

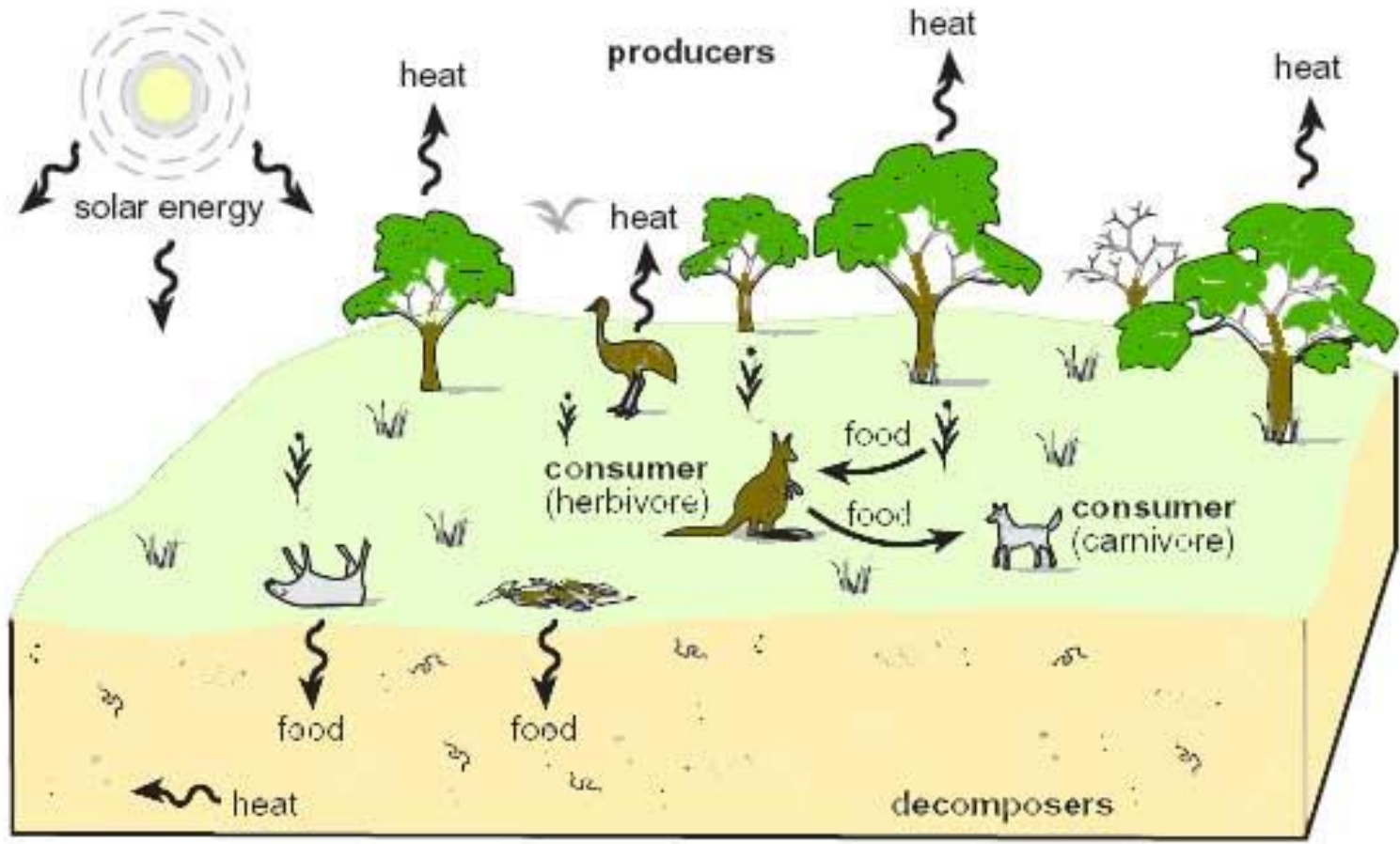


The Promotion of European Works in the EU

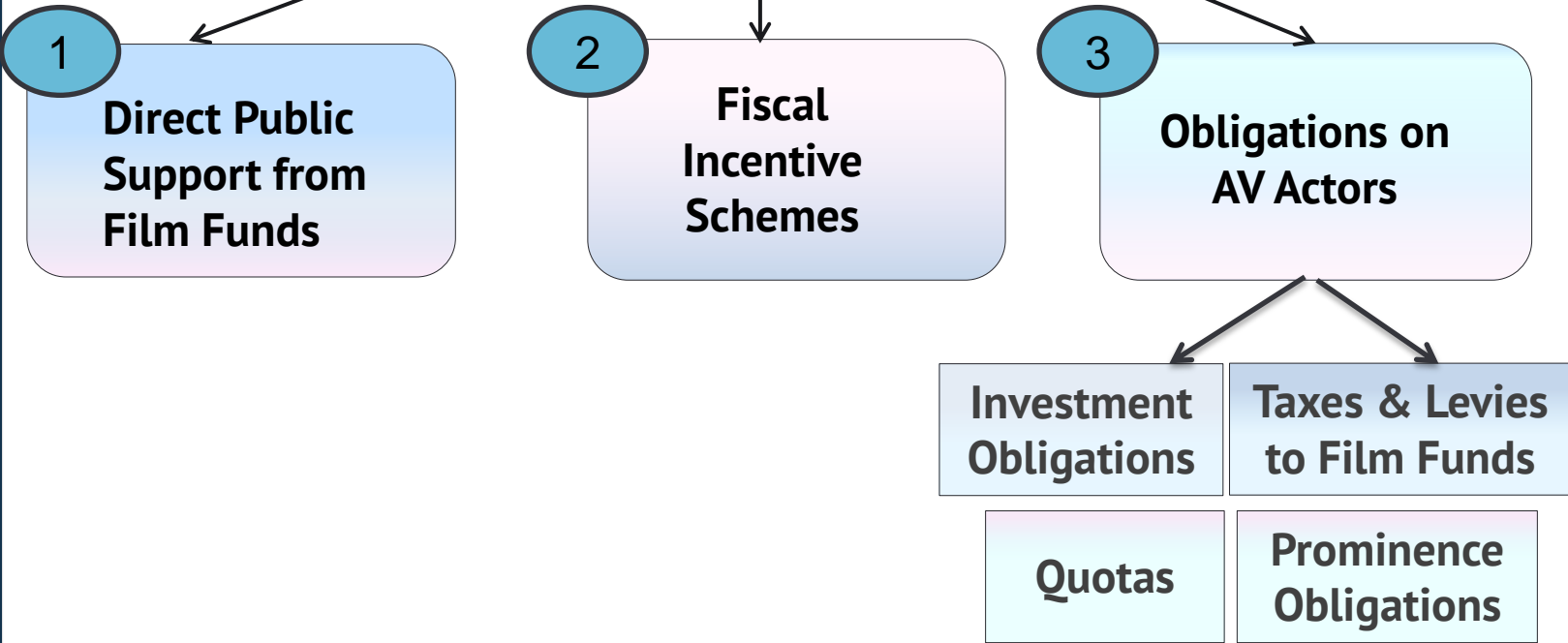
EFAD – ERGA Workshop, “The New AVMS in Practice”,
Cannes, 13 May 2018

Ms Sophie Valais
European Audiovisual Observatory





The Audiovisual Ecosystem



Overview

1. **Investment Obligations**
2. **Taxes and Levies to Film Funds**
3. **Quotas**
4. **Prominence Obligations**

Overview

- 1. Investment Obligations**
2. Taxes and Levies to Film Funds
3. Quotas
4. Prominence Obligations

Types of Mandatory Investment Obligations⁵

- **« Direct » investment obligations**
 - Pre-acquisition and/or coproduction by broadcasters and VOD services into (independent EU) works
- **« Indirect » investment 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, programs..)

The Audiovisual Media Service Directive

Broadcasters (Art. 17 AVMSD)



