



D2.2 Cross-national report on European VOD platforms

Project: Reviving, Boosting, Optimising and Transforming European Film Competitiveness - REBOOT

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PROJECT DESCRIPTION

This project focuses on the European audiovisual sector and film industry. It aims to connect their existing strengths, identify and overcome weaknesses, and plan for future competitiveness in the fields of policy, practice and experience. More concretely, the project's objectives are, on the one hand, to explore the long-standing strengths and pervasive gaps in European competitiveness and policies for competitiveness—including ways of 'measuring', 'analysing' and 'evaluating' the impact of policies and strategic pathways. On the other hand, the project aims to focus on actively preparing for the future by exploring audience preferences and how these are generated, as well as modes of film content production.

The latter are elements which today's youth will carry on and engage with in the coming decades as makers and consumers, as well as industry and policy leaders. The project therefore interrogates the 'what is', but also the 'what has been' and 'what will be' through fresh lenses. REBOOT sets out to provide a holistic picture of the European film industry with a view to maximizing its existing strengths, plus strategies and tactics for optimizing the potential of European youth audiences, both as emerging audiences and as citizens. Specifically, the project's goals combine several dimensions which reinforce each other but are listed separately (and in no particular order) for analytical purposes: a) increasing support intended to increase young people's engagement with European film; b) strengthening the EU's position in the global audiovisual economy, particularly in light of the rise of video-on-demand; c) supporting cultural diversity in the EU film industry; d) addressing the need for a different understanding of competitiveness and relevant indicators in this context; and e) recognizing and supporting the importance for the EU of film and, more broadly, of the cultural and creative sector as a geopolitical asset.



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1 EXECUTIVE SUMMARY

The rapid growth of the VOD market has been a key aspect in the transformation of the European Film Industry (EFI) in the last decades. This report addresses this phenomenon and focuses on the recent examples provided by Spain and Poland, where two important national industries have developed especially in the last 15 years as part of the transformation of a still very diverse European market.

Rather than a direct comparison between both countries, **the report offers a contextualization of specific case studies and illuminates the different alternatives they present regarding the national implementation of EU policies and its specific effects for the question of competitiveness of the European film industry.** Despite the impact of EU policies in the last three decades, the European VOD landscape remains highly fragmented (Ranaivoson et al., 2023) while at the same time under general, strong dominance of US-based VOD providers.

The study follows a qualitative approach a) **to trace the historical transformation** of the streaming market, and b) **to study the evolution of the EU legislative dispositions for audiovisual content** and its impact on the Polish and Spanish legal frameworks. On a further level of analysis, the report combines qualitative and quantitative methodologies to c) **provide a content assessment of the catalogue of three selected platforms in each country**, especially regarding the presence of European audiovisual works following the implementation of EU policies.

In Poland the analysis covers two major global providers (Netflix and Disney+), as well as the public broadcaster VOD.TVP.pl. In Spain, the analysis focuses on one of the main US platforms, HBO (now MAX), given that, in contrast to the Polish case, it is headquartered in Spain. It also covers the evolution of a Spanish player whose origin was in the film industry, Filmin (ranked currently fifth in market share and user numbers) and Atresplayer, the VOD service from the private broadcaster Antena 3. In both national contexts, the analysis is supported by in-depth interviews with experts on the VOD market and from the indicated companies.

Since the report has a diachronic, historical dimension, **chapter three** provides a contextualization of the transformation of the main players of the film industry in its on-demand distribution model (mainly SVOD or TVOD), which has undergone a great evolution in Europe since 2014-15. After this brief overview, which highlights specific milestones and dates, the document proceeds with the



analysis of the European audiovisual legislation and its impact on the competitiveness of the VOD market.

Due to its important effects on the field, the focus will lie on the Directive 2018/1808 (amending Audiovisual Media Services Directive/AVMSD)¹ and its transposition to each one of the case studies. In the last part of chapter three, the report presents a further exploration of the impact of the AVMSD's revision through an analysis of the two market models of transposition provided by Spain and Poland. To ensure the cohesion of the analysis, the report identifies three specific areas that help highlight the similarities and show the differences in both national transpositions. These are a) The scope of the law and its application on VOD services; b) The promotion and financing of European works, including broadcasting quotas; c) Regulations on the protection of consumers, including minors. The analysis of this last part of chapter three (3.2.1) is further completed by the information provided by two tables in the annexes (chapter 9): the first (9.3) provides an overview of the correlation in the transposition of the AVMSD; while the second (9.4), more extent, presents an in detail relation of the specific legal Spanish and Polish laws that channelled the transposition of the AVMSD.

Chapter four provides first an overview of the historical transformation of the Polish market and contextualizes the three selected examples. The report presents content assessments based on the use of databases and expert interviews. When it comes to European content, every platform analysed contains European (and Polish) productions. Disney+ offers a limited selection, mainly in the form of co-productions, with almost no specific Polish content. Netflix, on the other hand, seems to provide a sufficient amount of European audiovisual works to meet the requirements imposed by the revised AVMSD, as does VOD.TVP.pl. Methodologically, the analysis has faced important difficulties due to the lack of transparency and data provided by the platforms as well as national official agencies, which do not provide sufficient data to assess how much European, non-Polish content VOD.TVP.pl showcases.

Chapter five follows a similar structure as the one dedicated to Poland. The results obtained in the quantitative study for the Spanish case showed that HBO meets the requirements imposed by the LGCA, the Spanish Law that in 2022 transposed the revised AVMSD. With 35,02% of

¹ Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending 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 (Audiovisual Media Services Directive) in view of changing market realities. <https://eur-lex.europa.eu/eli/dir/2018/1808/oj/eng>



European titles, HBO Max exceeded the 30% required. Atresmedia, as the VOD service of a private broadcaster, reflected a broader approach to the questions of European content, including European audiovisual works (that is, cinema, series and documentaries) which clearly go beyond the requirements. Incorporating the example of Filmin the report has also pointed out how the reference to European cinema has helped to cement the market identity of a successful, independent VOD platform (which had no problem in reaching the required quotas).

Although it is still early to evaluate its long-term effects, the late **transposition of the AVMSD in Poland and Spain can be seen as generally positive on the European works quota. Financing obligations should also help foster the competitiveness of the film industry in both countries.** In this regard, we consider that platforms must continue to promote European content, not only to comply with the Directive, but also to compete effectively in Europe.

In Spain, platforms without a legal address in the country have been also obliged to comply with a new quota for the financing of European audiovisual works if they are working within the Spanish territory. They must contribute to the pre-financing of works (films, series, documentaries or animation), as public and private television channels in Spain have done for the last 30 years. Their contributions are adapted to their income. The law also has a focus on independent productions in the co-official languages, as well as works directed or created by women. These contributing funds can be allocated to a Fund for the protection of cinema (Fondo de Protección a la Cinematografía, managed by the Spanish national film agency ICAA), to the production or its own works or to the purchase of rights. The different possibilities should help diversify the platforms' interactions with the rest of the film industry and thus overcome some of the resistance encountered among the national film communities.

In Poland, the transposition of AVMSD's revision brought similar regulations for linear TV broadcasters and VOD providers. The Spanish transposition equated the new players (VOD platforms) with other Audiovisual Communication Service Providers. In the Polish case, the impact of the AVMSD's revision is reflected not only in the Broadcast Act (which covers radio, TV, VOD and VSP), but also in the Cinematography Act, as it outlined the legal framework for financial contributions for film works. Interestingly, Poland introduced an investment obligation for VOD services (the so-called "VOD tax") not as part of the revision transposition, but nearly a year later as part of the COVID-19 crisis relief program called "Anti-Crisis Shield 3.0". This contribution is channelled to the Polish Film Institute (PISF) and is used to fund "operational programs", including film production, festivals, other film events, cinema support and



the promotion of Polish films abroad. The tax is set at 1.5% of revenues generated in Poland, whether from advertising or user fees (whichever is higher during the accounting period). In Spain, this 5% tax (also known as the "Netflix tax") was also part of the AVMSD implementation. Both have the same goals and the report considers them effective and a positive way to compensate for the dominant position of foreign companies in the national markets.

Beyond their immediate impact on funding, the report believes that these forms of legal and fiscal intervention have a significant positive effect on the competitiveness of the national and European film industries and recommend continued support for such measures. In light of the rapid transformation following COVID-19, Spanish and Polish producers have voiced ongoing concerns about the position of independent film producers in a platform-driven media landscape. Specifically, there is apprehension that global players may restrict independent production companies to functioning solely as executive producers.

Nonetheless, the general observation is also that collaboration with VOD providers has turned into a strategic component for national production companies in Poland and especially Spain. These legal provisions may be therefore central to foster competitiveness in a way that reflects the diversity of the European film (and audiovisual) industry. At the same time, they leverage the European (film) industry's wealth of alternatives, where different voices and stakeholders (micro, small, and medium-sized enterprises) are present and punctually ally, collaborating with VOD providers, to promote projects that enjoy various ways of circulation, in different countries of the internal market. This creates a model better equipped to ensure cultural diversity and the democratic values typically associated with the European project.

As already pointed out, the report faced important challenges regarding the methodology, especially when it came to accessing crucial information of the companies under analysis and the state authorities responsible for market supervision. To address these issues, **we recommend that the next Directive be more specific regarding compliance and transparency.** This should require VOD platforms to provide detailed, easily and publicly accessible data on their content offerings, especially European and non-national productions. Compliance must be mandatory, serving public and market interests, and standardized reporting frameworks should be established to improve data sharing and oversight. Additionally, data collected by national authorities should be made available annually to stakeholders to foster transparency. Lastly, future policy should encourage platforms to diversify their European content offerings.



2 INTRODUCTION, OBJECTIVES AND METHODOLOGY

The emergence and rapid expansion of the VOD market has been a key aspect in the transformation of the European Film Industry (EFI) in the last decades. This report addresses this development and focuses on the recent examples provided by two important national markets (Spain and Poland) **through a methodology that combines desk research, interviews and a qualitative analysis of policy documents, reports and legislation in the two countries.**²

Integrated into the second work package of the REBOOT project (T2.2), the report covers the historical transformation of this phenomenon, with special attention to the way the VOD market reflects the implementation of EU film policies, their impact and adaptation to the national contexts and how these relate to the concepts of European and competitiveness in the last 25 years. Thus, and besides providing an introductory overview of the emergence and initial transformation of the market of VOD platforms in Europe, **the two research teams involved in this report** (at Universidad Complutense in Madrid and at University of Warsaw) **seek to address two main levels of analysis.** The first one is related to the question of competitiveness from the perspective on the legislation introduced by the EU to regulate the VOD market and analyses specifically the impact of the Audiovisual Media Services Directive (AVMSD) on the two national case studies, Poland and Spain. On a second level, the report selects three examples of VOD services in each country and provides an assessment on the effect of the AVMSD's revision on their content, with specific attention to the presence of European works.

García Leiva and Ranaivoson highlight in an introduction for a recent special issue by the *Journal for Digital Media & Policy* (2023) the complexity of the impact of US-based SVOD providers in Europe in a way that hints at general developments also at stake in this report. They point out the significant increase in audiovisual works available in the European markets and of more flexible ways of audiovisual consumption. They address also VOD services' role as forerunners in the areas of creativity and innovation, especially regarding the production of European fiction (see in this regard Fontaine, 2023), while also indicating more problematic aspects related to the relative scarcity of local works, the lack of transparency and discoverability in their catalogues. The platforms' impact is also especially felt in areas regarding competitiveness with traditional media or obligations (from taxes to the promotion of European work). Another report produced in this research

² In order to stress relevant ideas and facilitate its reading, the report highlights key sentences and expressions through the use of bold text.



project contextualizes the impact of the platforms within an industrial analysis interested in covering the last three decades of the EFI from the perspective of its main stakeholders.³

Following pages show how both national case studies provide specific variations to these themes: in their differences, Poland and Spain are indeed very significant examples of the transformation of a still very diverse market. Despite the impact of EU policies in the last three decades, European markets remain **highly fragmented (Ranaivoson et al., 2023) while at the same time under general, strong dominance of US-based SVOD providers**. These points of departure have also strong ramifications to other areas of the European film industry. The academic consensus has for instance highlighted how the online market is a hugely important revenue window for films (Smits, 2019). At the same time experts such as Vlassis (2021) analysed the impact of VOD on the EFI pointing out how the EU still prefers film distribution through the traditional route of TV and cinema.

According to a more recent (post-pandemic) 2023 report by the European Audiovisual Observatory, European consumers have a wide range of subscription video-on-demand (SVOD) services⁴, ranging from specialized and niche offerings to more general entertainment options. As European consumers face potential financial constraints on their entertainment budgets, their spending on entertainment is likely to consolidate. As a result, it is generally expected that streaming services will compete fiercely to maintain their relevance.

Despite the political support for European films through financial and regulatory measures, and especially the AVMSD (see Psychogiopoulou, 2021), the US remains dominant in terms of worldwide film marketing and especially in the European VOD sector. Recent studies by the European Audiovisual Observatory (EAO) highlight the positive effects of this legislation, but also its limits. In 2023, 2401 films were released in Europe; there were more European than American titles, although the latter were more successful at the box office. American productions continue to dominate the European film market: "European films accounted for more than a quarter of ticket

³ See Biltereyst, D., Ramos Arenas, F., Willems, E., and Caballero Ruiz de Martín-Esteban, L: *Lessons from the past. European film industry looks back at thirty years of changes, challenges, and paradoxes*. Developed by the Horizon Europe project REBOOT (Reviving, Boosting, Optimising and Transforming European Film Competitiveness – REBOOT), funded by the European Union's Horizon Europe Research and Innovation programme under Grant Agreement No. 101094769.

