



EUROPEAN COMMISSION

Brussels, 24.9.2012  
SWD(2012) 269 final

**COMMISSION STAFF WORKING DOCUMENT**

**PROMOTION OF EUROPEAN WORKS IN EU SCHEDULED AND ON-DEMAND  
AUDIOVISUAL MEDIA SERVICES**

**PART I**

**on the application of Article 13 of Directive 2010/13/EU for the period 2009-2010**

*Accompanying the document*

**First Report on the Application of Articles 13, 16 and 17 of Directive 2010/13/EU  
for the period 2009-2010**

{COM(2012) 522 final}

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## **APPLICATION OF ARTICLE 13 IN EACH MEMBER STATE**

### **INTRODUCTION**

During the latest revision of Directive 89/552/EEC ('Television without Frontiers') its scope was enlarged to include non-linear services. It was deemed that these services should also aim at promoting European works and cultural diversity, like television services. However, due to the nascent and specific nature of on-demand services the obligations placed on them by the new AVMS Directive<sup>1</sup> are lighter than the obligations imposed on linear services. Article 13 imposes an obligation to promote the production of and access to European works in on-demand services and provides examples of means of promotion: financial contribution to the production and rights acquisition of European works, or the share and/or prominence of European works in the catalogues offered by the service providers. Member States are obliged to report on the application of Article 13 every four years as from December 2011.

The present document accompanies the Commission's first report on the application of Article 13 for the period 2009-2010. Pursuant to Article 13 the report is based both on data provided by the Member States and on an independent study conducted in 2011<sup>2</sup> (hereinafter referred to as 'the Study'). Its purpose was to analyse the state of play in terms of implementation of Article 13 in the EU Member States at the end of 2010 as well as the state of development of on-demand service markets throughout the EU. It also aimed at providing information on the content of EU non-linear services and helping the Commission with the setting up of performance indicators for the application of Article 13.

The Commission identified a series of indicators which were defined in the questionnaires sent to the national authorities with the invitation to report on the application of Article 13 for the period 2009-2010. As regards prominence in particular, several options were mentioned. They are defined below under paragraph 1.3. These indicators may need to be refined in the future, when on-demand service markets have expanded and more experience has been gained in monitoring the application of Article 13.

There are two reasons why not all the national reports provided information on on-demand services<sup>3</sup>: the absence of operational on-demand services during the reference period or the belated transposition/implementation of the AVMS Directive. In the latter case the existing on-demand services were not subject to any obligation regarding Article 13.

## **1. APPLICATION OF ARTICLE 13: GENERAL REMARKS**

### **1.1. Monitoring methods in the Member States**

The national reports did not provide much information on monitoring methods applied by the Member States. The comments received show however that the monitoring method is no different from the one applied with regard to the application of Articles 16 and 17. National

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<sup>1</sup> Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) – OJ L 95 of 15.04.2010

<sup>2</sup> The Study is available on the following website:

[http://ec.europa.eu/avpolicy/info\\_centre/library/studies/index\\_en.htm#promot](http://ec.europa.eu/avpolicy/info_centre/library/studies/index_en.htm#promot)

<sup>3</sup> 16 Member States provided some kind of information on on-demand services. In some cases only a list of on-demand services was provided with no data on the application of Article 13.

authorities collect or intend to collect the data directly from the on-demand service providers, generally on the basis of a questionnaire. One national report<sup>4</sup> indicated that this questionnaire was established in cooperation with a self-regulatory body representing on-demand services. Some national authorities<sup>5</sup> stressed the efforts made to encourage on-demand service providers to get registered and to make them aware of their reporting obligation. The regulator of the French Community of Belgium carries out monitoring of the proportion of 'promotional occurrences' dedicated to European works. As is the case for Articles 16 and 17, the results of this monitoring are submitted to representatives of the audiovisual production industry. In France, the Regulatory Authority CSA informed about spot checks to be carried out in respect of the share and prominence of European works in catalogues.

There may be some differences amongst Member States in respect of interpretation of the kind of service to be taken into account in the reports on the application of Article 13. It appears in particular that there is no uniform view concerning the consideration of 'qualifying' content for monitoring the implementation of Article 13.

The reported services must comply with the definition of 'on-demand audiovisual media service' contained in Article 1(1)(g) of the AVMS Directive, which means that services offering audiovisual content only as an ancillary element (for instance videos illustrating written texts) should not be reported. By contrast, catch-up TV services constitute on-demand services and as such must be subject to monitoring and included in the national reports, unless the programmes offered in on-demand services are exactly the same as those broadcast on television<sup>6</sup>. Finally, although the wording of Article 13 does not specifically refer to content such as news, sports events, games, teleshopping and advertising, the purpose of promoting the production of and access to European works should be interpreted in the same spirit as for Articles 16 and 17 of the AVMS Directive. Therefore on-demand services offering exclusively this type of content should be excluded from the national reports on the application of Article 13. In the same way the percentage of European works, when applicable, should in principle be calculated as the percentage of qualifying hours (excluding news, sports events, games and teleshopping/advertising) of a catalogue made up of European works. In that respect, some questions have been raised as to the way this percentage should be calculated<sup>7</sup>.

## 1.2. Obligations set out in national legislation

In regard to Member States that had transposed the Directive (i.e. imposed the obligation to promote European works in on-demand services) only six national reports indicated that the legislation specifies concrete measures. These measures vary from one Member State to another.

One Member State<sup>8</sup> reported the total absence of on-demand services during the reference period. The breakdown of on-demand services<sup>9</sup> also varies greatly from one Member State to another and it is difficult to detect a trend concerning the preferred type of service: six<sup>10</sup>

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<sup>4</sup> The Czech Republic

<sup>5</sup> In particular Latvia, the Netherlands and Sweden

<sup>6</sup> See Recital 27 of the AVMS Directive

<sup>7</sup> See comments of Slovenia under 2.24

<sup>8</sup> Cyprus

<sup>9</sup> The questionnaire sent by the Commission to the Member States distinguished between catch-up TV services, video-on-demand and mixed services (VOD/catch-up).

<sup>10</sup> Belgium (97.7%), Bulgaria (100%), Denmark (100%), Spain (75%), Luxembourg (80%) and Portugal (55.6%)

Member States reported a majority of video-on-demand services, generally with conditional access; another six<sup>11</sup> reported a majority of freely accessible catch-up TV services, one<sup>12</sup> reported a combination of catch-up and mixed services accessible free-of-charge, and another one<sup>13</sup> a majority of mixed services.

Nine reports submitted by Member States did not contain any information on the application of Article 13 due to belated transposition of the AVMS Directive. In those cases the national rules transposing the Directive had not yet been adopted or had not entered into force. Some of these Member States explained that, due to the absence of any registration obligation<sup>14</sup>, the national authorities could not report any on-demand services. In another case<sup>15</sup> the lack of criteria for defining on-demand services meant that it was not possible to report on these services during the reference period.

As mentioned above, data provided by the national reports are not complete and not representative enough to enable reliable conclusions to be drawn on the application of Article 13 by the EU's on-demand service providers.

Despite the lack of concrete obligations set out in national legislation transposing the Directive, 14 national reports provided some data - to differing extent - on the modalities of European works promotion put into practice by on-demand service providers. Information provided by the national reports can be summarised as follows:

All national reports that provided information on the measures adopted by on-demand service providers to promote European works indicated quite a high share of European works in catalogues. Averages ranged from 40% (Spain<sup>16</sup>) to 88.9% (Denmark) in 2009 and from 36.4% (Portugal) to 100% (Austria<sup>17</sup>) in 2010. Due to the limited number of national reports and the very low number of on-demand services (two or three) reported in some Member States, calculation of EU averages would not produce any significant result. Data on consumption of European works did not reveal a clear trend: in some Member States it matched the offer of European works, in Sweden and the UK the consumption rate was higher than the share of European works present in catalogues, and in another two cases the comparison results varied according to the year. Five Member States<sup>18</sup> reported financial contributions to European productions and six national reports<sup>19</sup> indicated the use of some prominence tools<sup>20</sup>. A majority of services were applying geo-restrictions in six Member States.

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<sup>11</sup> Czech Republic (86.2%), Ireland (100%), Greece (76.9%), Austria (100%), Romania (100%) and Slovakia (58.3%)

<sup>12</sup> Finland

<sup>13</sup> Sweden

<sup>14</sup> Latvia, Lithuania and Hungary

<sup>15</sup> The Dutch report indicates that, pending the adoption of criteria to define on-demand commercial media services by the Media Authority, no on-demand service was reported during the reference period although 23 services were declared at the end of 2010 in the Netherlands. However, information relating to some services was provided by the Dutch Authority. See section 2 of this document.

<sup>16</sup> This figure corresponds to one on-demand service only

<sup>17</sup> This figure does not correspond to an average but to the proportion of European works offered by the unique catch-up TV service reported in Austria in 2010.

<sup>18</sup> Belgium-French Community, Bulgaria, Greece, Spain and Sweden

<sup>19</sup> Belgium-French Community, Bulgaria, Greece, Spain, Romania and Sweden.

<sup>20</sup> Detailed information is to be found in Section 2 of this document

The Commission can only welcome the presence of a relatively high share of European works in on-demand services.

### **1.3. Performance indicators**

Pursuant to the obligations set out in the national legislation transposing the Directive, each Member State decides on the indicators that on-demand audiovisual service providers will have to report on.

Indicators 1 – 10 below are based on the modalities suggested in Article 13 of the Directive. They have been developed on the basis of the information provided by the Study conducted in 2011 on the promotion of European works<sup>21</sup> and were subject to practicability tests.

- **Indicator 1: Financial contribution**

Indicator 1 is presented as an average proportion for each individual on-demand service.

It is obtained by determining the percentage of the programme budget of each on-demand service, or turnover, depending on the national legislation, that was spent in the production and/or acquisition of European works during the reference period.