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

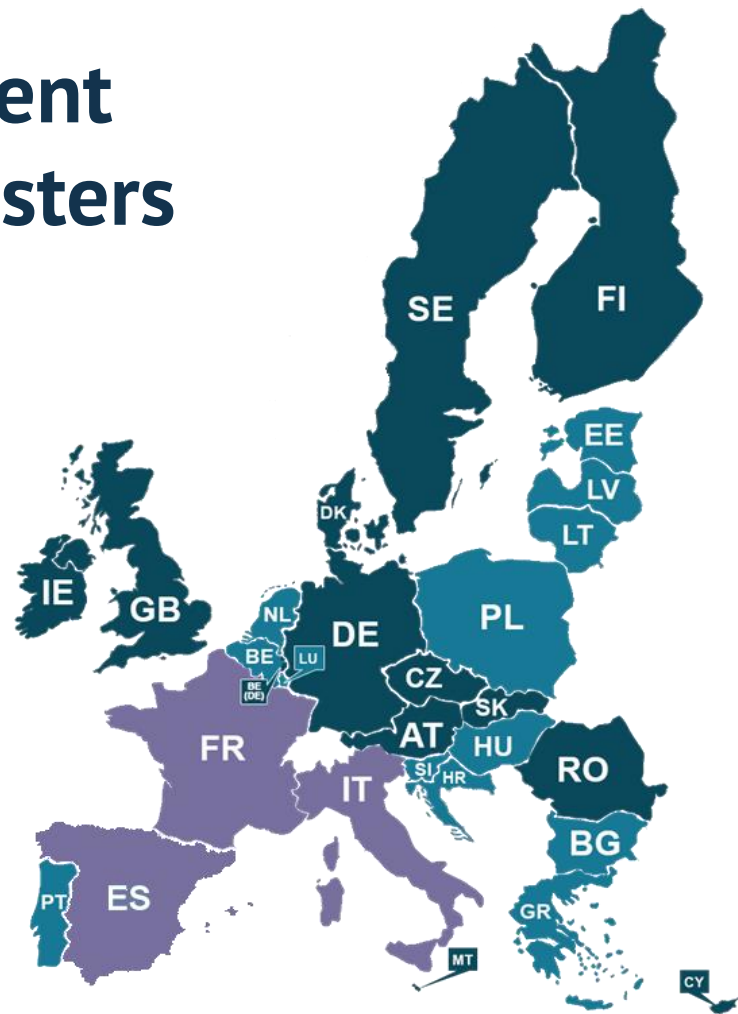
VOD services (Art. 13 AVMSD)



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

Support to Independent EU Works by Broadcasters (Art. 17 AVMSD)

- Transmission time
- Transmission time or
Financial contribution
- Financial contribution



Source: European Audiovisual Observatory's AVMSDatabase

Mandatory Financial Contribution by Broadcasters (Art. 17 AVMSD and beyond)

■ France

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



■ Italy

At least 12% (15% for PSB) of net annual revenue to EU works of independent producers



■ Spain

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



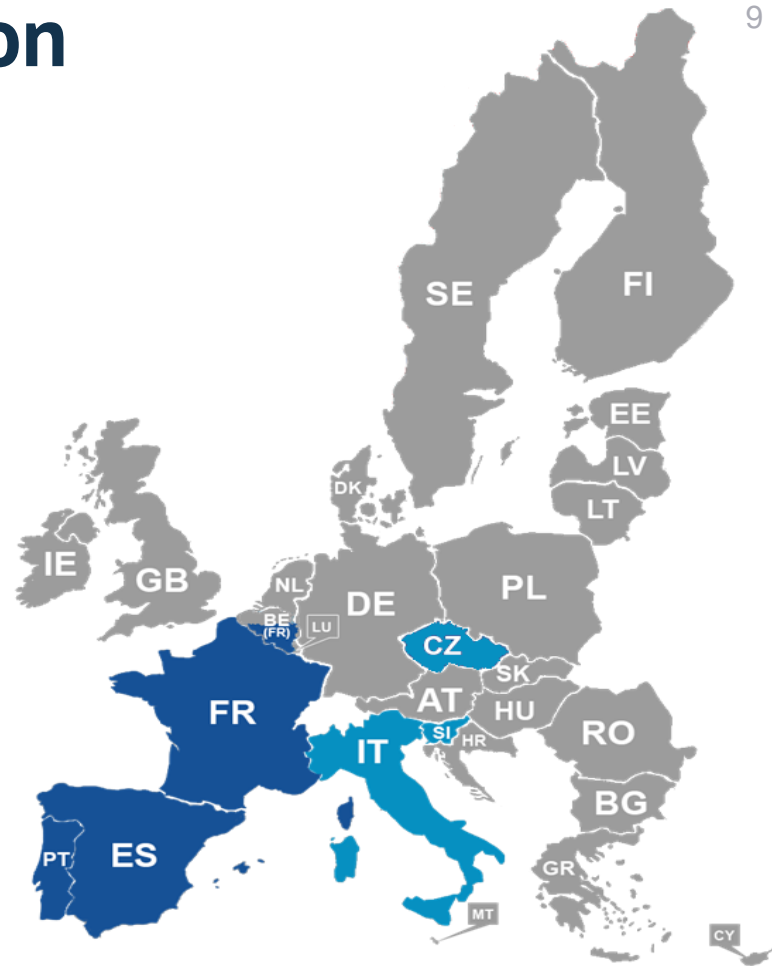
Financial Obligation on VOD Services (Art. 13 AVMSD)

