

# **MEDIA BOARD**

European Board for Media Services



**Media Board report on the Promotion of European works**

**WG1 WS1 - 2025**

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## 1. Executive summary of the recommendations

- **Cultural objectives of the AVMSD:** Maintain the AVMSD measures and their transposition that are supporting cultural diversity
- **Quantify the impact of legislation** (e.g., on article 13(2)) on the audiovisual sector with more systematic studies
- **Types on content qualified as European works:**
  - Assessment as to extending the article 16(1) exclusions (“*news, sports events, games, advertising, teletext services and teleshopping*”) to article 13(1), and reviewing the list itself
  - Consider updating of the European Commission guidelines on the calculation share of European works (article 13(7)) due to multiple understanding of “*short films*” and “*miniseries*”
- Additionally, further discussions should be launched to examine the **definition of European works**, ensuring it remains relevant, including for the creative and audiovisual sector
- **Explore work with the European Audiovisual Observatory’s LUMIERE VOD** in view to centralise at European level, National Regulatory Authority data on the categorisation of works as European
- **Enhance discussions on enforcement mechanisms for article 13(2)** to ensure consistent compliance across Member States
- **Continue sharing of best practices on prominence (article 13(1))** in view of further coordination and a possible voluntary tool
- **New consumption habits and market developments**
  - Further exchanges and analysis for a potential reassessment of the regulatory framework to better support the promotion of European works
  - Coordinated external studies (e.g., Media Industry Outlook) in cooperation with the Media Board and the audiovisual sector

## 2. Introduction

The work programme for 2025<sup>1</sup> of the European Board for Media Services (Media Board) highlights the remit and objectives of Work Group 1 (WG1), namely, to focus on promoting the exchange of best practices among the Media Board members on the application of several provisions of the Audiovisual Media Services Directive (AVMSD). It adds that this collaborative effort could provide valuable insights in case the European Commission decides to initiate the revision of the AVMSD.

WG1's workstream 1 (WS1) is dedicated to the promotion of European works. As noted in the Media Board's work programme for 2025 and in the WG1's Terms of Reference (ToRs)<sup>2</sup>, the work conducted in this context should build on insights from the latest European Commission report on the promotion of European works by audiovisual media services (2020-2021) and the work initiated by ERGA, as the predecessor of the Media Board, in 2023 and continued in 2024. The Media Board is considered to play an instrumental role in promoting a more consistent application of Article 13 of the AVMSD, the definition of European works, and the monitoring obligations.

This report's structure builds on the insights published in previous ERGA reports<sup>3</sup>. It aims to deliver targeted expertise to the European Commission, specifically in preparation for the ex-post evaluation of the AVMSD. The current report focusses on the promotion of cultural diversity, the cross-border distribution of content in on-demand environments, and the evolving landscape of consumption habits and market developments.

The Media Board, and previously ERGA, has been actively engaging in providing technical expertise to the European Commission to ensure a consistent implementation of the AVMSD and in particular on the promotion of European works. In view of the upcoming ex-post evaluation of the AVMSD by the European Commission<sup>4</sup>, the present report presents findings collected from NRAs when answering a dedicated questionnaire<sup>5</sup>. The survey is built on the programme and interventions of experts from academia and stakeholders held at a WG1 workshop on the promotion of European works on the 30<sup>th</sup> of April 2025<sup>6</sup>.

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<sup>1</sup> [Media Board Work Programme for 2025](#)

<sup>2</sup> [Media Board WG1 Terms of Reference for 2025](#)

<sup>3</sup> [ERGA 2020 Report on article 13 \(1\) AVMSD](#), [ERGA 2021 Report on article 13 \(1\) AVMSD](#) of the AVMSD, [ERGA 2022 Report on articles 7a and 13 AVMSD](#), [ERGA 2023 Report on articles 13 \(1\) and 13 \(2\) AVMSD](#) of the AVMSD and [ERGA 2024 Report on articles 13 \(1\), 13 \(2\) and 13 \(6\) AVMSD](#) of the AVMSD

<sup>4</sup> Article 33 AVMSD: By 19 December 2026 at the latest, the Commission shall submit to the European Parliament and the Council an ex-post evaluation, accompanied where appropriate by proposals for its review, of the impact of this Directive and its added value.

<sup>5</sup> 23 NRAs responded to the survey. This includes 22 NRAs from the European Union, and the Norwegian NRA.

<sup>6</sup> See annex

### 3. Ensuring cultural and linguistic diversity in the promotion of European works

The AVMSD is the cornerstone of the EU's legal framework for audiovisual and cultural policy. Its provisions ensuring the prominence of European works underscore the EU's commitments to foster cultural diversity in the audiovisual sector. National Regulatory Authorities (NRAs) have a key role to play in that respect: they are vested with enforcement powers for the fulfilment of their tasks and activities for objectives pertaining but not limited to, cultural diversity and the promotion of fair competition<sup>7</sup>. As stated in article 167 of the Treaty on the Functioning of the European Union (TFEU), *“the Union shall contribute to the flowering of the cultures of the Member States, while respecting their national and regional diversity and at the same time bringing the common cultural heritage to the fore”*.

#### 3.1. General cultural policy objectives of the AVMS Directive

Audiovisual media services are inherently as much cultural services as they are economic services. As outlined in recital 5 of the 2010 AVMSD, *“their growing importance for societies, democracy — in particular by ensuring freedom of information, diversity of opinion and media pluralism — education and culture justifies the application of specific rules to these services”*.

The AVMSD fosters cultural diversity, particularly through its provisions promoting European works. To achieve this, the Directive establishes several key objectives. Recital 63 of the 2010 AVMSD underscores the need for coordination to support individuals and industries pursuing activities with a cultural objective, ensuring they can effectively develop and sustain their work. Additionally, recital 64 of the 2010 AVMSD notes that *“minimum requirements in respect of all public or private Union television broadcasts for European audiovisual productions have been a means of promoting production, independent production and distribution [...]”* and that these requirements *“are complementary to other instruments which are already or will be proposed to favour the same objective”*.

Recital 66 of the 2010 AVMSD further highlights: *“It is important to seek appropriate instruments and procedures in accordance with Union law in order to promote the implementation of the objectives of this Directive with a view to adopting suitable measures to encourage the activity and development of European audiovisual production and distribution, particularly in countries with a low production capacity or a restricted language area”*.

To ensure the effective implementation of these policy objectives, the Directive empowers NRAs with the responsibility of monitoring compliance by audiovisual media

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<sup>7</sup> Article 30(2) of the AVMSD

service providers. This role has been consistently emphasised in previous ERGA reports. By fulfilling these obligations, NRAs contribute directly to the AVMSD's objectives in safeguarding and advancing cultural diversity.

