



The promotion of audiovisual works in Europe

Amandasamtalen
Den norske filmfestivalen
Haugesund, 18 august 2018

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European Audiovisual Observatory



The WHY & The HOW

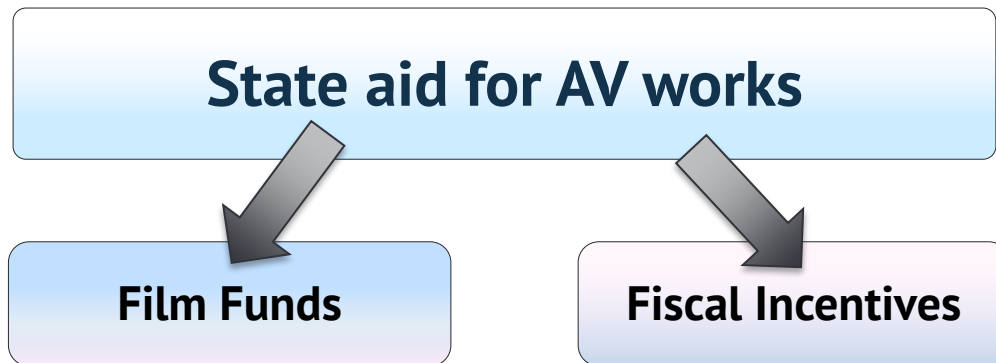
WHY?

Support

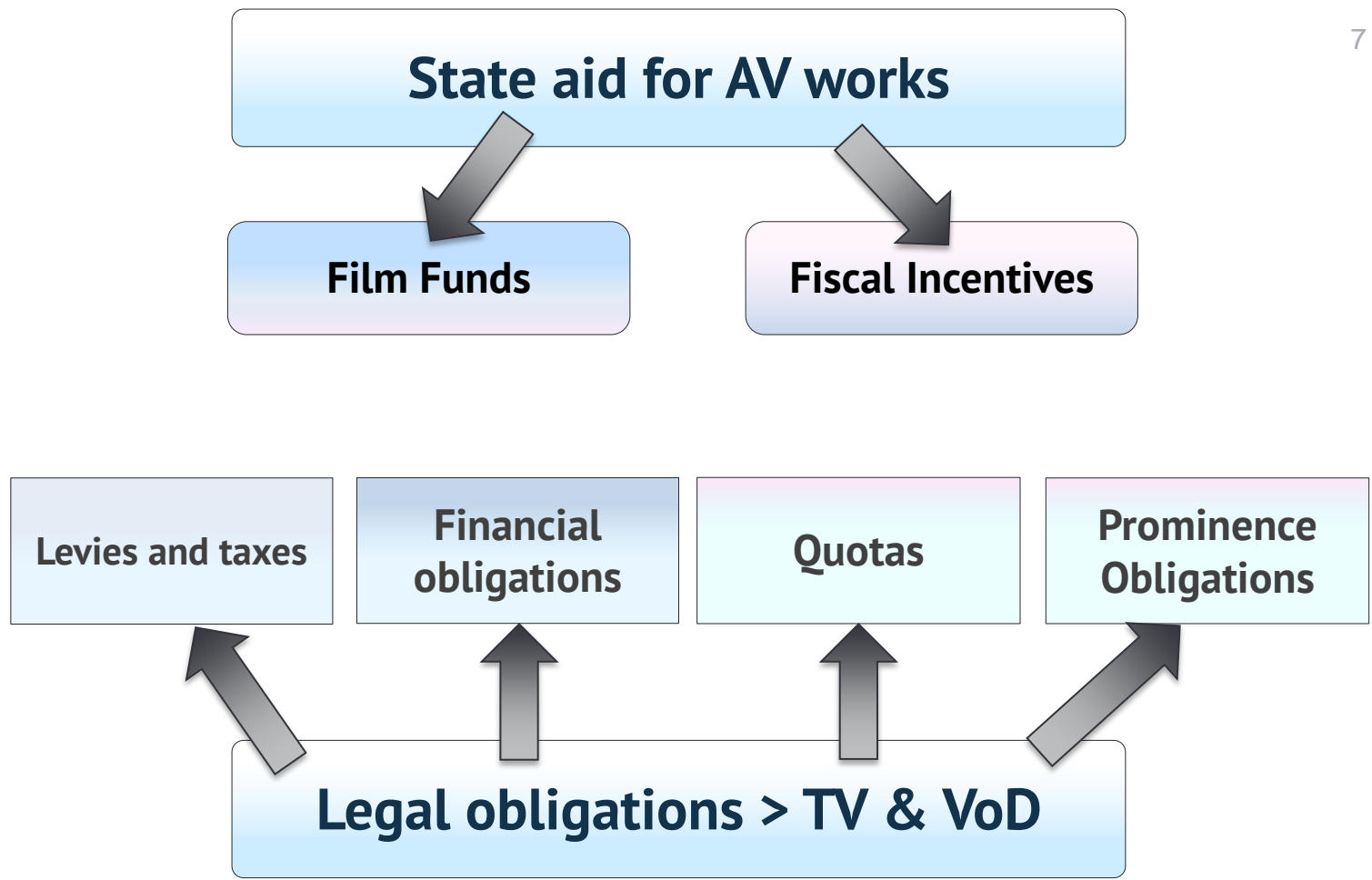
HOW?

