



Promoting European films: a multifaceted strategy

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The WHY & The HOW

WHY?

The role of audiovisual works

AV works play an important role in **shaping European identities**.

- are **economic goods**, offering important opportunities for the creation of **wealth and employment**
- are also **cultural goods** which mirror and shape our societies.

The specificities of films

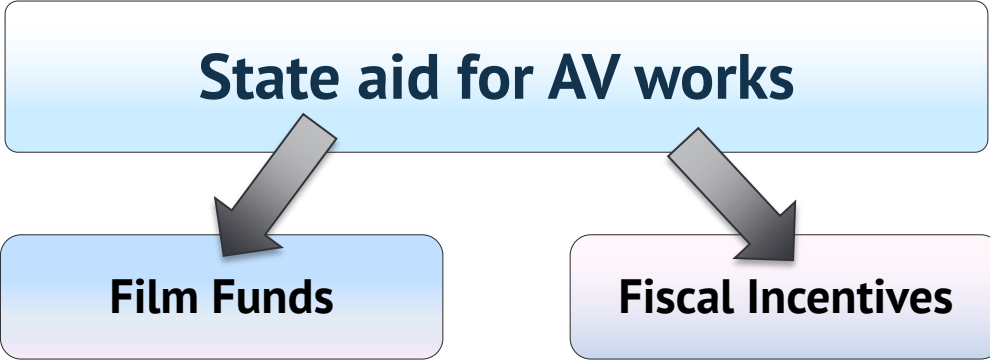
Among AV works, films have a particular **prominence**:

- production **budgets are substantially higher** than for other audiovisual content
- are more frequently the **subject of international co-production**
- The duration of their **exploitation life is longer.**

The problems faced by films

- films in particular face **strong competition from outside Europe.**
- there is **little circulation** of European audiovisual works **outside their country of origin.**
- this limited circulation results from the **fragmentation of the European audiovisual sector** into national or even regional markets.

HOW?



Legal obligations > TV & VoD

State aid

is important to sustain European audiovisual production:

- high **investment** required
- **limited audience** for European audiovisual works.