In line with the measures of the promotion of European works in articles 13, 16 and 17 of the AVMSD, Member States may implement targeted measures to uphold the objectives set in the Directive. Article 4 of the AVMSD grants Member States the flexibility to adopt stricter or more detailed rules in areas coordinated by the AVMSD, reinforcing the commitment to cultural and linguistic diversity provided that such rules are in compliance with Union law. This approach is echoed in Recital 12 of the 2010 AVMSD, which highlights the necessity of regulatory policies in the audiovisual sector to protect public interests, including cultural diversity.

### 3.2. Measures related to the promotion of European works supporting cultural diversity

The AVMSD establishes a comprehensive framework to actively promote cultural diversity through the production and distribution of European works. This commitment is explicitly articulated in the context of video-on-demand in Recital 69 of the 2010 AVMSD, which highlights that *“such support for European works might, for example, take the form of financial contributions by such services to the production of and acquisition of rights in European works, a minimum share of European works in video on-demand catalogues, or the attractive presentation of European works in electronic programme guides”*. In accordance with article 16 of the AVMSD, broadcasters must also support European works by reserving a majority of their transmission time to such content.

To achieve this goal, the AVMSD and its transposition introduce a range of targeted measures that NRAs noted below, as reflected in the result of the 2025 questionnaire, as contributing to ensuring cultural diversity. One key approach involves the use of **sub-quotas**. Article 17 of the AVMSD requires broadcasters to allocate at least 10% of their transmission time or budget to European works produced by independent producers, achieved by earmarking an adequate proportion for recent works. Member States may adopt stricter rules to the broadcast services under their jurisdiction based on language criteria, provided they comply with Union law. This flexibility, allowed by article 4 (1) of the AVMSD, enables countries to promote works in national or regional languages in audiovisual media services under their jurisdiction, reinforcing cultural and linguistic diversity. The 2024 ERGA report provides a comparative analysis of sub-quota national provisions national for video-on-demand and audiovisual linear providers<sup>8</sup>. These provisions at national level not only create new opportunities for creative talents and

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<sup>8</sup> [ERGA 2024 Report on articles 13 \(1\), 13 \(2\) and 13 \(6\) of the AVMSD](#), pages 14 to 17

cultural professionals but also ensure that recent and independent productions receive visibility.

The **financial contribution to the production** of European works represents another mechanism for supporting diversity. Under article 13(2) of the AVMSD, Member States can extend their financial obligation schemes to media service providers targeting their audiences, even if those providers are established in other Member States, provided the measures are proportionate and non-discriminatory. This ensures that financial resources are directed toward the production and exploitation of European audiovisual content, thereby enhancing its quality and availability.

National transposition and competence for article 13 (2) of the AVMSD differ across Member States. The 2023 and 2024 ERGA reports on the promotion of European works detail how some Member States have transposed these provisions, including the level and form of contributions required. While the state of play was established in these previous ERGA reports on the promotion of European works, this present report provides an update in its annex.

While not in scope of the AVMSD, NRAs note the existence of **funding schemes** to support European works. For example, the Danish Film Institute (DFI) provides extensive funding for the production, development, and distribution of Danish and European film and media projects. This support extends to feature films, documentaries, TV series, and digital formats, with a particular focus on preserving and promoting linguistic and cultural diversity, including works in minority languages such as Greenlandic and Faroese. By doing so, the DFI strengthens Denmark's cultural heritage and ensures that diverse voices are represented in the audiovisual sector.

In addition, while not in scope of the AVMSD, **State aid schemes** are used to support audiovisual works and contribute to cultural diversity<sup>9</sup>.

Finally, **prominence** is also recognised as a measure to ensure the visibility and discoverability of European works. The AVMSD emphasises the need to ensure the visibility of European content in increasingly fragmented VOD media catalogues. Indeed, according to the European Audiovisual Observatory, *“Where VOD services offer a certain content, the visibility of that content, in a potentially very large catalogue without prominence rules, may be such that it will not disappear from the catalogue but escape the attention of the viewers and ultimately be marginalised to the point that it is no longer findable”*<sup>10</sup>. Article 13(1) imposes obligations on on-demand audiovisual media service providers to ensure that European works are prominently featured. The 2022 ERGA report underscores the importance of prominence in today's digital environment<sup>11</sup>, where it

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<sup>9</sup> [2025 European Audiovisual Observatory Publication on State aid and the audiovisual sector](#)

<sup>10</sup> [2022 European Audiovisual Observatory Publication on the Prominence of European works and of service of general interest](#)

<sup>11</sup> [ERGA 2022 Report on articles 7a and 13 AVMSD](#), page 3

helps relevant content reach audiences, supports the financing of media production through advertising revenues, and safeguards a pluralistic and diverse media landscape. As noted in recital 25 of the AVMSD, article 7a on the prominence of audiovisual media services of general interest also indirectly contributes to the visibility of European works, provided it is transposed and effectively implemented in a Member State.

The importance of the AVMSD with regards to the support of cultural diversity has been emphasised by **Professor Jakob Isak Nielsen**<sup>12</sup> in his keynote speech at the April workshop organised by WG1. His analysis which focused on the dynamics of small audiovisual markets, highlights the vital role of direct public support and identified four strategic avenues for small market ecosystems: cultural resonance, export potential, production services, and cinematic art.

He also addressed the challenges and opportunities faced by small markets, stressing the need for coordinated policy efforts across the entire value chain. To maximise the export potential of films from these markets, policies should be tailored to specific modes, with a particular focus on funding instruments and co-production partnerships. Nielsen advocated for EU regulatory frameworks to better support small markets, not only through production funding but also by investing in film culture. He underscored the importance of prominence and discoverability, as well as access to diverse catalogues, to ensure the sustainability and visibility of small market productions.

### 3.3. Quantifying the impact of legislation on the AV sector

Article 13(5) 5) of the AVMSD requires the European Commission (EC) to report to the European Parliament and the Council on the application of Article 13(1) and (2) of the AVMSD, which establish quotas and prominence and financial contributions for on-demand service providers. These reports must consider market and technological developments, as well as the Directive's cultural objectives. The EC's reports rely on data provided by Member States and an independent study.

Under Article 16(3) of the AVMSD, the EC also informs Member States and the European Parliament of national reports on the Directive's application of article 16 and 17 of the AVMSD. When necessary, it supplements this information with an opinion, taking into account *inter alia* challenges faced by countries with low production capacity or restricted linguistic reach.

The AVMSD therefore anticipated the need for regular evaluation. On the basis of data provided by Member States and independent studies, the EC is responsible for reporting

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on the application of Articles 13(1), 13(2), 16, and 17 of the AMVSD<sup>13</sup>. Alongside these reports, assessing the quantitative impact of legislation on the audiovisual sector remains a critical area of study.

