# Overview of regulations and policies to promote accessibility

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WGIII: Update on accessibility of audiovisual media services

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## Presentation outline

**Best practice in the regulation and policies** for promoting accessibility of audiovisual media services and looks at the following:

- **Obligations** to ensure the availability of accessible audiovisual media content
- **Approaches** to regulation and the treatment of **different services** (TV and on-demand)
- ❖What NRAS are doing
- **Consultation** and collaboration
- ❖ Monitoring, **reporting**, research
- ❖ Issues of cost and financial incentives
- **\***Conclusions

#### Fig 1 Accessibility: rights and obligations to provide accessible audiovisual media content

## UN Convention on the Rights of People with Disabilities (CRPD 2006)

Equality and non-discrimination (Art 5)

Accessibility (Art 9): access on equal basis to the physical environment .... Including information and communications, information and communications technologies and systems

Freedom of expression and opinion, and access to information (Art 21): Encouraging mass media, including providers of information through the Internet, to make their services accessible to persons with disabilities

Participation in cultural life, recreation, leisure and sport (Art 30): ensure that persons with disabilities shall enjoy access to cultural materials in accessible formats and enjoy access to television programmes, films... in accessible formats

**EUROPEAN UNION** 

Charter of Fundamental Rights of the EU

Article 21: Non-discrimination

Article 26: Integration of persons with disabilities
The Union recognises and respects the right of
persons with disabilities to benefit from measures
designed to ensure their independence, social and
occupational integration and participation in the
life of the community.

European Accessibility Act

**Audiovisual Media Services Directive** 

#### Article 7

1. Member States shall ensure, without undue delay, that services provided by media service providers under their jurisdiction are made continuously and progressively more accessible to persons with disabilities through proportionate measures.

## Article 7 AVMS

- 1. Member States shall **ensure**, **without undue delay**, that services provided by media service providers under their jurisdiction are made **continuously and progressively more accessible** to persons with disabilities through proportionate measures.
- 2. Member States shall ensure that **media service providers report on a regular basis to the national regulatory authorities** or bodies on the implementation of the measures referred to in paragraph 1. By 19 December 2022 and every three years thereafter, Member States shall report to the Commission on the implementation of paragraph 1.
- 3. Member States shall encourage media service providers to **develop accessibility action plans in respect of continuously and progressively making** their services more accessible to persons with disabilities. Any such action plan shall be communicated to national regulatory authorities or bodies.
- 4. Each Member State shall designate a single, easily accessible, including by persons with disabilities, and **publicly available online point of contact for providing information** and receiving complaints regarding any accessibility issues referred to in this Article.
- 5. Member States shall **ensure that emergency information, including public communications** and announcements in natural disaster situations, which is made available to the public through audiovisual media services, is provided in a manner which **is accessible** to persons with disabilities.';

Fig 2 Progressive quota systems, fixed requirements and general obligations

Article 7 (1). Member States shall ensure, without undue delay, that services provided by media service providers under their jurisdiction are made continuously and progressively more accessible to persons with disabilities through proportionate measures.

Rules outline

progressive
quotas/targets that
need to be met by
media service providers

Fixed requirements in terms of % of programming or hours of programming – rules updated periodically General obligation:

media service providers should make accessible services available – no specific % or hours

Ireland
Belgium (CSA)
Netherlands
Poland

**United Kingdom** 

Greece Sweden Switzerland Spain - Catalunya Portugal

France

Denmark

Germany

Estonia

Lithuania

North Macedonia

Slovenia

Romania \*

\*In Romania, there a requirement regarding 30 mins of news with signing per day

#### Fig 3 Obligations on Different broadcasters

Public and private broadcasters

Only PSB channels have obligations (DK)

PSBs have stronger obligations (AT, BE, CZ, CH, ES, IE, FI, GB, MD, MK, NL, NO, RO, RS, SI, SK)

Public and private same obligations: (CY, FR, PL, GR, IL, MT)

Market power: audiences and turnover

Focus on audience share (BE, HU, SE) audience reach (NL) Audience share and private channels (FR, GB)

Turnover of channels used to establish obligations or exemptions (FR)

Costs of accessibility services as a % of turnover (CH, FR, SE, GB)

Free to air and pay TV

Stronger obligations for DTT channels (BG, ES, FR)

Stronger obligations for free to air generalist (FI)

Note: free to air may include those with larger audiences, market power etc...

