



Overview of the AVMS Industry and its Regulatory Framework: The EU AVMSD

CPT Project Free Afternoon Seminar
Financial contributions under the Audiovisual Media Services Directive (AVMSD):
An analysis from an EU and International Tax Law perspective
Amsterdam, 3 February 2022

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Audiovisual Media in the EU

YEARBOOK
2020/2021
KEY
TRENDS



TELEVISION, CINEMA,
VIDEO AND ON-DEMAND
AUDIOVISUAL SERVICES -
THE PAN-EUROPEAN PICTURE



Audiovisual media services available in Europe



How many audiovisual media services are available in Europe?



**10 839 TV channels and 2 799 on-demand services totalling
13 638 audiovisual media services (end 2020)**



Breakdown by type of audiovisual media service available in Europe* | 2020 - In number of services and %



Television

Local TV
4803
44%



TV
6036
56%

Free on-
demand
1620
58%



On-demand

Pay on-
demand
1179
42%

Audiovisual media services available in Europe

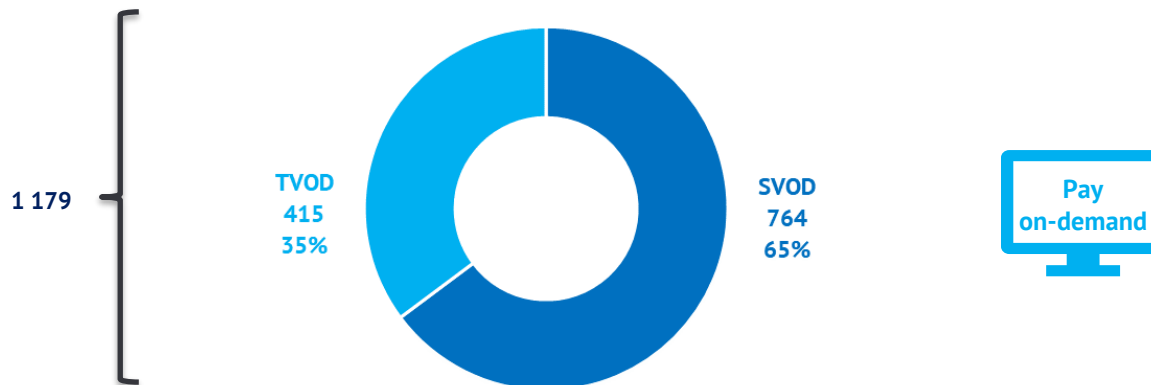


How many pay on-demand services available in Europe are subscription-based?



Two out of three pay on-demand services are SVOD (end 2020)

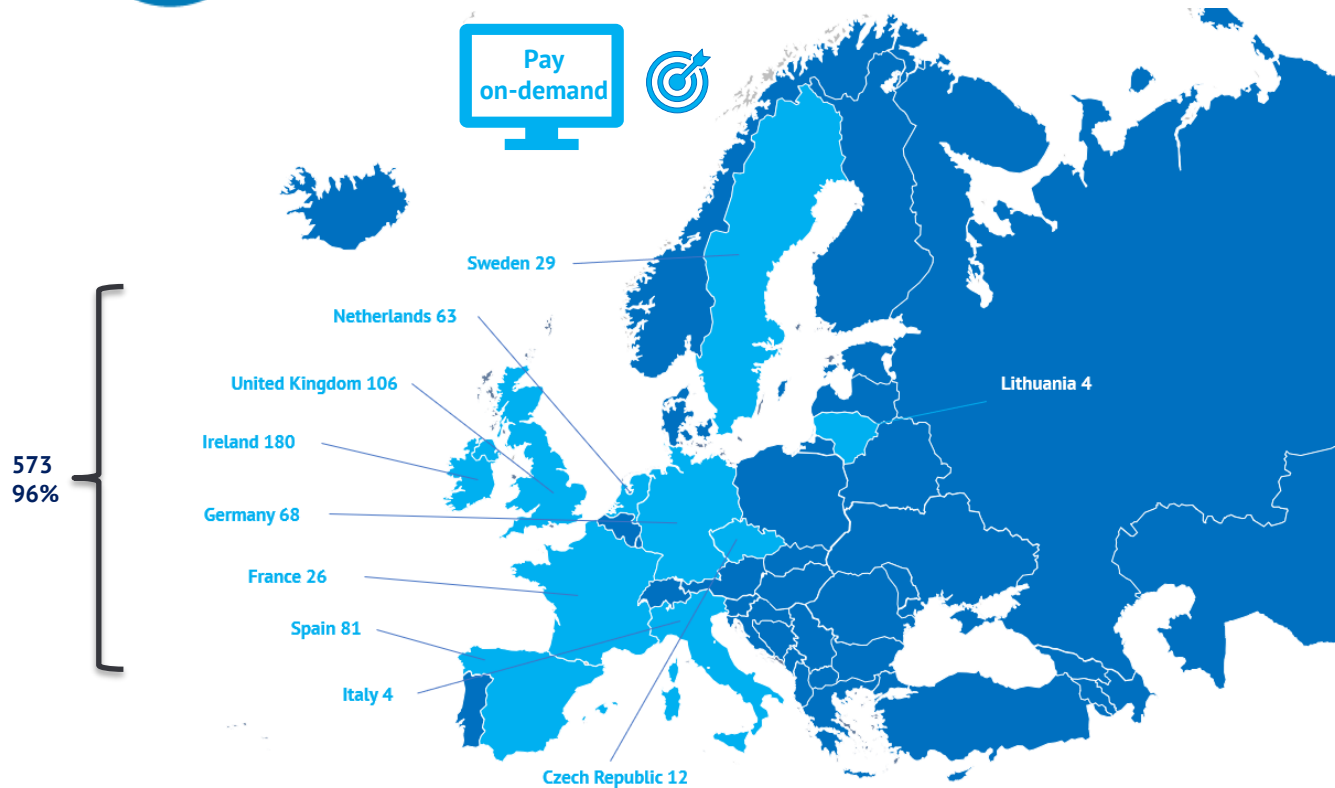
Breakdown of pay on-demand services available in Europe* by business model | 2020 – In number of services and %



