

[IT] Italy adopts new Regulation on programming and investment obligations in favour of European Works

IRIS 2023-3:1/20

*Ernesto Apa & Eugenio Foco
Portolano Cavallo*

On 14 December 2022, the *Autorità per le Garanzie nelle Comunicazioni* (Italian Communications Authority — AGCOM) adopted the new Regulation on programming and investment obligations in favour of European works and works by independent producers, through Resolution No. 424/22/CONS. The regulation further details the provisions contained in Legislative Decree No. 208/2021 (the AVMS Code).

The programming and investment obligations for linear audiovisual media service providers are set forth, respectively, under Articles 4 and 5 of the Regulation.

Under Article 4 of the Regulation, the programming quotas are applicable only to linear providers subject to Italian jurisdiction. In particular, the latter must reserve more than 50% of their airtime for European works (excluding news, sports events, television games, advertising, teletext and teleshopping). A third of the main quota for European works (i.e., 16.6% of the airtime) must be reserved for audiovisual works of Italian original expression. In addition, the same provision further envisages quotas for minors: 2% of airtime must be devoted to programmes specifically directed towards minors, and 10% to programmes suitable for viewing by minors and adults.

Article 5 of the Regulation devises investment obligations applicable both to linear providers established in Italy, and to linear providers authorised in other EU Member States that make their services available in Italy. Broadcasters must reserve 12.5% of their annual net revenue made in Italy to European works produced by independent producers, of which 50% (i.e., 6.25% of annual net revenues) must be reserved for works of Italian original expression produced anywhere by independent producers in the last 5 years. In addition, Article 5 also envisages a 3.5% quota to be reserved for Italian cinematographic works produced anywhere by independent producers, 75% of which will have to be recent.

Articles 6 and 7 outline, respectively, the programming and investment obligations applicable to on-demand providers.

Under Article 6, non-linear providers subject to Italian jurisdiction must reserve 30% of their catalogue (calculated on the number of titles) to recent European

works, half of which (i.e. 15% of catalogue) must be reserved for works of Italian original expression produced anywhere by independent producers in the last five years.

Under Article 7, non-linear providers (including providers authorised in another Member State who direct their services towards Italy) must reserve progressively 17% (in 2022), 18% (in 2023) and 20% (from 1 January 2024 onwards) of the net annual revenue generated in Italy for the production, co-production, purchase or pre-purchase of European works produced by independent producers. Half of this quota must be reserved for works of Italian original expression produced anywhere by independent producers in the last five years. An additional sub-quota (10% of the main investment quota) must be reserved for cinematographic works of Italian original expression produced anywhere by independent producers in the last five years.

The Regulation also envisages the possibility for all audiovisual media service providers to request exemptions (Article 8) and derogations (Article 9) from the programming and investment obligations set forth above.

AGCOM Delibera n. 424/22/CONS “Regolamento in materia di obblighi di programmazione ed investimento a favore di opere europee e di opere di produttori indipendenti”

<https://www.agcom.it/documents/10179/28826746/Allegato+22-12-2022/946ccb07-0769-4b65-8579-bbde8c4a7662?version=1.0>

AGCOM Resolution No. 424/22/CONS “Regulation on programming and investment obligations for European works and works of independent producers”