Thematic and niche

Programmes for very young kids exempt from subtitling (BE (FL))

Exemptions / reductions for I music programmes (FI, FR,PL)

Exemption for Teleshopping BE (FL), FR, GB

Exemption for live Sports BE (FL), FR

Case by case (IE)

Alternative obligations to provide certain (hours of) programmes placed on niche channels: news channels, children's channels (3-6 yrs), and sports channels by the **French CSA** 

Channels licensed for foreign markets

Obligations on channels targeting other countries (GB)

Detailed audience measurement approach regarding foreign markets developed for attaching obligations – has been developed by the **OFCOM in the United Kingdom** 

#### Fig 4 Obligations in the on-demand world – an emerging area of regulation

Obligations for broadcasters

Content broadcast with accessible functions must carry these online (CAN, US)

Part of broadcaster quotas can be fulfilled online (SE; FI)

PSB have general obligations to make online content accessible (DE, SI) all broadcasters (CAC: ES)

Accessible online content should be promoted and findable (SK)

Obligations for on-demand service providers

Distinction between free and pay VOD: Pay services must provide 25% of catalogue with subtitles and 25% with audiodescription.

Free services: make every effort to increase accessibility (CSA- BE)

On-demand services must provide 20% of content with Greek subtitling (GR)

These may also be relevant to broadcasters catch-up/ archives

On-demand services: shall aim at gradually increasing accessible content (PL)

Digital Economy Act 2017 – will lead to stronger obligations (UK)

Regulator must encourage operators and monitor progress (Ofcom- UK)

## Role of the regulator

- 1. Facilitating consultation with all stakeholders
- 2. Establishing progressive achievement via quotas or other targets
- 3. Receiving reports, and/or carrying out monitoring
- 4. Assessing implementation
- 5. Monitoring quality
- 6. Sanctions or fines
- 7. Facilitating collaboration in industry

#### Fig 5 Monitoring progress, reports and research

Article 7 (2). Member States shall ensure that media service providers report on a regular basis to the national regulatory authorities or bodies on the implementation of the measures referred to in paragraph 1.

Reporting required to NRA from media service providers

Belgium (CSA)
Czech Republic
Estonia\*
Finland
France
Greece (from 2020)
Ireland

Netherlands
Sweden
Switzerland
Poland
United Kingdom

Regular NRA reports surveys and research

Belgium (CSA)
CAC- ES
France
Germany
Ireland (from 2019
Portugal

Ad hoc surveys and research

North Macedonia

Monitoring of progress

Bulgaria
CAC-ES
Germany
Hungary
Ireland
Portugal
United
Kingdom

No monitoring, research, or reporting

Denmark\* Lithuania Romania Slovenia

\*In Denmark, the public broadcaster reports annually to the Ministry on broadcasting activities, which may include accessibility issues
\*In Estonia the media service providers report to the Consumer Protection Agency

#### Fig 6 Contact points, feedback, consultation

Article 7 (4). 4. Each Member State shall designate a single, easily accessible, including by persons with disabilities, and publicly available online point of contact for providing information and receiving complaints regarding any accessibility issues referred to in this Article.

Contact points
Operators must
appoint contact
points

Belgium (CSA) Ireland United Kingdom

Contact points
NRA established
email contact
point

Ireland

Broadcasters required to meet regularly with representative groups of people with disabilities

> Ireland United Kingdom

Switzerland

Discuss needs and content preferences

Negotiate obligations

NRAs hold regular meetings with all stakeholders: industry and user groups

Belgium (CSA)

CAC-ES Germany

Greece

France

Ireland

North Macedonia

Portugal

Sweden

**United Kingdom** 

promote direct dialogue

raise awareness

Consult on changes to rules

## Costs, exemptions, incentives

•	Making audiovisual content available involves significant costs: to make content
	accessible - to make live content accessible - to ensure delivery of content over a
	range of platforms

- ☐ Market power taken into account
- ☐ Audience shares
- ☐ Turnover
- ☐ Exemptions, case-by-case examinations
- ☐ Progressive approach over time
- ☐ Maximising the availability of accessible content
- ☐ Collaboration in developing technological solutions Martin

### Fig 7 maximizing the availability of accessible content: funding of content production

Making accessibility a consideration early in the creative process—not only in post-production— will help create a cultural shift that will result in accessibility becoming just another consideration in the regular course of doing business (CRTC Canada)

Production funds
REQUIRE that
accessibility features are
in finished product

German Federal Film Funds

BAI Irish Sound and Vision

The selection of projects to be funded rewards the planned inclusion of accessibility features

Croatian Fund for Promotion of Pluralism and Diversity of Electronic Media

Several production funds of the French CNC

Slovenian Ministry of culture funds

Funds are made available to add accessibility features to content or create specific programmes Slovenian Ministry of Culture specific funds

Several production funds of the French CNC

Fernsehfonds Austria (Television funds)

The costs of accessibility features are included in the costs that the funds will reimburse

Austrian Film Institute Vienna Film funds

## Conclusions – and moving toward the future

- >AVMS Directive increased obligations
- ➤In a broader context of stronger protection of rights for people with disabilities
- ➤In many countries, a progressive approach has long been established in some cases have already resulted in high levels of accessible content
- ➤ Distinctions are made between types of services, and/or types of content often this is a question of cost and burden
- ➤ NRAs are playing important roles: developing quotas, assessing reports and implementation
- Major CHALLENGES of costs to increase accessible services AND costs to ensure delivery on various platforms range of exemptions and incentives