AV services aimed at non-domestic markets (end 2020)



What are the top 10 hubs for pay on-demand services aimed at non-domestic markets?



AV services aimed at non-domestic markets



What is the share of the three main hubs among pay on-demand services aimed at non-domestic markets?



Ireland

1



United Kingdom

2



Spain

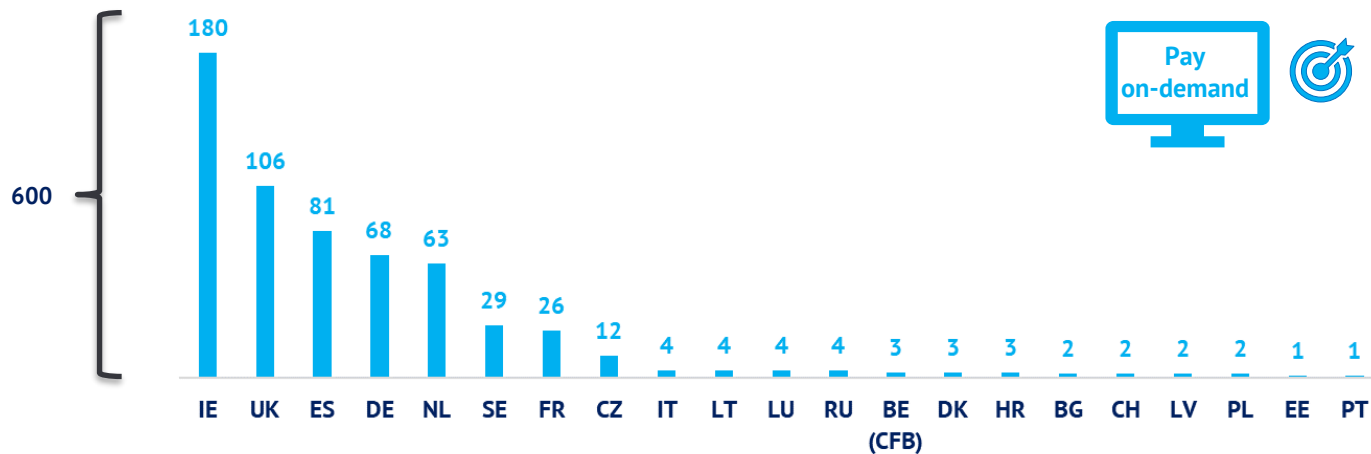
3



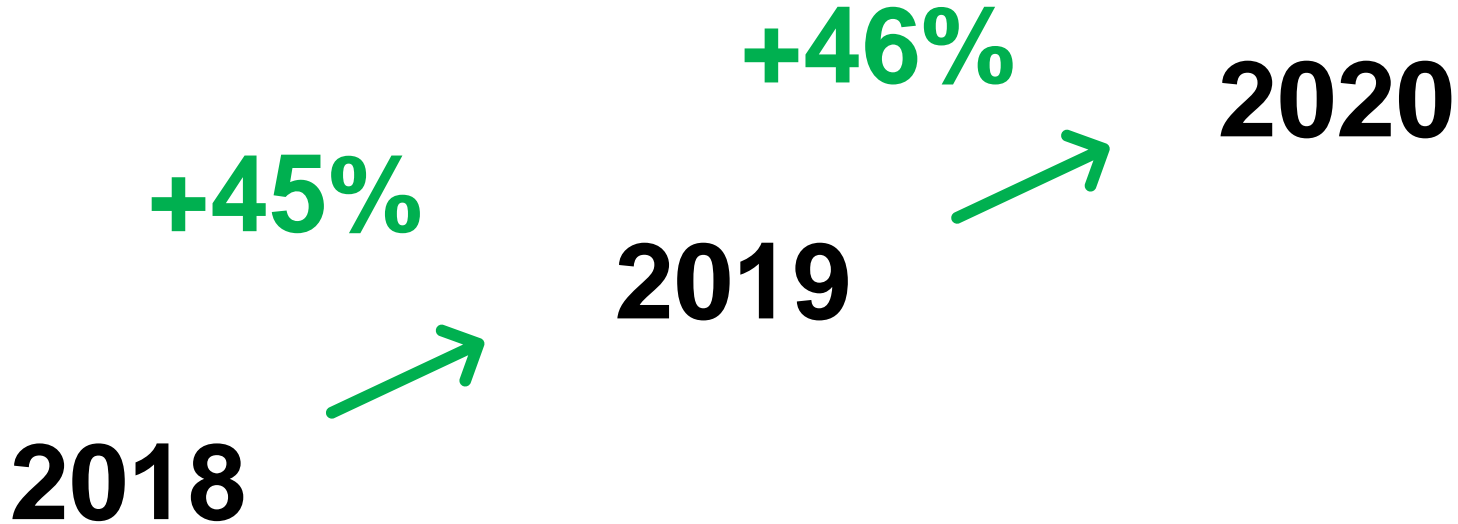
(end 2020)