While the EC's reports on the implementation of AVMSD provisions by broadcasters and on-demand services provide valuable cross-country comparisons, they do not cover the economic impact of these investments - whether public or private - on audiovisual production. Quantifying this impact is essential to understand how such provisions influence the industry as a whole, including their monetary effects and the allocation of resources across the creative value chain. Quantitative studies would serve as a meaningful complement to the Commission's existing data.

Most NRAs reported the absence of comprehensive studies quantifying the effects of AVMSD provisions related to the promotion of European works on the audiovisual sector in their respective Member States. Few countries have attempted to assess these impacts, often due to limited data or expertise. According to the 2024 ERGA report, while NRAs are not necessarily the competent bodies responsible for enforcing Article 13(2) as their national film or cinema institute was instead. The report reveals that NRAs often lack the necessary data or expertise to perform these analyses. Additionally, obtaining sensitive financial or operational information from industry stakeholders poses a significant challenge, further limiting their ability to quantify the AVMSD's effects.

In **Denmark**, the NRA collaborates with the Ministry of Culture and other stakeholders to monitor and assess developments in the audiovisual sector. Although Denmark possesses the institutional framework and access to external studies capable of assessing legislative impacts, quantitative analyses are primarily conducted by external actors rather than the NRA itself.

In **France**, the NRA annually analyses data related to production investment obligations, as well as exhibition and prominence requirements. Studies, such as the one on the implementation of the law transposing the AVMSD published in November 2024<sup>14</sup>, provide insights into the impact of legislation on sectoral practices.

In **Portugal**, although a fully integrated assessment of legislative impacts has not yet been implemented, it is possible to partially quantify and assess the impact of legislation on the sector. The NRA carries out regular monitoring through sectoral reports, administrative data, and commissioned studies. Supervision involves qualitative analysis of European and independent productions in the catalogue, based on reports

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<sup>13</sup> The most recent report is from 2024, on the application for 2020- 2021: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2024%3A261%3AFIN&qid=1719495378301>

<sup>14</sup> [Arcom study on the financial production and the implementation of the law transposing the AVMSD, November 2024.](#)

provided by operators and monitored in accordance with public data on the works' origin. The results are documented in annual regulatory reports.

**Romania's** NRA does not perform permanent or internal evaluations of legislative impacts. However, it fulfils its reporting obligations to the European Commission as required by Article 13(4) of the AVMSD. Additionally, the Romanian Film Centre provides the CNA with data on financial contributions from service providers, as imposed by national law.

In **Slovakia**, impact assessments are typically conducted during the legislative process (although these tend not to be in depth analysis) rather than as part of ongoing regulatory activities. Proportionality and exemptions however are considered on an ad-hoc basis, particularly in extraordinary circumstances such as pandemics or the implementation of new provisions, like those affecting vloggers.

The **Spanish** NRA conducts semestrial surveys to identify trends in the audiovisual market. Every two years, the CNMC publishes a report on compliance with quota obligations for both linear and non-linear audiovisual service providers. The Ministry of Economic Affairs and Digital Transformation also produces an annual report on the state of the national audiovisual sector.

Finally, during the WG1 workshop organised in April, **Deloitte Belgium** presented a study quantifying the economic impact of public investment in audiovisual production. The research highlighted the methodological challenges of data collection and outlined key economic indicators, including gross output, gross value-added, employment, and tax contributions. The study revealed that the Francophone audiovisual sector in Belgium generated €579 million in gross output, €266 million in gross value-added, and supported 4,137 jobs, while contributing €76 million in taxes. Notably, every euro of public funding generated €4.39 in gross output, €2.02 in gross value-added, and €0.58 in tax revenue.

The study's recommendations emphasised the substantial economic benefits of sustained public support for the audiovisual sector. It suggested that similar analyses could serve as valuable references for policymakers, though standardising data collection across European markets remains a challenge to ensure comparability and consistency.

#### **Recommendations on ensuring cultural and linguistic diversity in the promotion of European works:**

The AVMSD's measures offer effective tools to safeguard cultural diversity, making it a valuable instrument. Member States have leveraged the Directive's flexibility to implement tailored approaches that reflect their national contexts and priorities.

The original cultural policy objectives outlined in the AVMSD remain as relevant as ever. This is particularly true for smaller markets, which continue to face significant

challenges. Coordinated policy efforts are therefore essential to address these disparities.

To complement the reporting on the AVMSD's provisions on the promotion of European work, and with regards to Article 13(2), **systematic studies at European level assessing their quantitative impact in Member States would be highly beneficial**. Such studies should primarily be carried out at European level and would complement the European Commission's reports on the application of Articles 13, 16, and 17. They could also serve multiple purposes: improving feedback to the Commission, providing methodological support to NRAs with limited capacity, and enhancing comparability across Member States.

A key challenge is that data and information are often not centralised within NRAs, unlike at the EU level as it is ensured by the application reports. This decentralisation affects the overall quality and consistency of evaluations, making coordinated studies even more critical. A coordinated approach, supported by harmonised methodologies and cooperation between NRAs, cultural ministries, and statistical bodies such as EAO, would be essential to ensure consistency and feasibility, while also pursuing simplification and the reduction of administrative burdens.

#### **4. Cross-border distribution of content in an on-demand environment**

##### **4.1. Specific recommendations related to the AVMSD promotion of European works provisions**

###### **4.1.1. *Definition and qualification of European works***

The definition of European works in the AVMSD in article 1 (1)(n) is complemented with an added opportunity in recital 32 of the 2010 AVMSD according to which Member States may lay down a more detailed definition for media services providers under their jurisdiction.

The 2024 ERGA report on the promotion of European works found that the majority of Member States use the definition of European works provided in the AVMSD when transposing it<sup>15</sup>. Based on this definition, all respondents to the 2025 questionnaire except for four<sup>16</sup> stated they are competent to qualify a work as European. In some Member States<sup>17</sup>, the national cinema centre may be responsible for this qualification. In these Member States and for the purposes of compliance reports reviews, NRAs are able to apply the definition of European works if enough information is made available.

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<sup>15</sup> [ERGA 2024 report on the promotion European works](#), p.12-13

<sup>16</sup> Poland, Portugal, Romania, Slovakia

<sup>17</sup> Denmark

As for the categories of European works, Article 16(1) of the AVMSD excludes certain types of content (news, sports events, games, advertising, teletext services and teleshopping) from the time allocated to European works for broadcasters. While no such exclusion is explicitly provided for video-on-demand services in Article 13(1) of the AVMSD, approximately 50% of Member States apply a similar exclusion, while the other 50% do not<sup>18</sup>.

