European Commission report on the promotion of European works by audiovisual media services

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On 17th May 2023, the European Commission published its report on the application of Articles 13 (non-linear services), 16 and 17 (linear services) of the AVMS Directive for the period 2015-2019. Since the new rules introduced in 2018 had not yet entered into force at national level in 2019, the report only refers to the obligations under Directive 2010/13/EU. It is accompanied by a Study which addresses the legislative changes affecting linear and non-linear services, the developments in the audiovisual market as well as a content analysis of offers by broadcasting and on-demand services.

Application of Article 13 AVMSD

While the Study estimates that the number of VOD services still gradually increased, standing at 713 in 2015, 847 in 2016, 945 in 2017, 999 in 2018 and 1 030 in 2019, the report however indicates that VOD service markets in individual member states developed at different rates. Divergence was indeed felt in terms of practices, resulting from the flexibility offered by the provisions of Article 13 of the 2010 AVMSD, which did not impose a minimum mandatory proportion of European works and offered member states the freedom to choose the manner in which the promotion of the production of and access to European works should be achieved. Based on the national reports, the average proportion of European works on VOD services nevertheless rose from 45% in 2015 to 54% in 2019. The most widespread promotion tool was the display of European works on the service's homepage, followed by the use of trailers and banners and search functions.

In terms of legislation, the report identifies 13 member states which implemented amendments during the reporting period (the Flemish community in Belgium, Cyprus, Croatia, Denmark, Estonia, Finland, Germany, Greece, Hungary, Iceland, Italy, the Netherlands and Slovakia). It also highlights the adoption of substantive reforms in Belgium, Croatia, Hungary and Italy. Finally, with regard to the monitoring systems, eight member states were found to have introduced legislative changes during the reporting period (the Flemish community in Belgium, Cyprus, Croatia, Estonia, Hungary, Italy, the Netherlands and Slovakia). Only Czechia, Luxembourg and Romania however reported having taken measures to address cases of non-compliance.

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Application of Article 16 and 17 AVMSD

During the reporting period, legislative changes linked to the implementation of Articles 16 and 17 of the 2010 AVMSD took place in 16 member states (Cyprus, Croatia, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Latvia, Iceland, Italy, the Netherlands, Poland, Romania and Slovakia).

Regarding the obligation to broadcast, where practicable, a majority of European works (Article 16 AVMSD), the report shows a stable level of reported European works with a slight increase in 2019 compared to 2015, with Hungary displaying on average the highest percentage of European works (94.4%). But while the average time dedicated to European works exceeded the majority proportion required under Article 16 at a national and European level, a substantial share of channels did not reach the quota in Czechia (40%), Lithuania (38%), Portugal (30%), Bulgaria (29%) and Italy (24%).

As regards the obligation under Article 17 related to the transmission time dedicated to independent productions, the reported average was 42.2% in 2015, 37.7% in 2016, 38.5% in 2017, 38.6% in 2018 and 40.8% in 2019, well above the threshold set in the Directive. Although the transmission time dedicated to independent productions fell between 2015 and 2016, it partially recovered by 2019.

Likewise, the reported average transmission time dedicated to recent independent productions by all reported channels in the EU-27 followed the same curve, with 54.0% in 2015, 52.7% in 2016, 53.7% in 2017, 54.5% in 2018 and 54.6% in 2019. The share of qualifying time scheduled for broadcasting such works ranged from 0.9% (the Netherlands) to 29.1% (Germany).

The majority of member states identified cases of non-compliance with the obligatory proportions set out in Articles 16 and 17. The main reasons cited were:

- The small size of certain channels which have difficulties meeting the quotas because of their low audience share and smaller target audience;

- The format or theme of the content (notably cultural, sporting and children’s content);

- The competition with US productions;

- The availability of cheaper content outside the EU.

In conclusion, this report shows that Article 13 of the 2010 AVMSD was transposed differently from one member state to another, and, while certain difficulties exist in specific cases, the provisions of Articles 16 and 17 were, in general, being implemented well by the member states.

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The implementation of the obligations under the revised Audiovisual and Media Services Directive (Directive 2018/1808/EU), covering the years 2020-2021, will be subject to a separate report.

Commission report on the application of Articles 13, 16 and 17 of Directive 2010/13/EU for the period 2015-2019

https://ec.europa.eu/newsroom/dae/redirection/document/95884

Study on the practical implementation of the provisions of the audiovisual media services directive concerning the promotion of European works in audiovisual media services

https://op.europa.eu/en/publication-detail/-/publication/41f4a695-f465-11ed-a05c-01aa75ed71a1/language-en

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