**...but there are
rules to respect**

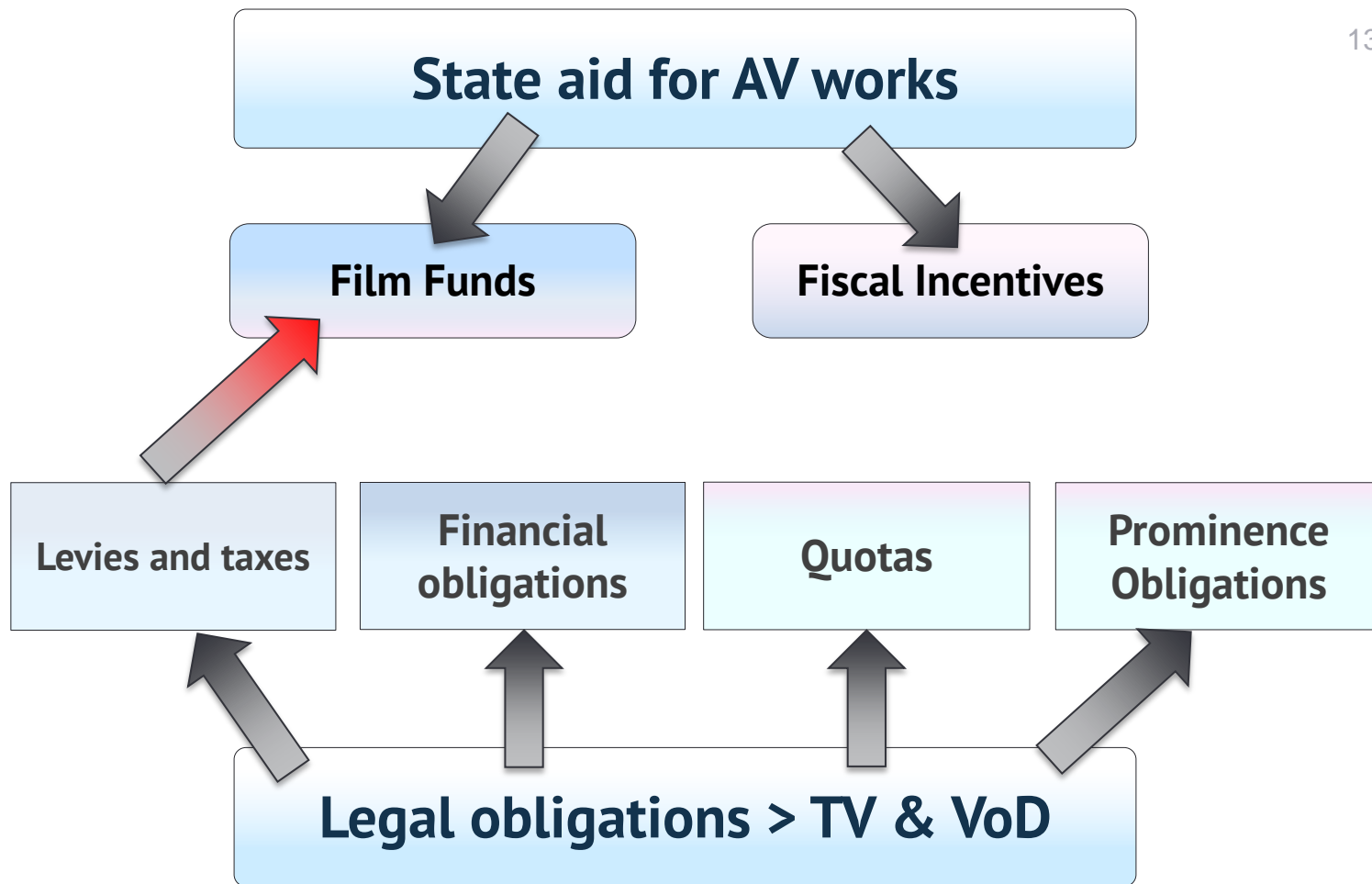
State aid

- **limited to 50%** of the production budget (with exceptions)
- MS may require that **160% of the aid** amount granted is **spent in their territory**.
- MS may also require that a minimum level of **production activity is carried out in their territory**. (up to **50%** of the production budget).
- **no territorial spending obligation** can ever **exceed 80%** of the production budget.

**...and is not
enough**

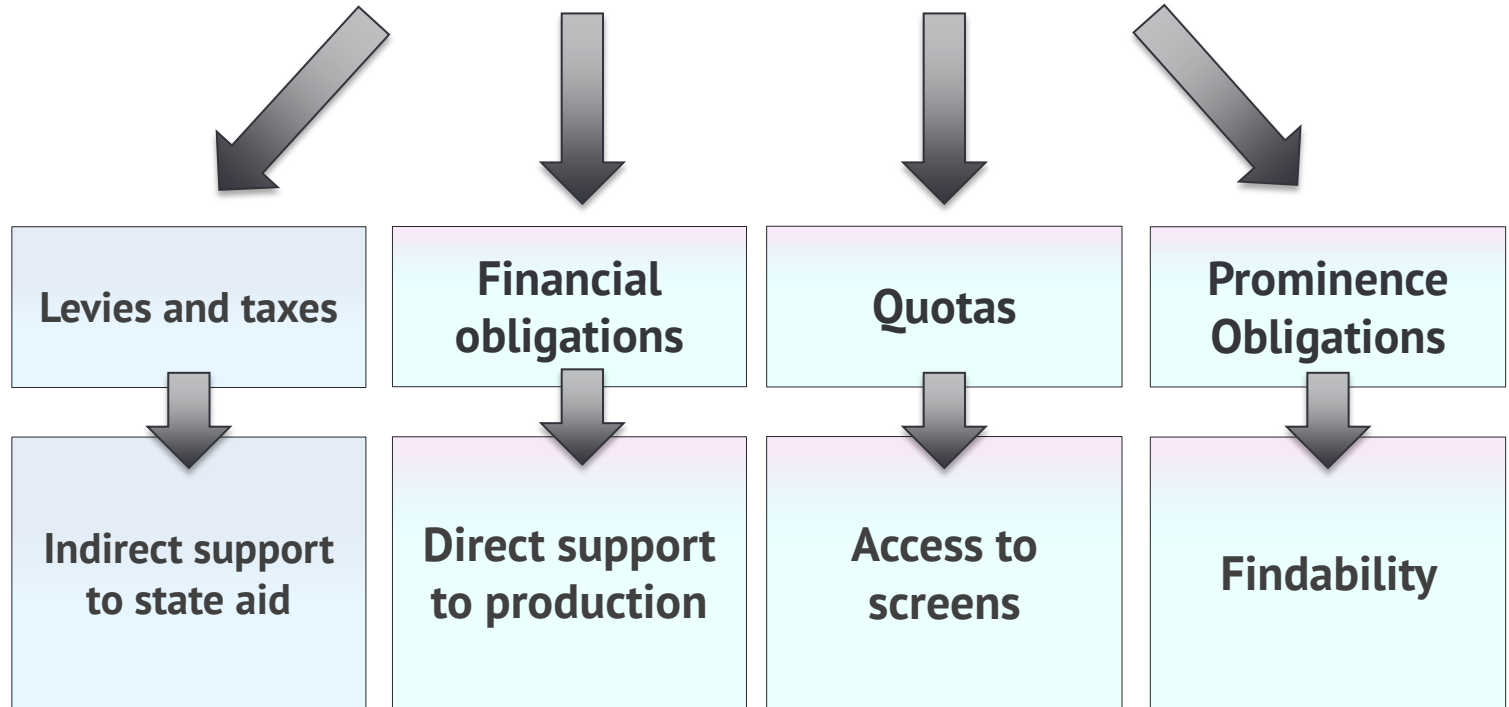
State aid is not enough...