In addition, given the policy objectives of the Directive related to the promotion of diversity and culture, the questionnaire inquired from NRAs whether certain specific types of content (i.e., pornographic content, radio programmes which are simultaneously broadcasted – with video – on television, weather forecast, and reality shows) are considered European works according to their enforcement practices. Their responses, highlighted further in the annex of this report, show that the inclusion of specific content types in the definition of European works varies significantly among NRAs.

Only 25% of NRAs consider **pornographic** content as part of the definition of European works in practice. On the other hand, **radio programmes simultaneously broadcast with video on television** are classified as European works by 30% of NRAs<sup>19</sup>. **Weather forecasts** are the least likely to be included, with just 10% of NRAs recognising them as European works and 90% excluding them. In contrast, **reality TV shows** are more widely accepted, with 60% of NRAs classifying them as European works.

NRAs were asked whether the **definition of European works** itself warranted further discussion. A clear majority (16) answered affirmatively, signalling a recognition of the need to revisit and potentially refine the criteria.

When NRAs were asked whether the geographical scope of the current definition warranted further discussion, opinions were divided: 10 supported further examination, 8 NRAs responded negatively, and 5 remained undecided.

The current definition, as outlined in Article 1(1)(n) of the AVMSD, establishes the geographical criteria that audiovisual works must meet to qualify as European. Specifically, point (i) of this article states that works must originate in Member States or, according to point (ii) in European third states that are parties to the European Convention on Transfrontier Television of the Council of Europe, while also meeting additional conditions. Indeed, article 1(2) of the AVMSD adds that these works “*should be works mainly made with authors and workers residing in one or more of the States referred to in those provisions provided that they comply with one of the following three conditions*”:

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<sup>18</sup> As revealed by [ERGA 2024 report on the promotion European works](#), p.13. Sweden does not extend the article 16(1) exemption to video-on-demand services.

<sup>19</sup> Certain Member States’ laws also require radio stations to feature musical works based on linguistic criteria (national or regional languages), thereby promoting European works.

- (i) *they are made by one or more producers established in one or more of those States;*
- (ii) *the production of the works is supervised and actually controlled by one or more producers established in one or more of those States;*
- (iii) *the contribution of co-producers of those States to the total co-production costs is preponderant and the co-production is not controlled by one or more producers established outside those States.”*

During the 2025 workshop organised by WG1, stakeholders from across the audiovisual sector shared their perspectives on this issue. Broadcasters, both public (represented by the European Broadcasting Union) and private (represented by the Association of Commercial Television in European and Video-on-demand), as well as streaming platforms (represented by the Motion Picture Association), expressed their opposition to any expansion of the geographical scope of the definition. In contrast, the EFAD (European Film Agencies) and Eurocinema stressed the importance of retaining rights and intellectual property ownership as essential mechanisms for strengthening the depth and competitiveness of European catalogues.

#### **4.1.2. Qualification and categories of works by NRAs for the purpose of quotas**

In 2020, the European Commission published guidelines pursuant to Article 13(7) of the AVMSD<sup>20</sup>. They provide guidance on the calculation of the share of European works in on-demand catalogues and on the definition of low audience and low turnover. The guidelines consider that every film should be understood as constituting a title in a catalogue and that one season of a series should correspond to one title. It also envisages that, in cases where some audiovisual productions may have higher production costs, the NRAs could envisage to give a higher weighting of these works.

On that basis, NRAs were asked whether and how they calculate titles when it comes to short films and miniseries, and more specifically whether they were accounted for as one title.

In accordance with ensuring clarity and consistency in the **classification of European works**, NRAs were consulted regarding their methodologies for calculating titles, particularly with respect to short films and miniseries. Specifically, NRAs were asked whether these works are accounted for as a single title in their assessments.

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<sup>20</sup> [European Commission guidelines pursuant to article 13 \(17\) of the AVMSD](#)

With regards to **short films**, the majority of the 23 NRAs that responded to the survey indicated that they count one short film as one title when assessing European works. However, the criteria for classifying these works differ across countries.

Several countries, including Austria, Spain, Portugal and the Netherlands do not distinguish between titles based on their length. Croatia, on the other hand, considers short films to be of high quality. Denmark and France define short films specifically as those with a duration of less than 60 minutes. Hungary takes a different approach by incorporating the length of each program into its calculations, resulting in feature films and short films being weighted differently to reflect their varying impact and viewing time. Latvia's NRA has established guidelines stating that each film or individual program included in a catalogue is considered one work. For series or other works produced in a sequential episode format, one work refers to one season, provided certain conditions are met. Specifically, a single episode of a series or program season may be classified as a work if its production costs are comparable to those of a film and if its duration is at least 60 minutes. Lithuania and Romania consider each individually listed catalogue entry as one title, while Poland treats short films similarly to feature films. Meanwhile, Norway and Ireland are in the process of developing guidelines to address this issue. For the remaining respondents, no clear rules have been established.

When assessing **miniseries** in the context of European works, NRAs apply distinct methodologies to determine how these works are classified and counted.

In several Member States, including the French Community of Belgium, Denmark, the Netherlands, Poland, Romania, and Spain -unless the production cost of an individual episode is comparable to that of a feature film- a miniseries is considered as a single title. Croatia, however, treats one season of a series as one financial undertaking, thus counting it as one title. Conversely, Cyprus, France, and Slovakia count each episode of a miniseries as an individual title. Hungary employs a unique approach by calculating the total duration of a miniseries, such as three hour-long episodes totalling 180 minutes, to determine its weight in the overall assessment. Latvia's classification depends on both the length of the episodes and the production costs of the series, ensuring a nuanced evaluation of each work.

The qualification of European works presents a notable divide among respondents, with half reporting significant challenges in this area, while the other half encounter no such difficulties.

#### ***4.1.3. Tools for the categorisation of European works***

Currently, **France** stands as the only country with a centralised tool for categorising European works. Arcom, manages a shared database known as Broadcast Monitor, which systematically records and classifies all programmes broadcast on free French national television since 2007. Each programme is characterised based on its genre,

language (French or otherwise), geographical origin (European or non-European), and, for European works, the identity of the producer. When a new programme is aired, the service provider submits a proposed classification to Arcom, which either validates the submission if it aligns with regulatory criteria or assigns an alternative classification. While outside of the scope of the AVMSD, it must be noted that France also categorises European musical works on the radio according to linguistic criteria (national or regional languages), and Arcom maintains a corresponding database containing the work's title, artist, language, whether it is sung or instrumental, and whether it is a new talent or new production.

In Spain, while there is no equivalent centralised system, the annual report on the fulfilment of financing obligations for European works serves as the closest approximation. However, this report does not encompass all titles declared as European works by audiovisual service providers to meet their quota requirements, leaving gaps in the comprehensive tracking of such content.