**Direct contribution to production
or acquisition of rights**

 **No obligation**

 **Mandatory**

 **Optional**



Source: European Audiovisual Observatory's AVMSDatabase

Mandatory Financial Contribution by VOD¹⁰

Services (Art. 13 AVMSD)

- **France**

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



- **Spain**

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



- **Portugal**

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



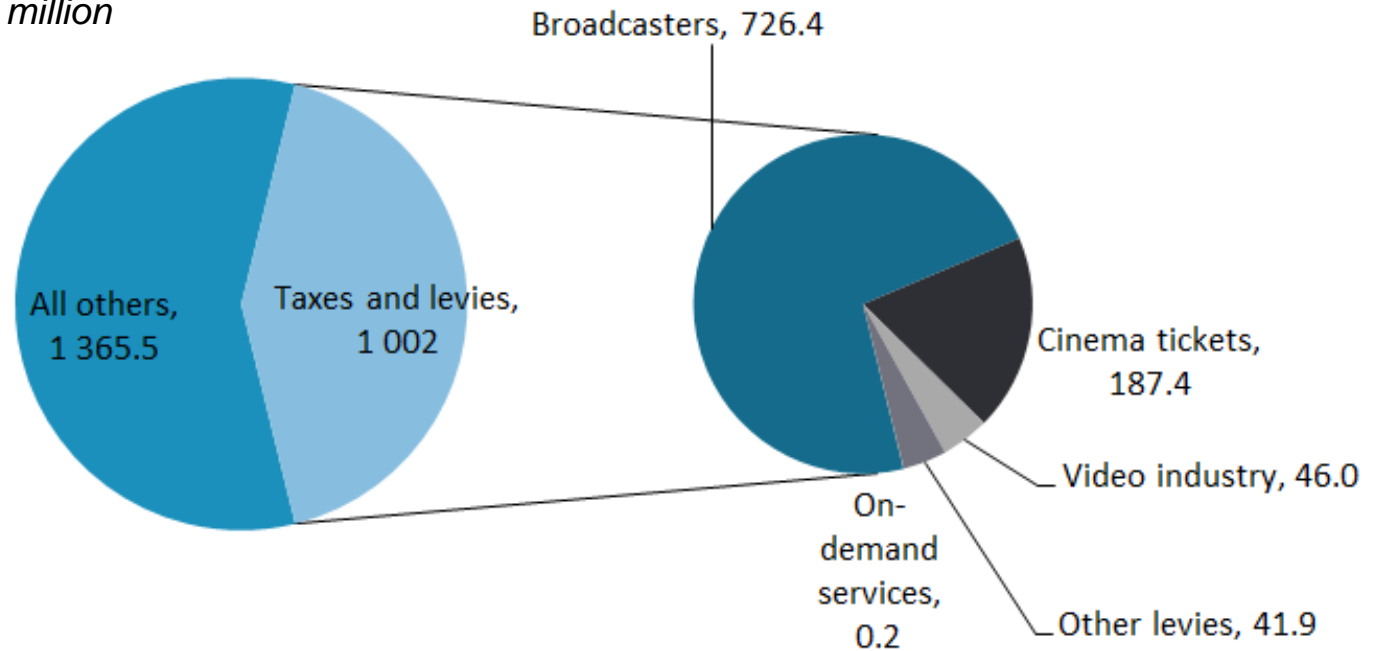
Overview

1. Investment Obligations
- 2. Taxes and Levies to Film Funds**
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Taxes and Levies Account for 42% of the Film Funds Income

