Impact assessment - Draft amendments to Regulation no. 153 of 28 February 1997 relating to Broadcasting and On Demand Audiovisual Media Services.

The AVMS Directive[1], Article 13(2), provides that Member States may require providers of audiovisual media services to make financial contributions to European audiovisual productions, including, inter alia, through direct investments in content and contributions to national funds. Such obligations may be imposed both on domestic providers and on providers established in other EEA States whose services are directed towards the Member State concerned. Where a Member State imposes such obligations, these must be proportionate and non-discriminatory.

On 18 February 2025, the Norwegian parliament passed amendments to the Broadcasting Act (Sections 2-22 and 2-23) imposing an obligation for providers of on-demand audiovisual media services to contribute financially to the production of Norwegian audiovisual works. The obligation encompasses domestic providers as well as providers established in other EEA States whose services are directed towards Norway.[2] The said amendments to the Broadcasting Act have been notified previously (cf. DTR 2023/9005/NO) as part of the implementation of the AVMS Directive into Norwegian law. The amendments (Sections 2-22 and 2-23) have not yet entered into force.

The current notification concerns a proposal to introduce more detailed provisions in the Broadcasting Regulations pursuant to Section 2-22, fifth paragraph, of the Broadcasting Act. This impact assessment therefore draws on the previous legislation processes and the preceding notification. It therefore considers proportionality and non-discrimination exclusively in relation to the proposed amendments to the Broadcasting Regulations. The proposed amendments to the regulations establish obligations on providers to register with the Norwegian Media Authority and report turnover and investments to the Authority.

Section 2-9 Registration Requirement

In order to supervise the investment obligation, it is necessary for the Norwegian Media Authority to maintain a register that also includes audiovisual on-demand services that direct their transmissions towards Norway but fall under the jurisdiction of other EEA States. The Ministry therefore proposes in Section 2-9 of the Broadcasting Regulation that providers of audiovisual on-demand services that are subject to the investment obligation shall register with the Norwegian Media Authority. The provision will have no practical significance for providers who are already registered pursuant to Section 2-1, third paragraph, second sentence, of the Broadcasting Act, cf. Section 1-3 of the Broadcasting Regulation.[3]

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[1] Directive 2010/13/EU as amended by (EU) 2018/1808.

[2] Lov om endringer i kringkastingsloven mv. (gjennomføring av endringsdirektiv til direktiv om audiovisuelle medietjenester mv.) - Lovdata

[3] Pursuant to Section 1-3 of the Broadcasting Regulation, the Norwegian Media Authority maintains a register of, inter alia, service providers that are subject to a registration requirement under Section 2-1, third paragraph, of the Broadcasting Act. The registration requirement does not apply to audiovisual on-demand services that are established in other EEA States and that direct their transmissions towards Norway.

Section 2-10 Reporting of Turnover
Section 2-21 of the Broadcasting Act, first paragraph, imposes an obligation for providers of on-demand audiovisual media services to invest in Norwegian audiovisual works the equivalent of its gross turnover in Norway. The proposed Section 2-10, first paragraph, of the Broadcasting Regulation states that providers subject to investment obligations shall, no later than 1 September of each year, report gross turnover excluding value added tax from the audiovisual on-demand service in Norway for the preceding calendar year. The obligation is necessary in order for the Norwegian Media Authority to calculate the amount the providers are obliged to invest. The proposed Section 2-10 includes further provisions that i.a. promote proportionality and non-discrimination:

- Extended deadline for reporting
- Electronic reporting
- Non-discriminatory requirements with respect to auditor auditor’s statement

Section 2-11 Reporting of Investments, etc.
Section 2-21 of the Broadcasting Act, first paragraph, imposes an investment obligation for providers of on-demand audiovisual media services. The draft Section 2-11, first paragraph, of the Broadcasting Regulation states that providers subject to investment obligations shall, no later than 1 September each year, submit to the Norwegian Media Authority a report of investments in Norwegian audiovisual works in the preceding calendar year. The obligation is necessary in order for the Norwegian Media Authority to ascertain whether the providers subject to investment obligations fulfil their obligations. The proposed Section 2-10 includes further provisions of which several promote proportionality and non-discrimination, i.a.:

- Extended deadline for reporting
- Electronic reporting
- Non-discriminatory requirements with respect to auditor auditor’s statement
- Option to include investments in productions that are not completed
- Flexibility with respect to what financial year a given investment is credited

The proposed section 2-11 also states that providers whose investments exceed their obligations must specify in which subsequent years the excess investment shall be deducted.

Finally, the proposed regulation includes a provision obliging the Media Authority to submit to the EFTA Surveillance Authority statistics and information concerning the investment obligation.