The European Audiovisual Observatory presented insights during the WG1 2025 workshop, drawing from its internal database to identify and match works and their country of origin. Using this system, the Observatory analysed the representation of European works within the **LUMIERE VOD database**<sup>21</sup>, offering a detailed breakdown of their presence across various video-on-demand catalogues and business models. The LUMIERE VOD database, while not serving as definitive evidence for qualifying works as European, provides NRAs with valuable indications and information about specific titles. As a comprehensive directory of European films and TV content available on on-demand services across Europe, it supports NRAs in assessing whether a work meets the criteria for European classification.

The database allows users to identify the services and countries where films or TV content are released on VOD, while also enabling searches based on multiple criteria, such as director, country of production, or year, to generate tailored lists of available works. Additionally, it features an advanced ID search function, allowing users to look up individual titles or lists of titles using identifiers such as LUMIERE, IMDb, EIDR, ISAN, or Wikidata IDs.

It is managed by the European Audiovisual Observatory and supported by the Creative Europe programme of the European Union. The EC<sup>22</sup> considers it could “*provide an indication of the level of implementation of the quota of 30 % of European works for VOD services contained in the Audiovisual Media Services Directive (AVMSD) and thus contribute to the policy objective to ensure and increase the presence of European works in VOD services available in the European Union*”. Their presentation underscored the

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<sup>21</sup> <https://lumierevod.obs.coe.int/>

<sup>22</sup> <https://digital-strategy.ec.europa.eu/en/news/lumiere-vod-first-online-directory-european-films-launched>

pressing need for greater visibility and data sharing to better support regulators and industry stakeholders.

A central theme of the discussion was the importance of strengthening collaboration among stakeholders. The Observatory proposed the development of a partner network to centralise and share information effectively, drawing inspiration from the MAVISE database model. Additionally, they advocated for closer cooperation between the European Film Agency Directors (EFAD) and the European Audiovisual Observatory to harmonise definitions and refine data verification processes.

The presentation also highlighted several challenges that need to be addressed. These include optimising the database-sharing process to ensure accuracy and relevance, engaging in discussions with Creative Europe to secure funding and support for the evolution of the LUMIERE VOD database, and resolving discrepancies between film and VOD data. A particular focus was placed on aligning data with the AVMSD's definition of European works to streamline regulatory oversight. Finally, they emphasised the need to verify data integrity and explore opportunities to enhance the LUMIERE VOD database to better assist regulators.

As part of the 2025 questionnaire, NRAs were asked whether they would find it beneficial to make all data in the LUMIERE VOD database publicly accessible, alongside the inclusion of nationality certificates issued by NRAs. The majority of respondents expressed support for this initiative, signalling a broad recognition of its potential value in improving transparency and regulatory efficiency.

#### **Recommendations on the definition and qualification of European works:**

An assessment to determine whether the exclusions outlined in Article 16(1) should be extended to Article 13(1) of the AVMSD, and the potential updating of the list of exclusion, could be considered. Providing clearer guidance for NRAs would also improve their operational practices and ensure more efficient enforcement.

To enhance clarity, the European Commission could consider updating its guidelines to address the calculation of the share of European works on VOD providers. These updates would support NRAs in the implementation and enforcement of article 13(1) of the AVMSD.

Additionally, further discussions should be launched to examine the definition of European works, ensuring it remains relevant, including for the creative and audiovisual sectors.

Finally, to further explore opportunities for improving transparency and regulatory efficiency, it is advisable to examine the feasibility of launching a project in 2026 aimed at making the data in the LUMIERE VOD database publicly accessible. This initiative



would also consider including the publication of nationality certificates issued by NRAs or other bodies such as film funds.

#### 4.2. Monitoring and enforcement of the financial contribution obligation

Building on the findings of the 2023 ERGA reports on the promotion of European works, the 2024 ERGA report highlighted challenges in monitoring compliance with the financial contribution obligations of article 13 (2) of the AVMSD across Member States.<sup>23</sup> Key concerns included difficulties in identifying service providers, coordinating with the Member State of jurisdiction, and addressing the declaration of the same works across multiple Member States. The complexity of applying the low audience criterion under article 13(6) of the AVMSD was also underlined in the 2024 ERGA report, which indicated variations in the national implementation.

When NRAs were asked whether they received information from the catalogues of providers targeting their territory but established in another Member State, the majority (19) indicated they did not receive such information.

The question of whether receiving this information from the country of origin would be useful received a more divided response: half of the NRAs (11) expressed support for the idea, while the other half (10) remained undecided. Some of the undecided respondents noted that their Member State was not typically a country of destination for such services, or that they lacked the competence to enforce these obligations, citing, for example, that responsibility often fell to their national cinema centre instead. Only two NRAs explicitly answered no.

Finally, when asked whether the country-of-origin principle posed an obstacle for NRAs in monitoring European works on video-on-demand providers not established in their Member State, responses varied: 10 NRAs confirmed it was an obstacle, 8 disagreed, and 5 were undecided.

#### **Recommendations on the monitoring and enforcement of the financial contribution obligation:**

To further clarify and strengthen enforcement mechanisms, in-depth discussions could be organised to explore the challenges tied to cross-border obligations under article 13(2) of the AVMSD. This would help identify practical solutions for ensuring consistent compliance across Member States.

#### 4.3. Technical solutions for quantifying the prominence of European works

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<sup>23</sup> See updated table in annex

Previous ERGA reports<sup>24</sup> have consistently underscored the critical role of prominence in promoting European works. The 2024 ERGA report on the promotion of European works further clarified that while many Member States lack a formal legal definition of prominence, it is also the case in the AVMSD, this gap is often addressed through non-legislative instruments, such as guidelines. Despite the absence of a standardised definition, the majority of NRAs maintained that any challenges encountered in this area do not justify revising the AVMSD's prominence provisions.

To deepen the discussion, NRAs were asked whether they employ tools capable of quantifying the prominence of European works on the interfaces of on-demand audiovisual media services. With the exception of Arcom in France, which has developed such a tool, no other NRA reported using a dedicated system for this purpose.

When questioned about the potential for launching discussions among the Media Board members to develop a European-wide tool for quantifying prominence, a clear majority of NRAs (15) expressed support for the initiative. This suggests a need for solutions that may be more standardised and with a cross-border element, to effectively measure and enhance the visibility of European works.

#### **Recommendations on the prominence of European works:**

To enhance collaboration and the sharing of best practices, encouraging continued dialogue on the monitoring of the prominence obligation within article 13(1) of the AVMSD among NRAs would be valuable. This could help establish a shared, voluntary framework for assessing the prominence of European works in on-demand audiovisual media services. More extensive cooperation overseen by the Media Board would help support such implementation.