Yearly average income through taxes and levies, 2010-2014

In Euro million

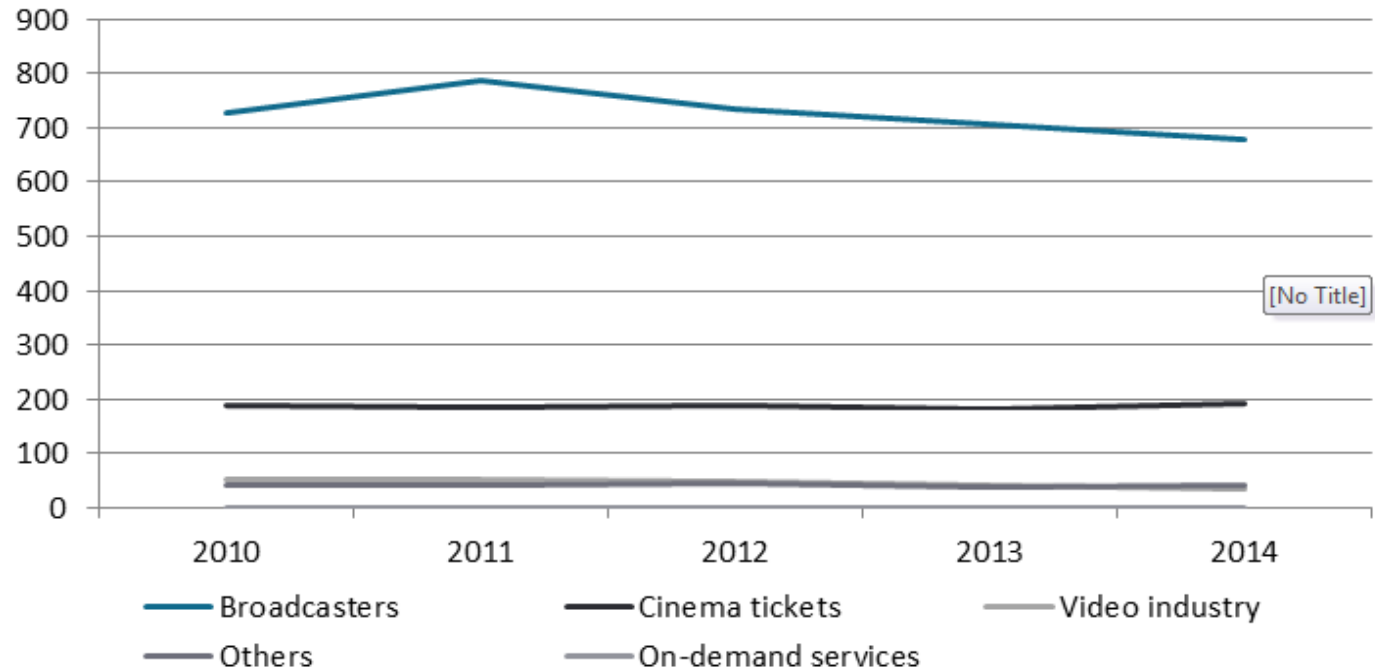


Source: European Audiovisual Observatory

Income from Levy on Broadcasters Down ¹³

Evolution of taxes and levies by type, 2010-2014

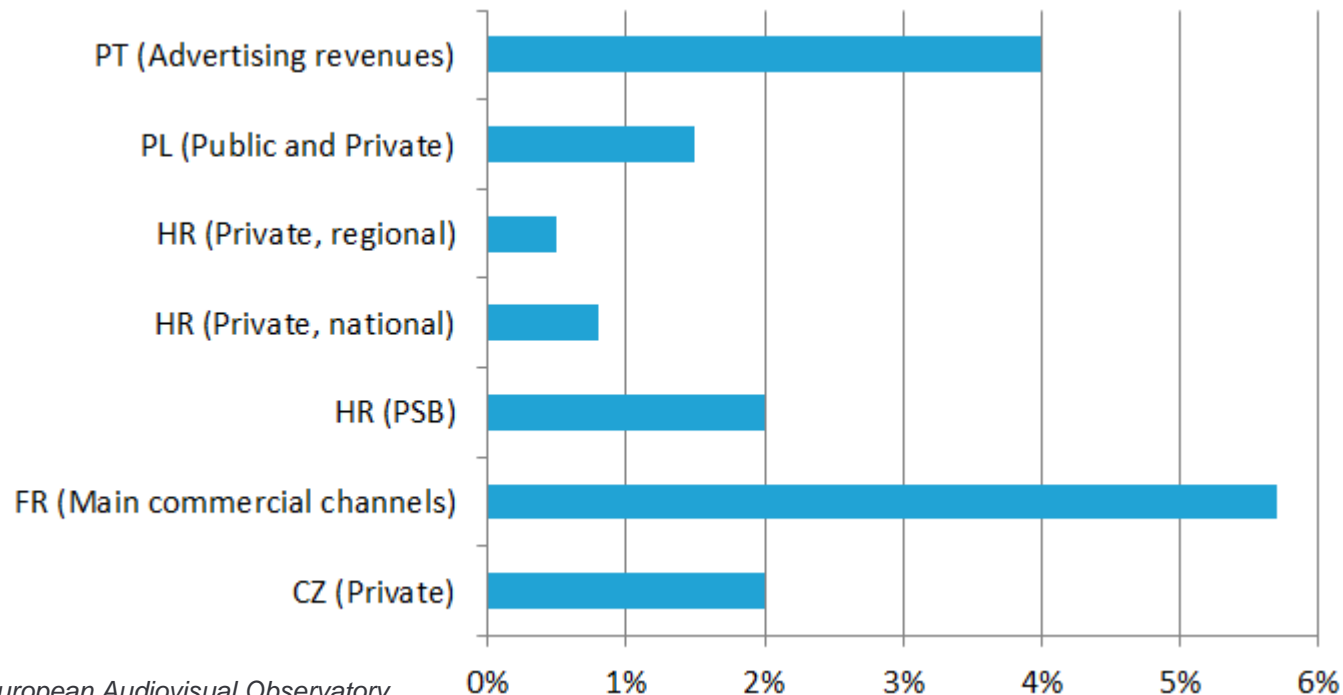
In Euro million



Source: European Audiovisual Observatory

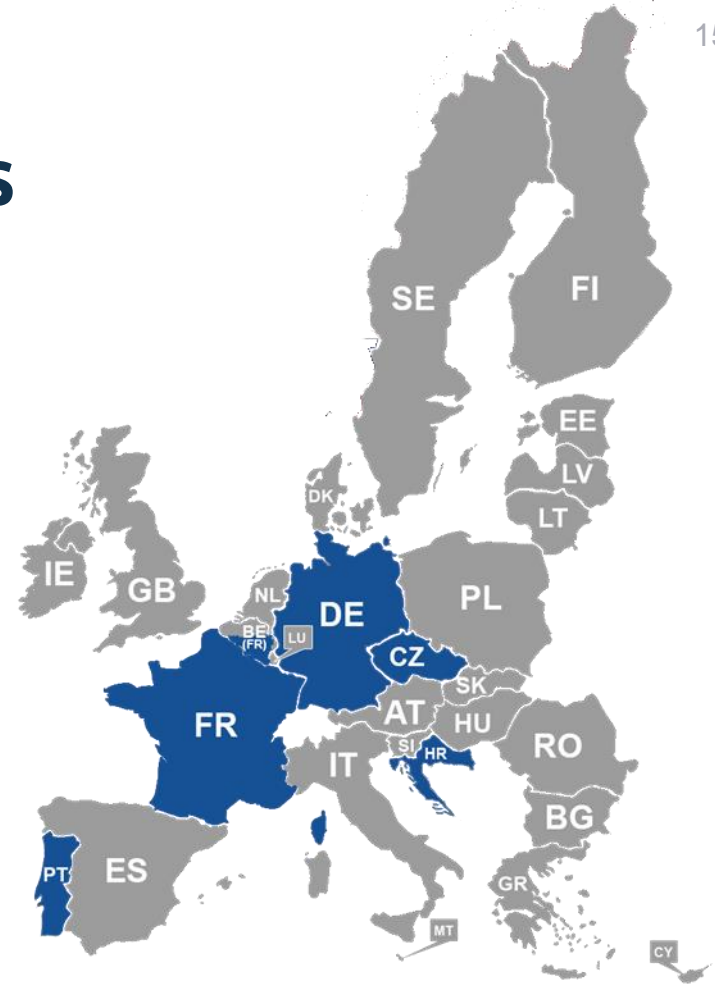
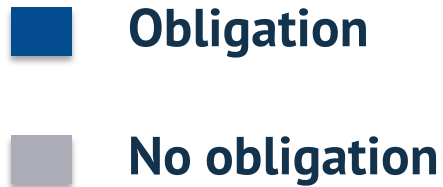
Heterogeneity of Levies on Broadcasters

Examples of rates applicable to broadcasters' revenues for the financing of film and audiovisual funds



Source: European Audiovisual Observatory

Contribution to Film Funds by VOD Services



Source: European Audiovisual Observatory's AVMSDatabase

Contribution to Film Funds by VOD Services¹⁶

- **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).

Overview

1. Investment Obligations
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The Audiovisual Media Service Directive

Broadcasters (Art. 16 AVMSD)



- **of transmission time to EU works**

VOD services (Art. 13 AVMSD)