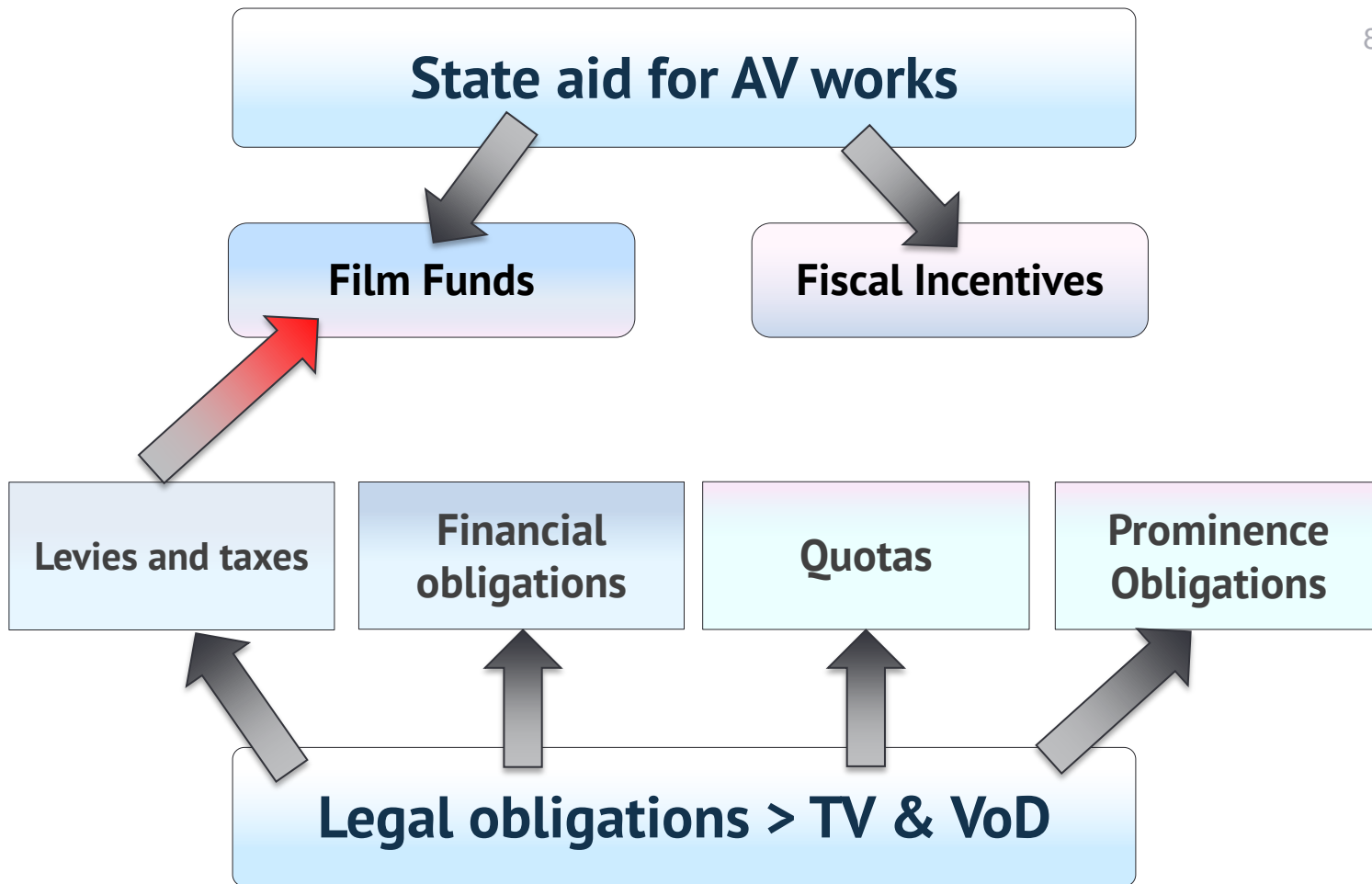
State aid for AV works

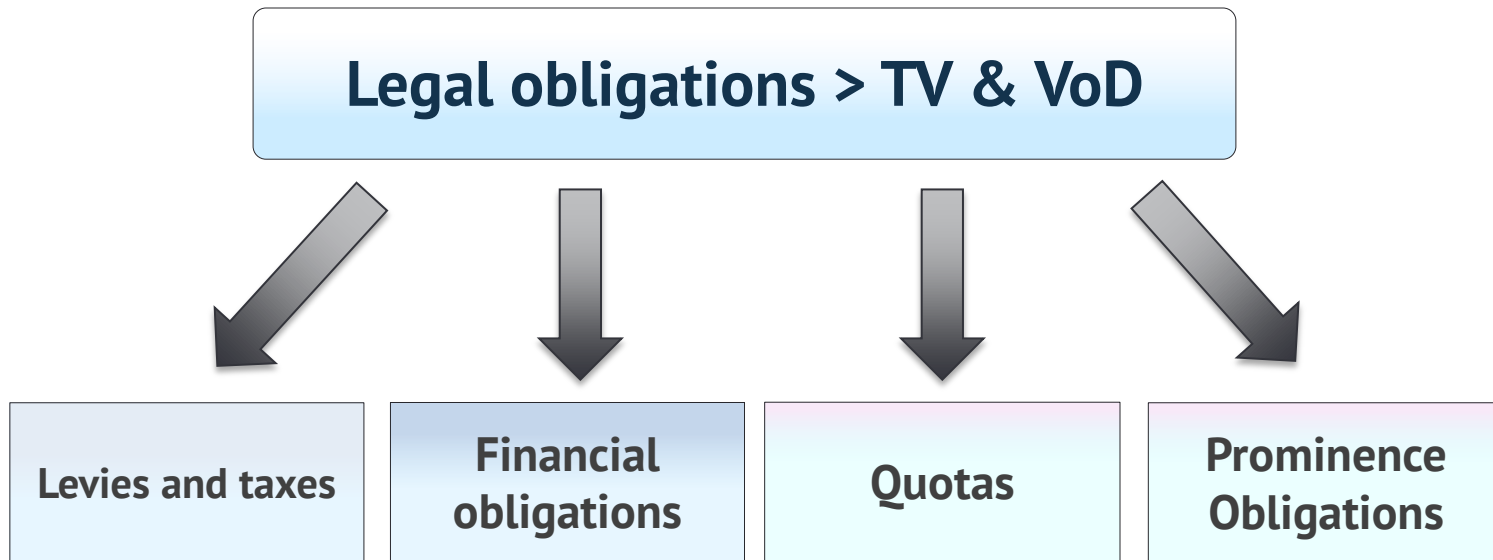
Legal obligations > TV & VoD