61%

Countries with pay on-demand services aimed at non-domestic markets | 2020 – In number of services



Have SVODs benefited from the COVID pandemic?



Do SVODs account for the most commissions of TV series?

NETFLIX +46% in 2020

but...



Only **10%** of total
production

The Audiovisual Media Services Directive

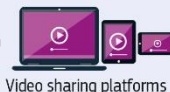
Audiovisual Media Services Directive (AVMSD)

a media framework for the 21st century

 #AVMSD #DigitalSingleMarket

Why?

For a better balance of rules



- Better protection of minors
- Promoting European works
- More independence for regulators

Context

Before



Average TV viewing time is decreasing.

Young people's TV viewing time has **dropped by 7.5%** and is **half** that of the average viewer

Now



Videos on the Internet

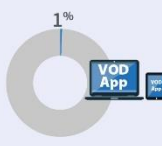


Internet video share in consumer internet traffic is **expected to increase** from **64%** in 2014 to **80%** by 2019

TV channels target more and more **foreign markets**



In 2013, **±20%** of broadcasters revenues was invested in **original programming** vs **1%** for **on-demand services**.



Industry faces **fragmented rules** on the share of European content across the EU



On average **31%** of VoD services available in one EU Member State are **established in another Member State**



Need for **more independence of regulators** from government & industry

[Home](#) > [Press corner](#) > [Audiovisual Media: Commission opens infringement procedures](#)



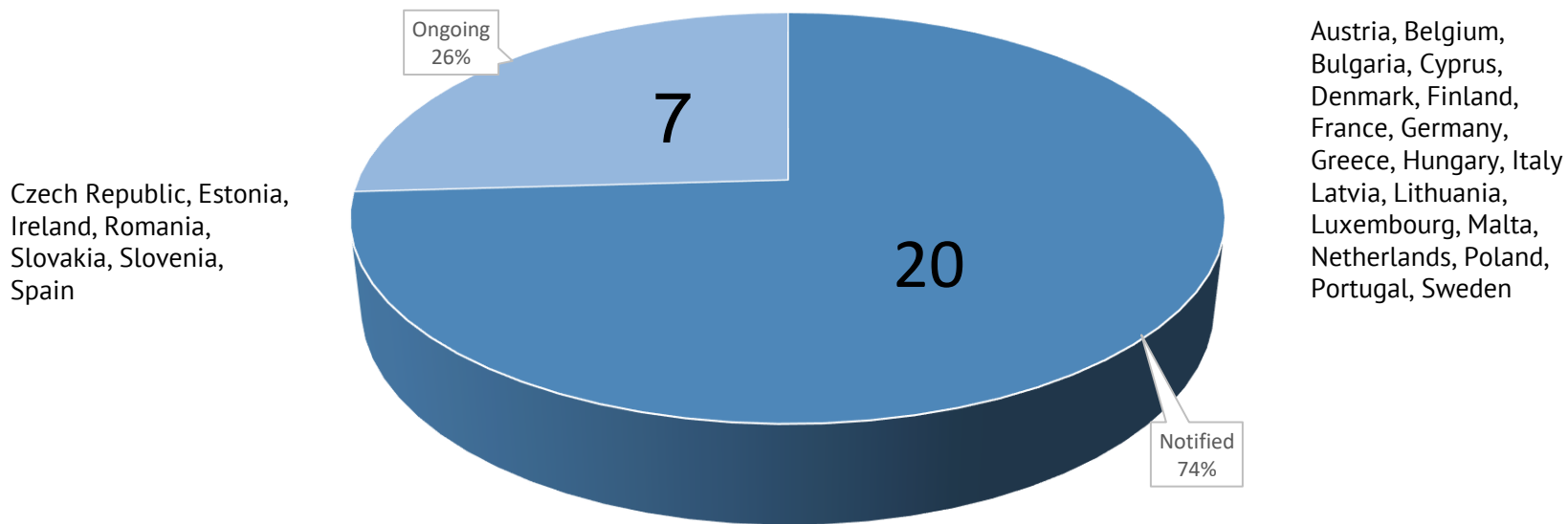
Available languages: English ▼

Press release | 23 November 2020 | Brussels

Audiovisual Media: Commission opens infringement procedures against 23 Member States for failing to transpose the Directive on audiovisual content

- Deadline for transposition **19 September 2020**
- On 23th November 2020, the Commission launched infringement procedures **against 23 Member States** and the UK
- At this date, **20 Member States and the UK** had notified transposition measures and declared their notification complete.