⁴ See: Key Trends 2022/2023: Extensive report on cinema, television and VOD in Europe; European Audiovisual Observatory 2023, p.50. <https://rm.coe.int/yearbook-key-trends-2022-2023-en/1680aa9f02>

European Audiovisual Observatory; Trends in the VOD market in EU28. <https://rm.coe.int/trends-in-the-vod-market-in-eu28-final-version/1680a1511a> [access: 05.12.2024]

See also the report *SVOD Usage in the European Union* by Christian Grece and Jean-Augustin Tran (2023) that provides data from Denmark, Finland, France, Germany, Italy, Netherlands, Poland, Spain and Sweden. Except in Germany the viewing data was gathered through surveys.



sales (26.4%), while the market share of US titles reached a new high of 70.1%". These are the latest figures from the EAO. Recent reports by EU Commission and by the EAO (both of 2024⁵) add another layer of complexity to these phenomena stressing the idea of a high-speed transformation in the audiovisual industry.

Poland and Spain provide in this regard two challenging, disparate and rich case studies that reflect the significant differences in VOD market development across Europe⁶: both markets are dominated by foreign companies, while providing at the same time telling examples regarding the role of local public and private broadcasters, governmental influence, interaction with the national film industry, presence of local content, etc. Both countries have similar levels of internet access in households in 2024 (Spain 96.83% and Poland 95.89%).⁷ In both countries instant messaging via Skype, Messenger, WhatsApp, is the most common form of use in individuals between 16 and 74.⁸ According to a recent model of continental VOD markets built on quantitative data provided by the European Audiovisual Observatory and Eurostat from the period 2015–2022, Spain and Poland present specific variations related to content diversity, country size and dependence of global players, that situate them quite apart on a continental scale:

“the large market of **Poland**, with a below average uptake of VOD, has low levels of catalogue and content diversity. Country size does not necessarily predict high dependency on global players in the SVOD market, since the highly developed small VOD markets also tend to feature strong local/regional SVOD players. In contrast, some large VOD markets with high VoD uptake (e.g. Germany and **Spain**) show a greater dependency on the global players, which may have to do with a greater strategic focus of global players on larger markets regarding marketing, catalogue localization and investment in original content.” (Bengesser, 2024, p. 209)

This report is not therefore interested in providing a comparative analysis of both countries, **rather in offering a contextualization to nation specific case studies and illuminating the different alternatives they present regarding the implementation of EU policies in the national VOD**

⁵ See: European Commission (2024). *Digital Decade 2024 report: Country fact pages*, and the European Audiovisual Observatory (September 2024). *9 out of 10 of the most widespread TV and VOD groups in Europe are US-based*.

⁶ For a recent overview of each case study see Chmielewska & Sarna (2024) for the Polish case and Pedro & Albornoz (2024) for the Spanish example.

⁷ See the recent data by the Eurostat:

https://ec.europa.eu/eurostat/databrowser/view/isoc_ci_in_h/default/table?lang=en

⁸ [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=File:F4_Use_of_internet_communication,_2024_\(%25_of_all_individuals_aged_16-74_years\).png](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=File:F4_Use_of_internet_communication,_2024_(%25_of_all_individuals_aged_16-74_years).png)



market and its specific effects for the question of competitiveness of the European film industry.

The diversity of terms employed in the previous paragraphs deserves clarification: Video on demand (VOD) platforms, also known as OTT (*over the top*) or *streaming* services, are services that distribute multimedia and audiovisual content through online viewing technologies. The European Audiovisual Observatory describes subscription or paid VOD as “a business model traditionally associated with streaming video. Users pay a standard monthly rate for access to content which is streamed on request; this is to say no long-term store of the content is made on the user’s device”. Beyond this generic definition, **the fact is that VOD platforms are defined by a wide range and heterogeneity of services**, that is, their characterization is given by the type of ownership and business model that sustains them, their sales and internationalization strategy, as well as their type of offer, business, audience niche, content production and marketing. The definition of VOD has also changed due to technological progress. Therefore, in many licensing agreements, even based on the IFTA (Independent Film & Television Alliance) standard, VOD provisions can appear in different sections, such as broadcasting rights, Pay-TV rights, and Internet rights. In 2018, the IFTA regulated VOD through a new version of the definition of “record” and established it as a separate law.

There are therefore significant disparities among VOD providers that this report is also willing to address. Some of the analysed examples supply an extensive library of tens of thousands of films while others intentionally limit their selection to a more limited and carefully selected collection of films. They have different origins and their alliances to broadcasters, to national or international media companies, have a strong impact also in their goals and audiences.

2.1 Objectives and research questions

The report differentiates the following four objectives with their own research questions:

2.1.1 On the transformation of the European VOD and SVOD market.

The report will first provide an overview of the European VOD and SVOD market from its origins with a focus on the two countries under analysis. Since the report has a diachronic, historical approach, **chapter three will provide a contextualization of the transformation of the main players of the film industry in its on-demand distribution model (SVOD or TVOD)**, which has undergone an important development in Europe since 2014. **Research questions:**



- Why is 2014 the key year of VOD development in Europe? What role has Netflix played in precipitating the streaming market? Which have been the major operators from 2014 to today?
- Which European operators have emerged in parallel to the growth and installation of major global players in Europe?

2.1.2 On the AVMSD.

After this brief review, which highlights specific milestones and dates, the report will proceed with the analysis of the European audiovisual legislation and its impact on the competitiveness of the VOD market. Due to its important effects on the field, the focus will lie on the *Directive 2018/1808* (amending Audiovisual Media Services Directive/AVMSD) and its transposition to each one of the case studies. **Research questions:**

- What have been the main legislative changes in the 2018 Directive compared to the previous 2010 Directive?
- What are the main lines of the European “new order” on on-demand audiovisual communication? What are the business models or digital service formats it refers to?

2.1.3 On the transposition of the AVMSD in Poland and Spain.

This third objective is to be understood as a further exploration of the impact of the AVMSD: in view of the changes at the European level, the report will analyse two market models of transposition of the AVMSD, Poland and Spain. **Research questions:**

- While the basic mandatory rules of the Directive are the same for all 27 EU countries, are there any differences between Poland and Spain?
- In particular, what does Polish and Spanish national law provide for when the service provider is not located on the national territory (e.g. production quotas in the official languages, obligation to invest in national production, obligation to register in the national register of audiovisual communication service providers, etc.)?

2.1.4 On the content of six case studies in two countries.

The report will consequently present a content assessment of the catalogue of three selected platforms in each country, regarding the presence of European works. This fourth objective also



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refers to the more general question at the core of this report in relation to the competitiveness of European film and VOD services' part in it. **Research questions:**

- What can be preliminary assessed about the presence of European works on the analysed operators? Considering some of the difficulties expected in the collection of valuable data, the report also explores the possibility of working on estimations.
- What have the Directive and the MEDIA program done to improve the competitiveness of our European film?

2.2 Methodology and case studies

This report provides data based on academic literature in Polish, Spanish and English, as well as reports of the official film industry agencies and foundations and academic centres, especially in both countries under analysis: University of Silesia in Katowice (Grzesiok-Horosz, 2024), Warsaw University⁹, Complutense University of Madrid¹⁰ and especially the group on Audiovisual Diversity at University Carlos III of Madrid¹¹.

The study follows a qualitative approach a) **to trace the historical transformation** of the streaming market since its first examples after 2005, and b) **to study the evolution of the EU legislative dispositions for audiovisual content** (the AVMSD's revision in particular) and its impact on the Polish and Spanish national legal framework.

On a further level of analysis, the report combines qualitative and quantitative methodologies to provide a **content assessment of the catalogue of three selected platforms in each country**. It is especially interested in the presence of European content in the platforms following the implementation of EU policies.

The report analyses the VOD companies regarding their origin, official strategies, declared market model and catalogue overview. The selection of the case studies seeks to reflect the diversity of VOD services in Europe. **In Poland the analysis covers two major global providers with European headquarters and a strong presence in the European market (Netflix and Disney+), as well as the public broadcaster VOD.TVP.pl.** In Spain, the analysis focuses on one big international platform, **HBO (now MAX)**, that is headquartered in Spain. It will also cover the

⁹ See Polish team in MediaDelCom project <https://www.mediadelcom.eu/teams/>

¹⁰ See in this regard the Jean Monnet Chair on Audiovisual Heritage Modern Times: Audiovisuals Heritage in Times of Transformation: <https://www.ucm.es/modern-times/>

¹¹ <https://diversidadaudiovisual.org/>



evolution of a Spanish player from the film industry, **Filmin (ranked currently fifth in market share and user numbers) and Atresplayer, the VOD service from the private broadcaster Antena 3.**

As mentioned in the introduction, the report is especially interested in offering a contextualization of specific case studies that illuminate the different alternatives regarding the policies and competitiveness of the EFI. Consequently, the comparison between Poland and Spain is not entirely parallel due to their distinct market developments. In Poland the selection reflects local audience preferences for both international and national content. For content assessment, the market leader (Netflix) was chosen, together with one of the youngest platforms, whose distinctiveness is based on a long legacy (Disney+) and, to include a national perspective, VOD.TVP.pl. This third platform was also selected as the most relevant local representative and taking into account its important growth over the last year. The choice of these platforms (itself the results of the research project over the last three years, among them recognizing the limitations that the investigation of other examples such as player.tv posed) aims to offer a broader perspective on their attitudes and adherence to the national legislative frameworks.

Netflix's presence in Spain was also analysed in the first stages of this research. Although it has been present in Spain since 2015 and is also national market leader,¹² it has been extensively analysed in previous studies, prompting the inclusion of newer entrants like HBO for a broader sector overview.

In both cases, the analysis is supported by in-depth interviews with experts on the VOD market and from the aforementioned companies. Following the indications of the Ethical Committee at University of Warsaw, data from the Polish interviews should be fully anonymised and should not allow the identification of the interviewees.

The investigation into the catalogues of Netflix, Disney+, and VOD.TVP.pl provides an initial overview of the providers, due to the lack of official, accessible databases that offer transparent information. In the cases of Filmin and Atresplayer, the companies were willing to collaborate, thereby enabling us to ascertain the contents, including the proportion of European works. For Max

¹² More than 10 studies from 2015 to 2024 have been quoted in this report dealing with Netflix in Spain directly and indirectly, such as Pedro & Alborno (2024), Alborno & Gallo (2024), Alborno, García Leiva & Gallo (2023), Castro & Cascajosa (2023), Agustín-Lacruz & Gómez-Díaz (2021), Corredoira & Grossocordón Cortecero (2021), Aresté (2020), Neira (2020), Merino Álvarez & Neira (2019), Sood, Corredoira, Urgelles & Villanueva (2015).



(Spain), the report presents results based on a direct analysis of its offer using direct sources (the catalogue itself) and external databases.

Three databases were used for the qualitative and quantitative analysis of the catalogues:

1. JustWatch.com provides information about the series, movies and documentaries of each of the existing platforms with a link to the services. The site also offers a series of filters that make the search easier: genre, year of release, IMDB rating, country of production, duration, price, types, age rating and quality. In addition, in 2021, a tool was introduced that allows the user to introduce the synopsis, allowing the platform to find the content that most closely matches the description.

2. IMDB (Internet Movie Database) offers a self-developed database system that is used worldwide by researchers, professionals and the general public. It contains information related to “movies, production crew personnel, directors, actors, soundtracks, TV series, TV shows, TV programs, video games, dubbing actors, reviews, movie trailers, movie reviews and, more recently, fictional characters appearing in visual entertainment media”.¹³ In 1998 IMDB was acquired by Amazon.¹⁴

3. The third tool used is the **European Audiovisual Observatory**. This European agency provides data and analysis on the audiovisual industries in Europe with an especial interest on the transformation of VOD services.

It has often been difficult to obtain information directly from VOD providers. In fact, most of them do not facilitate information not only on the number of users, but also on the fulfilment of the requirements of the AVMSD's revision.

In the Spanish case, this situation is likely to change as these companies will be forced to be more transparent about their audiences, in accordance with Law 13/2022, of July 7, General Audiovisual Communication (hereinafter LGCA). Since VODs are now regulated by the new AVMSD and therefore come under the control of the Spanish National Market and Competition Commission (CNMC), they are subject to mandatory registration and compliance with regulations that include

¹³ The translations of the texts and interviews originally in Spanish and Polish have been made by Fernando Ramos Arenas, Loreto Corredoira, Alicja Waszkiewicz-Raviv, Anita Zawisza and Dagmara Sidyk.

¹⁴ See more “IMDb, una información de cine a tu alcance”, Servicio de Biblioteca, 2022 at <https://www.nebrija.com/medios/nebrijaglobalcampus/2022/07/07/imdb-una-informacion-de-cine-a-tu-alcance/>



programming principles, the 30% European quota catalogue, pre-investment obligations in cinema, etc. In Poland, the competent authority for audiovisual media services is the National Council for Radio and Television. It has not provided the information required. To address this, alternative publicly available sources were leveraged, including regulatory reports, industry publications, and media coverage. These supplementary materials provided valuable insights and ensured that the analysis remained comprehensive and well-informed despite the initial data constraints.



REBOOT (www.thereboot-project.eu) has received funding from European Union's Horizon Europe Research and Innovation programme under Grant Agreement No. 101094769.



3 VOD PLATFORMS IN EUROPE: INDUSTRY, POLICY AND DEVELOPMENT

Following the objectives 1 to 4 of the report, **this section provides an examination of the European VOD market, with an especial interest in the impact of US providers in the last decade.** Considering the importance of VOD platforms for the European Film Industry (as well as the specific consequences in the national market under analysis) the following pages will also expose the strategies employed by major Hollywood studios and newcomers such as Netflix or Amazon to expand their reach and target new audiences.