Legal obligations > TV & VoD

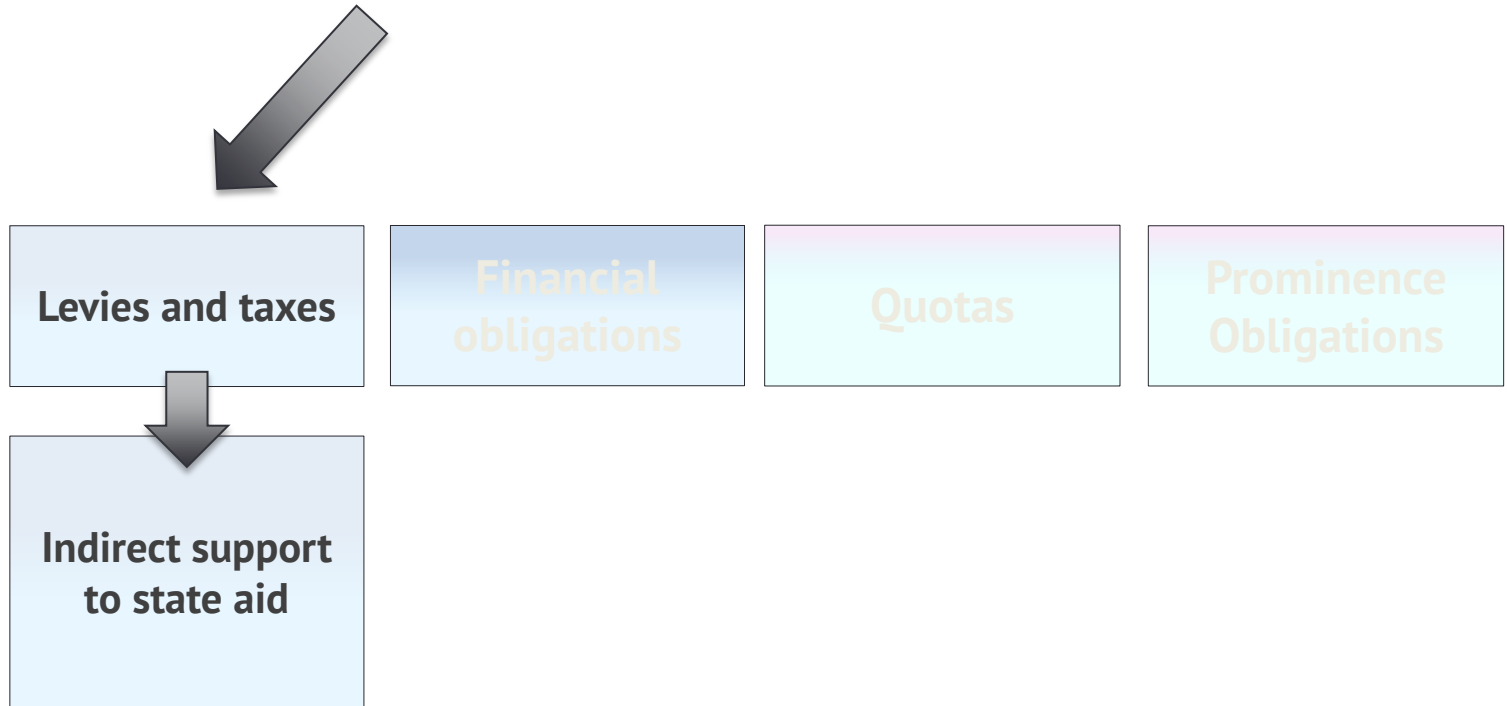




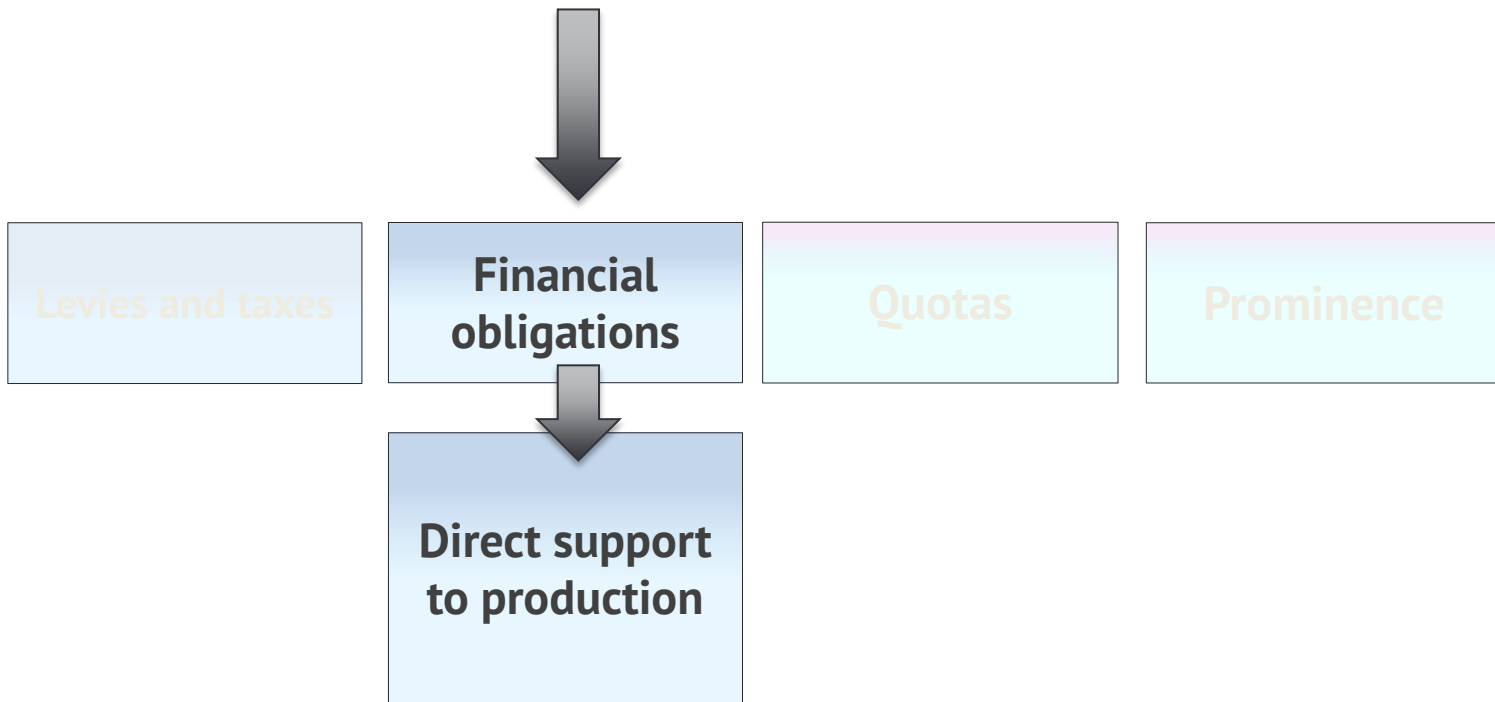


...but WHY?