- limited by **budgetary constraints** and by **competition law** at EU level.
- ...and **what is the point** of getting your **film financed** if you **do not manage to get it shown to an audience?**



...but WHY?

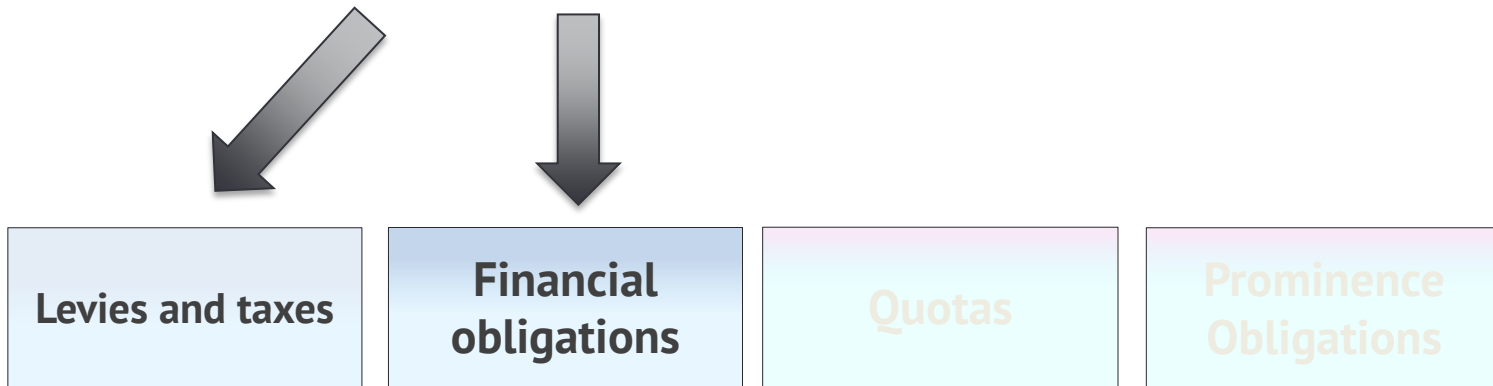
Legal obligations > TV & VoD



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 – data will be available early 2019



Contribution to film funds by VOD services (first overview)

-  Obligation
-  No obligation



Legal obligations > TV & VoD



Levies and taxes

**Financial
obligations**

Quotas

Prominence
Obligations

The Audiovisual Media Services Directive ²³

Broadcasters (Art. 17 AVMSD)



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

VOD services (Art. 13 AVMSD)