Netflix's impressive growth over the last two decades and its impact on audiovisual consumption (especially regarding the substitution of Pay-TV and linear TV with SVOD services), (local) industrial structures, policy measures and audiences, have marked the main approaches for the theorization and analysis, which has usually tended to stress the weight of globally operating VOD services (also Amazon, Apple, Max, etc.).

At the same time, it has become increasingly clear that, especially in the European context, many other factors have also contributed to reshaping the continental markets. These include, among others, the legal frame and the relevance of local players emerging from national broadcasters or even from film distributors, whose extension is thus usually limited by national borders (Chalaby, 2022, p. 59). The focus on Filmin and Atresplayer in Spain or VOD.TV.pl Poland will show how the VOD markets under analysis reflect the local particularities, stressing thus how differences persist across national borders, also regarding policy implementations. As Cathrin Bengesser indicates in her recent comparative study, "the very different implementations of quotas and the investment obligations for European content also point to the persistence of national conditions and traditions shaping how global players can act locally." (Bengesser, 2024, p. 195)

The legal conditions following the transposition of the AVMSD's revision from 2018 to Poland and Spain will be a central aspect in the analysis conducted also in this chapter, with a focus on its provisions concerning the European catalogue of works required for video on demand and the investment obligations in European production. We understand that these measures represent the response of the European Commission and the European Parliament to the digitization of this sector and the strong presence of USA audiovisual content.

Before coming to that, the following pages illustrate the main trends that shaped the transformation of the European VOD market. This has been initially enabled by the strong technological



development, and then deeply shaped by the arrival of global players and the implementation of legal mechanisms that tried to cope with these changes. According to a report by the EAO that looked at the first wave of expansion in the European SVOD market (Grece, 2015), since the year 2010, the process experienced a fast growth carried by national and international operators. A further moment of acceleration came around 2014/15 with the European expansion of global providers, many of which with important ties with major US film production companies.

3.1 Global developments and European responses

The global expansion of VOD has been enabled originally mainly by **technological development**, especially of high broadband speeds and their rapid expansion among users. Around the turn of the first decade of the 21st century, it had already experienced an impressive growth:

“Total consumer revenues grew from EUR 40.7 million in 2011 to EUR 844 million in 2014, [...] The market for audiovisual on-demand subscription services is in a state of fast expansion, driven by the launch of services; either from established national players such pay TV operators, commercial broadcasters or telecom companies, either from international players who expand their services into EU countries; and the uptake by the EU population, profiting from higher broadband speeds required for streaming of videos and an increased equipment in connected devices (streaming media players, smart TVs, smartphones, tablets, HDMI dongles)". (Grece, 2015, p. 6)

The second disruptive factor traditionally mentioned to explain transformation of the European VOD market was the **arrival of Netflix** to the continent (Jenner, 2023; Corredoira, 2023).¹⁵ Netflix was created in 2007 as a DVD subscription rental company and in 2012 it transformed into a VOD platform, thus initiating a path of business and international expansion.

From a broader perspective, a series of previous technological and cultural changes had been necessary to enable the transformative impact of this and other similar global players (Neira, 2020): One of the main changes has been **digitisation**, which allowed the dematerialization of physical media and the consequent ubiquity and mobility of storage and viewing systems. The second change has been a parallel process of **technological innovation**, which led to the development of a multitude of devices with internet connection also thanks to the increasing speed of video

¹⁵ For a more general approach focusing on the disruptive aspects of Netflix business model, see *Netflix and Streaming Video: The Business of Subscriber-Funded Video on Demand*, by Amanda D. Lotz (2022).



compression. In this context, the advance in mobile, panel and image transmission technology for smartphones and Smart TVs with integrated digital systems stands out. These transformations were at the same time enabled by the rapid expansion of **wide-bandwidth data transmission**, which by the first decade of the 21st century provided users with faster data transmission and cheaper service.

Finally, a **change in the habits, tastes and perceptions** of audiences has been necessary. The popularization of the series, the continuous reception of content and binge-watching made possible by the high availability of material, the normalization of viewing through digital screens, the intermediation between content through networks, or the accentuation of niche preferences or the privileging of current affairs, are some of the reception practices that help explain the rapid expansion of VOD platforms.

The changes in the United States have traditionally pushed the development of VOD platforms on a global scale. Besides the importance of Netflix as a company dedicated exclusively to streaming major studios, another key factor in this transformation was when big technological companies such as Apple and Amazon started positioning themselves as central actors in the emerging streaming markets. The emergence **of the major international platforms** (Netflix, Amazon Prime Video, HBO and Disney+) and their subsequent expansion into Europe also led to changes in the strategy of the major American studios (Corredoira, 2023, p. 4). Initially, the majors were not particularly interested in the digital market, which they considered as a mere sales supplement; they generally thought safer and more profitable to sell the licenses of their productions for exploitation on other platforms (Clares-Gavilán et al., 2019, p. 129). Their vision of the European market was based on these assumptions. Besides, Europe was not considered a safe market, due to its fragmentation, heterogeneity, and impact of internet piracy; rather than direct exploitation, they preferred to negotiate with local VOD platforms (this is the case of Wuaki.tv in Spain, today Rakuten).

It was the **definitive expansion of VOD consumption and the majors' declining revenues (see for instance the case of DVD)** that prompted them to develop their own platforms. Disney announced in 2017 the creation of Disney+ for the US market, and two years later acquired Fox. Since 2018, the US multinational telecommunications group AT&T has been acquiring Warner, HBO, CNN and Discovery to bundle their content (now under Warner Bros. Discovery). These changes have meant that the **majors reduced or readdressed their supply of content to streaming platforms**, consequently moving from Netflix, Apple TV+ or Amazon Prime Video to the



creation of their own content for their platforms. It also meant that competition increased and the scope for market share narrowed.

The image below shows **who's who in the Motion Picture Association** (MPA) – Hollywood's industrial association – until Netflix's entry in 2019 (Modern Times Jean Monnet Chair Report, 2023), and how traditional companies have acquired their own 'windows' on a VOD platform or service:

The "MAJORS"	Warner Bros (1923)	Disney Studios (1923)	Universal Pictures (1912)	Paramount Pictures (1912)	Sony Pictures (1924)
Owned today by	AT&T	The Walt Disney Company	Comcast	Viacom-CBS	Sony
Studios and production companies [selection]		20 Century Fox	NBC-Universal	Miramax	Columbia Pictures TriStar Pictures
		LucasFilm		CBS films	Metro-G-Mayer
		Marvel		Nickelodeon	United Artist
It is also seen in	HBO Max (formerly Vudu)	Disney+ (formerly Hulu)	Vudu Hulu Showtime	Paramount + Showtime	Netflix (2022)



REBOOT (www.thereboot-project.eu) has received funding from European Union's Horizon Europe Research and Innovation programme under Grant Agreement No. 101094769.



Table 1. Who's who in the Motion Picture Association (MPA). Source: Corredoira, 2023.

This initial phase of expansion, accelerated by the impact of the COVID-19 pandemic, has led in the last years to a process of market readjustments that some authors have identified as “streaming wars” (see Lobato & Lotz, 2021, or Neira, 2020). In other words, we are **currently experiencing a general restructuring of the audiovisual industry and production and dissemination system, marked by the creation of alliances, takeovers and internationalisation strategies**. Also by the markets reaching their limits (at least in the US and some European countries). **A recent report by PwC (2024) indicates that while the use of streaming services and consumer uptake is rising, it is doing so at a slower rate than in recent years**. In the report, the consultants highlight that the number of subscriptions to over-the-top (OTT) video services is projected to reach \$2.1 billion by 2028, up from \$1.6 billion in 2023. This represents a compound annual growth rate (CAGR) of 5%. It is anticipated that the global average revenue per OTT video subscription will experience a modest increase, rising from \$65.21 in 2023 to \$67.66 in 2028.

The same report indicates that a plateauing effect is prompting leading global streamers to restructure their business models and identify new revenue streams beyond subscriptions. This includes the introduction of ad-based variants (reduced subscription fees with ad-filled content), stricter enforcement of password-sharing, the introduction of live sports, and industry consolidation.

While in the United States the **major studios** played a pivotal role in the evolution of VOD platforms, the European context has generally followed a different path; both in terms of the involvement of major studios and the pace of transformation. An early review of the situation in Europe in **2009** revealed that back then only 14 service providers **had their origins in the film industry**, encompassing production (such as MK2 in France or Fandango in Italy), distribution (such as Cinemien in the Netherlands or Filmladen in Austria) and sales agents (such as the French group Wild Bunch). This could be explained, among other factors, by the entrepreneurial diversity that characterizes the European film industry. It is noteworthy that **broadcasters** had traditionally assumed the role of service providers, distributing content through on-demand television and video on demand (VOD) services (European Audiovisual Observatory, 2009, p. 118).

Two reasons served as original impetus for the establishment of a consolidated VOD market in Europe (European Audiovisual Observatory, 2015, p. 9):

- on the one hand, the arrival of Netflix and the other major international VOD companies (Amazon Prime Video, HBO, etc.). Undoubtedly, the arrival of Netflix meant the imposition



of the monthly subscription model (SVOD) over the transactional model (TV=D), which was at the time still very much in force in Europe (Grece, 2021).

- and, on the other, the reaction and adaptation of national operators (improving their interfaces, investing in production and licensing, internationalising, etc.); they tended to prioritize their own VOD services and contributed to the transformation of the industry.

The most digitally developed countries have been the quickest to adapt to VOD consumption (UK, Nordic countries, Germany, etc.), showing the existence of a pre-existing market but a lack of supply: "Smaller SVoD markets (but important markets when it comes to Pay-TV) which had not yet seen the entry of global players (in 2014) such as **Spain, Italy or Poland could experience a comparable boost in consumer revenues once compelling SVOD services are launched**, such as Yomvi (Canal+/Telefonica) combined to a market entry by one global player, **as it was the case in October 2015 for Netflix in Spain, Italy and Portugal**" commented Grece in contemporary assessment of these development (2015, p. 9).

In the cases of Spain and Poland, **2014/15 marks indeed an inflection point**: broadcasters and, to a lesser degree, film companies were central in this regard. In Spain this reflected in the growth of Filmin, created in 2008 and fostered by the independent movie industry, and Movistar Plus+, that appeared in 2015.¹⁶ However, in general, film companies have played a minor role, as they were originally more interested in licensing their own content to service providers and content aggregators (European Audiovisual Observatory, 2009, pp. 118–119).

In contrast, Poland had one public TVP.pl platform that could compete with US platforms in terms of range and audience reach. TVP.VoD, the service owned by Telewizja Polska (National Polish TV), was launched in 2010 as a subpage of tvp.pl, to offer TVP productions. Previously (from January 15, 2007), TVP had offered video-on-demand services as part of the itvp.pl website, which existed from 2005 to 2008. Poland's second relevant local streaming service is owned by the private company CDA. CDA.pl (operating since 2004) is a multimedia hosting platform where the content is posted by the users themselves (similar to YouTube). In the case of SVOD.CDA Premium (launched in 2016), the customers pay monthly fees and have access to films that are made available under license agreements with distributors.

¹⁶ We should mention that Canal+ disappeared as a prestigious TV brand in Spain in 2015, when it was taken over by Movistar. Although it operated under the YOMVI brand, it was renamed Movistar in 2016 and completely disappeared as "Canal+". Meanwhile, the other two private television companies (Antena 3 and Telecinco) are still in operation as the leading broadcasters in Spain.



Thus, while the initial phase of development of the European market showed relatively slow growth, there has been a notable acceleration since **2014**. The following graph (European Audiovisual Observatory, 2014, p. 19) illustrates the prevalence of streaming and VOD services relative to the constant evolution of linear Pay-TV.