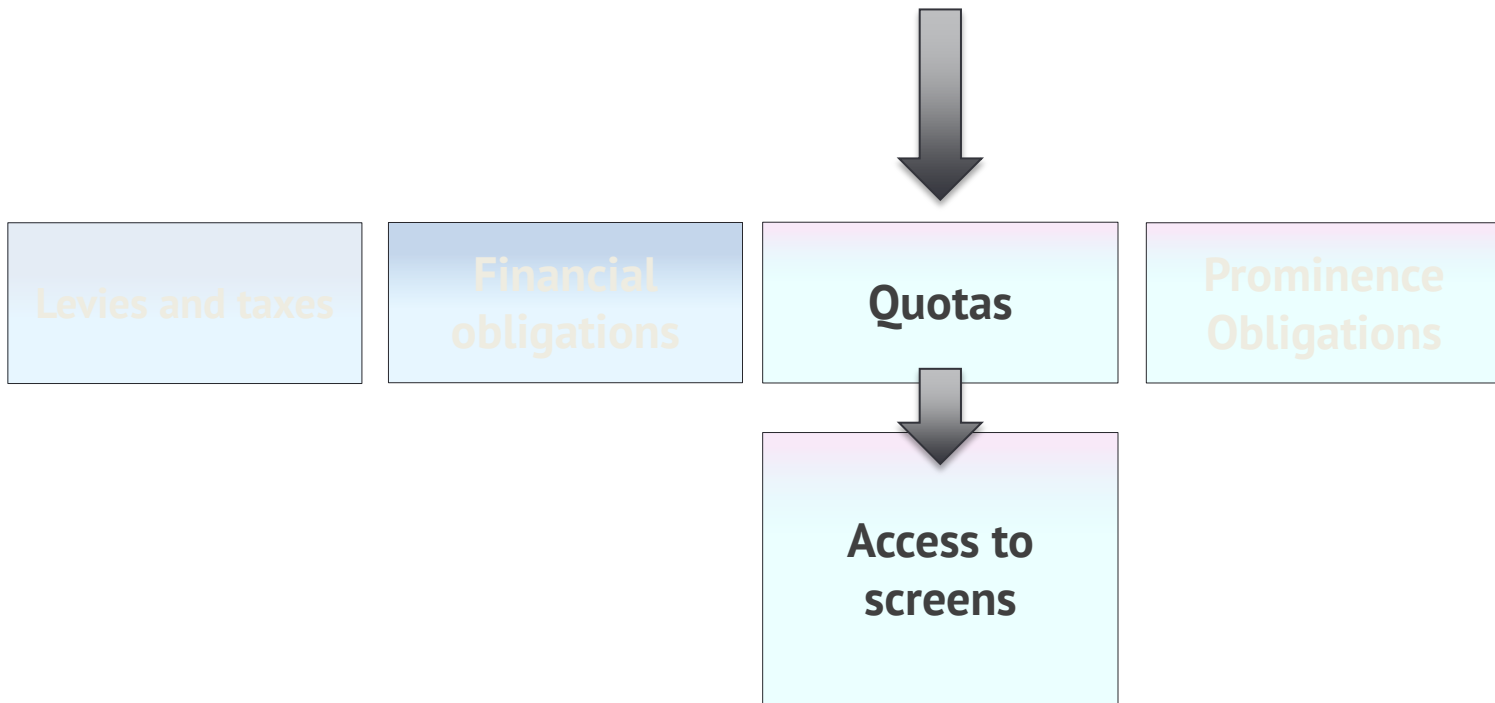
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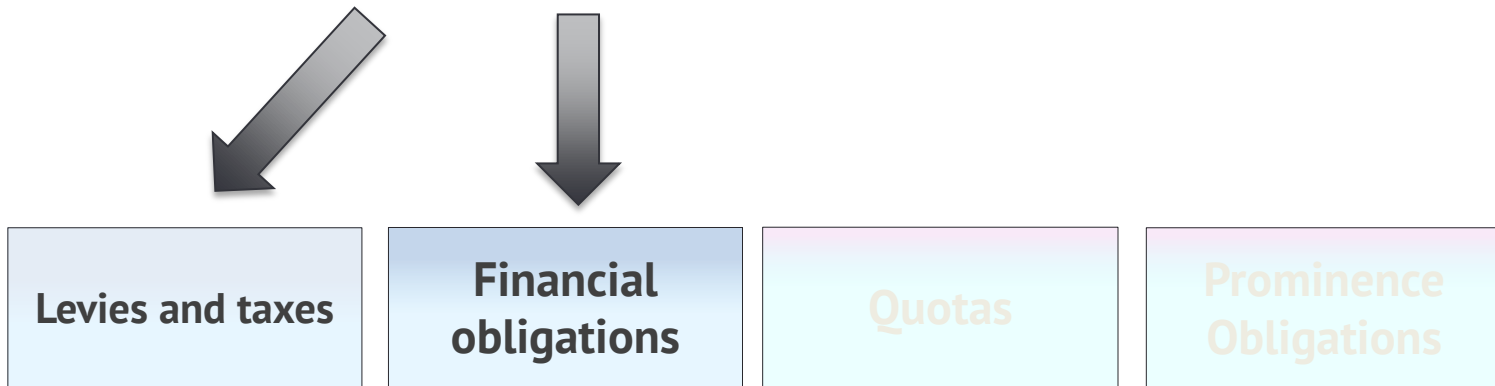
- **On-going mapping research commissioned by the EFADs (European Film Agencies Directors) covering all 31 EFADs members (incl Norway).**

- **Results January 2019**
 - A. "Direct" financial obligations concerning investment in European production (including independent), for example through pre-acquisition and/or co-production by broadcasters and VOD services;
 - B. "Indirect" financial obligations, such as obligations to contribute to film funds through taxes and levies on theatres, broadcasters, VOD services, online platforms, etc. The actual income for each national/federal film and audiovisual fund through these sources will also be reflected and if possible its proportion on the overall budget.
 - C. Quotas on transmission time of European works (including independent) for broadcasters and minimum share of European works in catalogues for VOD services;
 - D. Prominence obligations on VOD platforms

HOW

in detail...

