



Subgroup 1 – 2023

Consistent implementation and enforcement of the new AVMSD framework

Report on the transposition and implementation of Article 13 (1) (Prominence of European Works), and Article 13(2) (Financial contribution to the production of European Works by Media Service Providers established in another Member State)



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I. Introduction

During the last years ERGA has been following closely the state of play related to the national transposition of the revised Audiovisual Media Services Directive (AVMSD) concerning prominence measures. A first report titled *Overview document in relation to Article 13(1) of the Audiovisual Media Services Directive* was published in 2020. It was followed by the publication of two subsequent reports, the report on *Transposition and implementation of Article 13(1) of the new AVMSD – Ensuring prominence of European works in the catalogues of on-demand audiovisual media services* from 2021 and the report on *Exploring how algorithms and recommendation systems could ensure the appropriate prominence of audiovisual media services of general interest (Article 7a) as well as the prominence of European works (Article 13(1))*. Since the publication of the latest report, Member States have progressed with the national transposition and the monitoring of the implementation of provisions of the 2018 AVMSD.

While ERGA has already carried out substantial work on prominence measures, no assessment has been done regarding the optional measures related to financial contributions to European Works under article 13(2) of the revised AVMSD. Article 13(2) of the revised AVMSD introduced the possibility for Member States to promote the production of European works. At the same time, Article 13(2) left considerable amount of leeway for Member States regarding this obligation on audiovisual media services. Therefore, it is necessary to map existing differences among Member States.

In consistency with the work carried out by ERGA in previous years and in line with the Work Programme 2023¹, a distinct Taskforce has been created in SG1 to continue to support the implementation of the AVMSD, providing analysis on the topics based on the practical experience and the needs of ERGA members in their application of the Directive.

In line with the deliverable set by SG 1 in its terms of reference, the aim of the current survey is twofold. Firstly, to map further developments on the implementation of provisions and monitoring of obligations related to the prominence of European Works (Article 13(1)). Secondly, to understand the different national implementations of the optional provisions for Member States to require media service providers established in another Member State to contribute financially to the production of European Works (Article 13(2)). This will enable the Subgroup to gather information and to get an update on the current state of play.

a. Recent results of ERGA work on AVMSD prominence measures

i. 2021 Report

In 2021 ERGA issued its second report on the transposition of article 13(1) on prominence in the catalogues of VODs.² The report examined the transposition processes, monitoring procedures and compliance assessments in order to get an updated overview following the first report.

¹ <https://erga-online.eu/wp-content/uploads/2022/09/2022-09-15-ERGA-Work-Programme-2023-as-adopted.pdf>

² https://erga-online.eu/wp-content/uploads/2021/12/ERGA-SG1-2021-Report-Article-13_1.pdf



Based on contributions received from 21 NRAs, the following observations were made.

Regarding the definition of prominence, the report concluded that most legislation did not define prominence or did not go further than the AVMSD.

With regard to the enforcement of the provision on prominence of European works, most Member States (17 out of 21) let VODs use the means to ensure prominence. Among those replies, 9 declared that their (draft) legislation referred to criteria or means ensuring prominence that, depending on the Member State, could either be quite general or more detailed.

Regarding the control of video on-demand services' compliance with their prominence obligations, most NRAs did not have the occasion to carry out a full control or monitoring of these rules yet. In addition, most of the NRAs still needed to implement concrete processes, both regarding the type of information collected and/or its assessment, while some NRAs already had developed a control procedure for prominence obligations. Therefore, the report concluded that it was premature to evaluate the effectiveness of specific measures or procedures as no full control had been completed at the time. Concerning the self-declaration process and type of information collected, two approaches were identified. Firstly, the provision of information based on specific measures listed by NRAs (minority of NRAs surveyed). Secondly, leaving on-demand media service providers free to report about measures they had used to ensure prominence. It was noted that some NRAs asked on-demand media service providers to indicate actual consumption of European works.

When it comes to the control procedures, most regulators collected information on a yearly basis, and some were in the process of developing an online portal.

Finally, as the transposition into national legislation happened only recently, most NRAs have not had the time yet to complete a full control of the obligations. Therefore, the report concluded that it's too soon to determine which tools were the most efficient.

ii. 2022 report

In 2022 ERGA published a report, in the context of the work done by Subgroup 1, on *Exploring how algorithms and recommendation systems could ensure the appropriate prominence of audiovisual media services of general interest (Article 7a) as well as the prominence of European works (Article 13(1))*.³ As the report drafters hoped that national transposition efforts regarding Article 13(1) and Article 7a had progressed, the report aimed at gathering substantial information on the updated state of the national transposition in Member States as well as on the than ongoing legislative processes or discussions regarding the regulation of algorithms and recommendation systems.

