[NL] New Bill requiring major streaming platforms to invest in Dutch productions

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On 18 July 2022, the State Secretary for Culture and Media (Staatssecretaris Cultuur en Media) introduced a new Bill to the Lower House of Parliament (*Tweede Kamer*), which will amend the Media Act (*Mediawet*) 2008, and impose an obligation on major streaming platforms to invest in Dutch audiovisual productions. The State Secretary also announced in a Letter to Parliament a series of new measures to strengthen the Dutch audiovisual sector.

Crucially, a new Article 3.29e will be inserted into the Media Act, requiring providers of on-demand audiovisual media services to invest in Dutch audiovisual productions, which will amount to 4.5% of a provider's annual turnover. The obligation will also apply to providers under the jurisdiction of another EU member state and provide an on-demand service that is "wholly or partly aimed" at the public in the Netherlands. The investment obligation only applies to providers of on-demand services with a turnover of EUR 30 million per year which is generated in the Netherlands, including from advertising, subscriptions, user transactions, sponsorship, and product placement. The Media Authority (*Commissariaat voor de Media -CvdM*) may grant an exemption where it would be unjustified in view of the nature of the media service concerned.

Further, a new Article 3.29f defines a Dutch audiovisual production as a documentary film, documentary series, drama series or feature film, which meets at least two of the following conditions: (a) the original screenplay is predominantly written in the Dutch or Frisian language; (b) the main characters express themselves predominantly in the Dutch or Frisian language; (c) the screenplay is based on an original literary work in the Dutch or Frisian language; or (d) the main theme is related to Dutch culture, history, society or politics. Importantly, a new Article 3.29g sets out the types of required investments, including (a) investment in Dutch productions or co-productions; (b) acquisition of an exploitation license in respect of an unfinished Dutch production; or (c) the acquisition of an operating license in respect of a Dutch production that is not older than four years at the time of acquisition. Finally, part of the investment should benefit independent producers to ensure a diverse range.

In addition to the Bill, the State Secretary is making EUR 11.5 million available for the so-called Netherlands Film Production Incentive High-end series, an arrangement of the Netherlands Film Fund (*Nederlands Filmfonds*) for series that

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are relatively expensive to produce; and a further EUR 5 million to cover independent productions that are not financed by the Film Fund. While there will be an investment of EUR 1 million so that 18 Dutch feature films can be seen on public broadcasting earlier and longer; and EUR 6 million made available to movie theaters to replace digital projectors.

Staatssecretaris Cultuur en Media, "Grote streamingdiensten moeten meer investeren in Nederlandse producties", 18 juli 2022

https://www.rijksoverheid.nl/regering/bewindspersonen/gunay-uslu/nieuws/2022/07/18/grote-streamingdiensten-moeten-meer-investeren-in-nederlandse-producties

State Secretary for Culture and Media, "Major streaming services must invest more in Dutch productions", 18 July 2022

Voorstel van wet tot wijziging van de Mediawet 2008 in verband met het invoeren van een investeringsverplichting ten behoeve van Nederlands cultureel audiovisueel product, 15 juli 2022

https://www.rijksoverheid.nl/regering/bewindspersonen/gunay-uslu/documenten/kamerstukken/2022/07/15/wetsvoorstel-wijziging-mediawet-2008

Bill to amend the Media Act 2008 in connection with the introduction of an investment obligation for the benefit of the Dutch cultural audiovisual product, 15 July 2022

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