## **5. New consumption habits and market developments**

The audiovisual sector is experiencing a period of significant transformation, driven by shifts in both market developments and consumption habits. Recent studies reveal a landscape where the traditional boundaries between linear and digital media are dissolving, giving way to a hybrid ecosystem that challenges established norms.

During the 2025 WG1 Workshop on the promotion of European works, the European Audiovisual Observatory explained that the market trends indicate that while traditional players, such as cable and satellite providers, remain dominant in their respective networks, new media giants are reshaping the industry through over-the-top (OTT) platforms<sup>25</sup>. The data and conclusions were presented in a 2025 report on Top player in

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<sup>24</sup> Notably the 2022 ERGA report, *Ibid*

<sup>25</sup> [European Audiovisual Observatory presentation: Traditional v. new media: AV markets and players](#)

the European AV industry<sup>26</sup>. US studios, for example, are no longer confined to traditional distribution channels. They now offer content across both linear and video on-demand services, blurring the lines between old and new media. This convergence is creating a more integrated market, where specialisation persists but collaboration and competition are redefining the sector's structure.

According to the European Commission Media Industry Outlook and from an audiovisual consumption perspective, traditional TV channels continue to lead as the most frequently used platform for watching films and series among EU consumers<sup>27</sup>. However, subscription video on demand (SVOD) services are gaining traction, particularly among younger audiences who are increasingly turning to online. There is also a general trend of declining use of all audiovisual media services with viewing and evolution of viewing habits appears to be influencing the transition away from traditional TV toward streaming platforms, with an emerging preference for more affordable, ad-supported services among some audiences. The rise of free ad-supported streaming TV (FAST) in Europe, though still nascent, reflects this broader shift toward digital consumption.

According to a study mandated by the European Commission to external entities<sup>28</sup>, the ways audiences engage with content are shifting across devices and formats. For films, series, and documentaries, smart TV users lead in frequent viewing, with 74% engaging regularly. Tablets and laptops/PCs follow closely, each at 72%, highlighting their central role in on-demand streaming. Traditional TV, radio, and gaming devices also maintain strong engagement, with around 70% of users frequently watching these formats.

Furthermore, when examining broader consumer trends, it must be noted that social media dominates the fight for attention. 66% of respondents use it daily, while another 24% engage at least weekly. For films, series, and documentaries, 36% watch daily, and 53% do so at least weekly.

As online viewing habits grow, ensuring increased visibility and accessibility of quality European works online will also be the key to ensure their European and global success<sup>29</sup>. These developments raise important questions on the current scope of audiovisual media law.

In light of these findings, this report seeks to investigate the current scope of the AVMSD and its applicability to emerging actors, regarding the promotion of European works. When asked should further discussions be held in view to exchange on the scope of actors impacted by the promotion of European works provisions, a majority of NRAs (15)

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<sup>26</sup> <https://rm.coe.int/top-players-in-the-european-av-industry-2023-figures-april-2025-l-ene/1680b54721>

<sup>27</sup> 2023 European Media Industry Outlook and reaffirmed in the 2025 European Media Industry Outlook

<sup>28</sup> 2025 Study on audiences, consumer behaviour and preferences relating to the consumption of media content

<sup>29</sup> As recommended in the 2025 Study on broadening participation under the creative Europe media programme

answered positively. This report therefore examines providers that operate in areas where NRAs may have oversight, such as FAST channels and audio/radio services, as well as those that fall within the AMVSD's remit but are not subject to European works provisions, such as video-sharing platforms (VSPs).

### 5.1. FAST channels

The classification of FAST channels and providers under national legislation is a subject of ongoing discussion among national regulatory authorities (NRAs). When questioned on whether their national laws already encompass FAST channels and providers within the definition of audiovisual media services, a majority (17) of the NRAs replied affirmatively. This may follow a logic that ensure there is no differentiation based on the type of the service. However, only one of these authorities confirmed that such inclusion is explicitly set out in the legal text, while for the remainder, it arises from the practical application of existing provisions.

The complexity of qualifying FAST services is well-documented, as noted by the European Audiovisual Observatory in its publication<sup>30</sup> on jurisdictional issues in European audiovisual law. Depending on their editorial responsibility and the extent of their decision-making role, FAST channels may be categorised as either linear channel providers or VOD services under the AVMSD or alternatively as video-sharing platforms. This ambiguity has prompted debates among experts regarding the potential need to incorporate specific rules on the distribution of audiovisual content into the AVMSD, in order to effectively address the regulatory challenges posed by the emergence of FAST channels. Indeed, the aggregator of a FAST channel could be considered as having a shared responsibility in the creation and organisation the said channel. In that sense, it might be appropriate to place all or part of the obligation to promote European works on this actor.

As a follow up question, regulators were asked whether FAST channels and providers would be imposed, under the same legal framework, to comply with provisions related to European works. A majority (14) of the NRAs affirmed that such obligations would apply. Their reasoning included the principle of technological neutrality and the importance of avoiding disparate treatment between different types of media services. Some authorities further observed that exceptions concerning European works might persist, particularly in light of the low audience thresholds established in Article 13 (6) of the AVMSD if the latter are qualified as video-on-demand services. However, when FAST channels are considered linear services, which then entails the application of article 16 of the AVMSD, no exception for low audience or the nature of programming is foreseen.

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<sup>30</sup> 2025 European Audiovisual Observatory publication on [Approaching jurisdictional issues in European audiovisual law: trends and tensions](#)

It was also acknowledged that certain FAST channels, particularly those specialising in niche or specific content, could face difficulties in adhering to quotas for European or national works, as their programming may not always align with these requirements. In such event and when FAST channels are qualified as linear service providers, the understanding of the notions “where applicable and by appropriate means” in article 16(1) if the AVMSD could entail the introduction of an audience or turnover criterion, and/or explicitly stating that quotas can be assessed per FAST channel bouquet (for example, as a counterpart to production investment). When the latter, it should be noted that obligations regarding the exposure of works are based on the principle of the country-of-origin principle, whereas many FAST channels are operated by entities established in different countries, which may limit the possibility of applying quotas per channel bouquet.

Additionally, seven authorities indicated that they currently lack practical experience in regulating FAST channels with respect to European works provisions. Among those who responded negatively to the question of applicability, a recurring concern was the challenge of enforcing such obligations without prior legislative amendments.