Based on the contribution of 29 subgroup members the report concluded the following.

National transposition measures regarding article 13(1) and article 7a have been concluded. In comparison to the reports of the year before, there have hardly been any further transposition effort.

³ https://erga-online.eu/wp-content/uploads/2022/12/2022-12-ERGA-SG1-Report-Prominence_Art.7a-and-Art.-13.pdf



In the case of Article 13(1), the report indicated that the article has been transposed by a vast majority of Member States and monitoring and reporting activities have been actively carried out by NRAs.

More specifically, regarding prominence measures it was highlighted that most national legislations transposing the AVMSD do not precisely define the notion of prominence. However, at the time of the conclusion of the report some SG 1 members stated that they were in the process of developing guidelines for ensuring the prominence of European works.

II. Results of the 2023 questionnaire

a. Prominence of European works

i. Recent developments in transposition of Article 13(1)

The notion of prominence as introduced by Directive 2007/65/EU, and as subsequently updated by Directive 2010/13/EU and Directive 2018/1808/EU, did not specifically give a definition of “prominence of European works”. Instead, recital 35 of the latest Directive mentioned several possible options (i.e., search options, homepage displays, marketing activities).

Therefore, based on the findings of previous ERGA reports (see above), the questionnaire aimed to inquire firstly, if Member States further specified the notion of prominence in the form of guidelines, and secondly, trying to gather information on how this was done.

Out of the **twenty-three replies** received in total, nine NRAs indicated that they **did not issue** any sort of **guidelines**.⁴ Five NRAs gave **positive reply** to the question answering, saying that they either had some sort of guideline specifying prominence measures (three NRAs-**Latvia, the Netherlands, Portugal, Norway**) or expected to have a guideline in place soon (two NRAs).

The Member States where some sort of **guidelines** had been issued on prominence generally drew on the list of examples of the Directive (including **Norway**). **Latvia** reported to have a non-exhaustive list of measures (i.e. labelling and search functions were given as examples). The **Netherlands** further elaborated both on the notion of and on the method of achieving it. This meant a non-exhaustive list of measures (dedicated section on home page, option to search, use of European works in campaigns), while also allowing VOD providers to pick a measure that they deem appropriate. Finally, **Portugal** defined four main ways to achieve prominence; section dedicated to European works, search functions, campaigns (marketing) and highlights.

Eight NRAs replied no to the question regarding the existence of guidelines, but indicated that their **national legislation specifies** such **prominence measures**. Legislative measures ranged from a general provision to ensure prominence of European works in catalogues (**Slovakia**), examples of measures similar to the AVMSD list (**Slovenia**), to more detailed specific indications (**Germany, Italy**).

Germany defines in their Statute on the prominence of European works the notion as “make respective content easily accessible”. It also outlines the measures that can be taken by providers to achieve this.

⁴ In total 23 NRAs: AT, BE (Flemish Community), BE (French speaking Community), HR, CY, CZ, EE, FI, DE, GR, IT, LV, LU, MT, NL, PL, PT, RO, SK, SL, ES, SE, NO.



These include a special section of the main page specifically dedicated to European works combined with either the possibility to search for such content in the search function, or a minimum of 30 percent of the content being European works on the main page of the VOD service in categories that are designed to contribute to the users' orientation (i.e. new"; "current highlights"; "The best films and series"; "recommendations"; "popular").

In **Italy**, the AGCOM regulation lists prominence measures and a series of criteria have been determined within two categories: a) positioning in catalogue, and b) use of European works in catalogues. Each prominence criterion has a certain score. Providers are free to choose among the different criteria, however they need to meet a certain threshold, meaning they have to implement multiple criteria.

ii. Monitoring

- Data

With the exception of three NRAs (**Cyprus, Czechia, Greece**), all authorities reported that they monitor and gather data on prominence. The majority of NRAs (seventeen)⁵ that gather data do so by requiring information on the **ways in which providers ensured prominence**. This can happen either via open questionnaires or detailed questionnaires asking about specific methods used.

In addition, some NRAs replied that providers had to report **information on European works**, such as total number of works, genre, country of origin and data on sales (**French speaking community of Belgium, Croatia, Finland, Germany, Luxembourg, Spain**).