Legal obligations > TV & VoD



Types of mandatory financial obligations

18

- **« Direct » financial obligations**
 - Programming budget
 - Pre-acquisition and/or production

- **« Indirect » financial obligations**
 - Financial contribution to film fund (restricted / unrestricted)

- **Diversity of national schemes**
 - Obligations on public and/or private broadcasters
 - Fixed in law / public service contract / framework agreement
 - Different calculation criteria (revenue threshold, programmes..)

Legal obligations > TV & VoD



Levies and taxes

**Financial
obligations**

Quotas

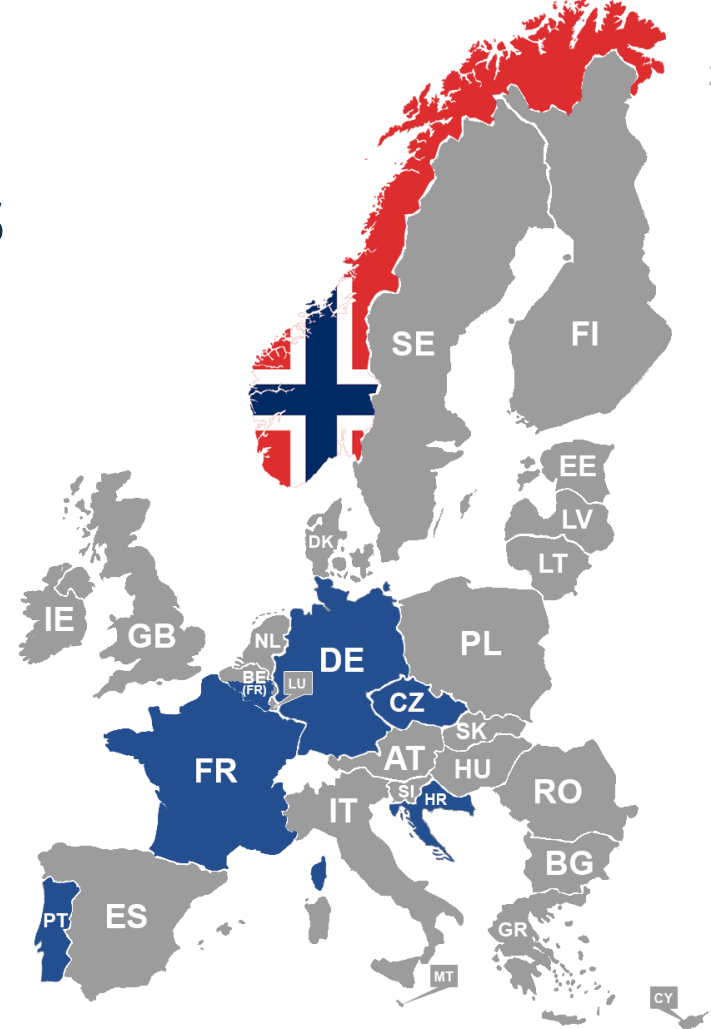
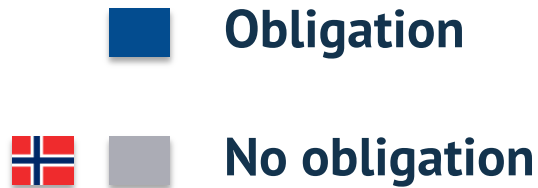
**Prominence
Obligations**

Contribution to film funds by broadcasters

On-going mapping research commissioned to the EAO by the EFADs covering all 31 EFADs members



Contribution to film funds by VOD services (first overview)



Examples of mandatory contributions to film funds by VOD services

- **Czech Republic**

Mandatory 0,5% fee on the price paid by end-user of their service in a calendar year to be paid to the Cinematography Fund

- **Croatia**

2% of VOD service' annual gross income to the Croatian AV Centre

- **Belgium (Fr. C)**

Co-production or pre-purchase of rights or contribution to the film fund (minimum amount fixed based on the operator's annual turnover)

- **Portugal**

When 1% of direct investment not attained, unspent investment amounts are given to the Institute of Cinema and Audiovisual (ICA)

Mandatory contributions to film funds by targeting VOD services

- **Germany**

VOD providers targeting Germany will be subject to a 2,5% levy on annual revenues (Filmabgabe) to the German film fund

- **France**

VOD providers targeting France will be subject to a 2% tax on annual revenues to the general budget

Legal obligations > TV & VoD



Levies and taxes

**Financial
obligations**

Quotas

Prominence
Obligations

The Audiovisual Media Services Directive ²⁵

Broadcasters (Art. 17 AVMSD)



- of transmission time OR
 - programming budget
- to independent EU works**





VOD services (Art. 13 AVMSD)



- **Financial contribution / Rights acquisition of EU works**
- Share in catalogues AND/OR
- Prominence obligations

Art. 17 AVMSD

Support to independent European AV works





-   Transmission time
-  Transmission time OR(*) financial contribution
-  Financial contribution

* (AND) DE, ES, NL



Art. 17 AVMSD

PSB special rules re. independent EU AV works

-   Transmission time
-  Transmission time OR(*)
financial contribution
-  Financial contribution

