

Senate Environment and Communications Legislation Committee

Answers to Questions on Notice

Communications Portfolio

Department of Infrastructure, Transport, Regional Development and Communications

Topic: Broadcasting Legislation Amendment (2021 Measures No. 1) Bill 2021

Hansard Ref: Page 44, 7/2/2021

Senator URQUHART: Yes, and the streaming services obligation that you're considering. What other key jurisdictions around the world have imposed content requirements on streaming services, and what are those requirements?

Mr Penprase: The majority of those obligations have been introduced in Europe, stemming from the Audiovisual Media Services Directive, which has been in place for a few years. There are around 10 European jurisdictions that have in place obligations on subscription video on demand services or equivalent services. There are a variety of obligations. Some take the approach of a levy on actual providers, so the provider will be providing a percentage of their revenue through to a government body to then expend. Some of them are a direct spend requirement.

Senator URQUHART: By the organisation?

Mr Penprase: Yes, by the organisation itself. Others are constructed around the amount of European works that are required to be on the service. That's not a spend requirement; it's a provision requirement. And there are other arrangements around prominence, ensuring that European works have particular prominence on the service in question. The mechanisms being employed are varied and depend on the jurisdiction in question. As we noted before, from previous evidence, the Canadians are considering providing a power for their regulator to impose certain obligations or requirements on subscription services. But I would say that the jurisdictions in which there are more significant or more developed and implemented proposals are in Europe.

Senator URQUHART: Are you able to provide that information on notice?

Answer:

A number of jurisdictions have implemented measures to support the production and provision of local content by the providers of audio-visual media services. The following table provides a non-exhaustive list of these measures. It has been prepared by the Department on the basis of publicly available information and includes information sourced from English translations of various foreign government websites. While the Department has sought to verify and accurately summarise this information, it is ultimately reliant on the veracity of these publicly available sources.

Jurisdiction	Mechanism	Description
European Union	The Audiovisual Media Services Directive (AVMS Directive)	Requires Member States to ensure that media service providers of on-demand audiovisual media services under their jurisdiction secure at least a 30 per cent share of European works on their catalogues and ensure prominence of those works.
Germany	Levy	Requires any service providing films on demand, and whose net annual sales of cinema films exceeds €500,000, to pay a levy of between 1.8 and 2.5 per cent of annual revenue to the Film Funding Agency.
Belgium (Flanders)	Investment or levy	Requires certain non-linear television broadcasters to contribute 2 per cent of turnover in the Dutch-language area to the co-production of Flemish animation, documentary or fiction series each year, or to otherwise make a flat rate contribution of €3 million to the Flemish Audiovisual Fund per annum.
Belgium (Wallonia)	Investment or levy	Requires video-on-demand services to finance the co-production or pre-purchase of audiovisual media works of up to 2.2 per cent of turnover, or pay a levy to the Centre du Cinéma et de l'Audiovisuel.
Italy	Investment	Requires certain video-on-demand services to reserve a portion of net revenues raised in Italy for the production, pre-purchase and purchase of European works produced by independent producers. This is set at 20 per cent, with a sub-quota of 10 per cent for works of Italian original expression.
France	Investment	Requires certain online audiovisual services to devote a part of their net annual turnover for the previous financial year to expenditure contributing to the development of the production of European works or works of French original expression. Contribution rates vary depending on the category of service.

		<p><u>Catch-up services</u>: 3.2 per cent of net annual turnover for European works, including 2.5 per cent for works of original French expression. This is intended to match the obligations applicable to the underlying free-to-air service.</p> <p><u>Subscription services</u>: 26 per cent of net annual turnover for European works and 22 per cent for works of French original expression (with lower percentages applicable depending on timing of the availability of content relative to the theatrical release in France).</p> <p><u>Other services, including fee-for service</u>: 15 per cent of net annual turnover for European works, and 12 per cent for works of French original expression.</p>
France	Levy	Requires certain subscription- and advertising-based providers of audiovisual content to pay a levy of 5.15 per cent of the price of consumer access or on the sums paid by advertisers and sponsors. Revenue is allocated to the National Centre for Cinema and the Moving Image.
Portugal	Levy	Requires on-demand audiovisual services that meet certain thresholds to pay an annual levy of 1 per cent of income derived in Portugal to the Portuguese Institute of Cinema and Audiovisual.
Portugal	Investment	Requires on-demand audiovisual services to allocate part of their investment expenses to the development, production and promotion of European and Portuguese language works, as well as works of independent production. The amount varies depending on income, from 0.5 to 4 per cent.
Poland	Levy	Requires certain video on demand services to contribute 1.5 per cent of revenue obtained from subscription payments or advertising to be paid to the Polish Film Institute (PISF).
Spain	Investment	Requires certain audiovisual communications services to contribute annually to the financing of the European production of cinematographic films, films and television series, as well as

		documentaries and animated films and series that are less than seven years from their production date. The amount is 5 per cent of income accrued in the previous year.
Croatia	Levy	Requires video on demand services to pay 2 per cent of their annual gross income to the Croatian Audiovisual Centre.