A few NRAs replied that they also ask providers to provide **evidence** that supports their replies, including screenshots, description of measures taken for specific reference dates, or other supporting evidence (**French speaking community of Belgium, Croatia, Portugal, Slovakia**).

Finally, very few NRAs indicated that in addition to the above, **other type of data** is also requested from providers such as the exact strategy for promotion of European works, examples of exact campaigns, scores related to prominence criteria, type of service, if weighting of works has been used (as described in the Commission guidelines) (**French speaking community of Belgium, Italy, Luxembourg, Sweden**).

- Assessment

Twelve out of twenty-three NRAs did not conclude any assessment of data received from providers on prominence. Five NRAs have **never conducted any** assessment either because of lack of legal provisions or insufficient or non-conclusive data received (**Greece, Latvia, Luxembourg, Spain**). Four NRAs indicated that they **do not conduct any systematic assessment** of the data received (**Austria, Czechia, Finland, Sweden**). This was due either to the general trust in replies received, or the lack of resources. Three answers were non-conclusive.

⁵ AT, BE (Flemish Community), BE (French speaking Community), HR, FI, DE, IT, LV, LU, NL, PL, PT, RO, SK, SL, ES, SE.



Among the eleven NRAs that reported to have concluded an assessment of data received from providers, three reported conducting **systematic evaluation of data (French speaking Community of Belgium, Italy, Malta)** and two indicated **random checks** as their method of assessment (**Flemish speaking Community of Belgium, Czechia, the Netherlands**). Other replies included **assessment upon request**, for instance based on complaints or the ERGA Memorandum of Understanding (**Germany**), or on a **case-by-case basis** depending on the declared features of the service, leaving space for the VOD providers to implement suitable measures at their discretion (**Slovakia**). The rest of NRAs indicated that in general they compare replies received from providers with their own data (**Estonia, Portugal, Romania, Slovenia**).

- Tools

The majority of NRAs did not reply to the question regarding the tools most used by providers (ten out of twenty-three). NRAs generally indicated several replies and the tools that seem to be most frequently used by AVMS providers are **a dedicated section on the home page** for European works (seven replies: **Flemish speaking Community of Belgium, Croatia, Estonia, Finland, the Netherlands, Slovakia, Slovenia**), **campaigns** (five replies- **French Speaking Community of Belgium, Estonia, Finland, Malta, Sweden**), followed by **banners to highlight works in the catalogue** (five replies-**French Speaking Community of Belgium, Croatia, Malta, Spain, Sweden**) and **search functions** (four replies-**Flemish speaking Community of Belgium**). Finally, two additional tools were mentioned including indication of country of production and special offers on specific movies (**Austria, French speaking Community of Belgium**). No information was available regarding the reasons why AVMS providers chose a particular tool.

Regarding the efficiency of the tools, the majority of NRAs weren't able to provide feedback (sixteen out of seventeen) as they either didn't assess efficiency. Four NRAs mentioned **promotional campaigns** as the most efficient tool (**Croatia, Estonia, Italy, Malta**), one indicated **promotions in the catalogues (Italy)**, and one a **dedicated section on the home page (Slovenia)**. One NRA specifically highlighted the importance of **exchange of information** among media service providers and NRAs as well as monitoring (**Estonia**).

b. Financial contribution to the production of European Works

i. Transposition of Article 13(2)

Article 13(2) of the revised AVMSD provides that where Member States require media service providers under their jurisdiction to contribute to the production of European works, they may also require media service providers targeting audiences in their territories but established in another Member State to contribute financially. The article leaves flexibility for Member States to determine such contribution while mentioning that it can take the form of direct investment in content and contribution to national funds.

Recital 36 further explains the different forms of financial contribution and the ways in which financial obligations should be charged.



The questionnaire circulated in the context of the work of ERGA SG 1 attempted to create a first mapping of the implementation of this optional provision. The objective was to understand the different ways in which Member States implemented, monitored, and enforced financial obligations, in particular concerning media service providers targeting the audience in their country but established in another Member State.

Eleven out of twenty-three respondents indicated that the provision was **not transposed** in their country,⁶ while two of these respondents also mentioned that discussions on the subject are underway at national level (**Norway, Latvia**).