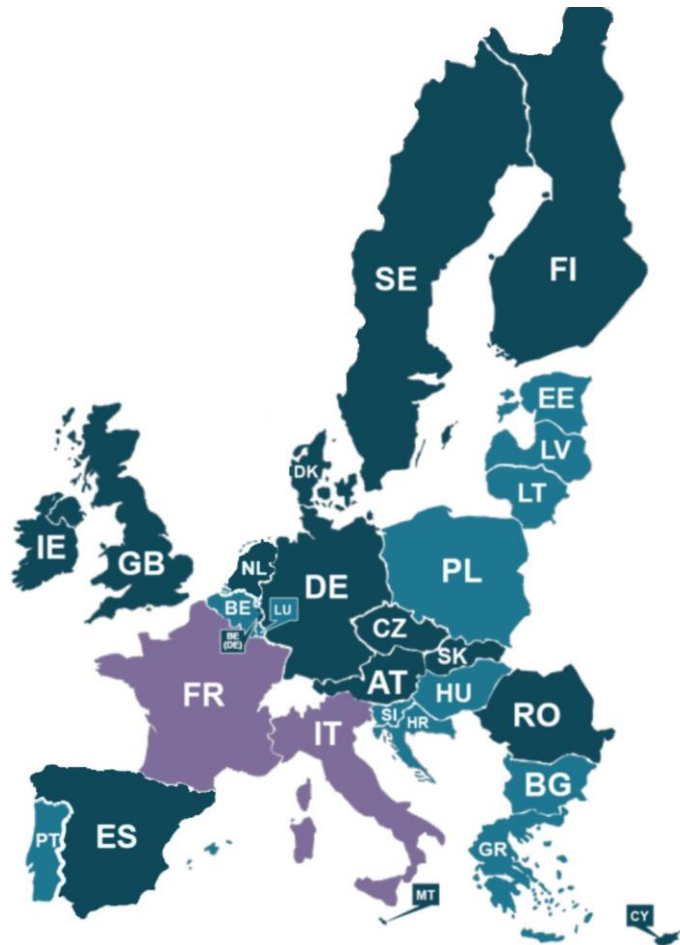
- **Financial contribution / Rights acquisition of EU works**
- Share in catalogues AND/OR
- Prominence obligations

Art. 17 AVMSD

Support to independent European AV works

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

* (AND) DE, ES, NL

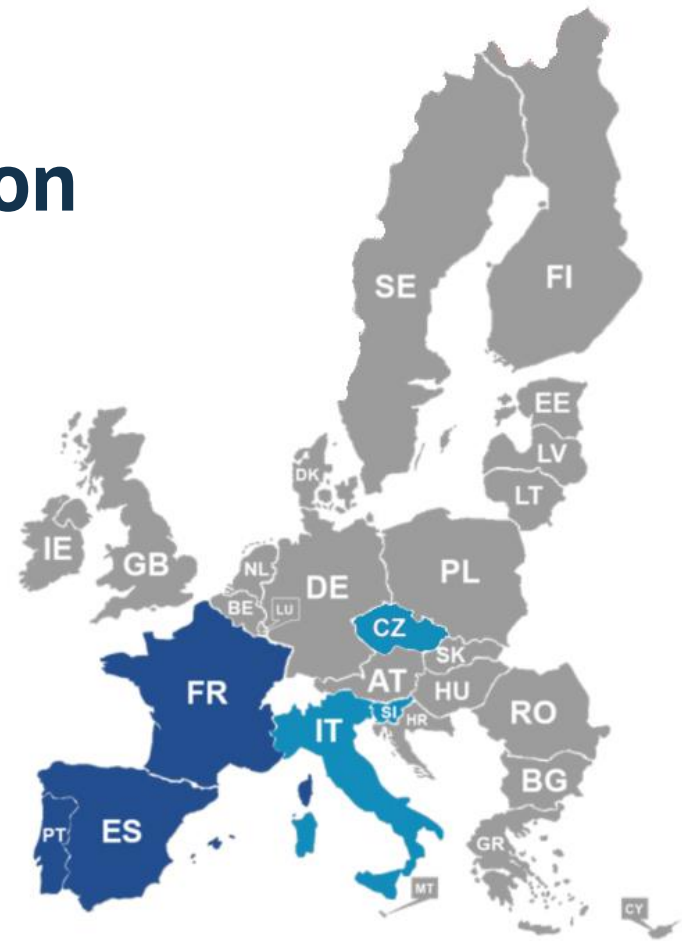


Art. 13 AVMSD

financial obligations on VOD services

Direct contribution to production or acquisition of rights

-  No obligation
-  Mandatory
-  Optional



Source: European Audiovisual Observatory's AVMSDatabase

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

 >50% (as in AVMSD)

