group and not the BAI.

Q2.

- As noted, an updated version of the Code of Conduct for ODAS providers will be considered by the BAI in the last quarter of 2013. This will include a requirement concerning the prominence of European works whereby On-demand providers will ensure that European works will clearly stand out by visual means and/or are listed up front in the catalogue of programmes. This requirement will come into effect following approval of the Code by the BAI. The BAI will have no role regarding compliance once this measure comes into effect due to the self-regulatory nature of the legislative provisions.

Q3. – Q9.

- Refer to response to Q2.

Q10.

- The BAI is happy to share its answers to this questionnaire with the other members of the Regulator Group.