Eleven out of twenty-three NRAs confirmed that their Member States **have taken national measures** in transposing Article 13 paragraph 2 of the revised AVMS Directive, in particular regarding media service providers who are targeting audiences in their territory but are established in another Member State. One country indicated that the transposition was **ongoing** (the **Netherlands**). At the same time, three NRAs indicated that there were already plans in their Member State to **update or review** these measures (**Flemish and French speaking Communities of Belgium, Spain**).

ii. Enforcement

When it comes to the type of providers that have to comply with the obligations related to financial contributions, the majority of NRAs (seven) indicated that in their Member State **both linear and non-linear services** were subject to the provision on financial obligation (**French speaking community of Belgium, Germany, Italy, Poland Portugal, Romania and Spain**). Two of these NRAs also mentioned that financial obligations to support the production of European works have been extended to **digital platforms (Poland, Portugal)**.

Four NRAs replied that their legislation **only targeted non-linear services**. The legislation of only one Member State targeted **linear services only (Czechia)**.

Almost all NRAs replied with a negative answer to the question if there were **plans to extend the legislation** to other providers. The only exception (**Flemish speaking Community of Belgium**) stated that there were plans to extend the obligation to **video sharing platforms**.

There were very few replies submitted regarding the identification of providers (six out of twenty-three). The replies from these NRAs showed that providers were identified on an **annual basis**. **Greece** indicated that assessment happens on an ad hoc basis.

The criteria foreseen in national legislations for calculating the level of financial obligations of non-linear services were in most cases based on the **annual turnover (French speaking Community of Belgium, Croatia, Germany, Greece, Italy, the Netherlands, Portugal, Spain)**. The authority from the **Flemish Speaking Community of Belgium** indicated that the calculation is based on the **turnover from two years before**. In **Poland**, the criteria were based on the subscription fees to access the service, or revenues from commercial communications. In **Portugal** the legislation used the criteria of **relevant income** based on audiovisual commercial communications, subscriptions or one-off transactions

⁶ AT, CY, EE, FI, LV, LU, MT, SK, SL, SE, NO.



provided the year prior to the year of the obligation. The relevant income criteria is applied according to different levels and type of providers. The authority in **Romania** replied that VOD providers can opt for the direct financing of a cinematographic production, with up to 40% of the amount due to the Cinematographic Fund, at the request of the film producers and after the prior notification addressed to the National Center of Cinematography. In addition, where the basis of the obligation is the annual turnover, the exact level of investment changes from Member State to Member State. It seems from the replies received that Italy choose to impose the highest level of obligation. (Annex I)

Eleven NRAs confirmed having an exemption from the financial obligation in their national law. The exemptions were based on the criteria of **low turnover (Flemish- and French speaking Communities of Belgium, Croatia, Greece, Italy, Romania)** and/or **low audience (Greece, Poland, Romania, Spain)**. Two NRAs reported that in their legislation exemption was applicable to media service providers for which the financial requirements would be **considered impracticable or unjustified (the Netherlands, Spain)**. In the **Netherlands**, such an exemption could only be applied in individual cases and only be granted partially or temporarily and per media service if a media institution offers multiple commercial media services on request. The factors that could be considered were the nature and size of the target group of a media service, or specific economic circumstances on the part of the provider, the use of innovative formats). Other criteria mentioned were for instance **specific types of media service providers**, such as public service broadcasters in case of the **Flemish Speaking Community of Belgium** or media service providers exclusively targeting third countries (**Czechia**). **Specific derogations** could be granted by the NRA in **Italy** since 2005 based on low turnover, if **no profits** were generated by the provider, for thematic channels (when they prove the impossibility to purchase, pre-purchase, produce or co-produce European audiovisual works) or if the obligation was considered unreasonable to fulfil. In Poland, **micro-enterprises** could be exempted while in **Portugal low market share** was also considered.

Eight out of twenty-three NRAs indicated that the form of financial contribution could be both **direct contributions to the production of and acquisition of rights** in European works, **and levies payable to a fund**. While NRAs from **Croatia** and **Italy** stated that **only direct contributions** are applicable in their country, **Germany** on the contrary **only requires financial obligation payments into levies for film productions**. In the **Netherlands** the law does not specify how the investment should be made. However, its explanatory memorandum further detailed that this investment could be made directly by the VoD providers. The VoD providers can also invest indirectly through a **private fund**, which they must run themselves. Finally, six NRAs confirmed that providers were free to choose the form.