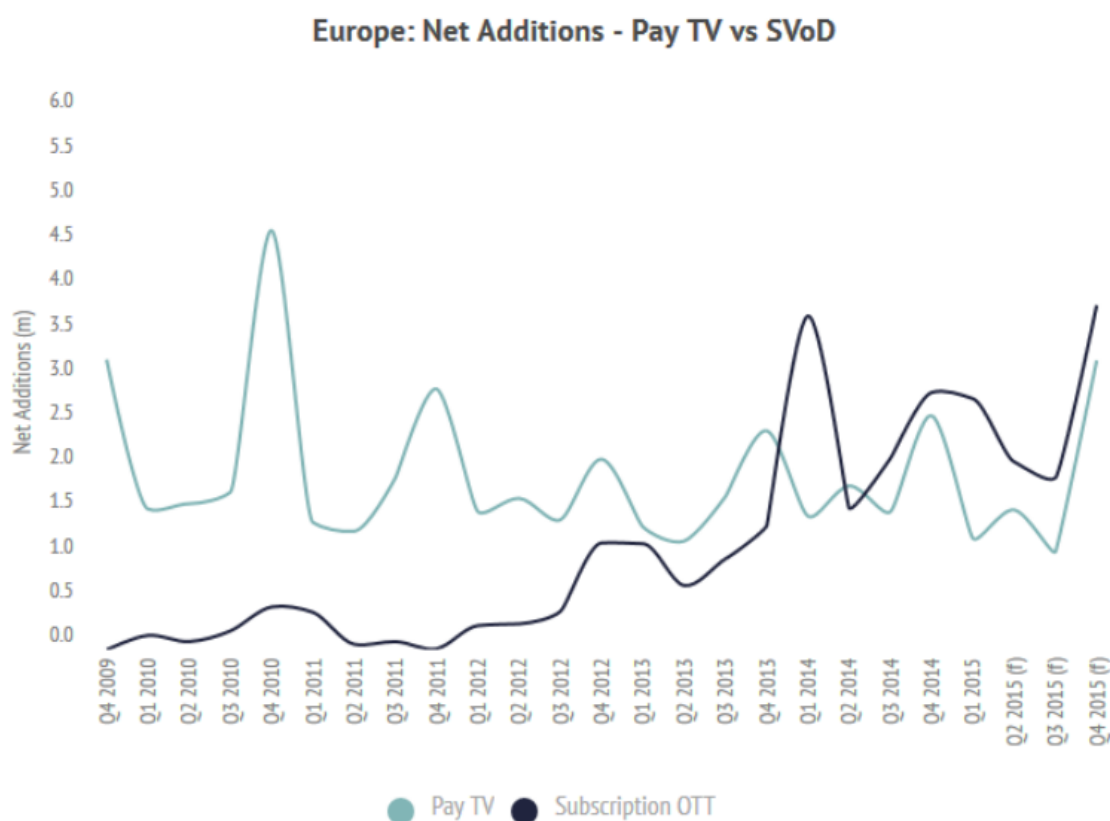


Figure 1. Net additions Pay-TV and SVOD subscribers Europe, in millions, 2009–2015.
Source: European Audiovisual Observatory, 2014. <<https://www.obs.coe.int/en/web/observatoire/>>

This trend is apparently consolidating, as confirmed in recent reports by the European Audiovisual Observatory¹⁷ and the European Commission.¹⁸ While the general film market has been deeply hit by the COVID-19 crisis in 2020–2022, for the VOD market these disturbances have been generally positive. As the Focus 2023 EAO report remarks:

¹⁷ Focus 2023 - WORLD FILM MARKET TRENDS TENDANCES DU MARCHÉ MONDIAL DU FILM, European Audiovisual Observatory, Available <https://rm.coe.int/focus2023/1680af8b6f>

¹⁸ According to the conversation held with Lucia Recalde, Head of Unit, Audiovisual Industry and Media Support Programs in May 2024 during Cannes Marché du Film. <https://digital-strategy.ec.europa.eu/en> If needed there are reports for each European country <https://digital-strategy.ec.europa.eu/en/factpages/digital-decade-2024-report-country-fact-pages>



“Despite clear signs of recovery, the sector still faced lingering issues related to the COVID-19 pandemic, such as production delays and a shortage of new releases, especially mid-tier films. As Hollywood studios shifted part of their production slate to streaming services, often in a bid to bolster their own VOD offerings, only 71 new films received a wide theatrical release in 2022, well below the volume observed in 2019, when 112 movies were released on at least 2 000 cinema screens” (Focus, 2023, p. 43)

As illustrated in the image below, by the end of 2023 the European Audiovisual Observatory presented a further study indicating that nine out of ten VOD services offered in Europe were provided by US companies. They contributed to growth stimulation in the region but also to a certain degree of market cannibalisation. At the same time, there has been no successful continental response in the form of a European provider as the European audiovisual market is strongly atomised and compartmentalised due to linguistic reasons (more than 80 languages, 24 of them recognized by the EU as official languages). In addition to some of these international brands, which we will study specifically in the Polish and Spanish markets, the presence of US content is also ubiquitous in television. Moreover, as the EAO report from 2024 highlights, “most broadcasters in the top 20 ranking launched VOD services”. Some of their results show that about one in four (23%) of all private TV channels (excluding local TV) are US-owned, and the same is true for one in ten (8%) of all on-demand services and video-sharing platforms in Europe. Moving back to our area of research, 11 TV and VOD groups are present in at least 30 different European markets and nine of them are American.

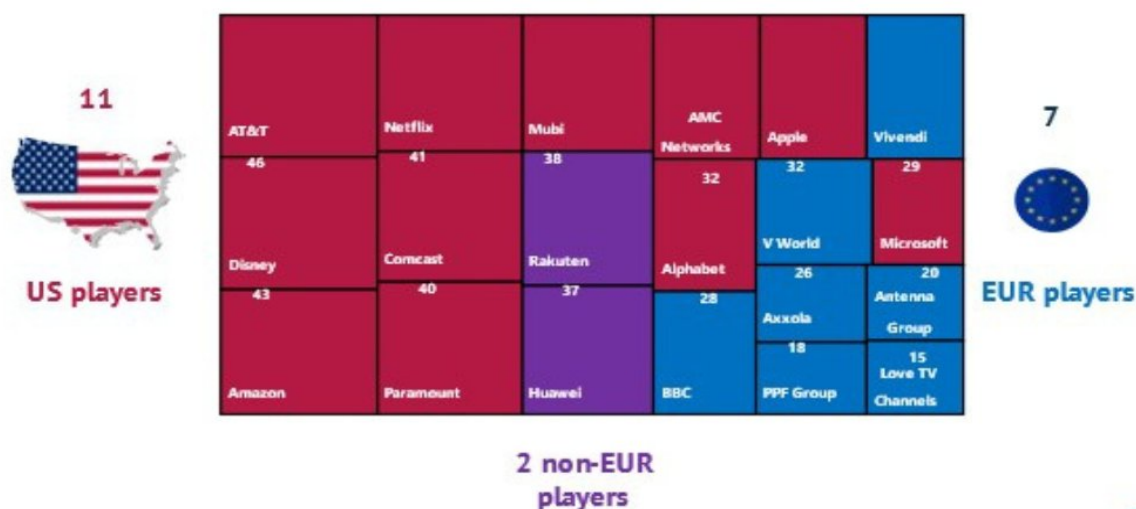


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Main players – US players dominate with pan-European market presence

Origin of top 20 TV and VOD players active in Europe | Dec. 2023
In number of operating markets



Flag icons © Copyright Showet.com
Source: European Audiovisual Observatory / MAVISE



#AVMEDIASERVICES

Figure 2. Origin of 20 TV and VOD players active in Europe (December 2023). Source: <<https://x.com/EuAvObservatory>>

3.2 Major EU legislative changes in the audiovisual sector

In the interim period, intergovernmental institutions and the European Union devised the initial legislative measures and programs with the objective of establishing a novel audiovisual regulatory framework that comprised specific regulations for the VOD sector, while implementing incentive measures designed to stimulate the nascent digital market.

In 2010, the European Parliament adopted the Audiovisual Media Services Directive (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 [...])¹⁹, which replaced the first Television without Frontiers

¹⁹ <http://data.europa.eu/eli/dir/2010/13/oj>



Directive (Directive 89/552) by abandoning the term “television” for “audiovisual media services”. This constituted a significant development at that juncture. Directive 2007/65/CE²⁰ had already introduced several pivotal amendments to the Television without Frontiers Directive, including the definition of “audiovisual media service,” which distinguished between “on-demand services over electronic communications networks” and traditional television services. This delineated on-demand services as direct competitors to other forms of audiovisual media.

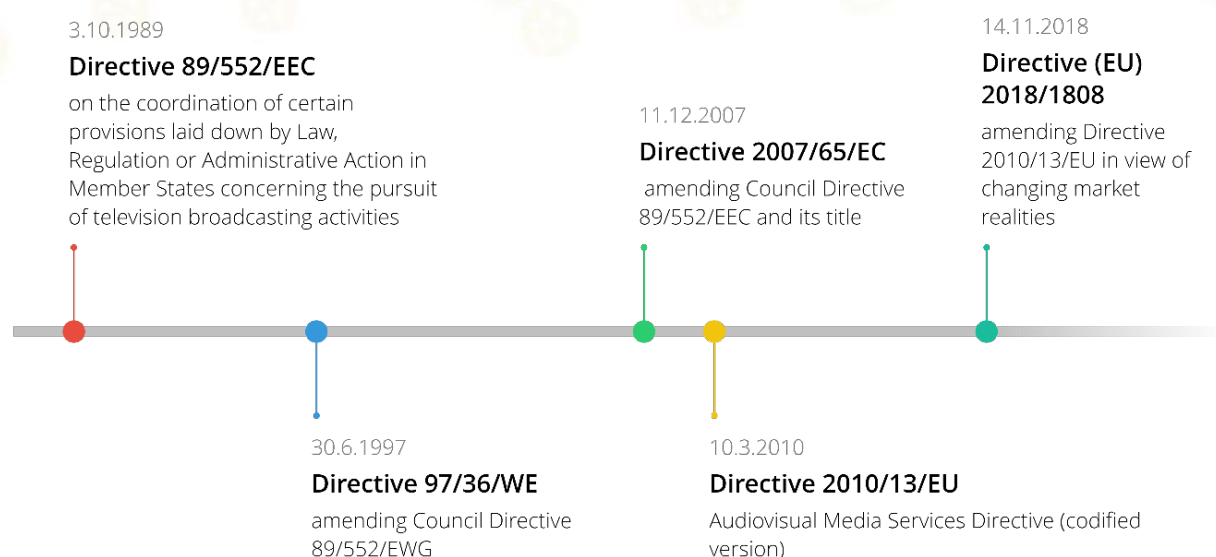


Figure 3. Milestones in EU Audiovisual Media Services Regulation. Source: Dagmara Sidyk-Furman (Polish version published in: Sidyk, D. (2019). Audiovisual Commercial Communication in the Revision of the Audiovisual Media Services Directive [Unpublished master’s thesis]. University of Warsaw.

The two main action lines of the 2010 Directive were protection of minors and protection of cultural diversity (European Audiovisual Observatory, 2009, p. 81). Alongside the AVMSD, other measures were implemented to ensure the competitiveness and creativity of European audiovisual in the emerging digital market. Strategies were designed to harmonize the single market by incorporating multi-territorial licensing and protecting intellectual property rights. Also, the MEDIA 2007 program, which extended support for the creation of VOD and online distribution platforms, was equally important and turned crucial to at least one of the VOD services under analysis in this report (Filmin).

However, the definitive change came with Directive 2018/1808/EU (AVMSD’s revision), which reordered the European audiovisual framework (Caballero Trenado, 2019), including VOD

²⁰ <http://data.europa.eu/eli/dir/2007/65/oj>



platforms, to comply with the principles and values of the rule, as well as with the requirements of transparency and jurisdiction.²¹

These steps taken by the EU responded, among other reasons, to the rapid change in the diffusion and consumption of VOD services initiated with the arrival of Netflix in Europe in 2012. The AVMSD's revision of 2018 sought to unify the “audiovisual ecosystem” by including in the same standard linear television, non-linear television – whether the classic Television served on demand or the different ways of distribution of audiovisual works, where VOD is included –, but also with provisions for “users-generated-content” videos (Caballero Trenado, 2019). In this sense, this was a novelty; even though years have already passed since their arrival in Europe, VOD services and UGCs (Youtubers or Vloggers) are now obliged to comply with provisions on content, advertising and protection of minors. The regulatory burden is in this case not as high as with television, but it certainly included very relevant compliance obligations that we will analyse in this section.²²

As the Directive has been transposed by all 27 EU member states, VODs are adjusting their programming and investments to comply with the rules of protection of the European works. The new legal frame sought to rebalance the obligations between traditional broadcasters and online content distributors, guaranteeing free competition and consumer rights. They are required to purchase or produce 30% of their catalogue in Europe and to advance financing of European and national audiovisual works.

Circulation of European content remained however problematic. According to a recent report analysing the SVOD contents in the EU (Grece, 2023), a majority of French, Spanish, German and Italian TV series circulate outside their local markets (figure below). However, Polish productions exported stand for only 4% of the series.

²¹ Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending 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 (Audiovisual Media Services Directive) in view of changing market realities. PE/33/2018/REV/1. OJ L 303, 28.11.2018, p. 69–92 <http://data.europa.eu/eli/dir/2018/1808/oj>

²² In particular the new art. 28 b) is applied.



EU4 TV seasons accounted for 70% of all exported EU27 TV seasons on SVOD

- French, Spanish, German and Italian TV seasons alone made up the lion's share of exported TV seasons.
- The top 10 exporting countries accounted for 94% of all exported TV seasons.

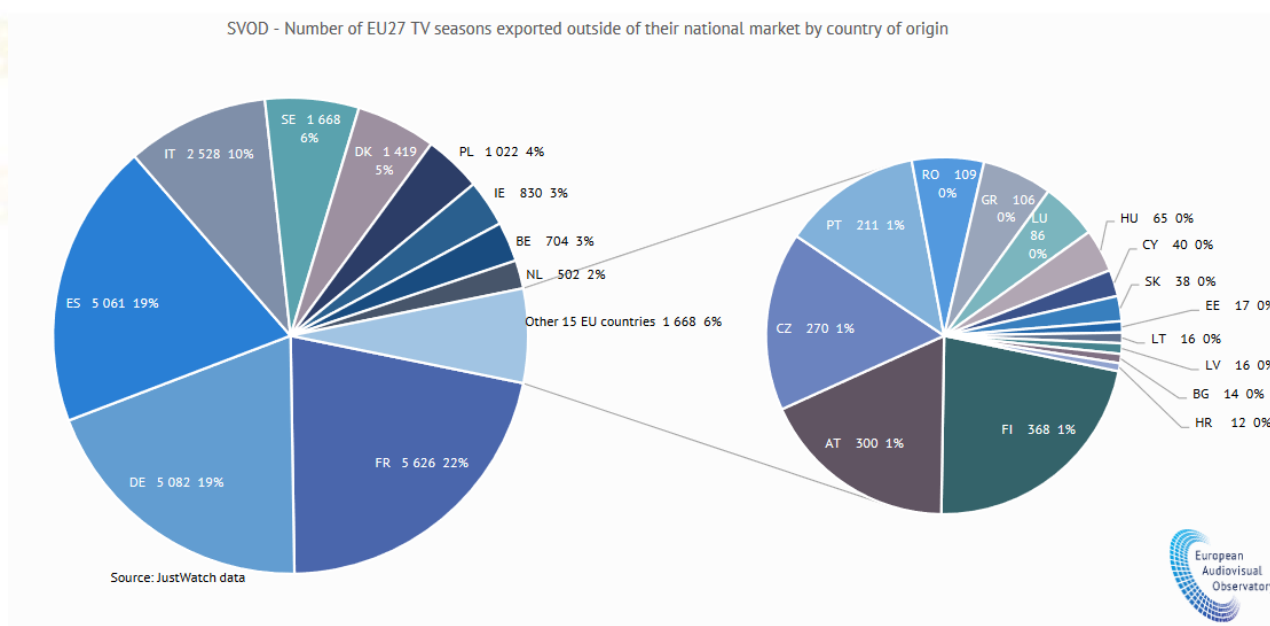


Figure 4. Film and TV content in TVOD, SVOD and FOD catalogues. Source: Grece (2023, p. 106).