## 5.2. Radio

While **radio** services fall outside the scope of the AVMSD, many Member States have chosen to include radio within their national transposition of the Directive. As a result, NRAs frequently assume responsibility for the enforcement and monitoring of radio-related obligations. In this context, regulators were also questioned about the existence of quotas for radio and audio services within their national legislation. Approximately 30% of the authorities confirmed that their legal frameworks do indeed impose quotas for radio, whether pertaining to language requirements or the promotion of local content. However, these quotas do not apply to music streaming platforms, which have become the main competitors of local radio music offerings, and undermine the economic model of radio stations, the latter being subject to obligations to feature European works.

## 5.3. Video-sharing platforms

When examining the potential inclusion of new actors, such as video-sharing platforms (VSPs), within the scope of provisions promoting European works and more specifically article 13(1) of the AVMSD, NRAs have identified several advantages and challenges associated with such a measure.

The principal **arguments in favour** of inclusion indicated by NRAs emphasise the positive impact on European cultural and linguistic diversity. By encouraging investment and production of European content across all media channels, the integration of VSPs could strengthen the European audiovisual sector and provide greater support to local creators. A common regulatory approach would also help level the playing field, ensuring fair competition while fostering a more creative, comprehensive, and coherent

framework for content promotion. Furthermore, including VSPs could increase the reach and visibility of European works, in turn broadening their audience and adapting to evolving consumption habits, particularly among younger demographics.

Various approaches have been proposed by NRAs for implementing this integration. One suggestion involves applying obligations similar to those of retransmission operators, which typically lack editorial responsibility and do not produce content. NRAs advocate for a balanced approach, using soft law, platform cooperation, or incentives rather than imposing rigid quotas. It has also been noted that while many VSPs function primarily as hosting platforms without editorial involvement, those that engage in content selection or curation could more naturally fall under the AVMSD's scope. For instance, if a platform actively organises or promotes videos, its status might warrant closer alignment with audiovisual media service providers, even though users may perceive all content as part of a single catalogue, as seen with platforms like YouTube. Another proposal recommends that on-demand audiovisual media services offered by VSPs be subject to European works provisions, provided these services meet the relevant criteria to be defined as on-demand audiovisual media services and are formally notified as such.

However, **potential drawbacks** have been raised by NRAs regarding the broadening of the scope to include VSPs. From a legal perspective, the application of existing rules, which are originally designed for a linear model, then extended to non-linear, may prove challenging or even impossible due to the fundamentally different and often incompatible nature of user-generated content. Consistency would need to be ensured in the approach to VSPs between content creation aspects (where they are considered to have no control over content) and audience protection aspects (where shared responsibility could be envisaged for certain content). There is also a risk of restricting editorial freedom, particularly given the user-driven nature of many platforms, as well as concerns about maintaining platform neutrality. Any regulatory expansion would require careful consideration to ensure proportionality, non-discrimination, legal clarity, and consistency with established frameworks. The diverse nature of VSPs, including those hosting content such as adult material, adds another layer of complexity.

From the perspective of NRAs, monitoring compliance would present considerable difficulties, particularly for smaller regulators, given the vast volume and dynamic nature of user-generated content. The country-of-origin principle could also place a disproportionate burden on a limited number of authorities, while the rapid evolution and varied nature of VSPs would likely hinder effective enforcement. Economically, the inclusion of VSPs could introduce further disruption and inefficiencies within the audiovisual production market. Meanwhile, VSPs themselves have expressed apprehension that excessive regulation might stifle innovation and creativity, impose an undue administrative burden, and require the production of content outside their traditional value chains.

Notably, several stakeholders, including the Motion Picture Association (MPA) and the VOD Coalition, have opposed the broadening of the regulatory scope to include VSPs.

**Recommendations on new consumption habits and market developments in the context of the promotion of European works:**

The audiovisual sector is undergoing rapid transformation, driven by the convergence of traditional and digital media, the emergence of new platforms, and evolving consumer habits. These changes call for further analysis and a potential reassessment of regulatory frameworks to better support the promotion of European works.

In order to have an accurate and up-to-date picture of consumption habits and market trends and the applicability of the AVMSD to emerging actors regarding the promotion of European works, such analysis could result from coordinated external studies, such as the Media Industry Outlook, carried out in cooperation with the audiovisual sector and the Media Board. They would be done on the basis of a common agreed methodology and with the support of the Media Board.

## **6. Conclusions**

The present report underscores the continued significance and added value of the promotion of European works provisions of the AVMSD, particularly in supporting local creation and independent production. The processes of evaluation and performance assessment may be subject to more systematic monitoring in order to ensure continuous improvement and scrutiny. This is especially important in the context of the upcoming evaluation of the AVMSD.

There is a clear opportunity to enhance the cross-border consumption and distribution of European works. This could be achieved by strengthening cross-border cooperation among Member States. On the qualification of European works, clearer guidelines issued by the European Commission could be useful, combined with the exchange of best practices in implementation among NRAs.

Finally, the rapid evolution of media consumption habits necessitates an evaluation of the existing legislative framework, notably via guidelines providing precisions as to the application of the promotion of European works provisions to market actors. As new, yet established players, such as VSPs and FAST, increasingly shape the audiovisual market, it could be considered if their inclusion in regulatory provisions could ensure that the promotion of European works remains effective and adaptive to contemporary viewing trends. Their inclusion should be carefully assessed to prevent the regulatory framework from creating an overly complex supervisory regime for regulators, to minimise disparities in rules between Member States, and to avoid overburdening smaller operators. Further reflect and dialogue are warranted for a deeper examination of the matter, keeping in mind a more comprehensive approach to services, with less rigid segmentation, allowing regulation to better adapt to the emergence of new services. Addressing these shifts will be crucial in maintaining the Directive's objectives while embracing the opportunities presented by the digital age.



## 7. Annexes

Annex I: programme of the workshop on the promotion of European works organised by WG1 of the Media Board on the 30<sup>th</sup> of April 2025

### **Workgroup 1 AV media matters**

#### **Workshop on the Promotion of European works** *Agenda*

**30 April 2025, 10:00 – 17:15 (CET)**  
***Hybrid Meeting***

- |           |   |                                 |
|-----------|---|---------------------------------|
| <b>1.</b> | <b>Opening remarks</b><br><i>Karim Ibourki, Workgroup 1 Chair</i>   | <b>10:00</b><br><i>(15 min)</i> |
| <b>2.</b> | <b>Ensuring the promotion of European works</b><br><i>Incl. Q&amp;A</i>   | <b>10:15</b><br><i>(1h30)</i>   |
|           | <b>Keynote</b> from Jakob Isak Nielsen (Associate Professor, School of Communication and Culture - Media Studies at the Aarhus University) on How Small Markets Compare to Each Other <i>(online)</i>   | <i>15 min +<br/>Q&amp;A</i>     |
|           | <b>Panel</b> on the promotion of European works as a vector of cultural and linguistic diversity:   | <i>20 min +<br/>Q&amp;A</i>     |
|           | 1. Sevara Irgacheva, Secretary General at the European Film Agency Directors Association (EFAD)   |                                 |
|           | 2. Thomas Bergmann, Senior EU Policy Advisor at the European Broadcasting Union (EBU)   |                                 |
|           | <b>Keynote</b> from Romain Dechamps and Matthieu Fontaine (Monitors at Deloitte Belgium) on measuring the impact of investing in AV production on the economy, on the basis of a study commissioned by the Union of French-Speaking Film Producers (UPFF) | <i>15 min +<br/>Q&amp;A</i>     |
| <b>3.</b> | <b>Cross-border distribution of content in an on-demand environment</b><br><i>Incl. Q&amp;A</i>   | <b>11:45</b><br><i>(1h30)</i>   |
|           |   | <i>20 min +<br/>Q&amp;A</i>     |