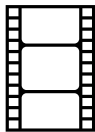
State of play of the implementation of the directive



Key new features of the directive



- Update on establishment and jurisdiction



- Promotion of European works for VOD services



- Role and responsibilities of video-sharing platforms



- Media literacy measures

Promotion of European works – Linear services (Art. 16-17)

Obligations on broadcasters remain unchanged from the 2010 Directive.



**of transmission time
to European works**



**of transmission
time/programming budget to
independent European works**

Promotion of European works – VoD (Art. 13)



Minimum
share in
catalogues

+

Prominence



Financial contribution:

- Production
- Direct investments
- National funds

Including targeting services

Under the previous Directive of 2010

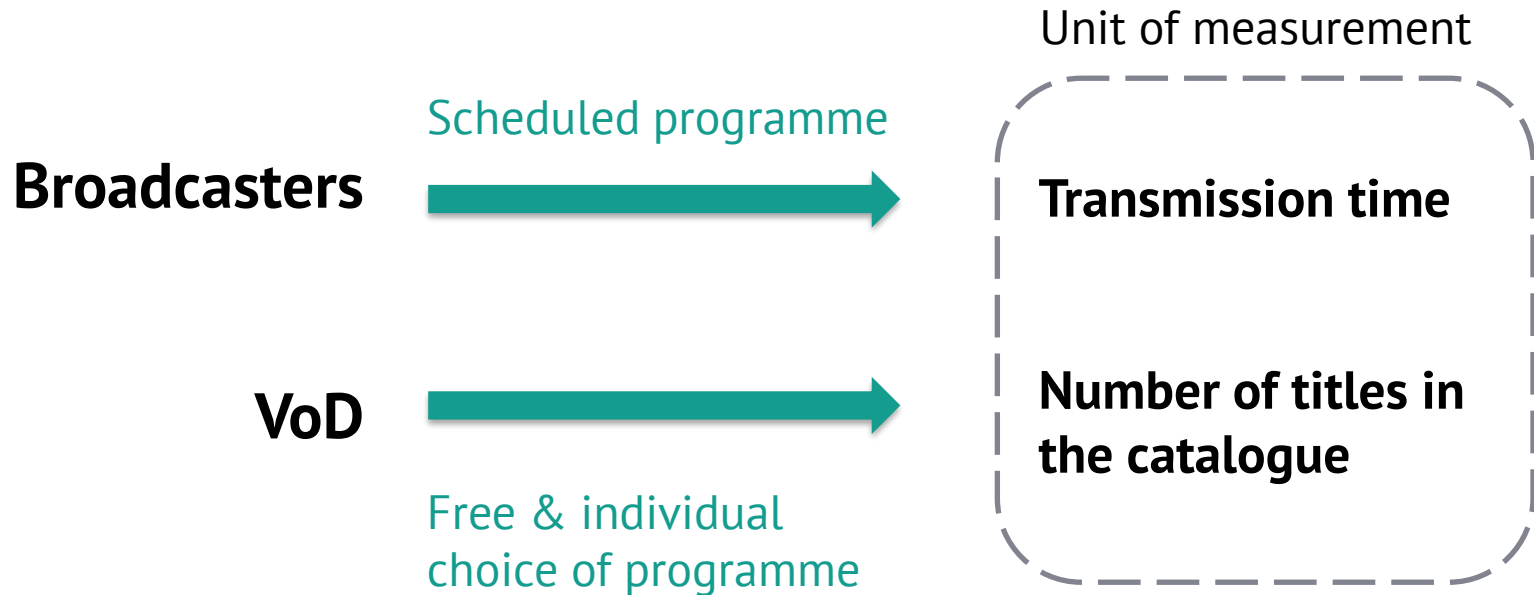
- Financial contribution to production/rights acquisition in European works
- Share of European works in VOD catalogues
- Prominence obligation

Promotion of European works – VoD (Art. 13)

Commission's Guidelines on :

- a) the calculation of the share of European works in the catalogues of on-demand providers
- b) the definition of 'low audience' and 'low turnover' for the purposes of exemptions to the obligations concerning the promotion of European works.