3.2.1 The transposition of the AVMSD's revision to the Polish and Spanish markets

3.2.1.1 Spanish transposition

The Spanish model of transposition is particularly extensive, given that there are four official languages and that regional governments are allowed to impose new obligations regarding the use of those official languages in national co-productions for VOD providers operating within their territories.

On May 26, 2022, the Spanish Congress finally approved Law 13/2022, of July 7, General Law on Audiovisual Communication (LGCA)²³, which transposed EU Directive 2018/1808 on Audiovisual Communication Services, of November 14, 2018, into Spanish law. The approval of this law comes

²³ <https://www.boe.es/buscar/act.php?id=BOE-A-2022-11311>



almost two years late, failing to meet the deadline for transposing the EU Directive, which explains why Spain was sued before the EU Court of Justice.

This new law updated the Law 7/2010, of March 31, 2010, General Law on Audiovisual Communication, and incorporated into the new legal framework many audiovisual actors such as VOD platforms and social video sites (clearly including online *influencers*) that had not been taken into account until then. In general terms, the LGCA sought to **"update audiovisual regulation in the face of the irruption of new agents, the diversification of audiovisual formats and the fragmentation of the audience, creating new categories of services, equating some obligations between the different providers**, modifying the financing regime of [Spanish national public broadcast] RTVE, paying special attention to the protection of minors and guaranteeing cultural, linguistic and gender diversity, through the promotion – and financing – of European work" (Pina and Marzo, 2022).

Among the objectives pursued by the Spanish LGCA, this report highlights the following three, as they affect directly VOD services:

A. Extension of the scope of the law²⁴, as there has been a change in the main subjects bound by the new law. While the previous Audiovisual Law (Law 7/2010) focused on digital television, "the new law also looks in detail at streaming payment platforms and reaches video sharing services through platforms and even users of special relevance" (Pina & Marzo, 2022). Therefore, these new players were now required to register in the State Register at the Ministry of Digital Transformation.²⁵ From 2023 onwards this included not only Audiovisual Communication Service Providers, but also Video Exchange Service Providers through platforms and Audiovisual Communication Aggregation Service Providers (see the list of abbreviations in the Annexes), as long as they are established in Spain.

B. Regarding the promotion and financing of European works, two new obligations were established for the VOD sector as a means of promoting and fostering the works that make up European audiovisual heritage: on the one hand, obligations of quota or catalogue reservation and, on the other hand, advance financing ("pre-financiación").

²⁴ See, for a general approach to these questions, Valcke and Lambrecht, 2021.

²⁵ See

https://avancedigital.mineco.gob.es/mediosaudiovisuales/Television/Paginas/registro_estatal_prestadores_servicios_comunicacion_audiovisual.aspx



Regarding the **quota obligations** (see art. 116 **of the legal appendix in the Annexes**), the LGCA states that while linear television channels must comply with a quota of broadcasting time and hours of European works (51%, with a quota in regional languages), VOD service providers must allocate at least 30% of their catalogue to European works. In addition, at least half of this percentage must be reserved for works in the official language of the State or in one of the official languages of the Autonomous Communities.

Likewise – this is specific to the Spanish transposition – platforms that are not established in Spain have also been required to comply with a new quota for the financing of European audiovisual works **(cinema, series, documentaries or animation)**, as public and private television channels have also been doing for the last 30 years in the country. The law states that service providers’:

"contribution to the advance financing of European works will depend on their computable income from the provision of audiovisual services in Spanish territory and: (i) shall be 5% of such revenues, if these are over 50 million euros; these should **be allocated to independent production, in official languages, to works directed or created by women and to independent cinematographic films**, in the same percentages mentioned for public television; (ii) shall be 5% of such revenues, if these are between 10 and 50 million euros, **with 70% reserved for independent production in official languages**; and (iii) shall be exempt if the computable revenues are less than 10 million euros. The form of contribution may be direct or through the purchase of exploitation rights and/or by contributing to the film and audiovisual protection and promotion funds provided for in Articles 19.3 and 36 of Law 55/2007, on Cinema" (Pina & Marzo, 2022)

VOD platforms active in Spain, whether or not headquartered in the country, whose revenues are between €10 and 50 million, must thus comply with these requirements (see articles 110–120 of the Spanish Law in the Legal Appendix). They "shall annually allocate five percent of such revenues to the **financing of European audiovisual works, to the purchase of exploitation rights of European audiovisual works already completed and/or to the contribution to the Film Protection Fund** or to the contribution to the Fund for the promotion of cinematography and audiovisual works in co-official languages other than Spanish". In other words, they are asked to allocate the same percentage, but they are not obliged to invest in independent productions or in official languages or in works directed by women.



This policy represents a significant change, as it implies that the audiovisual regulatory body, the Spanish National Markets and Competition Commission (CNMC), will supervise compliance with this advance funding obligation by companies such as Netflix, HBO or Amazon Prime Video.

On the compliance with the "broadcasting quotas of European works" in Spain in application of the Audiovisual Directive 2018 (AVMSD's revision), the CNMC published a resolution on compliance with Chapter III of Title VI of the LGCA on "broadcasting quotas", "pre-financing" and criteria for "exemptions" (CNMC, 2024b). The Spanish regulator is also awaiting the decree on the development of European works "in which it will determine the authority (regional or national) to which the content provider is subject", commented Carlos Aguilar Paredes, who acts as adviser at the CNMC and is Vice President of the European Regulators Group for Audiovisual Media Services (ERGA). This group of high-level representatives of national independent regulatory bodies in the field of audiovisual services, which advises the Commission on the implementation of the AVMSD includes, representatives of "the autonomous (regional) governments (Andalusia, Galicia, etc.), and indicates who will be responsible for each issue" (interview with Aguilar Paredes by L. Corredoira, 2023).

In addition, the LGCA also maintains the previous rule whereby **public television** must allocate 6% of its computable revenues to the advance financing of European audiovisual works as follows: (i) at least 70% of it will be allocated to independent productions in the official language of the State or in one of the official languages of the Autonomous Communities. Of this percentage, at least 15% will be allocated to official languages of the Autonomous Communities, and a minimum of 30% will be allocated to audiovisual works directed or created exclusively by women; (ii) a minimum of 45% will be allocated to the production of films by independent producers; and (iii) at least 12% will be allocated to animation and documentaries. This addition was made for two reasons: firstly, as it represents a new source of revenue for the film industry, and secondly, as it is beneficial to the VOD platforms.

The same applies to providers of private television audiovisual communication services²⁶ (art. 118 LGCA, Legal Appendix), linear or on-demand. Therefore, streaming platforms (such as Atresplayer, one of the case studies of this report) must comply with the same quotas described above for public broadcasters.

²⁶ Article 118 of the LGCA.



A further specificity relates to **the financing of the Spanish Radio and Television Corporation RTVE**: According to the Law for the Financing of RTVE (Law 8/2009, dated August 28th, 2009), the new audiovisual players are obliged to contribute 1.5% to the total financing of RTVE, whether they are established in Spain or in another EU country. As exposed in Article 6 of the fourth final provision, "the providers of the television audiovisual communication service and the providers of the video exchange service through a platform will contribute to the financing of Corporación RTVE through the payment of an annual contribution" (Section 2 of the Law for the Financing of Corporación RTVE).

This stipulation applies to both Spanish and other European Union-based companies, provided that they offer their services in Spain. In other words, this change implies a new obligation for video on demand (VOD) and video sharing platforms, such as Netflix, HBO, YouTube, etc., to make an annual contribution to the budget of the Spanish public broadcaster RTVE. The LGCA stipulates that this contribution will be calculated on the gross operating revenues invoiced in the corresponding year, comprising solely the revenues obtained as service providers in the Spanish audiovisual market. Prior to the enactment of the LGCA, this data had been provided only by television stations.²⁷

C. Regulations on the protection of consumers, including minors: As with other audiovisual operators, VODs (and providers of user-generated-content of special relevance²⁸) are obliged to provide information on content that may be harmful to minors through age rating systems, and to filter access to underage users. To this end, various aspects described in Article 99 of Title VI of the LGCA have been modified, involving:

- The implementation of an age rating system.
- The development of age verification systems and age rating mechanisms by video sharing platforms.
- The prohibition of subliminal advertising, tobacco, electronic cigarettes and any advertising that violates human dignity or uses the image of women in a degrading manner.

²⁷ See for example: Dircomfidencial.

<https://dircomfidencial.com/medios/los-operadores-de-tv-y-telecomunicaciones-abonaron-160-me-a-rtve-el-ano-pasado-20230705-0405/>

²⁸ Namely those who have more than 1 million subscribers, €300.000 of income and have produced at least 24 per year, as established by Royal Decree 444/2024, of April 30, which regulates the requirements for the purpose of being considered a user of special relevance of video exchange services through a platform, in development of Article 94 of Law 13/2022, of July 7, General Law on Audiovisual Communication. Available at <https://www.boe.es/eli/es/rd/2024/04/30/444>.



However, these requirements have not been implemented so far (September 2024), pending new administrative regulations and the approval of self-regulatory codes of ethics. To conclude, it should be noted that the Spanish transposition (art. 7 LGCA. Persons with disabilities) foresees the regulation of these issues through a future self-regulatory agreement without any particular obligation.

3.2.1.2 *Polish transposition*

Poland has transposed the AVMSD 2018/1808 with the Act of 11 August 2021 on amending the Broadcasting Act and the Cinematography Act that entered into force on 1 November 2021. **As in the Spanish case, the legal action was delayed and failed to meet the deadline for transposing the revised Directive into national legislation, which expired in September 2020.**

The updated national regulations, together with the revision of the AVMSD, brought major shifts in the media services landscape. Notably, they established new liability rules for providers of VOD services as well as video-sharing platforms. The amendment to the Broadcasting Act set “out the principles and conditions for the provision of media services, as well as the provision of video sharing platforms, the division of competences between state authorities with regard to the supervision and regulation of this field, the rights and obligations of media service providers and video sharing platforms, as well as the rights of recipients (users) of these services and the conditions for the realization of the public interest in broadcasting” (The [Polish] Minister of Culture and National Heritage, 2020). Nonetheless, subtle distinctions between the wording of the AVMSD and the Polish law could lead to various interpretation and practical challenges.

In examining the goals of Poland’s transposition of the AVMSD’s revision, the following stand out, particularly due to their direct impact on VOD platforms:

A. Scope of the Broadcasting Act: inclusion of new subjects and services. Following the amendments made in 2021, the Broadcasting Act’s scope now includes both on-demand audiovisual media services (see Legal Appendix in the Annexes: Article 4 (6a) of the Broadcasting Act)²⁹ and video-sharing platforms. However, the Act does not apply to social media services that primarily allow users to share content³⁰, since providing audiovisual or video broadcasts is not their main

²⁹ On-demand audiovisual media services have been within the scope of the Broadcasting Act since 2013, as a result of the transposition of Directive 2010/13/EU of the European Parliament and of the Council of March 10, 2010 on audiovisual media services (OJ L 95, 15.4.2010, pp. 1-24) through the Act of October 12, 2012.

³⁰ The legitimacy of this exemption is open to discussion. If the primary function of social networks is not to distribute audiovisual content to the public for purposes such as information, entertainment, or education, they



function.³¹ The Polish transposition emphasizes the **commercial nature** of providers and their service's **public accessibility**.

The recent changes in the national regulations introduced **a mandatory registry for on-demand audiovisual media service providers** (see Legal Appendix: Article 47ca of the Broadcasting Act) overseen by the Chairman of the National Broadcasting Council (Krajowa Rada Radiofonii i Telewizji, KRRiT). All VOD providers are now required to register their services with the Polish National Broadcasting Council KRRiT, either 14 days prior to launching or by February 1, 2022, for already in operation as of November 2021³². It is important to note that in Poland there is a separate register for providers of video-sharing platforms (Krajowa Rada Radiofonii i Telewizji, 2024b), as well as a separate register for broadcasters.³³ This registration is **a formal requirement aiming to increase transparency** and involves basic information about the service provider and the nature of the service. Although non-compliance would not halt business operations, it may lead to financial penalties.

The introduction of the VOD register received **mixed reactions** from content creators and influencers due to the added administrative requirements³⁴. However, the KRRiT continuously maintains and updates the list of VOD service providers³⁵ and, according to Krajowa Rada Radiofonii i Telewizji (2024a), **by September 5, 2024, a list of 655 on-demand audiovisual media providers had been released**, demonstrating widespread compliance.