**Keynote** from Christian Grece and Gilles Fontaine (TV and VOD Markets Analyst and Head of Department for Market Information at the European Audiovisual Observatory) on the LUMIERE VOD database (*online*)

**Panel** on the definition of European works

20min +  
Q&A

1. Christophe Roy, Director of Regulatory Affairs and Competition at Canal+ Group and Board member at the Association of Commercial Television in Europe and Video on Demand Services in Europe (ACT) (*online*)
2. Juliette Prissard, Secretary General at Eurocinema

**Presentation and exchanges** state of play on the monitoring of the promotion of European works obligations applying to VOD service providers

30 min +  
Q&A

1. Mathilde Desanges, Arcom
2. Thomas Faurby, SLKS

**4. Lunch break**

**13:15**  
(45 min)

**5. Discussion on new consumption habits and market developments**

**14:00**  
(1h30)

*Incl. Q&A*

**Keynote** from Laura Ene Iancu (TV and VOD markets analyst at the European Audiovisual Observatory) on the latest edition of the “Top players in the European AV industry” report and its focus on traditional vs. new media AV markets and players (*online*)

15min +  
Q&A

**Presentation** from Johanna Baysse, Director of EU Affairs at Motion Picture Association (MPA)

15 min +  
Q&A

**Presentation** from Julia Maxwell, Executive Director at the European VOD Coalition

**6. Coffee break**

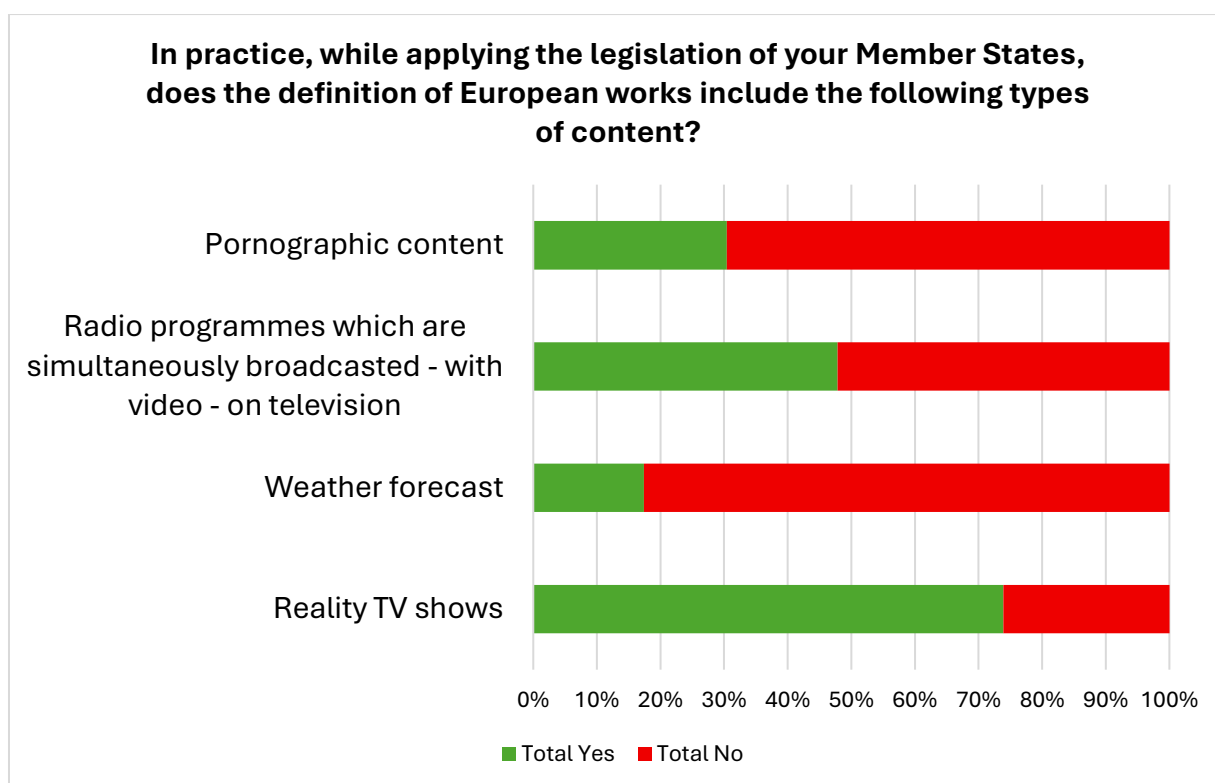
**15:30**  
(30 min)

**7. Tour de table**

**16:00**

**8. Closing remarks and end of the workshop****17:00**  
(15 min)Annex II: updated data on the transposition of article 13(2) of the AVMSD

	<b>Countries</b>	<b>Total</b>
<b>No investment obligation</b>	Austria, Bulgaria, Estonia, Finland, Hungary, Lithuania, Luxembourg, Malta, Norway, Slovakia, Slovenia, and Sweden	12
<b>Investment obligation</b>	Belgium (German speaking Community, French speaking community, and Flanders), Croatia, Cyprus <sup>31</sup> , Denmark, France, Germany, Greece, Ireland <sup>32</sup> , Italy, the Netherlands, Poland, Portugal, Romania, and Spain <sup>33</sup>	16 (incl. the 3 linguistic communities of Belgium)

Annex III: Inclusion of specific content types in the definition of European works by NRAs – practical application of AVMSD provisions

<sup>31</sup> The Cyprus law did a verbatim transposition of article 13 (2) of the AVMSD but the obligations are not enforced at the moment

<sup>32</sup> The Irish Online safety and Media Regulation Act of 2022 foresees the creation of a funding scheme which has not yet been drafted, for both VOD services and broadcasters

<sup>33</sup> A new regulation developing this provision furthermore is being prepared by the relevant Ministry