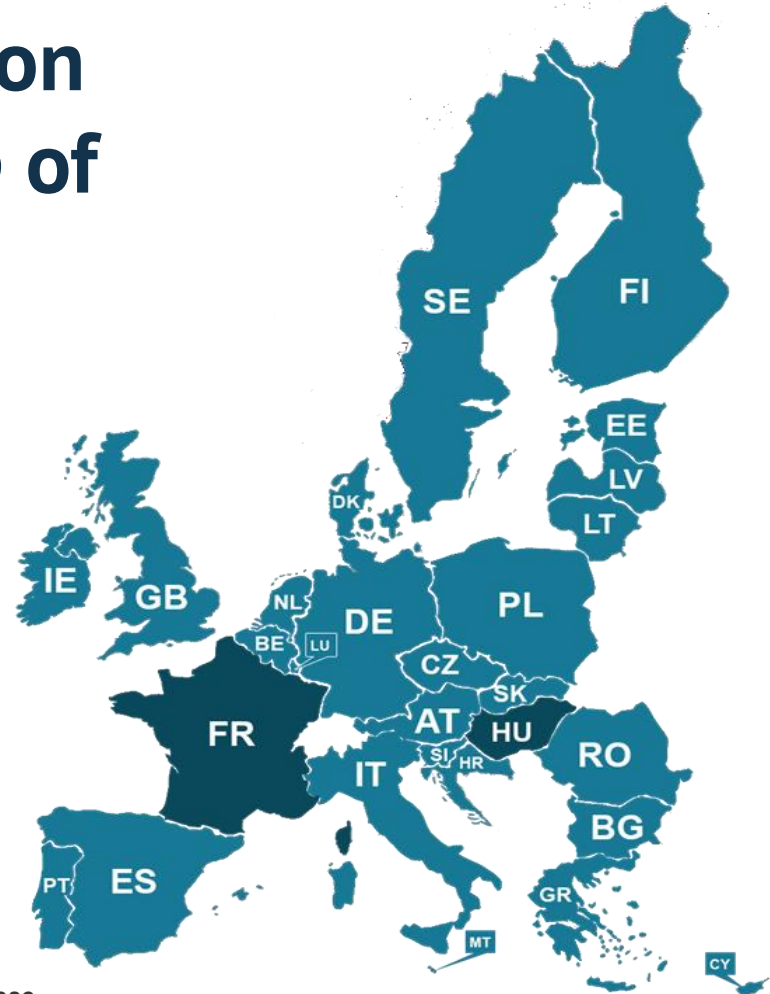


- **Financial contribution/rights acquisition of EU works**
- **Share in catalogues and/or**
- **Prominence obligations**

Minimum Proportion Broadcasting Time of EU Works (Art. 16 AVMSD)

 >50% (as in AVMSD)