Calculation of the share of European works (1/2)



Calculation of the share of European works (2/2)

- What constitutes **a title** ?
 - Feature and TV films : **one film** = one title
 - Series: **one season** = one title

- Calculated on **what**?
 - **National catalogue**

- Calculated **when** ?
 - **At every point time or**;
 - **On average over a pre-determined period**

Exemption for low audience and low turnover (1/2)

■ Low turnover

Threshold of annual turnover

< EUR 2 million

Determination of the turnover

- Recommendation 2003/361/EC concerning the definition of micro, small and medium sized enterprises
- Size of the audiovisual market (< 1% of the overall revenue)

Determination of low audience for VOD (2/2)

- **SVOD** ➤ active paying subscribers
- **TVOD** ➤ unique customers/unique accounts
- **AVOD** ➤ unique visitors






Calculation

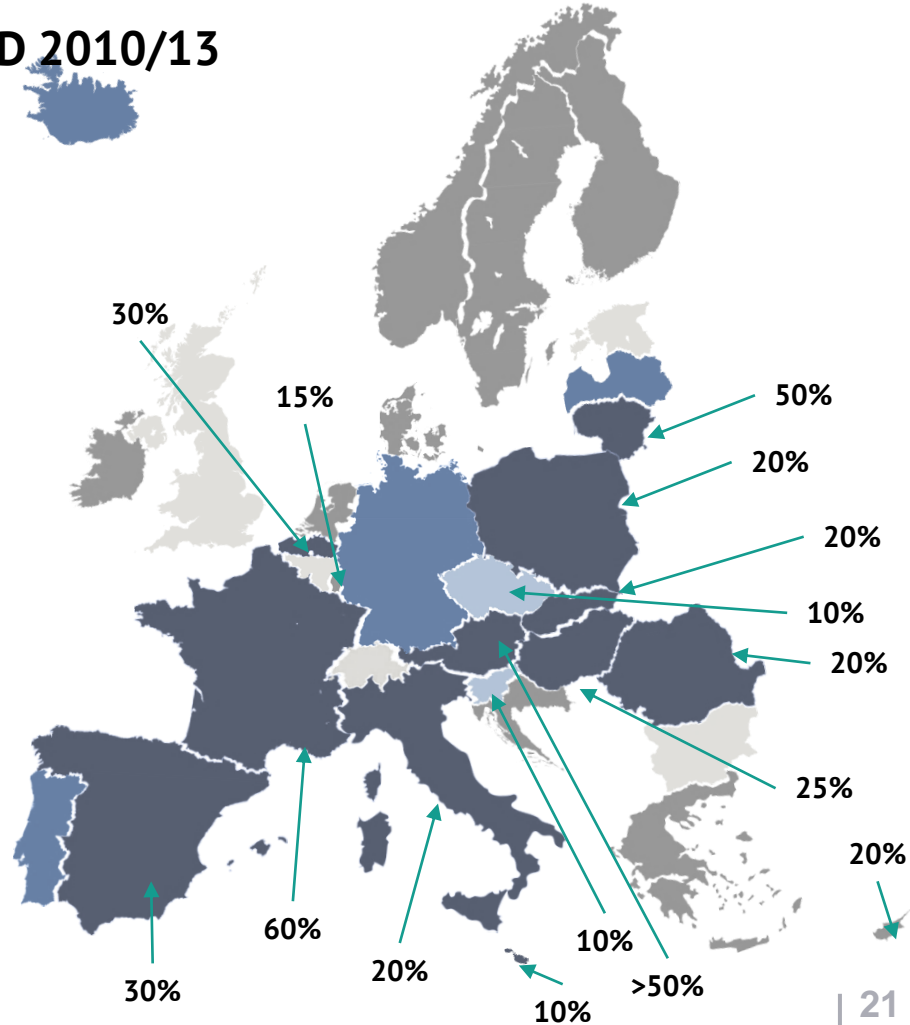
Share: $\text{Nbr of user} / \text{Total nbr of users of similar VOD services} \times 100$

Threshold: Less than 1% in a given Member State

D 2010/13

Quota obligation on VOD services





-  **Mandatory with a specified quota**
-  **Mand. without a specified quota**
-  **Optional (or investment)**
-  **General obligation**
-  **No obligation**