Compliance is reached when the percentage achieved by an on-demand service matches the proportion set out in the national legislation.

- **Indicator 2: European works**

Indicator 2 is presented as an average proportion for each individual on-demand service.

It is obtained by determining the percentage of qualifying hours of the catalogue made up of European works. Qualifying hours exclude those devoted to news, sports events, games and commercial communications.

Compliance is reached when the percentage achieved by an on-demand service matches the proportion set out in the national legislation.

- **Indicator 3: Homepage**

Indicator 3 is presented as an average proportion for each individual on-demand service.

It refers to a way of giving prominence to European works. It is obtained by determining the percentage of European works promoted on the homepage of the on-demand service provider.

- **Indicator 4: Country of origin**

Indicator 4 is presented as an average proportion for each individual on-demand service.

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<sup>21</sup> 'Study on the implementation of the provisions of the Audiovisual Media Services Directive concerning the promotion of European works in audiovisual media services' conducted by Attentional, Headway International, Oliver & Ohlbaum and Gide Loyrette Nouel, available at: [http://ec.europa.eu/avpolicy/info\\_centre/library/studies/index\\_en.htm#promot](http://ec.europa.eu/avpolicy/info_centre/library/studies/index_en.htm#promot)

This indicator refers to a way of giving prominence to European works. It is obtained by determining the percentage of content descriptions including information on the country of origin of the works offered in a catalogue.

- **Indicator 5: Search**

Indicator 5 is an individual Boolean value (yes/no) for each on-demand service.

This indicator refers to a way of giving prominence to European works. It indicates whether or not the service enables the user to browse by origin the content offered in a catalogue in order to search for European works.

- **Indicator 6: Tools**

Indicator 6 is an individual Boolean value (yes/no) for each on-demand service.

This indicator refers to a way of giving prominence to European works. It indicates whether or not the service provides recommendation tools about European works.

- **Indicator 7: Sections**

Indicator 7 is an individual Boolean value (yes/no) for each on-demand service.

This indicator refers to a way of giving prominence to European works. It indicates whether or not the service includes sections dedicated to European works.

- **Indicator 8: Trailers**

Indicator 8 is presented as an average proportion for each individual on-demand service.

This indicator refers to a way of giving prominence to European works. It is obtained by determining the percentage of programme trailers presented to the public which promote European works.

- **Indicator 9: Promotions**

Indicator 9 is presented as an average proportion for each individual on-demand service.

This indicator refers to a way of giving prominence to European works. It is obtained by determining the percentage of published promotions concerning European works, either on own user interface or other media.

- **Indicator 10: Compliance**

Indicator 10 is an individual Boolean value (yes/no) for each on-demand service.

This indicator shows whether or not a service complies with the obligations set out in the national legislation transposing Article 13.

## 2. APPLICATION OF ARTICLE 13 - DETAILED ANALYSIS



**Section 2 contains statements by the Member States which do not necessarily represent the Commission's opinion.**

## 2.1. Belgium

### 2.1.1. Belgium – Flemish Community

#### 1. Existence of concrete legal obligations

The Flemish Community of Belgium has reported the absence of concrete legal obligations for providers of on-demand audiovisual media services to promote the production of and access to European works.

#### 2. Reported on-demand services

No on-demand services were reported in 2009.

22 on-demand services were reported in 2010, of which 21 video-on-demand services with conditional access and one mixed service (catch up TV/ VOD). Geo-restrictions were reported.

#### 3. Measures adopted for the promotion of European works

No statistical data was provided.

Year	Service	Type	Access	Financial Contribution (%)	Share of Catalogue (%)	Prominence	Compliance
2010	Kanaal Z	VoD	Conditional	NC	NC	No	Yes
	Actua TV	VoD	Conditional	NC	NC	No	Yes
	Video on Demand Coditel	VoD	Conditional	NC	NC	No	Yes
	S TV	VoD	Conditional	NC	NC	No	Yes
	TMF	VoD	Conditional	NC	NC	No	Yes
	NTV	VoD	Conditional	NC	NC	No	Yes
	Video on Demand Belgacom	VoD	Conditional	NC	NC	No	Yes
	Video on Demand Telenet	VoD	Conditional	NC	NC	No	Yes
	Onze TV	VoD	Conditional	NC	NC	No	Yes
	C-more	VoD	Conditional	NC	NC	No	Yes
	Iwatch	Mixed	Mixed	NC	NC	No	Yes
	ATV	VoD	Conditional	NC	NC	No	Yes
	AVS	VoD	Conditional	NC	NC	No	Yes
	TVL	VoD	Conditional	NC	NC	No	Yes
	TV Brussel	VoD	Conditional	NC	NC	No	Yes
	TV-Oost	VoD	Conditional	NC	NC	No	Yes
	Ring TV	VoD	Conditional	NC	NC	No	Yes
	Focus TV	VoD	Conditional	NC	NC	No	Yes
	ROB TV	VoD	Conditional	NC	NC	No	Yes

Seniorennet	VoD	Conditional	NC	NC	No	Yes
RTV	VoD	Conditional	NC	NC	No	Yes
WTV-Zuid	VoD	Conditional	NC	NC	No	Yes

### **Comments on the application of Article 13 in Belgium – Flemish Community**

In the Flemish Community there are no obligations for providers of on-demand audiovisual media services to promote, where practicable and by appropriate means, the production of and access to European works.

## 2.1.2. Belgium – French Community

### 1. Existence of concrete legal obligations

The legislation of the French Community of Belgium imposes on all services a contribution to the financing of the production of European works (up to 2.2% of turnover). It also sets out for non-linear services a specific obligation of prominence of European works in the catalogues. The provision gives a non-exhaustive list of tools for ensuring such prominence.

### 2. Reported on-demand services

No on-demand services were reported in 2009.

Two were reported in 2010, both video-on-demand services with conditional access.

### 3. Measures adopted for the promotion of European works

The two VOD services reported a financial contribution of respectively 1.4% and 2.2% as well as the use of several tools intended to give prominence to the European works (see second table below). The two services also offered a proportion of respectively 50% and 30% (40% on average) of European works in their catalogues, although this indicator does not correspond to any legal obligation. The consumption of European works in these two services was respectively 46% and 34%, therefore matching the average share of European works in the catalogues (40% on average). Geo-restrictions were reported. Compliance rate was 100%.

Details are to be found in the two tables and comments below.

Year	Service	Type	Access	Financial Contribution (%)	Share of Catalogue (%)	Prominence	Compliance
2010	VOD de Voo	VoD	Conditional	2.2%	50.0%	Yes	Yes
	Belgacom TV A la demande	VoD	Conditional	1.4%	30.0%	Yes	Yes

#### Prominence tools

Year	Service	Homepage (%)	Identified Origin (%)	Search	Tools	Sections	Trailers (%)	Promotion (%)
2010	VOD de Voo	NC	NA	NA	Yes	Yes	Yes (?%)	44.0%
	Belgacom TV A la demande	NC	NA	NA	Yes	Yes	Yes (?%)	42.0%

### **Comments on the application of Article 13 in Belgium – French Community**

#### Prominence (homepage, tools, sections, trailers, promotion: “Yes/Opt\*\*”)

The Audiovisual Media Services Decree which transposes the Audiovisual Media Services Directive (AVMSD) requires that VOD service providers put a particular emphasis on European works included in their catalogue by presenting them attractively. This includes works from the French Community (Article 46). The commentary on this Article gives a non-

exhaustive list of examples of tools for emphasis such as: advertising inserts, separate tabs, magazine articles, advertising programmes on self-promotional channels where these works can be emphasised, while leaving services free to create their own strategies.

Consequently:

- the prominence of European works does indeed constitute a general obligation laid down by law;
- the detailed rules, as identified in the table (homepage, tools, section, trailers, promotion) are left to the choice of the service provider, using a 'co-regulatory' approach;
- implementation of this general obligation is covered by evaluation in the form of monitoring the proportion of 'promotional occurrences' dedicated to European works;
- this monitoring has allowed identification firstly of the intensity of certain criteria (consumption of European works, proportion of European works in the catalogues, general proportion of promotion dedicated to European works), and secondly of the existence of different measures (section, tools, trailers).

The results of the above monitoring can be accessed via the links included in foot note<sup>22</sup>.

#### European works consumption

Percentages refer to the proportion of European films among the 50 most watched films for each of the on-demand services.

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<sup>22</sup> See <http://csa.be/documents/1313>  
<http://csa.be/documents/1493>  
<http://csa.be/documents/1648>

## 2.2. Bulgaria

### Existence of concrete obligations

Specific legal requirements for providers of audiovisual media services are set out in Article 19, paragraph 3 of the Law on Radio and Television. They refer to prominence.

### Reported on-demand services

No on-demand services were reported in 2009.

In 2010 four on-demand services were reported in Bulgaria but data was provided for three of them only. The three services were video-on-demand services with conditional access. Geo-restrictions were reported for one service only.

### Measures adopted for the promotion of European works

The proportion of European works offered varied from 48% to 100%, the average share being 75.3%. The reported consumption of European works was somewhat lower (65.7% in average against 75.3%). Financial contributions ranged from 18% to 100%.

The three services gave prominence to European works promoting them on their homepage and providing the origin of the works. Other prominence tools were also used by the three services in a different way, as shown in the tables below. Compliance rate was 75%.