* (AND) DE, ES, NL

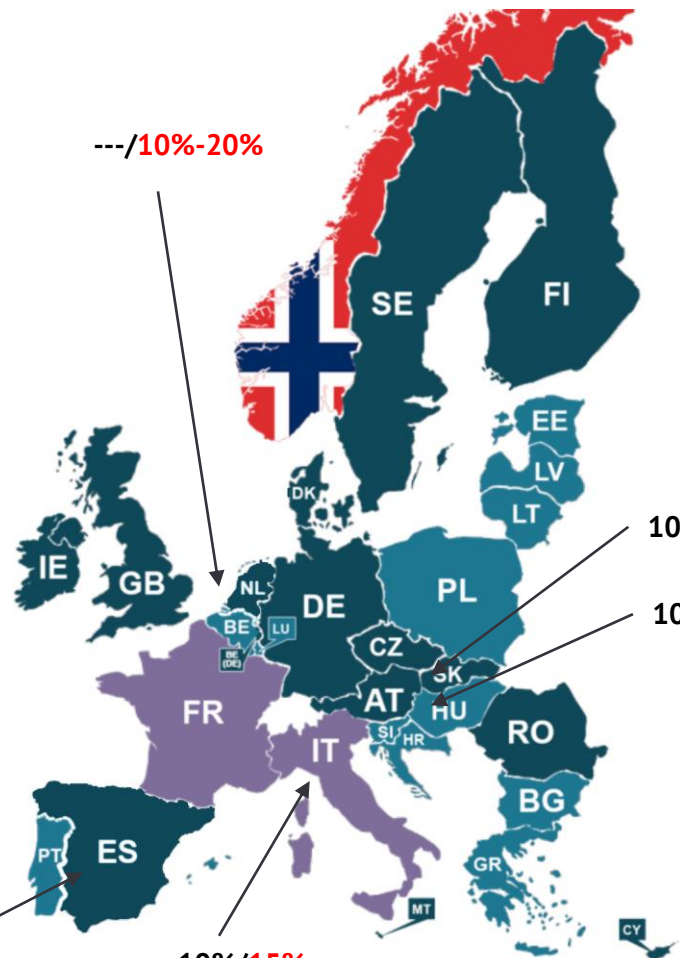
5%/6%

10%/15%

10%/15%

10%/15%

---/10%-20%



Examples of mandatory financial contributions by broadcasters (beyond Art. 17 AVMSD) 28

- **France**

At least 15% of net annual revenues to EU and FR-language AV works + possibility of sub-quota for independent AV works



- **Italy**

At least 12% (15% for PSB) of net annual revenues to independent AV works



- **Spain**

5% annual revenues (6% PSB) (60% cinema film / 40% TV film and series) + sub-quotas to independent AV works



Art. 13 AVMSD

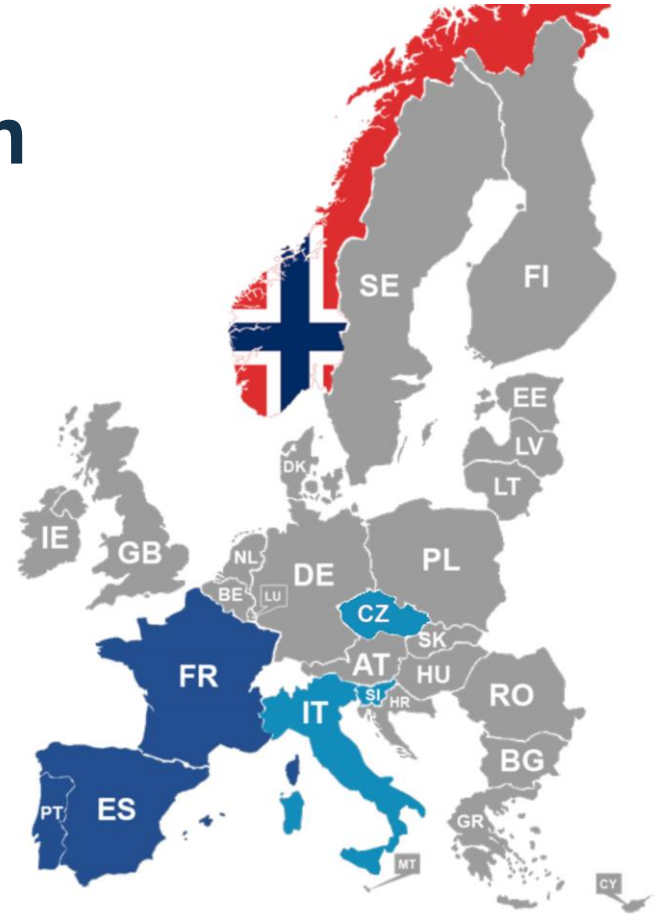
financial obligations on VOD services

Direct contribution to production or acquisition of rights

  No obligation

 Mandatory

 Optional



Examples of mandatory financial contributions by VOD services (implementation of Art. 13 AVMSD) 30

- **France**

15% minimum of annual revenues to EU and FR-language AV works (12%)



- **Spain**

5% annual revenues (60% cinema film / 40% TV film and series)



- **Portugal**

1% minimum of revenues in the production of EU cinematographic works



Legal obligations > TV & VoD

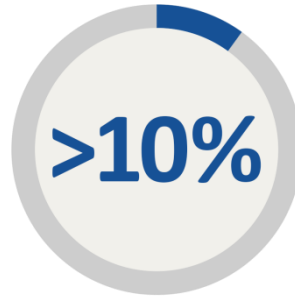


The Audiovisual Media Service Directive

Broadcasters (Art. 16-17 AVMSD)



