

[DK] Draft bill for a Danish Act on Cultural Contribution with 6% revenue payment from VOD services

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The Audiovisual Media Services Directive (AVMSD) provides the basis for EU member states' efforts to ensure that media services in their jurisdictions contribute to equality and accessibility. Thus, the AVMSD allows a member state to impose financial obligations on media service providers (linear and non-linear) established in both their territory and in other member states that target its territory.

The European Audiovisual Observatory's May 2022 report "Investing in European works: the obligations on VOD providers" describes the rules concerning financial obligations on VOD services in the EU and includes, among other things, the status of EU member states' introduction of this kind of obligation.

On 15 August 2022, the Danish Ministry of Culture published for hearing a draft bill for a Danish Act on Cultural Contribution with a deadline of 12 September 2022 to submit responses.

According to the draft, providers of on-demand audiovisual media services must pay 6% of their turnover in Denmark stemming from on-demand services to the Danish state. The payment will be divided equally between two pools: A public service pool, and a pool for Danish film funding - to which applicants may apply for funding.

The obligation to pay is imposed on all on-demand media service providers established in Denmark or in other EU member states provided the on-demand media service is directed towards a Danish audience. Only on-demand content is encompassed, and in the case of mixed services, the contribution relates only to the on-demand content; not the linear content which includes integrated catch up as part of the linear service. Only on-demand media services with a annual turnover of more than DKK 15 million (EUR 2 million) are included.

The on-demand media services offered by DR and the regional TV 2 stations are exempt from these payments. These public service companies' special obligations to produce content in the Danish language are regarded as making an obligation on them to pay the cultural contribution unjustified, cf. AVMSD Article 13(6). On-demand media services from public service broadcasters in other EU member states are not exempt.

According to the draft, media service providers included by the Act on Cultural Contribution must report their Danish turnover (confirmed by a statement from an independent auditor), to the Agency for Culture and Palaces (which is under the Danish Ministry of Culture) on an annual basis, for the agency to decide the turnover liable to contribution and charge the media service provider for the cultural contribution.

It follows from the draft that the Danish Ministry of Culture assesses that the cultural contribution scheme will encompass up to 50 media service providers, whose yearly payment will be about DKK 180 million (EUR 24 million).

The Act is envisaged to enter into force on 1 January 2023, which allows the Agency for Culture and Palaces to charge the cultural contribution for the first time in 2024 on basis of the turnover liable to contribution in Denmark during 2023.

A national election is expected in the autumn and, as such, there are huge uncertainties as to the passing of the bill. Further, the responses from the hearing are currently unknown.

Audiovisual Media Services Directive

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32018L1808>

Forslag til Lov om visse medietjenesterudbyderes bidrag til fremme af dansksproget indhold (Kulturbidragsloven)

<https://hoeringsportalen.dk/Hearing/Details/66689>

Draft bill for a Danish Act on Cultural Contribution and hearing letter