Year	Service	Type	Access	Financial Contribution (%)	Share of Catalogue (%)	Prominence	Compliance
2010	VOD (Global Communication Net)	VoD			No	No	No
	VOD (Mobiltel EAD)	VoD	Conditional	18.0%	48.0%	Yes	Yes
	Pay par view (Skat TV OOD)	VoD	Conditional	64.0%	78.0%	Yes	Yes
	VOD (Vestitel BG)	VoD	Conditional	100.0%	100.0%	Yes	Yes

Year	Service	Homepage (%)	Identified Origin (%)	Search	Tools	Sections	Trailers (%)	Promotion (%)
2010	VOD (Global Communication Net)							
	VOD (Mobiltel EAD)	26.0%	100.0%	Yes	No	Yes	NC	15.0%
	Pay par view (Skat TV OOD)	75.0%	100.0%	No	No	No	70.0%	NC
	VOD (Vestitel BG)	YES	0.0%	No	No	Yes	0.0%	0.0%

### **Comments on the application of Article 13 in Bulgaria**

**Regarding the implementation of Article 13 of the Directive**, data is being supplied for four out of the 13 non-linear media service providers registered at the Council for Electronic Media for the period from 1 January 2010 to 31 December 2010. Out of the 13 on-demand services registered at the end of 2010, nine were not yet operational.

This type of information is being collected for the first time for the European Commission. In Bulgaria's case, these services are still new and most providers are still at either the

preparatory or the initial stages of their activities.

Specific legal requirements for providers of audiovisual media services are set out in Article 19, paragraph 3 of the Law on Radio and Television.

## 2.3. Czech Republic

### Existence of concrete obligations

The Czech legislation sets out the obligation to devote at least 10% of the total number of qualifying programmes of the catalogue to European works or to spend at least 1% of revenues to the production or the acquisition of European works.

### Reported on-demand services

No on-demand service was reported in 2009.

29 services were reported in 2010, five of which were dedicated to news and therefore not submitted to the above-mentioned obligations. 25 services were catch-up TV services, four were video-on-demand services. The majority of the services were accessible free-of-charge (24) while five were pay services. Geo-restrictions were reported for one service only.

### Measures adopted for the promotion of European works

The proportions of European works offered in the catalogues ranked from 10% to 100%, as indicated in the table below, the average share being 51.3%. All services complied with the legal obligation set out in the legislation.

Year	Service	Type	Access	Financial Contribution (%)	Share of Catalogue (%)	Prominence	Compliance
2010	Multimediální zpravodaj Prahy 7	Catch-up	Free		20.0%	No	Yes
	Svobodná internetová TV	Catch-up	Free		35.0%	No	Yes
	www.cestovize.cz	Catch-up	Free		50.0%	No	Yes
	aktualne.centrum/video	Catch-up	Free		30.0%	No	Yes
	Doc Alliance Films	Catch-up	Free		84.0%	No	Yes
	Videoarchiv	Catch-up	Free		100.0%	No	Yes
	Regionální zpravodajský server	Catch-up	Free		10.0%	No	Yes
	R 1 GENUS	Catch-up	Free		News	No	Yes
	HBO On Demand	VoD	Conditional		22.0%	No	Yes
	hkhlt	Catch-up	Free		News	No	Yes
	Internetová videokuchačka	Catch-up	Free		100.0%	No	Yes
	VIDEO iDNES	Catch-up	Free		90.0%	No	Yes
	TV Kralupy	Catch-up	Free		News	No	Yes
	BONUS TV	Catch-up	Free		100.0%	No	Yes
	Infoportály	Catch-up	Free		10.0%	No	Yes
	TV Portály	Catch-up	Free		10.0%	No	Yes
	Webové stránky TV RTM	Catch-up	Free		10.0%	No	Yes
	SUPERVIDEA	Catch-up	Free		95.0%	No	Yes
	VIDEO NOVINKY	Catch-up	Free		90.0%	No	Yes
	VIDEO PROZENY.CZ	Catch-up	Free		95.0%	No	Yes
	Webové stránky TV RTM	Catch-up	Free		10.0%	No	Yes
	O2 Active	VoD	Conditional		70.0%	No	Yes

O2 TV TV archiv	VoD	Conditional		100.0%	No	Yes
O2TV Videotéka	VoD	Conditional		50.3%	No	Yes
T-music	Catch-up	Free		30.0%	No	Yes
Videozóna	Catch-up	Free		10.0%	No	Yes
Topfun	Catch-up	Conditional		10.0%	No	Yes
R1 MORAVA	Catch-up	Free		News	No	Yes
tvhradec	Catch-up	Free		News	No	Yes

### **Comments on the application of Article 13 in the Czech Republic**

In order to prevent misunderstanding of the provision on the promotion of European works in audiovisual media services on demand, the regulatory body (The Council on Radio and Television Broadcasting) has prepared a form to collect the relevant data. This form was prepared in cooperation with self-regulatory body representing on demand services (the law foresees the possibility for the regulatory body to cooperate with self-regulatory bodies on matters in the scope of the relevant law).

It can be said that first year of the application of this form helped the providers to fill in the data, and also the regulatory body to collect the necessary information in an unified way which meant easier preparation of the data.



## 2.4. Germany

### Existence of concrete obligations

The German legislation does not set out any concrete obligation (see comments below)

### Reported on-demand services

No on-demand services were reported

### Measures adopted for the promotion of European works

No statistical data were provided.

### **Comments on the application of Article 13 in Germany**

1. Article 13(1) of the AVMSD calls for the Member States to ensure, '*where practicable and by appropriate means*', that on-demand audiovisual media services promote the production of and access to European works. The words '*where practicable and by appropriate means*', when analysed, imply that this is not a binding norm. Exactly how this regulation is implemented is left to the Member States, which have a margin of discretion. During the past negotiations on this subject Germany was keen to make it clear that Article 13 is non-binding. In the final analysis, the fact that the Member States were allowed a margin of discretion in implementing the rules on promoting European works was instrumental in persuading Germany to agree to the adopted version of Article 13.
2. That said, the German *Länder*, which are empowered to pass legislation in this field, specified the telemedia services to be offered by the public service broadcasters in §§ 11d to 11f of the Interstate Broadcasting Treaty (*Rundfunkstaatsvertrag*, RStV). These new regulations were included in the RStV with the Twelfth Amendment to the RStV which came into force on 1 June 2009. Because of these regulations and the 'three-phase test procedures' based thereon, the on-demand audiovisual media services ('TV-like' telemedia) provided by the public service broadcasters are almost exclusively those already broadcast in these providers' linear services. Moreover, § 11d(5)(2) of the RStV forbids public service broadcasters from including in their telemedia bought-in films and episodes of TV series which are not commissioned by the broadcaster. However, these are works produced outside Europe. It can therefore be rightly said that the programme quotas for the linear services are far exceeded by the public-service on-demand audiovisual media services. In this regard we would also point to recital 74 of the AVMSD, which states that the objective of supporting audiovisual production in Europe can also be pursued within the Member States in the framework of the organisation of their audiovisual media services through the definition of a public service mission for certain media service providers.
3. In Germany's view no further-reaching obligation for on-demand audiovisual media service providers is currently practicable using appropriate means. This is due in particular, on the one hand, to the market situation and the economic constraints, especially on smaller on-demand audiovisual media service providers. On the other hand

it is extremely difficult to practically implement such an obligation, in part because the providers often have no data on the origin of the programmes but only on the licensor's country of origin.

4. For reasons of clarification we would also point to recital 27 of the AVMSD, according to which, for television broadcasting or television programmes which are also offered as on-demand audiovisual media services by the same media service provider, the requirements of this Directive should be deemed to be met by the fulfilment of the requirements applicable to the television broadcast.

## 2.5. Denmark

### Existence of concrete obligations

No concrete obligation was reported.

### Reported on-demand services

26 on-demand services were reported in 2009 and 2010. All are Video-on-demand services accessible free-of-charge. Geo-restrictions were reported for one service only.

### Measures adopted for the promotion of European works

The proportion of European works offered on the 26 on-demand services varied from 38.8% to 100%, the average being 88.9%. For one service data was not communicated. Compliance rate was 96.2%. Details are contained in the table below.

Year	Service	Type	Access	Financial Contribution (%)	Share of Catalogue (%)	Prominence	Compliance
2009	altfordamerne.dk/video	VoD	Free	NC	95.0%	No	Yes
	Amtsavisen.dk/webtv	VoD	Free	NC	100.0%	No	Yes
	stiften.dk/webtv	VoD	Free	NC	100.0%	No	Yes
	Berlingske TV	VoD	Free	NC	80.0%	No	Yes
	Business.dk/webtv	VoD	Free	NC	80.0%	No	Yes
	boersentv.dk	VoD	Free	NC	100.0%	No	Yes
	BT TV	VoD	Free	NC	60-70%	No	Yes
	dagbladet-holstebro-struer.dk/webtv	VoD	Free	NC	100.0%	No	Yes
	dagbladetskjern.dk/webtv	VoD	Free	NC	100.0%	No	Yes
	EBTV	VoD	Free	NC	100.0%	No	Yes
	Eurowoman	VoD	Free	NC	95.0%	No	Yes
	Femina TV	VoD	Free	NC	93-96%	No	Yes
	Filmstriben.dk	VoD	Free	NC	82,5-98,75%	No	Yes
	JPTV	VoD	Free	NC	100.0%	No	Yes
	jyskebank.tv	VoD	Free	NC	99-100%	No	Yes
	jv.dk Web TV	VoD	Free	NC	90.0%	No	Yes
	kino.dk/trailers	VoD	Free	NC	100.0%	No	Yes
	lokalavisen.dk/section/xweb-tv/1009	VoD	Free	NC	100.0%	No	Yes
	mja.dk/videoer.php	VoD	Free	NC	100.0%	No	Yes
	mtv.dk/videoer/	VoD	Free	NC	40.0%	No	Yes
	nordjyske.dk/webtv/forside.aspx	VoD	Free	NC	NC	No	
	Politiken TV	VoD	Free	NC	100.0%	No	Yes
	seoghoer.dk/webTV.aspx	VoD	Free	NC	93-96%	No	Yes
	thevoice.dk/popup/popup/php?tab=tv	VoD	Free	NC	38.8%	No	Yes