- of transmission time to EU works



- of transmission time OR
 - programming budget
- to independent European works

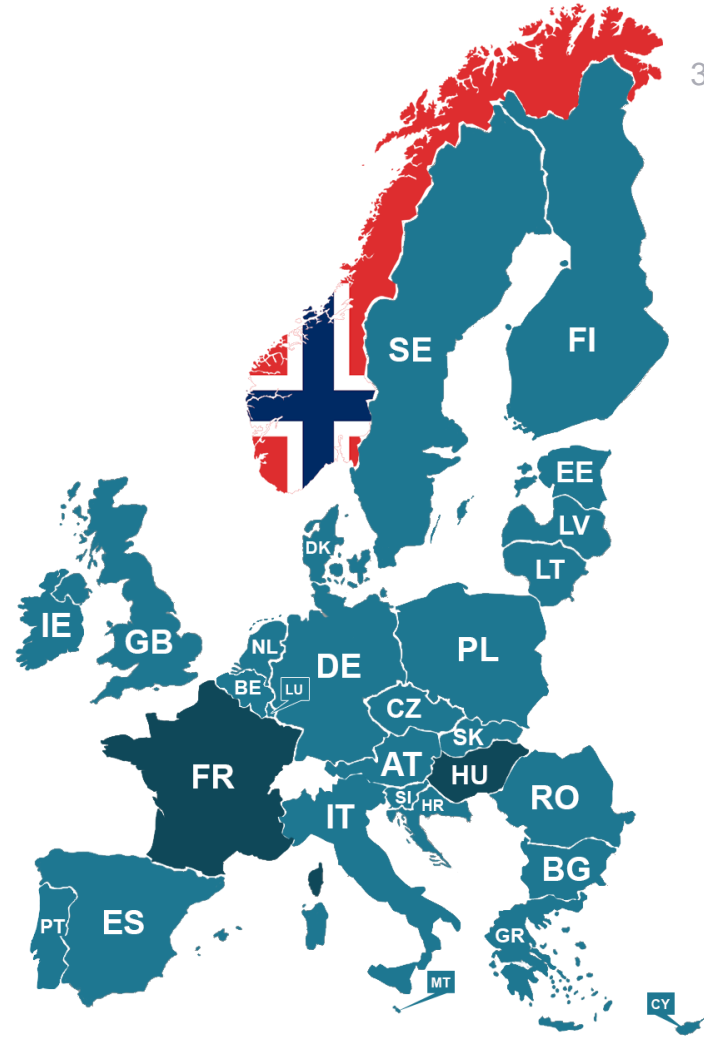
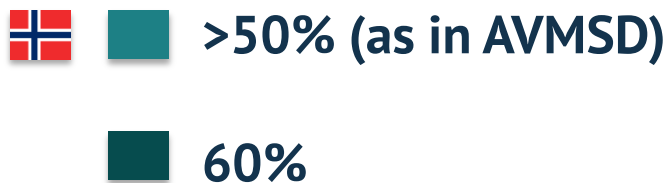
VOD services (Art. 13 AVMSD)



- Financial contribution/rights acquisition of EU works
- (30%) Share in catalogues and/or
- Prominence obligations

Art. 16 AVMSD

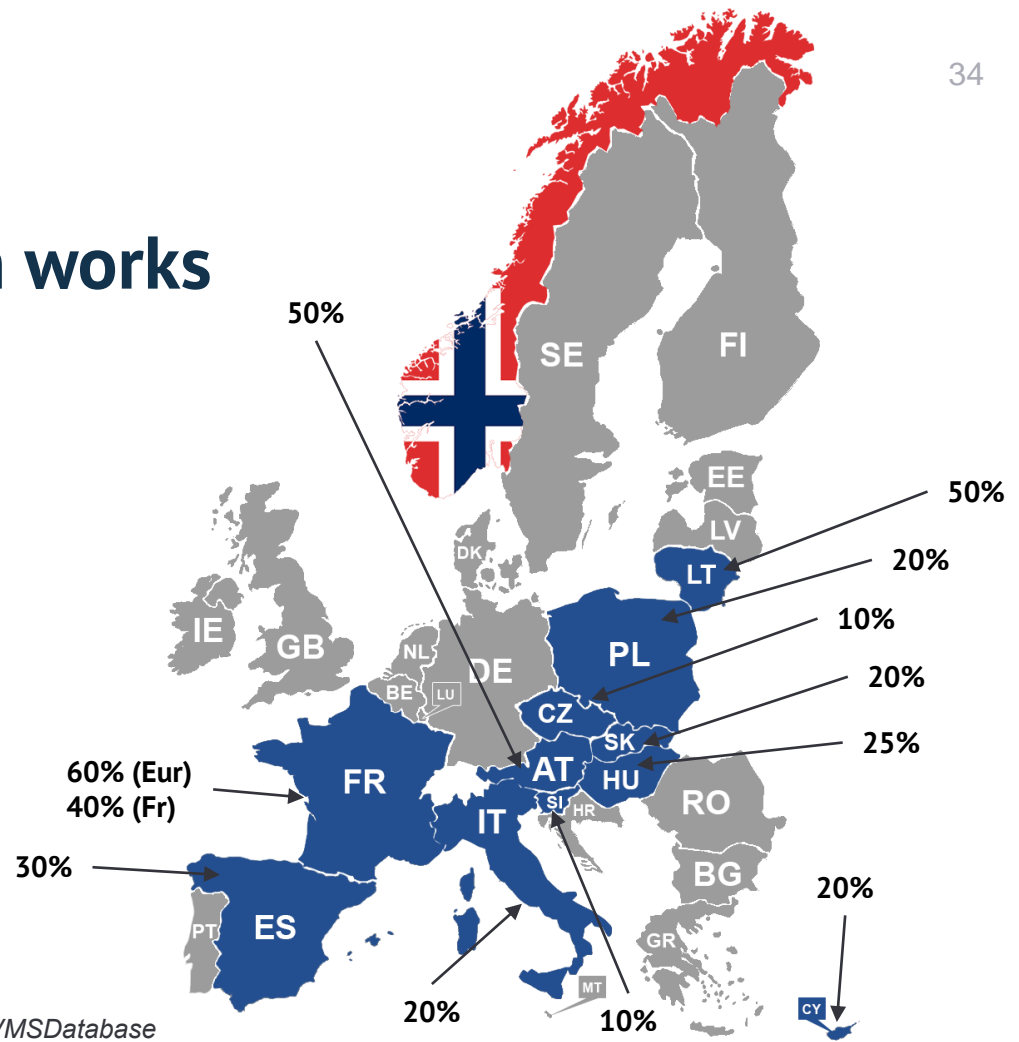
Minimum proportion of broadcasting time of European AV works



Source: European Audiovisual Observatory's AVMSDatabase

Art. 13 AVMSD

Share of European works in the catalogues



Source: European Audiovisual Observatory's AVMSDatabase



Legal obligations > TV & VoD



The Audiovisual Media Service Directive

VOD services (Art. 13 AVMSD)