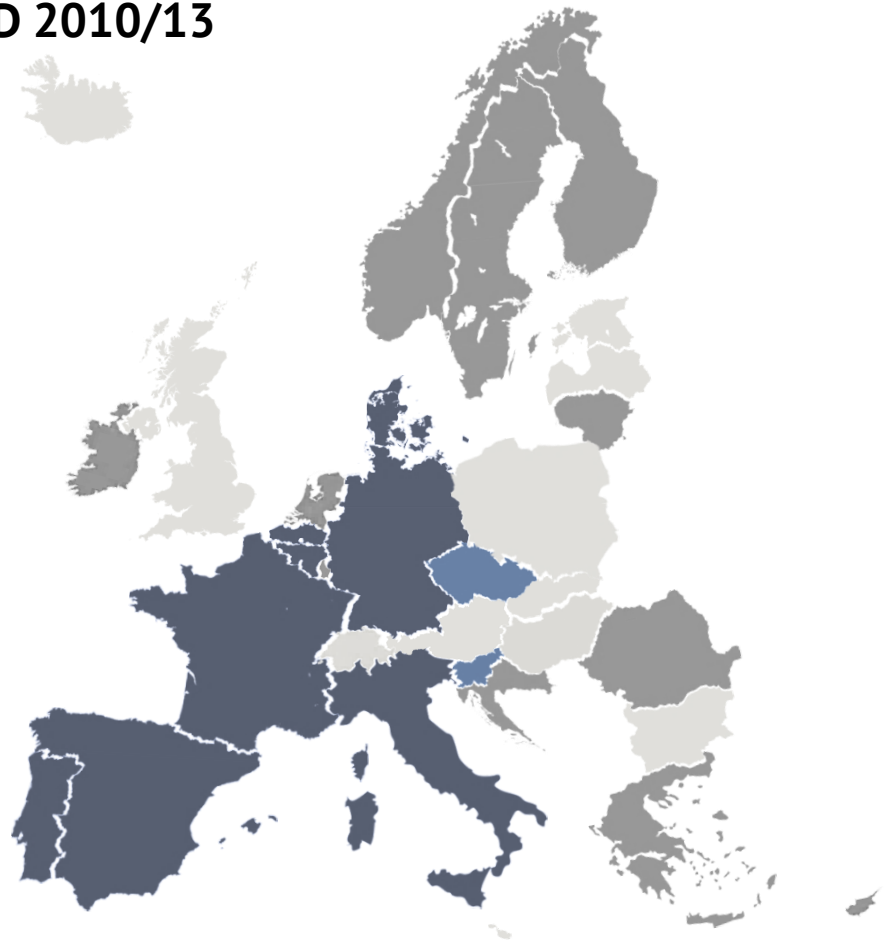


State of implementation of the AVMSD 2010/13

Level of financial investment by public VOD services in European works

Direct contribution to production or acquisition of rights

-  **Mandatory Investment**
-  **Optional (or quota)**
-  **General obligation**
-  **No obligation**

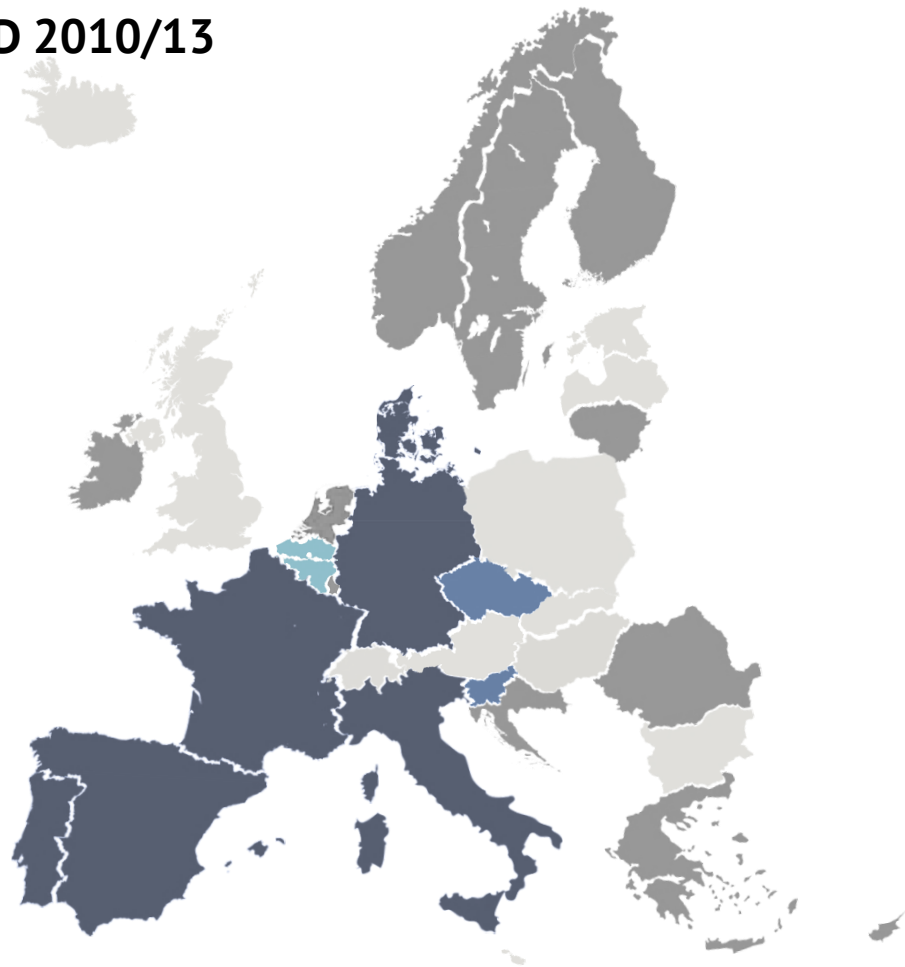


State of implementation of the AVMSD 2010/13

Level of financial investment by private VOD services in European works

Direct contribution to production or acquisition of rights




-  **Mandatory Investment**
-  **Optional (or quota)**
-  **Optional (or levy)**
-  **General obligation**
-  **No obligation**