	vejleamtsfolkeblad.dk/webtv	VoD	Free	NC	59.5%	No	Yes
	viborg-folkeblad.dk/webtv	VoD	Free	NC	100.0%	No	Yes
2010	altfordamerne.dk/video	VoD	Free	NC	95.0%	No	Yes
	Amtsavisen.dk/webtv	VoD	Free	NC	100.0%	No	Yes
	stiften.dk/webtv	VoD	Free	NC	100.0%	No	Yes
	Berlingske TV	VoD	Free	NC	80.0%	No	Yes
	Business.dk/webtv	VoD	Free	NC	80.0%	No	Yes
	boersentv.dk	VoD	Free	NC	100.0%	No	Yes
	BT TV	VoD	Free	NC	60-70%	No	Yes
	dagbladet-holstebro-struer.dk/webtv	VoD	Free	NC	100.0%	No	Yes
	dagbladetskjern.dk/webtv	VoD	Free	NC	100.0%	No	Yes
	EBTV	VoD	Free	NC	100.0%	No	Yes
	Eurowoman	VoD	Free	NC	95.0%	No	Yes
	Femina TV	VoD	Free	NC	93-96%	No	Yes
	Filmstriben.dk	VoD	Free	NC	82,5-98,75%	No	Yes
	JPTV	VoD	Free	NC	100.0%	No	Yes
	jyskebank.tv	VoD	Free	NC	99-100%	No	Yes
	jv.dk Web TV	VoD	Free	NC	90.0%	No	Yes
	kino.dk/trailers	VoD	Free	NC	100.0%	No	Yes
	lokalavisen.dk/section/xweb-tv/1009	VoD	Free	NC	100.0%	No	Yes
	mja.dk/videoer.php	VoD	Free	NC	100.0%	No	Yes
	mtv.dk/videoer/	VoD	Free	NC	40.0%	No	Yes
	nordjyske.dk/webtv/forside.aspx	VoD	Free	NC	NC	No	
	Politiken TV	VoD	Free	NC	100.0%	No	Yes
	seoghoer.dk/webTV.aspx	VoD	Free	NC	93-96%	No	Yes
	thevoice.dk/popup/popup/php?tab=tv	VoD	Free	NC	38.8%	No	Yes
	vejleamtsfolkeblad.dk/webtv	VoD	Free	NC	59.5%	No	Yes
	viborg-folkeblad.dk/webtv	VoD	Free	NC	100.0%	No	Yes

## Comments on the application of Article 13 in Denmark

### Monitoring method

Based on lists from the two most important Danish internet media associations we have checked a number of Danish websites and chosen those which we found to be included.

The providers of those websites have been consulted. Some have been excluded as a result of the consultation while the answers of the rest have been included in the reporting to the Commission.

Judging by the information supplied by the relevant audiovisual media services suppliers, it appears that

- 1) The extent to which Danish suppliers of on-demand audiovisual media services supply these services is very small: Even websites belonging to major newspapers do not offer more than around five new videos per day.

- 2) The majority of the on-demand audiovisual media services supplied by Danish suppliers is European: Of the 29 suppliers who responded, 24 report the extent of their European services to be in the range of 80-100 % of their total supply. The high percentage of European services is to a large extent explained by the fact that most suppliers give high priority to Danish content.

## **2.6. Estonia**

### Existence of concrete obligations

No concrete obligation was in force during the reference period.

### Reported on-demand services

No services were reported during the reference period.

### Measures adopted for the promotion of European works

No statistical data were provided.

### **Comments on the application of Article 13 in Estonia**

Estonian new Media services act came into force in January 2011, providing the first reporting obligation for non-linear services (promotion of European Works) for 15th of February 2012. So far one non-linear service registered in summer 2011 after the enactment of the media act. There were no registered service providers (non-linear services) in 2009 and 2010 in Estonia, and the Estonian Media Services Act does not have any retroactive effect.

## 2.7. Ireland

### Existence of concrete obligations

No concrete obligation was reported.

### Reported on-demand services

No on-demand services were reported in 2009.

Three on-demand services were reported in 2010. All of them were catch-up TV services accessible free-of-charge.

### Measures adopted for the promotion of European works

The share of European works varied from 41.7% to 98.4%, the average being 73.7%. No other promotion measure was reported. Compliance rate was 100%.

Year	Service	Type	Access	Financial Contribution (%)	Share of Catalogue (%)	Prominence	Compliance
2010	RTÉ Player	Catch-up	Free		81.0%	No	Yes
	TG4 Player	Catch-up	Free		41.7%	No	Yes
	3player	Catch-up	Free		98.4%	No	Yes

### **Comments on the application of Article 13 in Ireland**

No comments were provided.

## 2.8. Greece

### Existence of concrete obligations

No concrete obligation was reported.

### Reported on-demand services

Five on-demand services were reported in 2009 and eight in 2010. A majority (4 out of 5 in 2009 and 6 out of 8 in 2010) were catch-up TV services. Most of them were accessible free-of-charge. Geo-restrictions were reported.

### Measures adopted for the promotion of European works

The Greek report indicates that almost all on-demand services applied the three categories of promotion modalities mentioned in Article 13 of the Directive. The share of European works ranged from 30% to 90% in 2009 (average share of 62.8%) and from 14.5% to 100% in 2010 (average share of 70.3%). The reported consumption of European works was slightly lower than the share of European works offered to the users in 2009 (59.2% on average against 62.8%) and slightly higher in 2010 (71% on average against 70.3%). Reported financial contributions varied from 40% to 100% in 2009 and from 10% to 100% in 2010. From the comments below, it appears that the basis for the calculation of financial contribution can be a mix of programming budget and turnover. The prominence tools used by the on-demand services in Greece are detailed in the second table below. Homepage, identified origin, trailers and promotions were the most commonly used tools. Compliance rates were 60% in 2009 and 75% in 2010.

Year	Service	Type	Access	Financial Contribution (%)	Share of Catalogue (%)	Prominence	Compliance
2009	FLASH TV	Catch-up	Free	80.0%	71.0%	Yes	Yes
	NOVA ON DEMAND	Mixed	Conditional	NC	NC	Yes	
	TV HALKIDIKI	Catch-up	Free	100.0%	60.0%	Yes	Yes
	LIVE STREAMING	Catch-up	Free	90.0%	90.0%	Yes	Yes
	ΤΟΠ ΤΣΑΝΝΕΑ	Catch-up	Free	40.0%	30.0%	Yes	No
2010	FLASH TV	Catch-up	Free	80.0%	71.0%	Yes	Yes
	NOVA ON DEMAND	Mixed	Conditional	NC	14.5%	Yes	
	KPHTH TV	Catch-up	Free	61.0%	80.0%	Yes	Yes
	SKAIPLAYER	VoD	Free	NC	100.0%	Yes	Yes
	TV HALKIDIKI	Catch-up	Free	100.0%	77.0%	Yes	Yes
	LIVE STREAMING	Catch-up	Free	90.0%	90.0%	Yes	Yes
	TV CRETA	Catch-up	Free	10.0%	100.0%	Yes	Yes
	ΤΟΠ ΤΣΑΝΝΕΑ	Catch-up	Free	42.0%	30.0%	Yes	No



## Prominence tools

Year	Service	Homepage (%)	Identified Origin (%)	Search	Tools	Sections	Trailers (%)	Promotion (%)
2009	FLASH TV	100.0%	100.0%	Yes	Yes	Yes	70.0%	30.0%
	NOVA ON DEMAND	NC	NC				NC	NC
	TV HALKIDIKI	100.0%	100.0%	No	No	Yes	50.0%	50.0%
	LIVE STREAMING	90.0%	100.0%	No	No	No	90.0%	NC
	ΤΟΠ ΤΣΑΝΝΕΑ	25.0%	100.0%	No	No	No	17.0%	28.0%
2010	FLASH TV	100.0%	100.0%	Yes	Yes	Yes	70.0%	30.0%
	NOVA ON DEMAND	NC	NC	NC	NC	NC	NC	NC
	KPHTH TV	NC	NC	No	No	No	80.0%	100.0%
	SKAIPLAYER	60.0%	100.0%	No	No	No	60.0%	10.0%
	TV HALKIDIKI	100.0%	90.0%	No	No	Yes	90.0%	61.0%
	LIVE STREAMING	90.0%	100.0%	No	No	No	90.0%	NC
	TV CRETA	100.0%	100.0%	Yes	No			
	ΤΟΠ ΤΣΑΝΝΕΑ	25.0%	100.0%	No	No	No	19.0%	30.0%

### Comments on the application of Article 13 in Greece

Article 13 of the AVMS Directive has been transposed by Article 14(1) ‘Promotion of European works’ of Presidential Decree 109/2010 (Government Gazette, Series I, N° 190). Based on the relevant provision, on-demand audiovisual services must, ‘as far as possible and using appropriate means, promote the production of and access to European works. In particular, this promotion may consist of a financial contribution by these services to the production of, and acquisition of rights for, European works, or a high level of incorporation and/or attractive presentation of European works in the catalogue of programmes offered by the on-demand audiovisual service.

### Statements

**STAR** television channel stated that pursuant to Article 13 of the AVMS Directive and Article 14 of Presidential Decree 109/2010 ‘the webpage ‘star.gr’ does not fall under the category of on-demand audiovisual media services.

**Antenna TV** (ANT1) also stated that Articles 17 and 18 of Presidential Decree 109/2010 setting out proportions of European and independent works exclusively refer to ‘television organisations’ as defined by Article 2 (1) f) of the same Presidential Decree and therefore only apply to the linear services of the television organisations and in no way to their non-linear services.

### Situation of on-demand services

At the national level, only two broadcasting companies (SKAI and Hellenic Parliament Television Channel) and five broadcasting companies with a regional coverage were providing on-demand services during 2009 and 2010. The on-demand services available in Greece during the reference period were mostly catch-up TV services.

The following information on on-demand services during 2009 and 2010 is based on the list of the Greek National Council for Radio and Television (NCRTV).