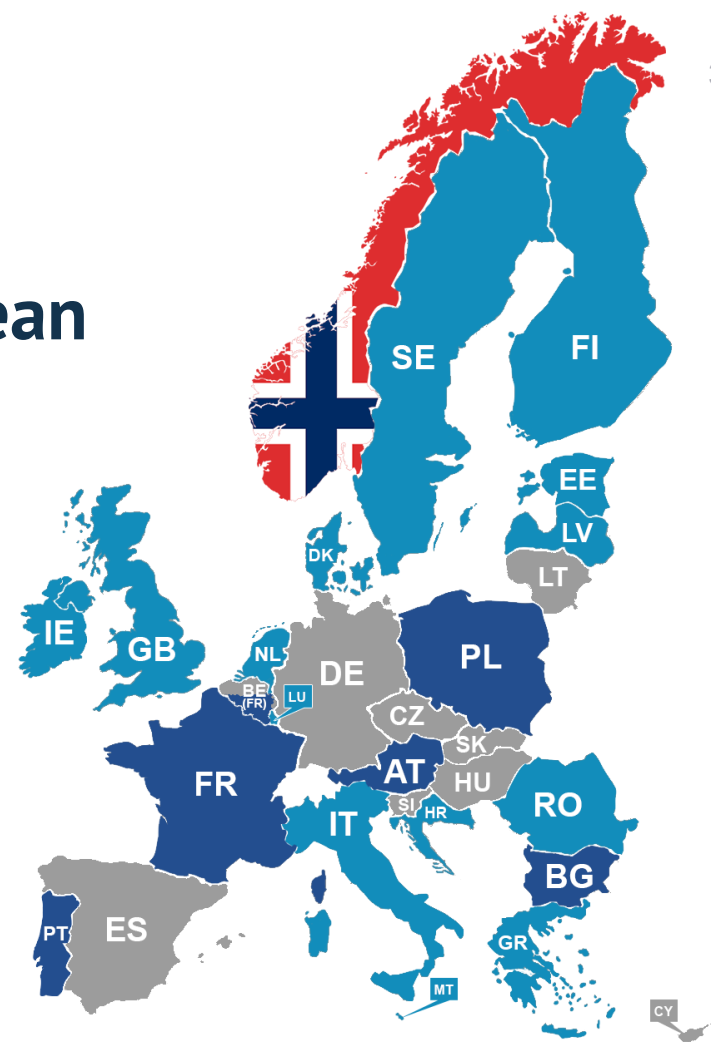
- Financial contribution / Rights acquisition of European works
- Share in VOD catalogues, and/or
- **Prominence of EU works in VOD catalogues**



Art. 13 AVMSD

Prominence of European works

-   Mandatory
-  Optional
-  No obligation



Source: European Audiovisual Observatory's AVMSDatabase

Art. 13

Means used to ensure prominence

place particular emphasis on the European works in their catalogue [...] by using an attractive presentation to highlight the list of European works available.

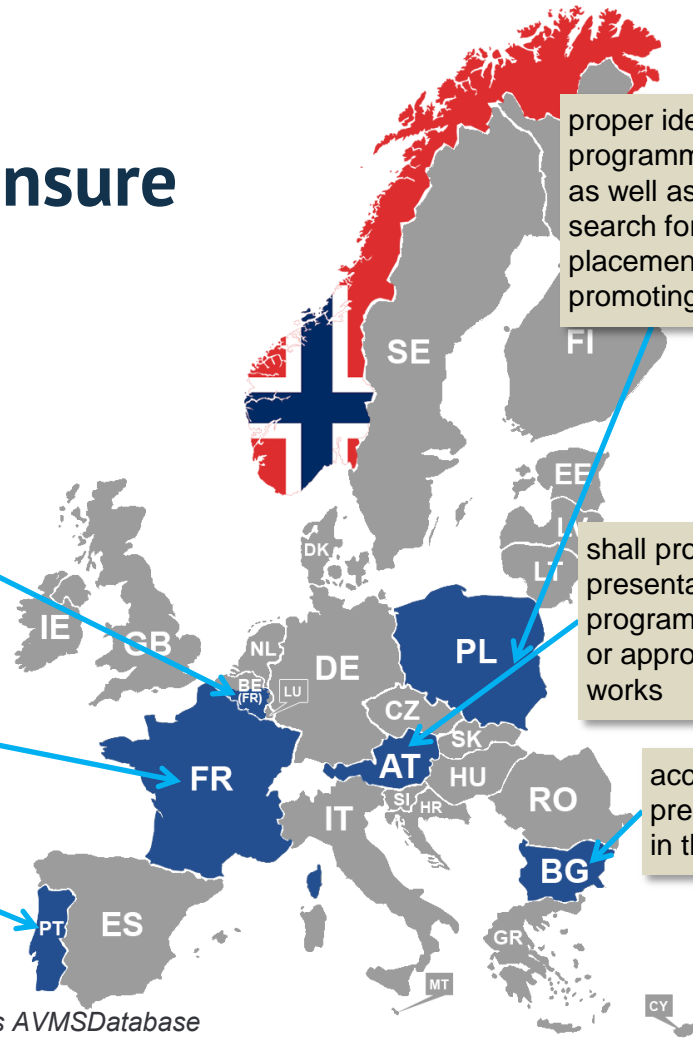
exhibition of visuals and making trailers available

enable the public to search for such works by origin

proper identification of origin of programmes available in the catalogue as well as providing the option to search for European works, or the placement of information and materials promoting European works

shall promote European works in the presentation of their catalogue of programs by giving due prominence to or appropriately designating such works

accessible and attractive presentation of European works in the catalogue



Further information from the European Audiovisual Observatory: www.obs.coe.int

- VOD, Platforms and OTT: Which Promotion Obligations for European Works?, (IRIS *Plus*, EOA, 2016)
- The State of Soft Money in Europe, (EAO, 2016)
- The Visibility of Films and TV Content on VOD (EAO, 2017)
- The Legal Framework applicable to Video-Sharing Platforms (IRIS *Plus*, EAO, 2018)
- EAO's Legal Databases:
 - AVMSDatabase: National transposition of the AVMS Directive
 - MERLIN Database and Legal Newsletter

Thank You!

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www.obs.coe.int



Observatoire européen de l'audiovisuel
European Audiovisual Observatory
Europäische Audiovisuelle Informationsstelle

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