Six out of twenty-three NRAs indicated that they have already enforced the legislation (**Flemish and French Speaking Communities of Belgium, Croatia, Italy, Poland, Portugal**). Three out of twenty-three replied negatively as they weren't the competent authority responsible for collecting the fees resulting from the financial obligation (**Germany, Romania**). The NRA of **Greece** indicated that a relevant Ministerial Decision had not yet been issued at the time of the questionnaire, and in the Netherlands, the law on a financial investment obligation was adopted on October 31, 2023, and will come into effect on January 1, 2024.

The number of VOD providers identified in the Member States where legislation had been already enforced were between five and twenty-two. Two NRAs replied that the number of providers identified were below ten (five in **Croatia** and six in **Italy**). Two reported that the number was above



ten (fifteen in **Flemish speaking Community of Belgium**, and nineteen in the **French Speaking community of Belgium**). One country indicated that the number of providers identified were above twenty (twenty-two in **Portugal**). For an overview see the annex I.

Only four out of twenty-three countries reported challenges encountered while attempting to enforce the national measures. There were different challenges mentioned such as the provider contesting the obligation (**Flemish speaking Community of Belgium**), difficulties related to the identification of the provider (e.g. several entities present in Europe such as Disney Spain and Holland) (**French speaking Community of Belgium**) or reaching the appropriate contact person for the provider in a different Member State (**Portugal**), difficulties calculating the revenues because of multiple services from the same provider with only one subscription, or because the subject stated that it was not in the position of verifying the actual investments (**Italy**). While **Spain** did not encounter any challenges yet, the NRA mentioned as potential difficulty the fact that European works might be declared in several Member States. Thus, the same European work could be declared for the same quantity, concept and obligation in different Member States, while the NRAs in charge of the supervision in those Member States would not be able to detect it.

iii. Sanctions

While article 13(2) of the AVMSD does not foresee any sanctions, the survey inquired about the existence of any sanction system in Member States that implemented a financial contribution obligation. Seven out of twenty-three NRAs mentioned that their legislation foresees a sanction regime in case of non-compliance (**Flemish and French speaking Community of Belgium, Czechia, Greece, Italy, Portugal, Spain**), which in most cases consisted of a fee. No NRAs reported any other type of resolution mechanism.



III. Conclusions

In 2023, based on the ERGA Work Programme 2023 and its terms of reference, Subgroup 1 conducted a questionnaire among national regulatory authorities on the provisions related to European works as stipulated in Article 13(1), and Article 13(2) of the AVMSD. The aim of this report is to provide an updated overview on the implementation and monitoring of prominence measures, and to provide a first mapping of the implementation, monitoring, and enforcement of the optional measures on financial contributions to European works.

Based on the contribution of twenty-three NRAs to the survey distributed on 21 September, the following observations can be highlighted.

Following the findings of the ERGA 2022 report, we further inquired if the members have developed guidelines for the prominence of European works in the setting of Video-on-Demand platforms. Based on the replies received it seems that the implementation of Article 13(1) in the Member States differ in their details and approach. The majority of NRAs didn't specify any further in the form of guidelines the notion of prominence. Only a few NRAs indicated that guidelines were available in their countries. The details given in these guidelines seemed to be limited to the possible measures listed in Directive 2018/1808/EU. At the same time, certain NRAs indicated that their legislation did specify prominence measures. However even in such legislation, there still seems to be a big difference; while some remain general, other went further and gave detailed descriptions of the required prominence measures to be taken.

Regarding the monitoring of Article 13(1), it was found that with the exception of a few, almost all authorities gather some sort of data from providers. The majority do so by requesting data on prominence measures used through either open questionnaires or detailed questionnaires indicating specific methods. In addition, more detailed information on European works, evidence, or other type of information (strategy of promotion, scores related to prominence criteria, weighing of certain works) was also reported in some cases.

However when it comes to the control and assessment of prominence measures by NRAs the practice differ greatly. A bit more than half of the replies was missing, either because the NRAs have never conducted any assessment or because they do not conduct systematic assessment of prominence measures (for example because they accept self-declaration by providers). The NRAs that assess the data received do so in different ways, ranging from systematic evaluation, random checks or verification upon request only. The rest mentioned general comparison of data to their own monitoring results.

Regarding the tools used by providers to ensure prominence, there was a relatively small amount of feedback received. Based on this information, it seems that there are various ways that providers ensure prominence including:

- dedicated section on the home page,
- campaigns,



- banners to highlight works in the catalogues,
- search functions,
- indication of country of production and
- special offers on movies.

The most used prominence tools by media service providers are dedicated section of the homepage, promotional campaigns and promotion of European works in catalogues, for instance via banners,. However, no information has been communicated on the reasons why these specific prominence measures were chosen by providers and very few NRAs were able to assess the efficiency of the tools used.