- 1) **SKAI** provides an on-demand service through its website '<http://www.skai.gr/tv/> (SKAI player)' offering consumers the possibility to follow the station' on-demand programmes. These programmes are Greek productions produced or commissioned by the channel to production companies. SKAI has therefore acquired all rights for broadcasting them on and off television. For 2010, however the production of the programmes was budgeted for the purposes of television broadcasting and not for the non-linear service.

**Hellenic Parliament Television Channel** provides its non-linear service according to the Hellenic Parliament's programming budget, as set out by the Finance Directorate of the Hellenic Parliament.

- 2) **The regional channels TV Halkidiki** (Halkidiki), **Kriti TV** (Heraklion Crete), **Top Channel** (Kozani), **Creta Channel** (Heraklion Crete) **and Flash TV** (Kozani), all with a regional coverage, offer non-linear services with a mix funding. Their financial support to European productions was based on both programming budget and turnover.

- 3) **Multichoice Hellas** offers an on-demand service ('Nova on-demand') using a PVR and the provision of the service comes from the broadcaster's programming budget. Due to the technical limitations, the number of films available for transmission is low. This means that the company 'is obliged, respecting the needs of its subscribers, to provide through this specific service, the programmes/films which have the widest possible appeal, in accordance with the number of box office sales. Taking the above into account, the average proportion of European works offered and promoted through the on-demand service is 14.5%.

## 2.9. Spain

### Existence of concrete obligations

The Spanish legislation imposes a 30% share of European works in catalogues as well as a 5% financial contribution to European productions calculated on the basis of turnover.

### Reported on-demand services

One on-demand service was reported in 2009 and three were reported in 2010. Two of them were Video-on-demand services and the other one was a mixed service (VOD/catch up TV). All of them were pay services. Geo-restrictions were reported for two services.

### Measures adopted for the promotion of European works

The reported on-demand services fulfilled the 5% financial contribution obligation as well as the 30% share of European works in 2009 and 2010 (the proportions varied from 38.7% to 60%). Data provided for 2010 shows a consumption of European works lower than the share of European works offered to the users (26.3% on average against 47.6%). On-demand services also used some prominence tools - in particular homepage, identified origin, trailers and promotions - although there is no legal obligation to do so under the Spanish legislation (see tables below). Compliance rate was 100% in 2009 and 2010.

Year	Service	Type	Access	Financial Contribution (%)	Share of Catalogue (%)	Prominence	Compliance
2009	VIDEOCLUB (ONO)	Mixed	Conditional	5.0%	40.0%	Yes	Yes
2010	VIDEOCLUB (ONO)	Mixed	Conditional	5.0%	38.7%	Yes	Yes
	VIDEOCLUB (Fr.Tel.E)	VoD	Conditional	5.0%	44.0%	Yes	Yes
	Telefonica VoD	VoD	Conditional	5.0%	60.0%	Yes	Yes

### **Prominence tools**

Year	Service	Homepage (%)	Identified Origin (%)	Search	Tools	Sections	Trailers (%)	Promotion (%)
2009	VIDEOCLUB (ONO)			No	No	No	35.0%	15.0%
2010	VIDEOCLUB (ONO)			No	No	No	35.0%	15.0%
	VIDEOCLUB (Fr.Tel.E)	5.0%	100.0%	No	No	Yes	13.0%	5.0%
	Telefonica VoD		100.0%	No	No	No		

### **Comments on the application of Article 13 in Spain**

In relation to the report on the implementation of Article 13 of the Directive, encouragement to produce European works and facilitate access to them by on-demand audiovisual media service providers has been incorporated into Law 7/2010 of 31 March 2010 (General Law on Audiovisual Communication), establishing two types of cumulative obligation:

1. Firstly, providers of catalogues of programmes must reserve 30 % of the catalogue for European works and half of this reserve must be in one of Spain's official languages.
2. Providers of catalogues of programmes are also obliged to participate in the prefinancing of European production of cinema films, films and series for television, and documentaries, films and animation series, to the value of 5 % of their income during the previous financial year, according to their earnings statement.

## **2.10. France**

### Existence of concrete obligations

The Decree concerning on-demand audiovisual media services entered into force on 1 January 2011. Therefore no obligation was imposed on on-demand services during the reference period in France.

### Reported on-demand services

No on-demand services were reported.

### Measures adopted for the promotion of European works

No statistical data was provided.

### **Comments on the application of Article 13 in France**

The CSA has not received any information to date on the promotion of European works on non-linear services under its jurisdiction.

Article 21 of Decree No 2010-1379 of 12 November 2010 concerning on-demand audiovisual media services, which entered into force on 1 January 2011, provides that: *'By 30 June of each year at the latest, audiovisual service providers of on-demand audiovisual media services subject to the provisions of Chapters I and II shall submit to the CSA an annual declaration relating to compliance with their obligations.'*

The first reports on the promotion of European works broadcast by these services should therefore be submitted to the CSA by 30 June 2012; they will relate to the 2011 reporting year.

The CSA informed that spot checks of the share and prominence of European works in catalogues would be carried out.

## **2.11. Italy**

### Existence of concrete obligations

The Italian decree transposing the Directive sets out the obligation to reserve 20% of on-demand catalogues for European works or, alternatively, to provide a 5% financial contribution to the production of European works, calculated on the basis of the revenues. This Decree had not entered into force during the reference period. The use of three prominence tools was reported (search, recommendation tools and sections dedicated to European works).

### Reported on-demand services

No on-demand services have been reported.

### Measures adopted for the promotion of European works

No statistical data was provided.

### **Comments on the application of Article 13 in Italy**

Directive 2007/65/CE was implemented in Italy with the decree 15 march 2010, n. 44 (the decree). During the period covered by the X report no obligation was in force for nonlinear audiovisual media services. According to article 16 (7) of the decree Agcom established a co-regulatory procedure for the definition of the duties related to the promotion of European works by the non linear audiovisual media services. The results of this co-regulatory activity are enshrined in Agcom decision n. 188/11/CONS that sets the obligation for video on-demand media services to promote European works, gradually and taking into account the development of the market by the adoption of one of these measures:

- a) a minimum 20% share of European works in video on-demand catalogues, calculated on the total yearly amount of hours provided by the subject having editorial responsibility on them;
- b) a financial contribution to the production of and acquisition of rights in European works that must not be less than 5% of the revenues related with the provision of video on-demand services.

Considering the development of VOD services, these duties will come into force in 2012.

Non linear audiovisual services are subject to a general authorization according to article 22 bis of the decree. This provision came into force in 2011, according to Agcom decision n. 607/10/CONS and for 2009 and 2010 there is no register of non linear audiovisual media service.

## **2.12. Cyprus**

### Existence of concrete obligations

No concrete obligations were reported.

### Reported on-demand services

No on-demand services were reported.

### Measures adopted for the promotion of European works

No statistical data was provided.

### **Comments on the application of Article 13 in Cyprus**

During the years 2009 and 2010, no media service provider providing on-demand audiovisual services was under the jurisdiction of CRTA.

## **2.13. Latvia**

### Existence of concrete obligations

No concrete obligations were reported.

### Reported on-demand services

No on-demand services were reported.

### Measures adopted for the promotion of European works

No statistical data was provided.

### **Comments on the application of Article 13 in Latvia**

At the moment of drawing up report on the application of Article 13 in Latvia not a single on-demand service provider is registered according to Electronic Mass Media Law. National Electronic Mass Media Council of Latvia is taking necessary actions to ensure the registration of these service providers.

National Electronic Mass Media Council of Latvia is developing the National strategy for the development of the electronic mass media sector. This strategy will contain requirements for promotion of European works in on-demand services.



## **2.14. Lithuania**

### Existence of concrete obligations

No concrete obligations were reported.

### Reported on-demand services

No on-demand services were reported.

### Measures adopted for the promotion of European works

No statistical data was provided.

### **Comments on the application of Article 13 in Lithuania**

No information can be provided regarding the application of Article 13 in Lithuania during the reference period. Pursuant to the Law on Provision of Information to the Public and the Ruling of the Radio and Television Commission of Lithuania, the four existing VOD providers had to register their activity by April 2011. Therefore no information is available for the previous years.

## 2.15. Luxembourg

### Existence of concrete obligations

No concrete obligations were reported during the reference period because the Directive was not transposed in Luxembourg until December 2010.

### Reported on-demand services

No on-demand services were reported in 2009. Five services were reported in 2010. Four of them were Video-on-demand services and one was a mixed service (catch-up/VOD).

### Measures adopted for the promotion of European works

No statistical data was provided. However some information was given on the use of prominence tools by on-demand services in Luxembourg (see comments below).

Year	Service	Type	Access	Financial Contribution (%)	Share of Catalogue (%)	Prominence	Compliance
2010	catch-up services (CLT-UFA)	Mixed					
	Video club (Coditel)	VoD					
	Video on demand (Eltrona)	VoD					
	Video on demand (EP&T)	VoD					
	itunes store	VoD					

### **Comments on the application of Article 13 in Luxembourg**

Application of Article 13 of Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services, which stipulates that Member States shall ensure that on-demand services help promote the production of European works as well as access thereto by on-demand media service providers.

The Directive was not transposed into national law until December 2010. This explains why AVMS providers had not yet for the period under review introduced tools and methods for providing reliable numerical data on the presence of European works in their supply. However, even in the absence of such data, an analysis of the supply shows that certain services feature headings based not only on the genre/type of work but also on its origin/nationality. By reserving a special place for European works in their catalogues, providers contribute to achieving the stated objective. These measures are sometimes complemented by including articles highlighting certain well-known European actors in a specific country. By providing such information on European stars and their films, the

services contribute to promoting European works. Other initiatives are also planned, such as financial contributions to the production of European works.

Generally speaking, providers seem to acknowledge that national works are essential to making their supply attractive.