 60%

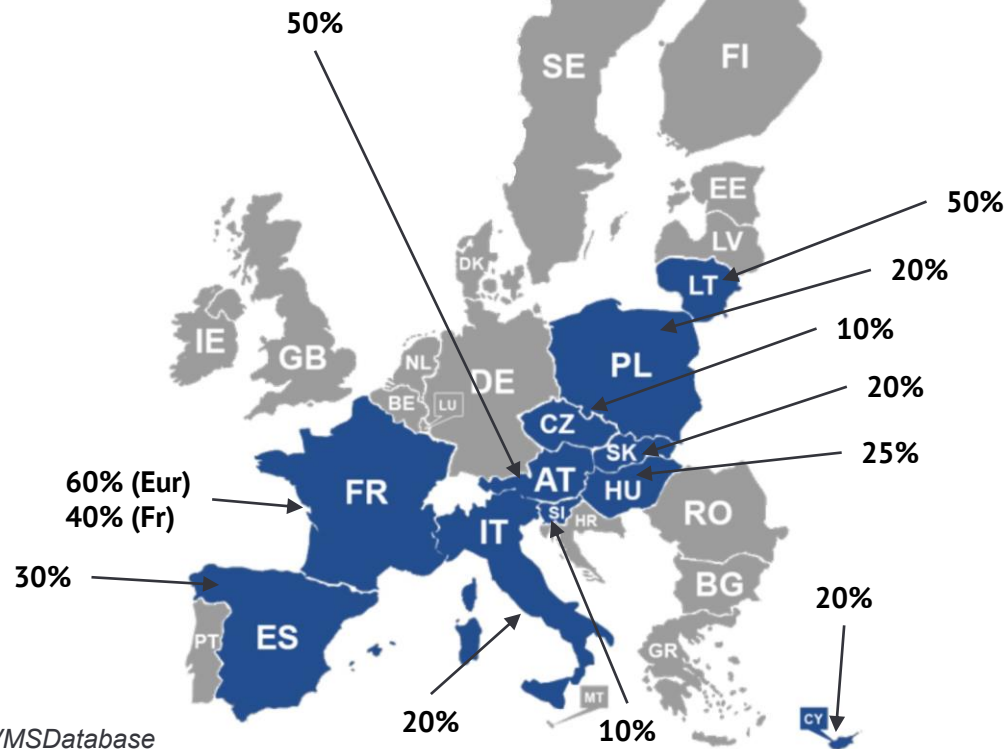


Art. 13 AVMSD

Share of European works in the catalogues

■ Minimum quota

■ No fixed quota



Source: European Audiovisual Observatory's AVMSDatabase

Legal obligations > TV & VoD



The Audiovisual Media Service Directive

VOD services (Art. 13 AVMSD)

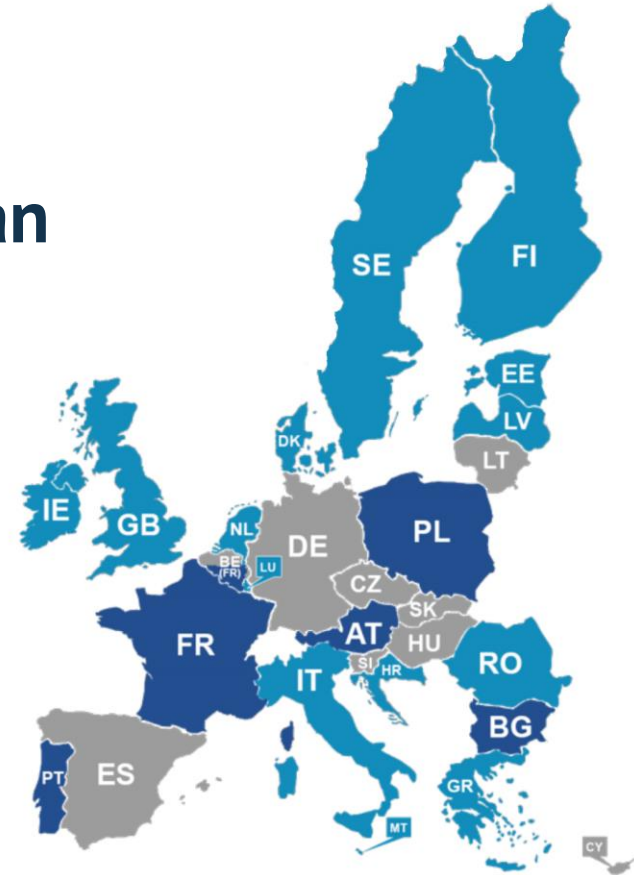
- Financial contribution / Rights acquisition of European works
- Share in VOD catalogues, and/or
- **Prominence of EU works in VOD catalogues**



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



Source: European Audiovisual Observatory's AVMSDatabase

Conclusion

- **Is there one model of audiovisual ecosystem in Europe to promote European works?**

- **NO**
 - EU member states have put in place many different approaches and formulas to support European works, based on the flexibility and alternatives offered in the AVMSD.

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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