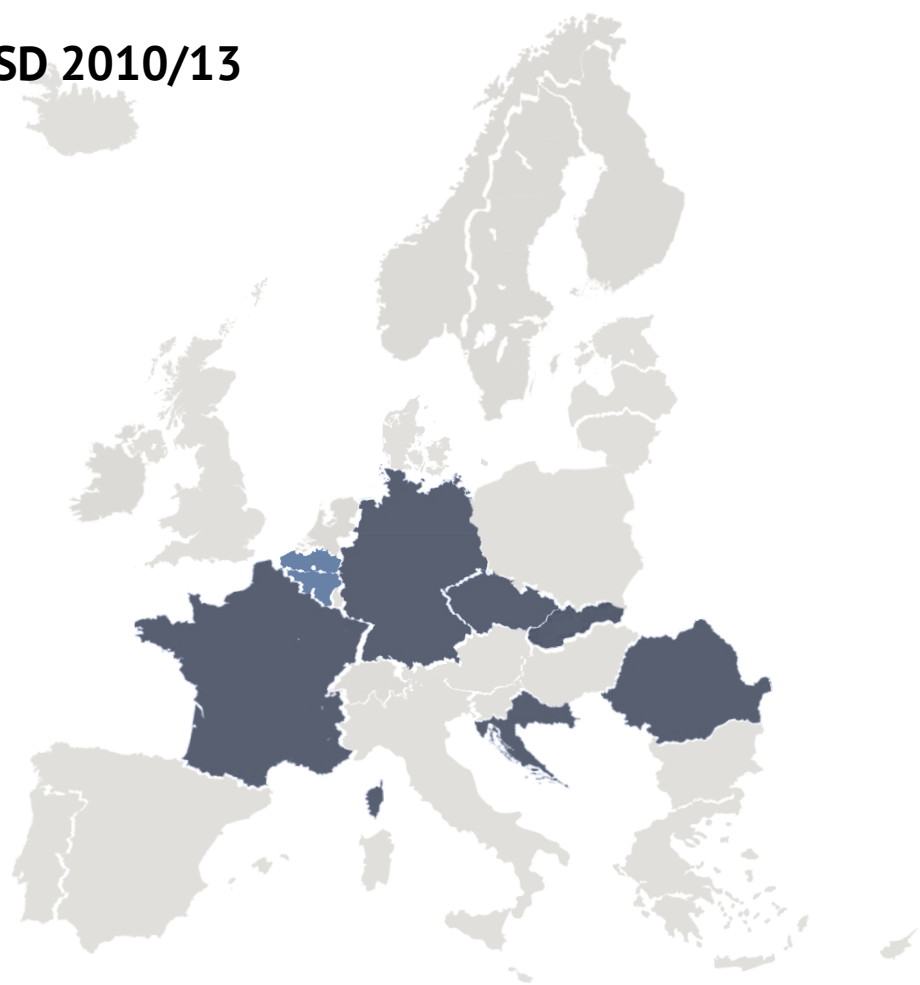


State of implementation of the AVMSD 2010/13

Levies on VOD services

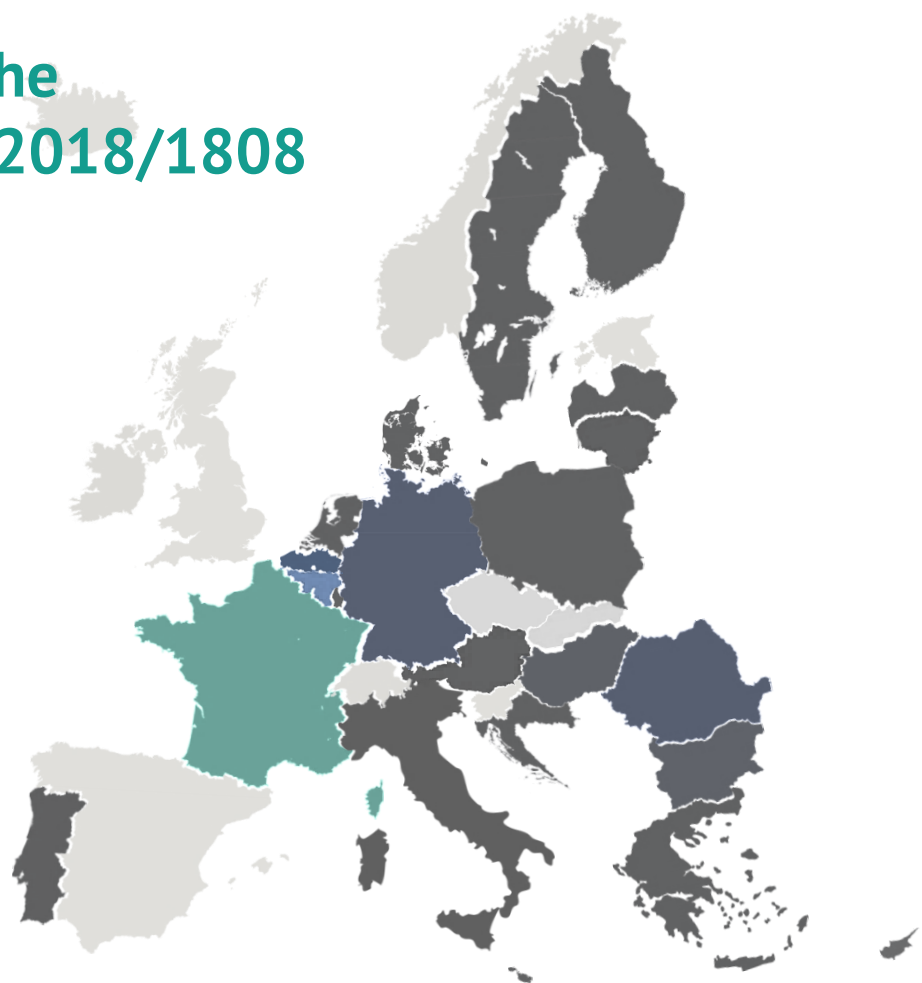
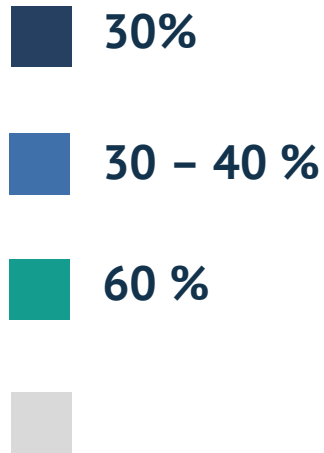
*Indirect contribution to production
or acquisition of rights*