European works make up 25% to 30% of the supply in the catalogue of the Postal and Telecommunications Company (Entreprises des Postes et Télécommunications). Measures have been taken to promote in future the broadcasting of European works using a tab enabling direct access to these works.

## 2.16. Hungary

### Existence of concrete obligations

No concrete obligations were reported since the legislation transposing the Directive entered into force on 1 January 2011.

### Reported on-demand services

No on-demand services were reported.

### Measures adopted for the promotion of European works

No statistical data were provided.

### **Comments on the application of Article 13 in Hungary**

The provisions governing on-demand media services were introduced in Hungary by virtue of Act CLXXXV of 2010 on Media Services and Mass Media (Media Act), which came into force on 1 January 2011.

The European Commission is requesting data on on-demand media services in respect of European works for the period between 1 January 2010 and 31 December 2010.

Regulation governing on-demand media services was created on a legislative level by the legislator; however, the Media Act only came into force on 1 January 2011. Consequently, the Media Council does not have any information on these services for the reporting period from 1 January 2010 to 31 December 2010.

Article 41 of the Media Act sets out a registration obligation for on-demand media services  
**Article 41 (1) of the Media Act (...):**

*(2) On-demand and ancillary media services subject to this Act provided by a media service provider with a registered office (domicile) in the territory of the Republic of Hungary shall be registered with the Authority. The said shall also be applicable to a media product published by a publisher with a registered office (domicile) in the territory of the Republic of Hungary. Registration is not a condition for commencing the service or the activity.*

*(3) Any natural person, legal or unincorporated entity shall have the right to initiate said registration pursuant to those set forth in this Act.*

*(4) The Authority shall keep an administrative register of (...)*

*e) on-demand audiovisual media services,*

*f) on-demand radio media services, (...)*

*(5) In the event that a service provider provides both linear and on-demand services, or if a media publisher publishes both print media and online media products, it shall register each*

*of its media services or media products separately.*

*(6) The data recorded in administrative registers established pursuant to Paragraph (4) - the name, contact information of media service providers, media product founders and publishers, as well as the names and titles of said media services and products - shall be in the public domain and accessible on the National Media and Infocommunications Authority (hereinafter referred to as the Authority) website. For the purposes of monitoring media services and media product publishing, the Authority shall oversee the natural person identification data of natural person media service providers and media product founders and publishers until such data are deleted from the administrative register.*

Article 20 (2) of the Media Act defines the following programme quotas for on-demand audiovisual media services in respect of Hungarian works, qualifying as European works:

***Article 20 (2) of the Media Act: Over one-quarter of the total sum of the length of the programmes made available in a given calendar year in the programme offerings of on-demand audiovisual media services shall be composed of Hungarian works.***

Since the entry into force of the Media Act, the National Media and Infocommunications Authority has registered 54 on-demand media services over the course of 2011.

## **2.17. Malta**

### Existence of concrete obligations

No concrete obligations were reported.

### Reported on-demand services

No on-demand services were reported.

### Measures adopted for the promotion of European works

No statistical data were provided.

### **Comments on the application of Article 13 in Malta**

No comments were provided.

## **2.18. Netherlands**

### Existence of concrete obligations

No concrete obligations were reported.

### Reported on-demand services

No on-demand services were reported because the policy rules on the classification of on-demand commercial media services entered into force on 1 November 2011. Of the 23 services declared on 16 December 2010, it is likely that only a few services may be regarded as on-demand media services, but no decision had been taken at the time of drawing up the Report (see comments below).

### Measures adopted for the promotion of European works

Some statistical data were reported in the comments provided by the Dutch Authority. Three services which may be considered as on-demand services offered a high proportion of European works (from 58% to 100%).

## **Comments on the application of Article 13 in the Netherlands**

### **A) The situation in 2009-2010**

As you are aware, the implementation of the Audiovisual Media Services Directive (hereinafter the 'AVMS Directive') in the Mediawet 2008 ('2008 Media Law') was completed with the entry into force of the implementing law on 19 December 2009.

Over the course of 2010 the Dutch Media Authority (CvdM) received a number of declarations from providers which planned to provide one or more on-demand media services. On 16 December 2010, the reference date, a total of 23 (assumed) on-demand media services were declared.

In 2010 the CvdM gave no final ruling on the status of the declared services as it preferred to wait until the policy rules detailing the criteria for the definition of on-demand commercial media services had been laid down. The 2011 policy rules on the classification of on-demand commercial media services entered into force on 1 November 2011. Since then the number of declarations of (assumed) on-demand media services has continued to increase.

At the time of writing, a total of 36 declarations have been received. The CvdM is in the process of establishing which of these actually relate to on-demand commercial media services.

Of the 23 services declared on 16 December 2010, (it is likely that) only a few services may be regarded as on-demand media services. Many of them are radio services, for example, and/or services which were not active at the time.

Article 13 may therefore not be said to apply to the majority of services declared on 16 December 2010.

Although a final decision has not yet been reached, the CvdM assumes that three services may in any case be considered to be on-demand media services:

- Smulweb TV: a service consisting of cooking videos;
- Almere Breed TV: a local video service aimed at inhabitants of the city of Almere;
- Disney Channel; a number of VOD services.

## **B) Assessment of the European quota obligations**

Following an initial analysis the CvdM found that the first two of the above services show only European works. We found that the Disney Channel on-demand media services are derived from the linear range and that the share of European productions is a healthy 58%.

In addition to those services which have already been declared, there are two categories of providers whose services have not yet been declared but may be assumed to be on-demand media services.

These are the categories of 'catch-up services' and 'video-on-demand services' provided by SBS, NPO, UPC and Ziggo. The CvdM would refer in this connection to the study ordered by the Commission in 2011 to evaluate the AVMS Directive.

Table 1. European productions expressed in hours/titles as a percentage of the total number of hours/titles analysed in the catalogue of an on-demand media service

Type	Service	% hours	% titles
Catch-up	SBS6 Programma Gemist	98.5	98.5
	Uitzending Gemist	100.0	100.0
VOD	Veamer	24.7	24.8
	UPC Live	28.4	28.9

Source: 'Study on the implementation of the provisions of the Audiovisual Media Services Directive concerning the promotion of European works in audiovisual media services' (Chapter 6 'Non-Linear Content Analysis').

## **C) Monitoring**

The CvdM is currently assessing both declared and non-declared services. Providers will be contacted and their attention drawn to the obligation to periodically inform the CvdM of the share of European works as referred to in Article 13 of the AVMS Directive. The CvdM will therefore send a questionnaire following declaration. The questionnaire will be based on the Commission's reporting instruction for non-linear media services.



## 2.19. Austria

### Existence of concrete obligations

An obligation to reserve a 50% share of catalogues for European works is imposed on the Austrian Public Service Broadcaster. Prominence obligations (adequate presentation and identification of the works offered) are imposed on private on-demand service providers.

### Reported on-demand services

One on-demand service was reported in 2010: the catch-up service of the Public Service Broadcaster which was accessible free-of-charge.

### Measures adopted for the promotion of European works

The catch-up TV service offered a 100% European works in 2010. No other measures were reported since the Austrian legislation applying to commercial on-demand services only entered into force in October 2010 and the most on-demand services launched a professional offer only as of 2011 (see comments below).

Year	Service	Type	Access	Financial Contribution (%)	Share of Catalogue (%)	Prominence	Compliance
2010	ORF-Tvtech	Catch-up	Free		100.0%	No	

### **Comments on the application of Article 13 in Austria**

1. The **catch-up service of the ORF** started on the 16th of November 2009. Due to the legal conditions only own productions (coproductions) of the ORF can be distributed on this platform, so that 100 % of the programmes in 2009/10 are of European origin.

2. According to the Austrian legal situation there are no data concerning a percentage of European works available for the **private sector of audiovisual on demand services** as those services (as also enabled by article 13 AVMSD) only have the obligation to an adequate presentation and identification of European works in the catalogue provided. The Austrian Audio Visual Media Act, which foresees an obligation to actively report any non-linear services from Austrian based providers of such services, came into force on October 1<sup>st</sup>, 2010.

Subsequently KommAustria actively started to inform and “encourage” providers of non-linear services in Austria to comply with all the legal obligations by requesting all identified providers to state, whether their offered non-linear services are audiovisual media services on demand according to Art 13 AVMS-Directive. All subsequently received data refer to the beginning of the year 2011.

What can be concluded out of the monitoring procedure is that by far the largest part of the now registered services (see <http://www.rtr.at/de/m/Abrufdienste>) have started a professional offer not earlier than 2011. As far as some of them already started in 2010 or even earlier almost all of these restricted themselves to the distribution of their own productions, so that in any case these programmes were of European origin. Where this was not the case - e.g. see <http://www.flimmit.com/online-videothek/> - the service provider offers (according to the legal

conditions) in an exemplary way an own category “Europäischer Film” and even “Österreich-Ecke”. Given the number of identified non-linear services, a comprehensive report can be expected for the following reporting period (2011 – 2012).

## **2.20. Poland**

### Existence of concrete obligations

No concrete obligations were reported due to late transposition of the Directive.

### Reported on-demand services

No on-demand services were reported.

### Measures adopted for the promotion of European works

No statistical data were provided.

### **Comments on the application of Article 13 in Poland**

During the reporting period, i.e. in 2009 and 2010, provisions requiring the implementation of so-called on-screen quotas by on-demand audiovisual media service providers (Article 13 of the Directive) were not in force, hence the lack of data in the report on this subject.

## 2.21. Portugal

### Existence of concrete obligations

No concrete obligations were reported.

### Reported on-demand services

Four on-demand services were reported in 2009 and five in 2010. Half of them were Video-on-demand services and half, mixed services (catch-up and VOD). All of them were pay services.

### Measures adopted for the promotion of European works

In 2009, the share of European works in catalogues varied from 31.2% to 62.2% (45.6% on average) and in 2010, from 16.5% to 59.7% (36.4% on average). Compliance rates were 25% in 2009 and 40% in 2010.