The amended Broadcasting Act aims to provide **greater transparency** for consumers regarding the identity of the service provider. Previously available information **did not allow consumers to determine who the actual (beneficial) owner of a given service provider was**³⁶, and therefore who had decision-making power on the operation of the service, including the distribution of its content (Głowacki et al., 2023).

will not meet the criteria outlined in Article 4 p. 22a for video-sharing platforms. Consequently, these activities would remain outside the scope of the Act (Duda-Staworko, 2022).

³¹ To determine the essential function of these services, factors like the role of audiovisual content in economic activities, its contribution to revenue, and tools to enhance visibility are considered. See Article 2 (3) of the Broadcasting Act.

³² The effective date of this new obligation stems from Article 5 of the Act of August 11, 2021.

³³ They include both a list of radio and TV licenses as well as the register of ICT and distributed programs.

³⁴ See, for instance, Instagram post of M. Pietrukiewicz (2022) or the article by Wasilewski & Wasilewska (2022).

³⁵ The new obligation for KRRiT stems from Article 1a (7) of the Broadcasting Act.

³⁶ Refer to the text of Article 47c of the Broadcasting Act as it was before the amendment (for instance Journal of Laws of 2020, item 805).



As of now, VOD providers are required to disclose detailed information about both the management and the ownership structure (see Legal Appendix: Article 47c of the Broadcasting Act)³⁷, including a list of owners and shareholders.³⁸ In addition, they are now obligated to inform consumers about their activities, as well as those of any entities within the same corporate group, across all media markets (including providing other media services and press publishing). The law also mandates that media service providers ensure easy, direct, and permanent access to information regarding the member state under which they are regulated. All of this information must be readily available on the VOD provider's website.

B. Promotion of European creativity in the media services. The concept of "European works" in the Polish transposition, including both the definition of the term and the methods for promoting such content, aligns closely with the requirements outlined in the AVMSD's revision. KRRiT is required to report to the European Commission on the compliance of all media service providers (including linear, non-linear, and video-sharing platforms) with obligations related to European works (see Legal Appendix: Article 6 (3) of the Broadcasting Act).

Regarding quota obligations, a new obligation for VOD providers under Polish jurisdiction has been introduced with regard to the content of their directories. While, according to the Article 15 (3) of the Broadcasting Act (see Legal Appendix), linear TV broadcasters are required to allocate more than 50% of their quarterly broadcast time to European works (excluding news services, commercials, teleshopping, sports broadcasts, text broadcasts and game shows), under the newly imposed regulations, **the quota mandates at least 30% of content in VOD platforms' catalogue to be European works** (see Legal Appendix: Article 47f (2) of the Broadcasting Act), which includes productions in Polish language (there is no separate quota for Polish works). European works **must be prominently displayed** through clear origin identification, searchable options, or promotional materials.

The calculation of the VOD quota generally follows the guidelines from the 2020/C 223/03 EC Communication³⁹. However, Poland presents an example of a departure from the standard method, shifting from the duration of the titles and time of availability in the catalogues to title **per quarter of**

³⁷ Given that the influence of small shareholders or investors is minimal, it is not necessary to disclose information about those owning less than 5% of the company's share capital.

³⁸ This obligation reflects the application of the EU regulations and implementation of EU directives aimed at preventing money laundering, terrorist financing, and enforcing restrictive measures against certain individuals and entities linked to terrorism.

³⁹ [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020XC0707\(03\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020XC0707(03))



year-calculation. Regarding the exemptions, Poland applies the same 1% audience share threshold as outlined in the EC Guidelines. Additionally, it takes into account the number of users of (subscribers to) "data transmission services" from the previous year. The data required for this calculation is provided by a regulatory authority other than the media regulator.⁴⁰

According to Article 13 of the revised AVMSD, Member States may require media service providers under their jurisdiction, as well as those established in other Member States and targeting audiences in their territories, **to contribute financially** to the production of European works. In Poland, **the legal framework for such financial contributions is outlined in Article 19 of the Cinematography Act** (see Legal Appendix).

Interestingly, **Poland introduced an investment obligation for VOD services not as part of the AVMSD transposition⁴¹, but nearly a year later as part of the COVID-19 crisis relief program.** The so-called "VOD tax" was implemented in July 2020⁴² under the "Anti-Crisis Shield 3.0".⁴³ This **contribution is directed to the Polish Film Institute (PISF)** and is used to fund Operational Programs, including film production, festivals, other film events, cinema support, and the promotion of Polish films abroad. **The tax is set at 1.5% of the revenue generated in Poland**, whether through advertising or user subscription fees, depending on which is higher during the settlement period (see Legal Appendix: Article 19 (6a) of the Cinematography Act). The Cinematography Act provides exemptions for small providers, such as micro-entrepreneurs and service providers whose user base in the previous year was less than 1% of Poland's broadband internet users (see Legal Appendix: Article 19 (6c) of the Cinematography Act).

Revenue from the "VOD tax" in Poland has gradually increased over the years. In 2020, the tax contributed over 8.9 million PLN (€2,086,511.55) to the PISF budget for just two quarters; by 2021, this amount had risen to 23.7 million PLN (€5,556,216.15), and in 2022, it reached nearly 32.8 million PLN (€7,689,615.60); **in 2023, VOD providers contributed over 39.7 million PLN to the Polish Film Institute** (Dąbrowska-Cydzik, 2024). The list of VOD providers subject to the "VOD tax" includes both international companies, such as Netflix, Amazon Prime Video, Max, and Apple TV+, and Polish ones like Agora, Fratria (owner of Telewizja wPolsce.pl), Wirtualna Polska Media,

⁴⁰ The number of subscribers is determined on the basis of data from the inventory conducted by the President of the Office of Electronic Communications.

⁴¹ The AVMSD transposition aligned the rules for linear TV broadcasters with those for VOD providers (regarding the calculation of revenue based on its origin country as well as exceptions). See Article 2 of the Act of August 11, 2021.

⁴² Notably, prior to 2020, there were no specific legal measures obligating non-linear service providers to financially support the production of European works. See European Commission (2024c).

⁴³ See Article 16 of the Act of May 14, 2020.



Cyfrowy Polsat (owner of Polsat Box Go), TVN (owner of Player), TVP (owner of VOD.TVP.pl), and CDA. **However, the full list of contributors remains confidential.** When it comes to Netflix, in the first quarter of 2022, the Polish Film Institute received over 7 million PLN from Netflix as part of this 1.5% fee. “We do not know about the incomes in total for the Polish Film Institute regarding this 1.5% fee. They do not know either” (PINT1, Polish scholar, Interviewed in July 2024).

Referring to the Polish Film Institute Financial Report from 2023, that year the PISF obtained revenues from contributions amounting to a total of 209,4 million PLN, of which 0,5 million PLN were contributions from previous years (in 2022, it was 1 million PLN from 189,5 million PLN, and in 2021, it was 1,2 million PLN from 196 million PLN). **The Institute does not possess any legal instruments that would realistically enable it to ensure the completeness of revenues from contributions** (PFI Financial Report from 2023, online document).

C. Regulations on the protection of consumers, including minors. In the context of consumer protection, particularly for minors, the revision of the AVMSD has introduced stricter regulations for on-demand audiovisual media services.⁴⁴ A key aspect of these enhanced standards is the obligation for VOD providers to classify and label content that may pose a risk to minors. This requirement is outlined in the amended Article 47e(2) of the Broadcasting Act, which **mandates the use of labels to indicate both the potential harmful impact on minors and the specific nature of the risks associated with particular VOD content.** The National Broadcasting Council issued detailed guidelines for broadcasters in its Regulation of April 13, 2022. However, in the initial implementation phase, many Polish platforms struggled to comply (Gąbka, 2022) due to **the limited time available for making the necessary adjustments.**⁴⁵

The amendment to the Broadcasting Act also expanded the ban on content provided through on-demand audiovisual media services. Previously limited to content inciting hatred, the new provisions now also prohibit content inciting violence and broaden the grounds for discrimination⁴⁶.

To further protect minors, the revised AVMSD introduced a prohibition on processing the personal data of minors for commercial purposes. As part of this amendment, Article 47e(5) was added to the Broadcasting Act, stipulating that **any personal data of minors** collected (or otherwise generated)

⁴⁴ It is worth noting, however, that the Broadcasting Act, even before the transposition of the AVMSD's revision, already included stricter regulations for protecting minors from harmful content in on-demand audiovisual media services than those outlined in the Directive 2010/13/EU in its pre-revision form.

⁴⁵ Although the regulation took effect on May 1, 2022, it was published in the Official Journal on April 27, 2022, just two business days before its implementation, considering the long weekend due to public holidays.

⁴⁶ The new obligation for KRRiT stems from Article 47h of the Broadcasting Act.



by VOD providers **cannot be processed for commercial purposes**, such as direct marketing, profiling, or behaviourally targeted advertising.

Under the Act of 11 August 2021, new obligations were introduced for VOD providers to enhance accessibility for individuals with visual and hearing impairments – they are set up in Article 47g of the Broadcasting Act. **Before 2021, platforms were encouraged to gradually improve accessibility.**⁴⁷ However, with the transposition of Article 7 of the revised AVMSD, **VOD providers are now required to ensure that 30% of their catalogue includes accessibility features**, such as subtitles for the hearing impaired and audio descriptions for the visually impaired. According to the regulations transposing the AVMSD's revision, VOD providers start with a low initial threshold for accessibility, aiming for 5% of content in 2022. This **target gradually increased** to 10% in 2023, 20% in 2024 and 2025, and 30% by 2026.⁴⁸ These requirements are designed to improve the inclusivity of VOD services, making them more appealing to individuals with disabilities, while ensuring broader access to cultural content for all.

⁴⁷ Refer to the text of Article 47g of the Broadcasting Act as it was before the amendment (for instance (*Journal of Laws* of 2020, item 805)).

⁴⁸The timeline and target thresholds for this new obligation are outlined in Article 4 (1) of the Law of August 11, 2021.



4 THE POLISH VOD MARKET: HISTORY AND DOMINANT PROVIDERS

Before focusing on the three case studies under analysis, the report will provide a contextualization that covers the characterization and evolution of the Polish market, considering its leading VOD services, their contents and viewership.

4.1 Introduction

The Polish VOD market is described as small to medium one (Adamczak, 2020). The big international platforms are present, with Netflix (in Poland from 2016) being the leader with 10.95 million users in January 2024 (Statista, 2024b). Disney+ follows with more than 3.2 million real users. The top grossing VOD app was Disney+ in the spring of 2024. Disney+ was also the highest-earning video-on-demand app on iOS and Android in 2023, with its revenue measured at over 7.6 million US dollars that year. Beyond these two, other important companies are Max (previously HBO Max, rebranded in 2024), Amazon Prime Video (from 2016), Canal+ Online (from 2020), Apple TV+ (from 2019), SkyShowtime (from 2023).

International brands	In Poland since
Amazon Prime Video	2016
Apple TV+	2019
Canal Plus	2020
Disney Plus	2022
Max (Previously HBO Max from 2018)	2024
Netflix	2016
SkyShowtime	2023
National brands platforms	
CDA Premium	2016
Player.pl (earlier TVN Player from 2011)	2014
TVP.VOD (2005–2008 operated as itvp.pl, 2010 appeared on TVP www)	2017

Table 2. National and international brands platforms in Poland. Source: prepared by the authors.



Referring to the table, there are some clarifications to be made: TVN Warner Bros. Discovery acquired the VOD.pl streaming service from Ringier Axel Springer Polska at the turn of 2022 and 2023. VOD.pl joined Warner Bros. Discovery streaming services and complemented the group's paid digital offer, which already included Max and Player.pl, is thus funded by American resources, so in fact, it is not a national platform (wirtualnemedi.pl, 2023). **Poland ranks second in the number of SVOD services in the EU** (N=129), behind France (N=198) and ahead of Germany (N=92), with a **very wide offer and therefore a high level of internal competitiveness**. What's more, a recent report by the EAO⁴⁹ mentions the Polish provider Polsat Box (previously Polsat 2 Cyfrowy; Polsat Cyfrowy) in 8th place (out of 20) for AV and SVOD providers, among only 18% of purely EU providers, which proves the presence of Polish SVOD providers in the general EU AV market.

Beyond this snapshot, this is **a market in continuous transformation**, marked by an ongoing discussion on combining and cross-selling the offers of different providers. Max is for instance available in the Polish Player.pl platform. However, bigger companies such as Netflix or Disney+ do not seem to be interested in bundling and offering their services together. Currently, it does not seem like Netflix, already the first choice when it comes to entertainment in Poland, will follow in the footsteps of Max, Disney+ and Hulu, which announced a joint package in the US.

This transformation has especially accelerated since the COVID-19 pandemic. According to data collected in 2019 for the InterFilmLab 3.0 project, researchers foresaw that it would take 3–4 years for the market to fully develop (InterFilmLab, 2019). Those predictions appeared to be true in the newest versions of the reports, which presented a trend that hint at the numbers offered at the beginning of this section:

“There is only one king on the Polish market and there will be no surprise here - it is Netflix. In the fall of 2022, it strengthened its position as the leader of streaming platforms in Poland. Disney+ and HBO Max, which remain on the podium, have over three times fewer users and several times shorter usage time. Netflix, as a website and mobile application, was visited by 12.81 million Polish Internet users, which gave the

⁴⁹ Key Trends 2022/2023: Extensive report on cinema, television and VoD in Europe; European Audiovisual Observatory 2023, p.50; <https://rm.coe.int/yearbook-key-trends-2022-2023-en/1680aa9f02>
European Audiovisual Observatory; Trends in the VOD market in EU28.
<https://rm.coe.int/trends-in-the-vod-market-in-eu28-final-version/1680a1511a> [access: 05.02.2023]



platform 42.95% reach. Disney+ and HBO Max, which appeared on the market in the first half of the year, had over 4 million users. In October, Disney+ had 4.47 million visitors, which translates into 14.97% reach, while HBO Max – 4.2 million users and 14.08% reach. Another global platform – Amazon's Prime Video – attracted 2.87 million Polish Internet users (which gave it 9.64% reach).” (InterFilmLab, 2022, p. 20).