-  **Mandatory (both public and private)**
-  **Optional (or investment for private)**
-  **No obligation**



Current state of the art of the implementation of AVMSD 2018/1808

Quota obligation on VOD services



Current state of the art of the implementation of AVMSD 2018/1808

Financial investment obligation on VOD services

Including non-domestic targeted services



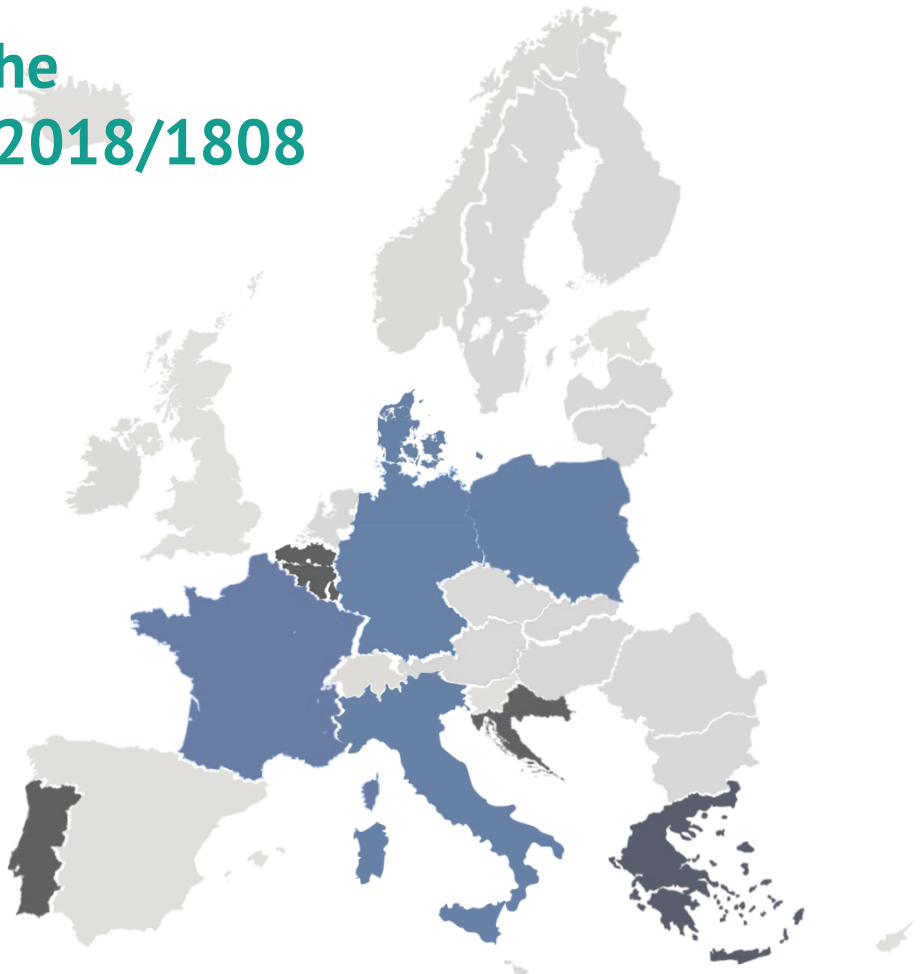
Mandatory



Pre-existing obligation (prior to AVMSD 2018)



No specific obligation



Next steps

- Reporting 2 years after the implementation and then every 3 years
- Evaluation 19 December 2026

Thank you!

For any queries:
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European Audiovisual Observatory
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