Year	Service	Type	Access	Financial Contribution (%)	Share of Catalogue (%)	Prominence	Compliance
2009	VOD (MEO)	mixed	Conditional		43.5%	No	No
	VOD (Optimus)	VoD	Conditional		NC	No	
	VOD (Vodafone)	mixed	Conditional		31.2%	No	No
	VOD (ZON)	VoD	Conditional		62.2%	No	Yes
2010	VOD (Cabovisao)	VoD	Conditional		23.2%	No	No
	VOD (MEO)	mixed	Conditional		59.7%	No	Yes
	VOD (Optimus)	VoD	Conditional		16.5%	No	No
	VOD (Vodafone)	mixed	Conditional		31.9%	No	No
	VOD (ZON)	VoD	Conditional		50.5%	No	Yes

### **Comments on the application of Article 13 in Portugal**

#### **Monitoring method**

Data collection was made by the Entidade Reguladora para a Comunicação Social (ERC - Portuguese Regulatory Authority) from the catalogues sent by the providers to the ERC at its request. It also requested information on the work's title, the country of production, production year and the year of entry into the providers' VOD platform.

#### **MEO - PT Comunicações, S.A.**

Given that the operator had included audiovisual works whose origin is not known in the catalogue, **the percentages were calculated from the sub-group of audiovisual works available in the catalogue, i.e. excluding from the list the works whose origin was not given.** There was an increasing number of European works included in the operator's catalogue: 43.5 % in 2009 rising to 59.7 % in 2010.

#### **Optimus – SonaeCom, S.A.**

Even though this operator already offered on-demand audiovisual services in 2009, it did not communicate specific information on its catalogue for that year. In any case, the works that were available in 2009 are still included in the 2010 catalogue.

**Vodafone Portugal, S.A.**

There was a slight increase in the number of European works in the operator's catalogue: 31.2 % in 2009 rising to 31.9 % in 2010.

**ZON Conteúdos – Actividade de Televisão e de Produção de Conteúdos, S.A.**

**The percentages were calculated from the sub-group of audiovisual works available in the catalogue, i.e. excluding from the list the works whose origin was not given.** This was done because the operator had included audiovisual works whose origin is not known. In 2010 the operator included twice as many works in its catalogue than it did in 2009, and offered an increasing number of European works.

## 2.22. Romania

### Existence of concrete obligations

No concrete obligations were reported.

### Reported on-demand services

No on-demand services were reported in 2009.

Three services were reported in 2010. All of them were public funded catch-up services accessible free-of-charge.

### Measures adopted for the promotion of European works

The report indicated a share of European works ranging from 73.2% to 100%, the average being 86.1%. Some prominence tools were also reported, such as homepage, identified origin, trailers and promotions. (See tables below). Compliance rate was 100%.

Year	Service	Type	Access	Financial Contribution (%)	Share of Catalogue (%)	Prominence	Compliance
2010	Kanal D	Catch-up	Free		85.0%	Yes	Yes
	Speranta TV	Catch-up	Free		73.2%	Yes	Yes
	TVR Interactiv	Catch-up	Free		100.0%	Yes	Yes

### **Prominence tools**

Year	Service	Homepage (%)	Identified Origin (%)	Search	Tools	Sections	Trailers (%)	Promotion (%)
2010	Kanal D	65.0%	100.0%	Yes	No	Yes	20.0%	10.0%
	Speranta TV			No	No	No		
	TVR Interactiv		100.0%	No	No	No		

### **Comments on the application of Article 13 in Romania**

Non-linear services have recently been implemented in Romania and their number is scarce. National Audiovisual Council of Romania (CNA) is the regulatory authority responsible for all the types of services. Romania has harmonized its legislation, and adopted general obligations to promote European works on non-linear services.

According to the Romanian Audiovisual Law no. 504/2002, Art. 23:

*"(1) On-demand audiovisual media services promote, where practicable and by appropriate means, the production of and access to European works. Such promotion could relate, inter alia, to the financial contribution made by such services to the production and rights acquisition of European works or to the percentage and/or prominence of European works in the catalogue of programs offered".*

Within the Romanian audiovisual market there is only one full-service video-on-demand provider ([www.Voyo.ro](http://www.Voyo.ro)) that was notified to CNA, since 2011. Besides this, only some Romanian broadcasters offer non-linear services (only catch-up TV) online as part of their IPTV platform, as seen in the annex.

## 2.23. Sweden

### Existence of concrete obligations

No concrete obligations were reported.

### Reported on-demand services

Three on-demand services were reported in 2009.

Six on-demand services were reported in 2010.

Only one Video-on-demand service was reported in 2010. The rest of services were catch-up or mixed (catch-up/VOD) services. Most of the services listed in 2010 were accessible free-of-charge (see tables below). Geo-restrictions were reported.

### Measures adopted for the promotion of European works

According to the report on-demand all services in Sweden reserved a share of their catalogues for European works (from 30% to 85% in 2009 and from 35% to 100% in 2010). The average shares were respectively 66% and 80.8% in 2009 and 2010, lower than the average consumption of European works (respectively 92% and 98% in 2009 and 2010). Some of the services reported a financial contribution to the production of European works (from 15% to 100%) however, without indicating the basis for its calculation. In a few cases prominence tools were also used, in particular homepage and identified origin. (See table below). Compliance rate was 100% in 2009 and 2010.

Year	Service	Type	Access	Financial Contribution (%)	Share of Catalogue (%)	Prominence	Compliance
2009	C+ Play	Catch-up	Conditional	15.0%	30.0%	Yes	Yes
	SVT Play	Mixed	Free	NC	83.0%	Yes	Yes
	TV4 Play	Mixed	Mixed	NC	85.0%	Yes	Yes
2010	Axess Play	Mixed	Free	NC	90.0%	Yes	Yes
	C + Play	Catch-up	Conditional	15.0%	35.0%	Yes	Yes
	Moviestone	Mixed	Free	100.0%	100.0%	Yes	Yes
	SVT Play	Mixed	Free	NC	82.0%	Yes	Yes
	Kanal 24	VoD	Free	100.0%	100.0%	Yes	Yes
	TV4 Play	Mixed	Mixed	NC	78.0%	Yes	Yes

### **Prominence tools**

Year	Service	Homepage (%)	Identified Origin (%)	Search	Tools	Sections	Trailers (%)	Promotion (%)
2009	C+ Play	100.0%	100.0%	Yes	Yes	No	NC	NC
	SVT Play	NC	90.0%	No	No	No	No	No
	TV4 Play	100.0%	80.0%	No	No	No	NC	NC
2010	Axess Play	80.0%	100.0%	No	No	No	NC	NC
	C + Play	100.0%	100.0%	Yes	Yes	No	NC	NC



Moviestone	100.0%	100.0%	No	No	No	100.0%	100.0%
SVT Play	NC	90.0%	No	No	No	NC	No
Kanal 24	100.0%	100.0%	No	No	No	100.0%	100.0%
TV4 Play	100.0%	80.0%	No	No	No	NC	NC

## Comments on the application of Article 13 in Sweden

### The monitoring method

A natural or legal person who provides on-demand-TV in Sweden is required to register with the Swedish Broadcasting Authority (Chapter 2, section 2 of the Swedish Radio- and Television Act (2010:696)). The Broadcasting Authority shall establish a registry of those natural or legal persons who have registered and whose operations are within the purview of the Radio- and Television Act.

On 8 December 2011, the Broadcasting Authority had registered 24 on-demand-services from 17 operators. It has, however, been difficult for the Authority to induce other operators than the traditional broadcasting companies to register as providers of on-demand-TV. Two operators have after registration of four services requested that these services shall be removed from the register.

Natural or legal persons that provide on-demand-TV in other ways than through cable are to report to the Broadcasting Authority every fourth year, with the beginning 2011, what has been done in order to promote European works.

The Authority has required reports from those operators which were registered at the time we received the Commission's request for reports. The Authority has also tried to obtain information from a few non-registered operators which the Authority suspects to be providers of on-demand services in the meaning of the Directive. Unfortunately these efforts have been without results so far.

### The result

The replies obtained show that the content of on-demand-services to a very large extent consists of European works. We can also see that most services lack specific functions in order to identify, search and recommend European works. The Swedish Radio- and Television Act does not specify in what way European works shall be promoted.

### The future work

The Radio and Broadcasting Authority will continue and intensify its work in trying to identify the providers of on-demand-TV and require them to register. The authority will improve and enhance its information as regards the requirement to register and to promote European works.

## 2.24. Slovenia

### Existence of concrete obligations

No concrete obligations were reported due to the late transposition of the Directive.

### Reported on-demand services

No on-demand services were reported.

### Measures adopted for the promotion of European works

No statistical data were provided.

### **Comments on the application of Article 13 in Slovenia**

Since the Audiovisual Media Services Directive was just recently transposed into our media legislation - Law on Audiovisual Media Services entered into force on 17<sup>th</sup> of November 2011 – our regulatory authority did not have any legal basis for monitoring audiovisual works in on-demand audiovisual media services during the reference period.

The first step after the adoption of the law would be the notification of all on-demand AVMS providers, so that the monitoring of audiovisual works in on-demand audiovisual media services would be carried out during the next year 2012.

A question regarding the implementation of the Article 13 - method of calculation the percentage of the catalogue made up of European works:

Under the Article 16 of the Slovenian Law on Audiovisual Media Services video-on-demand service providers are required to ensure that the share of European works be least 10% of the catalogue. However, the provision does not include any method on calculating this share (or even, if the share should be calculated from the programming hours or number of titles), as do not the guidelines for filling in the Article 13 forms sent out along with the excel spreadsheets.

To prepare the correct data we need to know, if the qualifying hours used to calculate the percentage of the catalogue made up of European works are:

1. the duration (runtime) in hours of a specific work offered in the catalogue, regardless of the number of days a specific work has been available or
2. should the number of days a specific work has been made available also be taken into account, in which case the total of hours for a specific work is the duration (runtime) of the work multiplied by number of days it has been made available.