Based on the number of viewers and the market growth potential, **the detailed analysis on the following pages is focused on the two global VOD platforms (Netflix and Disney+), as well as on the national VOD service VOD.TVP.pl, which is provided by the national broadcast company TVP and offers an alternative model of special interest for the national and European film industry.**

As already indicated, a general limitation affects the research of these platforms. Reports and interviewed experts complain generally about the **lack of a clear system in analysing data on platform viewers**, in opposition to a film market where external institutions provide box office results and produce weekly reports on ticket sales. One of the experts interviewed for this report added:

“The data that we have presented in these reports is actually 90 percent ‘sales data’, meaning data on paid subscriptions. This is not data on watched or unwatched programs. As I said, there may be users who have already paid for a year's subscription or are paying for it, but aren't watching anything because they've forgotten, they don't have time, etc.” (PINT4, Disney expert, May 2024)

When analysing the official data about the streaming from Statista or wirtualnemediia, it needs to be considered that only recently (mid 2024) and in the United States has Nielsen launched The Media Distributor Gauge, its monthly snapshot of total broadcast, cable and streaming consumption through television screens. This technology provides information on linear channels and streaming services. Data from Nielsen's The Gauge Polska shows that in March this year cable television took first place (33.3%). Next were satellite television (30.2%), terrestrial television (22.3%), streaming (8.1%) and other 6.1%. YouTube was the leader in streaming service (2.1%). Netflix had a slightly smaller share (2%). Other streaming services accounted for only 4% (wirtualnemediia.pl, 2024).

The chart presented below contains **the most popular streaming services (SVOD) in Poland**. The data have been gathered from October to the end of December 2023 and the chart was created before the name transition from HBO Max to Max. It shows that Netflix (33%) has a huge advantage



REBOOT (www.thereboot-project.eu) has received funding from European Union's Horizon Europe Research and Innovation programme under Grant Agreement No. 101094769.



over its competitors. When it comes to VOD.TVP.pl, the absence of this platform in the chart below is not surprising, as until recently it was less popular and certainly overshadowed by platforms like Netflix or Max. However, a drastic change is noticeable just a few months later – in September 2024, as documented by table 3 from wirtualnemedi.pl at the end of chapter four: **VOD.TVP.pl has expanded its reach, including in its offer some of the programmes and television stations that can be watched online, which were embedded on the Player.pl platform.** This has increased the promotion and accessibility of the platform. Moreover, VOD.TVP.pl has also added to its content programmes for the Polish diaspora, such as "TVP Polonia" which has also helped the platform to gain international reach. By the end of the third quarter of 2024, VOD.TVP.pl ranked third among the leading VOD platforms in Poland according to wirtualnemedi.pl.

An expert in the media market economy and former director of the National Film Heritage Institution added in a recent interview another aspect that may explain the difficulties faced by VOD-TVP. pl:

"We have not developed a good business model for video on demand in Poland. There were attempts to unite, yes, that is, to combine the forces of television broadcasters and all those who have the rights, to create a common platform, reach an agreement on the division, possibly influence, and create some real alternative. Today, if someone wants to use streaming, they have several platforms, so they usually use Netflix or Disney+, where they have a gigantic programming library enriched with domestic productions. Unfortunately, in Poland we have something that we can't come to terms with, and the idea of VOD is that it is based on economies of scope." (PINT2, media scholar and former director of the National Film Heritage Institution, interview April 2024).



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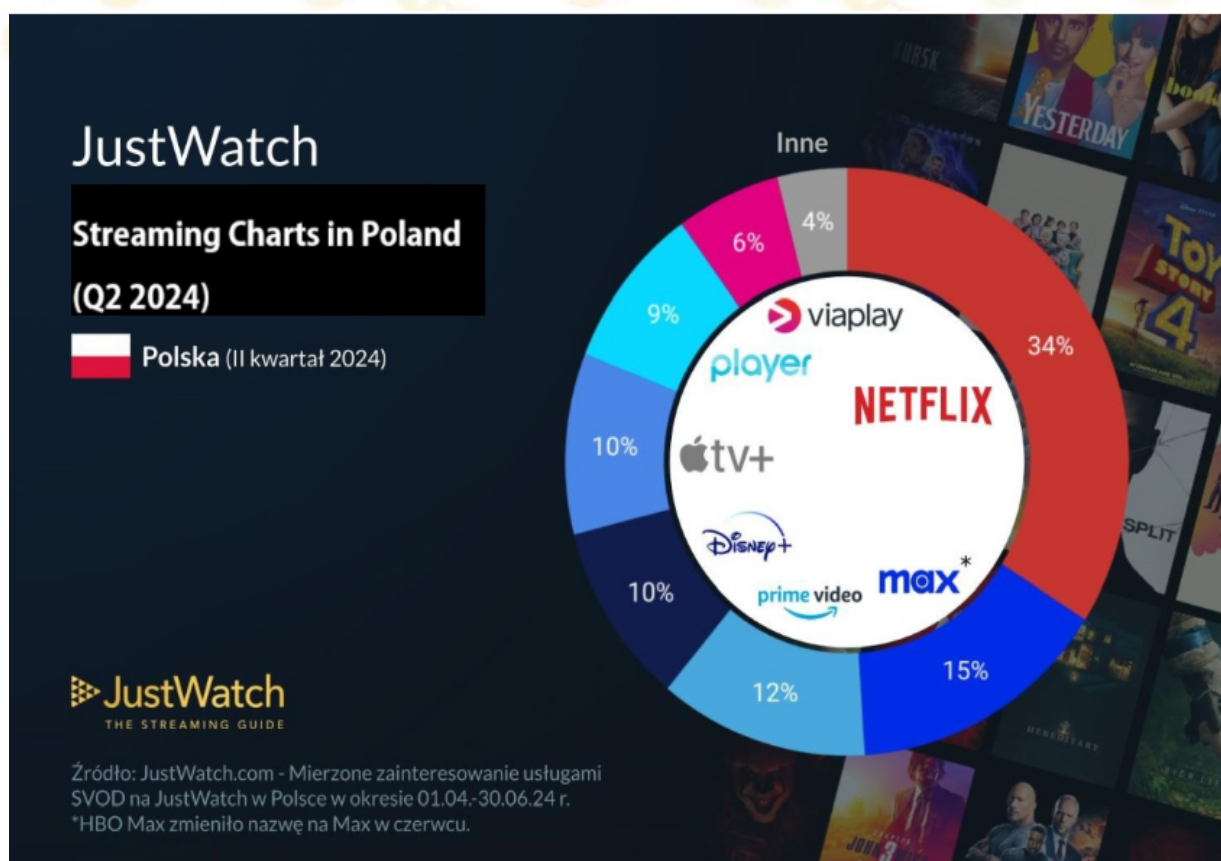


Figure 5. Streaming charts in Poland. Source: JustWatch.com

Regarding the content, no national agency provides a detailed analysis of the content offered by the streaming platforms. The overview was done by the authors of this report based on small sample data; at the same time, data provided by the following sources were also incorporated: justwatch.com, the Polish filmweb.pl and Lumiere database from the European Audiovisual Observatory, including those already mentioned reports.

Although the National Broadcasting Council is required to report to the European Commission on the compliance of media service providers (including linear, non-linear, and video-sharing platforms) with obligations related to European works, such as quota requirements and financial contributions⁵⁰, **there is no evidence of such reporting on the website of the Polish media regulatory authority (KRRiT, 2024). This lack of openness reflects a broader systemic issue, as highlighted by Głowacki et al. (2024) in their study on media ownership transparency.**

⁵⁰ The obligation stems from Article 6 (3) of the Broadcasting Act of December 29, 1992 (*Journal of Laws* of 2022, item 1722 with further amendments).



A historical contextualization of the recent transformation of the Polish VOD market must take into account that the first national VOD services appeared between 2006 and 2007. Their growth accelerated between 2010 and 2014 (Nowakowska, 2020, pp. 130). As in the Spanish case, the first steps in the development of the national VOD market were difficult, strained by internet audiovisual piracy: peer-to-peer systems and sites that offered videos illegally and free of charge enjoyed enormous popularity. Beyond the obvious differences in prices, the illegal offer was much more varied than that provided by legal VOD operators (Chmielewska & Sarna, 2023).⁵¹

The breakthrough year for VOD was 2014, following the appearance of MPGE-DASH technology (the standard for streaming of film materials that allowed the user to adjust the displayed media to the capabilities of the player and the connection and the needs of the user) and MPG-4. These new technologies enabled an **increase of the VOD offer**. Knowing that Netflix was entering the Polish market in 2016 also mobilized the national operators to further invest in the development of VOD. Parallel to that, television stations had begun to offer content from their channels in VOD, in catch-up services, or in a combination of both: Polsat (2008), TVP (2010) and TVN (2012) successively launched their services at that time (Nowakowska, 2020, pp. 134–135).

According to Adamczak (2020, p. 150), whose research is based on the data provided by the European Audiovisual Observatory before the COVID-19 pandemic, **the Polish VOD market was already quite well developed in the regional context of Central and Eastern Europe**, with a saturation level of around 10%, thus comparable with countries like Italy, France and Spain and far ahead of the regional examples such as Bulgaria and the Czech Republic. The VOD market is **very competitive** as well and seems challenging for providers without the backing of TV stations (TVN TV channels) or global marketing budgets (Netflix, Disney+, etc.).

Data from summer 2024 shows however that Poland still has a lot of potential in the VOD market. VOD is seen as a fast-growing industry that has made a significant impact on viewing habits in the country over the past few years. This can be observed, among other things, in the value of the VOD subscription market which has been growing steadily for several years and is projected to reach more than 5.5 billion PLN in 2027. The most preferred VOD payment method in Poland is monthly

⁵¹ Piracy is to this day an important factor while considering the Polish market. A recent report by the company MUSO, which tracks piracy, and the consulting firm Kearney indicates that in the past 4 years, piracy has increased by 12%, and compared to 2022, by 10%. The data gathered by MUSO and Kearney encompasses up to 730,000 different types of video content available on pirated services, with series and movies accounting for up to 65% of it. The recent crusade by Netflix, Disney+, and others against sharing accounts with users outside the household may explain these late figures (Kusmierek, 2024).



subscription and the top grossing VOD app in Poland is Disney+.

Based on the most recent data from 2021 and 2023 **the leading platforms are: YouTube, Netflix, CDA, Player, HBO GO (now Max), TVP VOD, Disney+.** On average, Poles use 2–3 services, mostly free. VOD services are offered by following entities: television broadcasters (VOD.TVP.pl, Ipla.tv, Player.pl, HBO GO – now Max), network telecommunications operators (Orange, T-Mobile, Play NOW, Netia VOD), virtual operators (Jambox), satellite digital platforms (nc+GO, Cyfrowy Polsat GO), cable networks (UPC on demand, TOYA VOD, INEA, Vectra, Multimedia Go), film producers (pl.chili) and film distributors (Filmbox). Streaming is offered also by specialized subscription services, both of foreign (Netflix, Amazon Prime Video, Dailymotion) and national (Cineman, Cda.pl-premium) provenience, as well as search engines/applications (Google Play), equipment manufacturers (Samsung), or former pirate sites on their way toward legalization: cda.pl. is now CDA Premium and has a legal license agreement. **Thus, beyond the dominance of the global companies, the market is strongly fragmented.**

According to Adamczak (2020), **the transition of the film market has undoubtedly shaped the relationship between traditional cinematic distribution and the VOD sector. It is important to note that no national film distributor has tried to set up their VOD portal.** Some actions were taken as part of festival distributions, and the organization of online festivals after or during the on-site festivals are part of such attempts. However, a market characterized by the high barriers it imposes for smaller and new platforms (usually addressing niche markets such as documentaries or old local children films) is becoming increasingly concentrated.

In the context of this transformation, CDA.pl (later CDA Premium.pl) provides a telling example of the particularities of the Polish context (Adamczak, 2020). Established as a pirate platform in 2004, it is now the second AVOD service after YouTube (Mambiznes.pl), but before the two global players Dailymotion and Vider.info.⁵² CDA Premium offers payable content for almost 20 PLN (€4) per month for a legal subscription, while Netflix is more than double this price (over 40 PLN / €9). Its subscriber numbers increased from 42.000 in 2016 to 350.000 in 2020. CDA.PL claims to have tripled the income in recent years, with quarterly income estimated between 15–17 million PLN.

⁵² Based on data from 2022 by the Gemius/PBI (Polish Internet Research Institute) YT (both www and app) had over 26.000.000 real users, with almost 20 hours of time spent and over 88% market coverage. Second was CDA (www and app) with over 6.000.000 users, nearly 2 hours spent and over 20% of market coverage. The third one was vider.info, with only over 2.400.000 users, 44 min time spent and just over 8% market share.



However, in 2018, CDA.PL was accused of piracy, and the Motion Picture Association of America (MPAA) put it on the list of Polish sites distributing illegal content (Wojtas, 2022). The company battled this situation, trying to eliminate piracy from its offer. Since 2019, the company has been on the Warsaw Stock Exchange and is subject to legal supervision (Wojtas, 2022). Although it makes limited investments in its own local or national productions and offers non-artistic, popular streaming productions, CDA's catalogue is almost twice as big as that of Netflix. The video quality of the files is however usually lower.