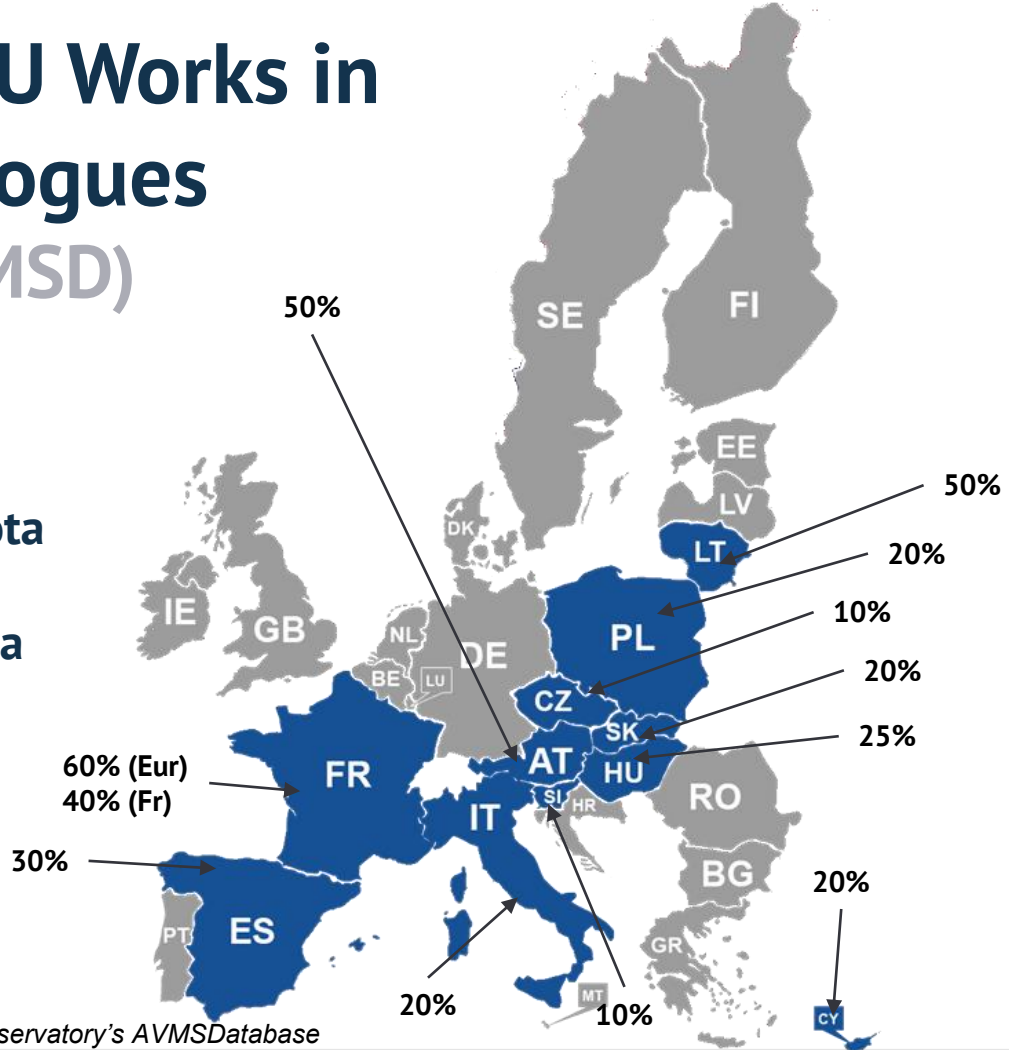
 60%



Source: European Audiovisual Observatory's AVMSDatabase

Share of EU Works in VOD Catalogues (Art. 13 AVMSD)

- Minimum quota
- No fixed quota



Source: European Audiovisual Observatory's AVMSDatabase

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The Audiovisual Media Service Directive

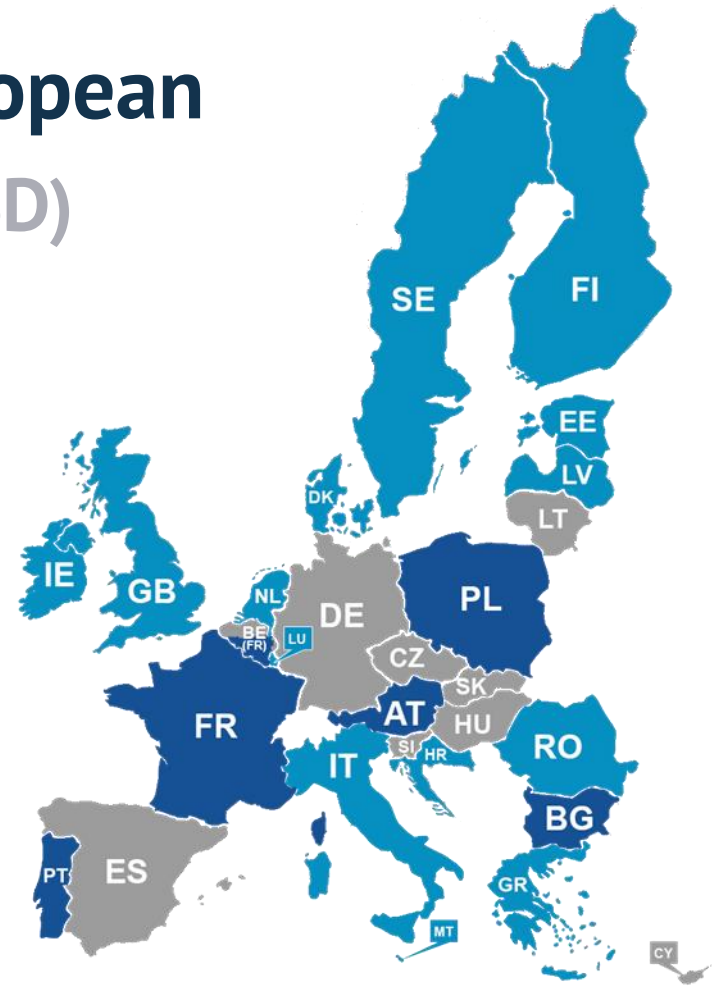
VOD services (Art. 13 AVMSD)

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



Prominence of European Works (Art. 13 AVMSD)

-  Mandatory
-  Optional
-  No obligation



Source: European Audiovisual Observatory's AVMSDatabase

Means to Ensure Prominence (Art. 13)



Origin of works in catalogues/
search tools for EU works/
promotional material

Emphasis and
attractive presentation

Emphasis in catalogues

Visuals and trailers

Emphasis and attractive
presentation

Search tools by
country of origin



Source: European Audiovisual Observatory's AVMSDatabase

Available Information...

- 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:
 - AVMS Database: National transposition of the AVMS Directive
 - MERLIN Databas and Legal Newsletter

Thank You!

For any queries:
sophie.valais@coe.int



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

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