If the calculation is made regardless of the number of days a specific European work has been made available, taking into account just the runtime, then the minimum share of European works could easily be achieved by making a sufficient quota available for even just one day.

## 2.25. Finland

### Existence of concrete obligations

No concrete obligations were reported.

### Reported on-demand services

No on-demand services were reported in 2009.

Five on-demand services were reported in 2010, two catch-up and three mixed (catch-up/VOD) services. Most of them were accessible free-of-charge (four out of five). Three of them reported geo-restrictions.

### Measures adopted for the promotion of European works

Most of the content offered is of European origin since on-demand services in Finland are mainly built on domestic productions (see comments below). One statistical data was provided (70% share of European works).

Year	Service	Type	Access	Financial Contribution (%)	Share of Catalogue (%)	Prominence	Compliance
2010	Katsomo	Mixed	Mixed		70.0%		Yes
	TV7	Mixed	Free				Yes
	Ruutu	Catch-up	Free				Yes
	TV5 Netti-TV	Catch-up	Free				Yes
	Yle Areena	Mixed	Free				Yes

### **Comments on the application of Article 13 in Finland**

Article 13 is implemented in Section 16 of the Act on Television and Radio Operations. At the moment, most of the on-demand audiovisual media services offered in Finland are provided by broadcasters.

Providers of on-demand audiovisual media services have reported to Ficora that they have used the following means to promote European works in their services:

1. Most of the content of on-demand audiovisual media services is of European origin. Providers of on-demand audiovisual media services aim to purchase on-demand rights to all European works that are broadcasted also on their television channels; Sanoma TV in particular makes a wide acquisition of on-demand rights to domestic productions.

2. Providers of on-demand audiovisual media services have produced domestic spin-off programs, such as a spin-off to a popular soap opera (MTV3), and also other material or clips that are available only as on-demand;

3. Providers of on-demand audiovisual media services build their services mainly around domestic productions. In particular YLE Arena (catch-up service) offers a higher share of domestic/European works – due to copyright restrictions – than the corresponding linear service.

## 2.26. Slovakia

### Existence of concrete obligations

No concrete obligations were reported.

### Reported on-demand services

No on-demand services were reported in 2009.

36 on-demand services were reported in 2010, of which 10 were video-on-demand services, 21, catch-up services and five, mixed services. All of them were accessible free-of-charge.

### Measures adopted for the promotion of European works

In 2010 on-demand services in Slovakia reported a share of European works ranging from 30% to 100%, the average being 93.3% in 2010 (see table below). No other measures for the promotion of European works were reported.

Year	Service	Type	Access	Financial Contribution (%)	Share of Catalogue (%)	Prominence	Compliance
2010	www.net-tv.sk	Catch-up	Free	NC	100.0%	NC	
	www.ztv.sk/TV Archiv	Catch-up	Free	NC	100.0%	NC	
	www.bardejovskatv.sk/videoarchiv	Catch-up	Free	NC	100.0%	NC	
	www.snv.sk/Archiv, Najlepsie a Najsledovanejsie	Catch-up	Free	NC	100.0%	NC	
	www.ta3.com/archiv	Catch-up	Free	NC	44.0%	NC	
	www.cetv.sk/Spravodastvo, Akuality, Tv Archiv	Mixed	Free	NC	100.0%	NC	
	www.tvba.sk	Catch-up	Free	NC	100.0%	NC	
	www-prezentator.com/zoznam firm, vyhladavac	VoD	Free	NC	100.0%	NC	
	www.rexik.sk	VoD	Free	NC	70.7%	NC	
	www.heregion.sk/vysielanie Hc TV	Catch-up	Free	NC	100.0%	NC	
	www.hntv.sk/Prilohy, TV Kratke spravy, TV Hlavne spravy, TV Sport a TV prilohy	Mixed	Free	NC	100.0%	NC	
	www.tv.infomi.sk	Catch-up	Free	NC	100.0%	NC	
	www.tvdk.sk/obrazove spravy	Catch-up	Free	NC	100.0%	NC	
	www.donatv.sk	Catch-up	Free	NC	100.0%	NC	
	www.metoo.sk/videopozicovna, videohoroskopy, videoinzercia, MeToo TV	VoD	Free	NC	98.3%	NC	
	www.mtr.sk/videoarchiv	Catch-up	Free	NC	100.0%	NC	
	www.huste.sk/	Mixed	Free	NC	100.0%	NC	
	www.joj.sk/archiv, video	Catch-up	Free	NC	100.0%	NC	
	www.markiza.sk/tvnoviny	Mixed	Free	NC	79.8%	NC	
	www.markiza.sk/viedozone	Mixed	Free	NC	86.0%	NC	
	www.tv.eu.sk	VoD	Free	NC	100.0%	NC	

www.nztv.eu	Catch-up	Free	NC	100.0%	NC	
Fiber TV/video na požiadanie	VoD	Free	NC	51.8%	NC	
Orange World/video na zelanie	VoD	Free	NC	98.0%	NC	
www.dstv.sk/Hlavna stranka, Spravy, Magazin	Catch-up	Free	NC	100.0%	NC	
www.tivi.cas.sk	VoD	Free	NC	100.0%	NC	
www.stv.sk/videoarchiv	Catch-up	Free	NC	100.0%	NC	
digitalna televizia Magio/domaca videopozicovna	VoD	Free	NC	30.0%	NC	
www.televizio.sk	VoD	Free	NC	100.0%	NC	
www.tvpatriot.sk/Tv Archiv	Catch-up	Free	NC	100.0%	NC	
www.tvkarpaty.sk/Video spravy, Archiv relacie, Najnovsie spravy, Rychle spravy	Catch-up	Free	NC	100.0%	NC	
www.tvmistral.sk/Tento tyzden, Archiv	Catch-up	Free	NC	100.0%	NC	
www.tvoravia.sk/Spravy, Relcie, Sport, Kultura, Region info, Firmy	Catch-up	Free	NC	100.0%	NC	
www.tvpezinok.sk/VIDEOARCHIV	Catch-up	Free	NC	100.0%	NC	
www.respublica.sk/Vysielanie regiony	Catch-up	Free	NC	100.0%	NC	
www.web-tv.sk	VoD	Free	NC	100.0%	NC	

### Comments on the application of Article 13 in Slovakia

No comments were provided.

## 2.27. United Kingdom

### Existence of concrete obligations

No concrete obligations were reported.

### Reported on-demand services

No on-demand services were reported in 2009.

82 on-demand services were reported in 2010. No information was provided on the type of services and access.

### Measures adopted for the promotion of European works

Proportions of European works offered in the catalogues varied from 0% to 100% in 2010, the average share being 38.5%. No other measures were reported (see table below).

The average consumption of European works reported in 2010 was somewhat higher than the share of European works offered in the catalogues (40.7% against 38.5%).

Year	Service	Type	Access	Financial Contribution (%)	Share of Catalogue (%)	Prominence	Compliance
2010	40D website				96.0%		
	Virgin/TopUpTV/BT/PS3				97.0%		
	History/Bio/C&I/Military history on Sky Anytime				27.0%		
	History/Bio/C&I/Military history on Sky/Virgin				31.0%		
	History/Bio/C&I/Military history on TopUpTV				28.0%		
	History/Bio/C&I/Military history on UPC PL/Aster				NC		
	History/Bio/C&I/Military history on Ziggo/Belgacom				NC		
	Living TV				74.0%		
	Sky on Sky Anytime				40.0%		
	Sky on Sky Anytime+				28.0%		
	Sky on Sky Go				27.0%		
	BT Vision				49.0%		
	Ocean Finance TV				100.0%		
	Channel5.com				71.0%		
	Community Channel				86.0%		
	Discovery Video-on-demand				44.0%		
	ABC on demand				0.0%		
	Disney Channel on demand				10.0%		
	Disney Junior on demand				64.0%		
	Disney XD on demand				0.0%		

FX				0.0%		
www.horseandcountry.tv				92.0%		
Fetch TV				0.0%		
ITV archive on Virgin				94.0%		
ITV Player				93.0%		
itv.com				91.0%		
ITV Wild				100.0%		
Leedstrinity.ac.uk				100.0%		
MSN Video Player				83.0%		
MTV				59.0%		
Music Choice on demand				62.0%		
National Geographic				35.0%		
NvTv				100.0%		
Adult Channel and other adult services on various platforms				60.0%		
Syfy Universal France				27.0%		
Syfy.co.uk				0.0%		
Syfy/13th Street				42.0%		
Animax				0.0%		
Animax Germany				21.0%		
AXN				49.0%		
AXN Germany				13.0%		
AXN Italy				16.0%		
Sony Entertainment TV				0.0%		
Sony Retro				0.0%		
STV Player				98.0%		
STV Player YouTube				98.0%		
Telegraph TV				100.0%		
TV Favourites				50.0%		
Travel Channel VOD				76.0%		
Adult Swim				0.0%		
Cartoon Network				15.0%		
CNN				50.0%		
TCM				1.0%		
Picturebox				12.0%		
UTV Player				99.0%		
TV3 Play				NC		
TV3 Play				NC		
TV6 Play				NC		
TV8 Play				NC		
Viaplay				NC		
Viasat 4Play				NC		
Virgin Media				59.0%		
Warner Films on Elisa Vihde				20.0%		
Warner Films on Lovefilm.com				22.0%		



Warner TV on 3Mobile				0.0%		
Warner TV on Alice				0.0%		
Warner TV on AON.TV				3.0%		
Warner TV on Conn-X TV				2.0%		
Warner TV on Elisa Vihde				0.0%		
Warner TV on Fastweb				4.0%		
Warner TV on FHV				3.0%		

### **Comments on the application of Article 13 in the UK**

No comments were provided.