For the first time, the ERGA survey circulated to NRAs inquired about the **transposition of the optional provision foreseen by Article 13(2)** of the revised AVMSD, as well as the enforcement and sanctions that followed the implementation.

Given the optional nature of the provision, its implementation varies among Member States for instance in terms of providers covered, exceptions granted, and the level of investment required.

Eleven Member States reported having transposed the revised AVMSD into their national law, requiring financial contribution from providers targeting audience in their Member States but established in another Member State. While in one Member State the legislative work transposing such an obligation was ongoing. An equal number of NRAs (eleven out of twenty-three) indicated that they did not transpose such a legislation. Therefore, the conclusions below could only be drawn based on the feedback of NRAs from the few Member States that did transpose article 13(2).

In most Member States with legislation imposing a financial contribution, both linear and non-linear providers were subject to the obligation, with only a few exceptions. In two Member states, digital platforms had similar obligations as well. The identification of the providers to which the legislation applies generally happens on an annual basis. The financial obligation in most cases is linked to the annual turnover. However, the level of investment differs greatly (see annex I).

Exceptions from this obligation were in general granted based either on low turnover and/or low audience. A few other exceptions were mentioned related to adherence being impracticable or unjustified for some providers.

In those Member States where article 13(2) of the AVMSD was transposed the financial obligation took the form of both direct contributions to the production of, and acquisition of rights to, European works, and levies payable to a fund. A few NRAs only indicated one of the two. While the Netherlands didn't prescribe a specific form, indications in the explanatory note to the bill suggest that providers will be able set up private funds as well.

At the time of the survey, only a few NRAs had enforced this obligation. Among these, a few challenges had been encountered, mainly related to the identification of, and reaching, the providers, and to the calculation of revenue.



Annex I- Number of Member States that transposed article 13(2) and the level of investment required

	Investment obligation for VOD providers (direct investment)
Belgium Flemish Community	2% of the turnover from 2 years ago
Belgium French Community	Varies according to the turnover (amount indexed in 2022) <ul style="list-style-type: none"> • 0% of its turnover if it is between € 0 and € 408,498.99; • 1.4% of its turnover if it is between €408,499 and €6,808,316.43; • 1.6% of its turnover if it is between € 6,808,316.44 and € 13,616,632.86; • 1.8% of its turnover if it is between €13,616,632.87 and €20,424,949.29; • 2% of its turnover if it is between €20,424,949.30 and €27,233,265.72; • 2.2% of its turnover if it exceeds €27,233,265.73
Croatia	<ul style="list-style-type: none"> • 2% of the total annual gross income, • 0% of total annual gross income if total annual gross income is between 0€ and 999.999,99€
Germany	varies according to the provider's net annual turnover
Greece	1.5 % of the turnover of the provider
Italy	Equal to the percentage of the net income in Italy: <ul style="list-style-type: none"> • 17 % until 31 December 2022 • 18 % as of 1 January 2023 • 20 % as of 1 January 2024
Poland	<ul style="list-style-type: none"> • 1,5% of the revenue derived from the fees for accessing VOD made available to the public or of the revenue derived from the broadcasting of commercial communications (whichever is higher)
Portugal	Varies according to relevant income: <ul style="list-style-type: none"> • < €199,999: free • €200,000 -€1,999,999: 0.5% of relevant income or €0.50 per subscriber or fixed amount of €10,000



	<ul style="list-style-type: none"> • €2,000,000 -€9,999,999: 1% of relevant income or €1 per subscriber or fixed amount of €100,000. • €10,000,000 -€24,999,999: 2% of relevant income or €2 per subscriber or fixed amount of €500,000 • €25,000,000 -€49,999,999: 3% of relevant income or €3 per subscriber or fixed amount of €1,500,000 • > €50,000,000: 4% of relevant income or €4 per subscriber or fixed amount of €4,000,000.
Romania	<ul style="list-style-type: none"> • up to 40% of the amount owed to the Cinematographic Fund
Spain	<ul style="list-style-type: none"> • determined on the basis of the revenue accrued in the previous financial year, according to their operating accounts

Annex II – Number of VOD providers identified in the Member States where legislation implementing article 13(2) had been already enforced

Member State	Number of providers
Belgium (Flemish speaking Community)	15
Belgium (French speaking Community)	19
Croatia	5
Italy	6 providers (8 services)
Portugal	22