Technological progress, cheaper access to legal sources, the impact of global VOD platforms and changes in audience habits predict significant transformation in the structure of the Polish film market. **In sectors of the audience** already conquered by SVOD services, traditional television is in clear decline, especially among young people recipients, who seem to be moving towards non-linear television. There are however some specificities to be taken into account:

“Poland seems to be quite a traditional market compared to not only the USA, but also Europe. This can be seen, among others, in attachment to the so-called linear television. Although increasingly older audiences use streaming services in Poland, there are no spectacular declines in the number of subscribers to digital platforms and cable networks, as is happening in the USA (...). Many Poles live in small towns where there are problems with access to broadband Internet, and a satellite dish is still the first choice” (InterFilmLab, 2022, p. 21).

Indeed, central and Eastern Europe remains a space in which the position of television broadcasters seems stable. Theories about the end of classically understood television seem in this regard premature (InterFilmLab, 2019b). Still, even here, one detects progressive changes in the young audience segment, illustrating the gradual flow of viewers towards VOD services. New media are overcoming obstacles such as borders, limit of range or language, giving the viewers a full range of possibilities. A media scholar and member of the Polish National Film Archive FINA recently pointed out in this regard:

“We are observing a change related to the shift in the perceptual capabilities of the recipient who is brought up in digital culture, so this is certainly what my students say about the fact that they watch a lot.” (PINT7, January 2024).



Number of users of video streaming (svod) in Poland from 2018 to 2027 (in millions)

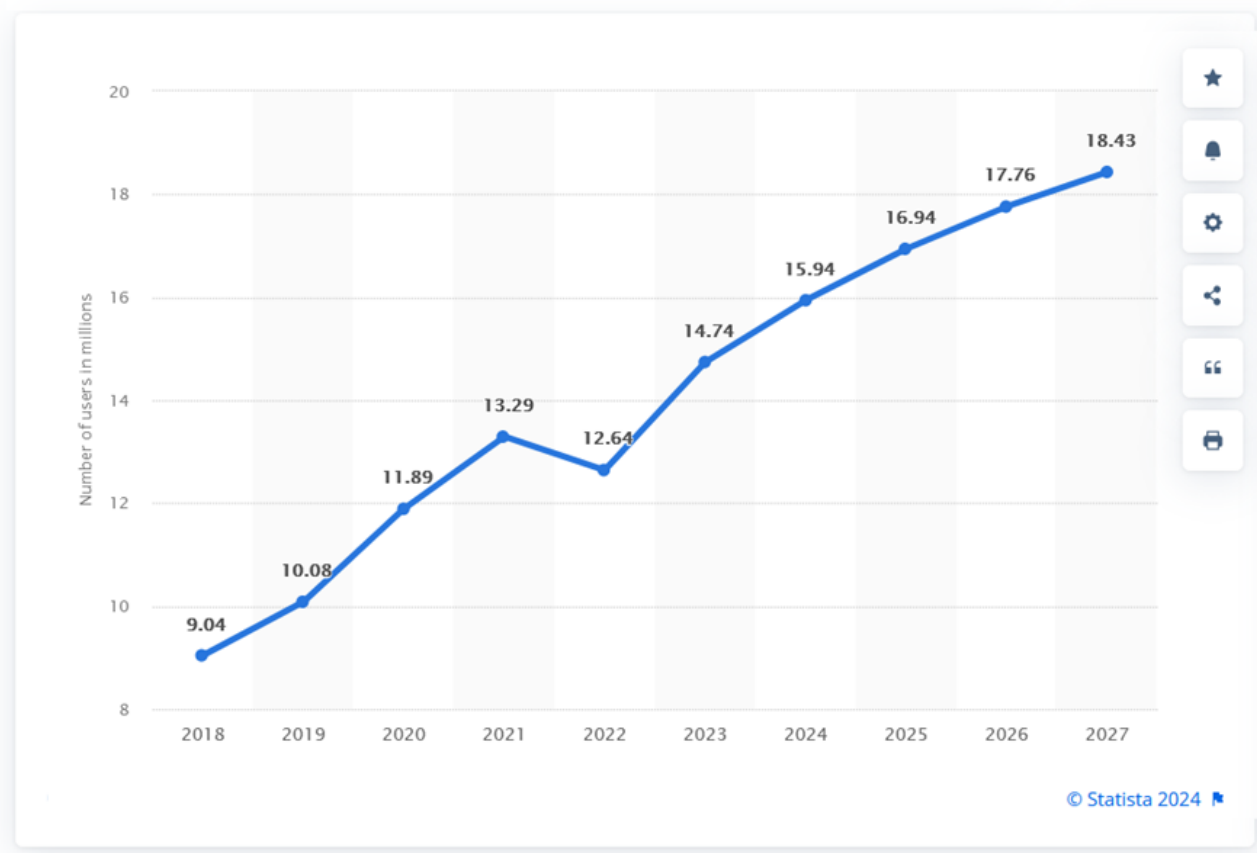


Figure 6. Users of video streaming in Poland. Source: Statista.com, (2024a)

<https://www.statista.com/forecasts/1218360/number-of-subscription-video-on-demand-users-poland>

The number of users in the SVOD segment of the digital media market in Poland was expected to continuously increase between 2024 and 2027 by 2.5 million users (+15.68%). After the fifth consecutive year, the indicator is estimated to reach 18.43 million users and therefore reach a new peak in 2027.

After providing this introductory evaluation of a very dynamic market, the next subsection provides a content assessment of the three selected major streaming platforms: Netflix, Disney+, and VOD.TVP.PL, the main local player on the national market. The content assessment of each platform was conducted based on source materials as well as interviews with specialists carried out in 2024.



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4.2 Netflix's impact on the Polish market

Netflix was introduced in Poland in 2016 and the company's operations show that Poland is a crucial market in its international strategy. **It opened a regional office in Warsaw in the fall of 2022, which is responsible for the platform's operations in the country and in several other markets in Central and Eastern Europe.** Netflix invests significant financial resources in the country, it generates a substantial amount of content and is dedicated to enhancing the skills and creativity of local actors. Furthermore, it builds connections with important institutions in the Polish audiovisual sector, such as the Łódź Film School and the National Chamber of Audiovisual Producers, establishing cooperation and hiring professionals from those institutions. According to Szostak (2023, p. 207) "Despite this important position in the streaming sector, Netflix's role in relation to traditional television stations and cable operators is currently complementary". Another example of Netflix's commitment to Poland in its long-term plan in the region is the recruitment of Polish professionals who possess extensive expertise in the local market.

According to Sołodki (2024), the platform invests in documentary movies in Poland and based on investigations of cultural and social value. For its **local Polish productions**, the company tends to pick topics relevant for the local history. For these original productions, targeting is crucial: "Netflix, relying so much on original productions, also uses the **logic of narrowcasting**, i.e. creating an offer for those viewers who cannot find anything for themselves among average and standardized content, adapted to the broad masses, and are looking for specialized ones. That's why our diverse offer includes, among others: numerous genres developed within linear television, the catalogue also includes artistic and authorial repertoire – both in the field of fiction and documentary" (Szostak, 2023, pp. 208–209).

Netflix strategically manages its operations in the Central and Eastern Europe (CEE) region, including all aspects from production to marketing, from its **Warsaw headquarters, which functions as the central hub for the region.**

Netflix has **the highest revenue from all the platforms available in Poland.** Netflix Services Poland recorded in 2023 185.17 million PLN in revenues, 176% more than 67.16 million PLN in 2022. According to wirtualnemedi.pl, the second quarter of 2024, Netflix generated \$9.82 billion, an increase of 15% in comparison to the previous year, based in the last two years on its campaigns against shared accounts outside the household, on price increases and on the introduction of ad



packages. In a global context, Netflix revenues have been growing quarter by quarter continuously since the fourth quarter of 2022.

Netflix has only recently raised prices in Poland since its debut. From the beginning the subscription costs were: 29 PLN / €7 (basic), 43 PLN / €10 (standard), or 60 PLN / €14 (premium) per month, depending on the subscription selected. In 2024 the platform raised prices for its subscription: 33 PLN / €8 (basic), 49 PLN / €12 (standard), or 67 PLN / €15.5 (premium) per month. Subscriptions differ in reception quality and in the number of devices that can be used simultaneously. The platform does not charge a cancellation fee, so users can start or cancel their membership anytime online.

Monthly revenue of Netflix app in Poland from February 2022 to February 2023 (in 1,000 U.S. dollars)

Monthly Netflix revenue in Poland 2022-2023

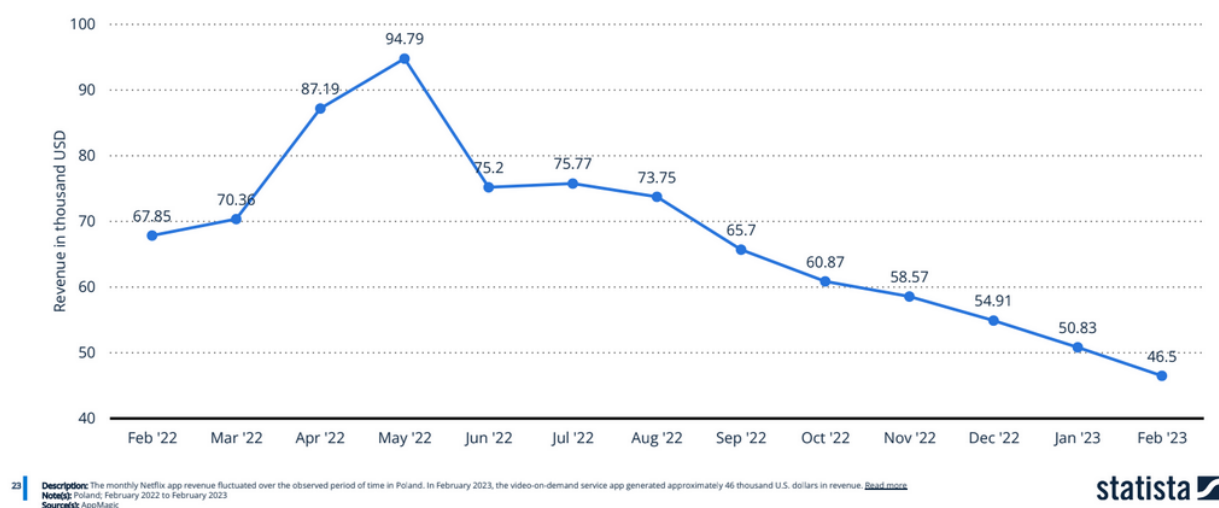


Figure 7. Netflix app revenue in Poland. Source: Statista.com

In Poland, Netflix ranks at the forefront of VOD platforms. In August 2023, according to a PISF survey conducted in five waves (from January 2021 to August 2023, on a group of 1,101 users aged 15+), Netflix was ranked second place in the ranking of "The Most Popular Sites with TV Shows and Movies" (available in Poland).⁵³

⁵³ https://pisf.pl/wp-content/uploads/2023/12/PISF_Segmentacja-Q5_part3-streaming-2.pdf



Over 80% of the Netflix content has dubbing or subtitles in Polish. Very early on, Netflix also decided to **invest in local content** as a key strategy for the Polish market, and in this regard, it has made the most significant progress among global VOD services operating in Poland. According to an interview with a Netflix specialist:

“Netflix's strategic decision is definitely to invest in acquiring licensed content.

Netflix is doing both in terms of international and Polish content. A lot of materials are purchased under license in Poland, for example, *Ranczo*. This is an element of the company's strategy. It is obvious that Netflix has much more licensed content than original content, but that's because it knows that viewers need a diverse catalogue of options to choose from” (PINT3, Netflix expert, September 2024).

At the turn of 2022 and 2023, nine new Polish series and nine feature films premiered on the platform. To strengthen Polish content in its catalogue and ensure enough licensed material for Poland, Netflix has signed agreements with several local distributors, such as Next Film, Kino Świat, and Alter Ego Pictures, allowing access to Polish films from the distributors' portfolios. The **Polish national broadcaster** TVP has also partnered with Netflix, which is making content from the broadcaster available to its users, including 130 episodes of the cult series *Ranczo*, the series *Artyści*, *Archiwiści*, 12 seasons of *O mnie się nie martw*, and 3 seasons of *Wojenne dziewczyny*.

All in all, Netflix is becoming one of the main content **producers**, and additionally, one of the most attractive employers in the audiovisual market in Poland (Szostak, 2023, pp. 210–211). It is estimated that the total expenditure on the production of Polish films and series already exceeds 2.5 billion PLN annually, and Netflix alone allocated 400 million PLN in 2022 for original productions and licensed content, making it the largest buyer and investor in film and series production in Poland among streaming services.

Experts calculate that the total economic impact of film and series production in Poland in 2022 was worth over 8.6 billion PLN, which creates the equivalent of over 21,000 workplaces (www.bankier.pl). EU policies require 30% of its content to be European, while Poland itself requires 20% of Netflix content broadcasted in the country to be Polish, forcing the company to adopt the local culture and content while it is also an alternative way to avert cultural homogenization (Jenner, 2023). Moreover, according to sources like Variety.com – Netflix meets the 30% European content quota in almost all markets on the continent (Keslassy, 2022).⁵⁴

⁵⁴ In 2022 the exceptions were UK, Ireland, France, Belgium and Switzerland, which were slightly under the 30% mark.



On the whole, however, American films, mainly comedies and dramas, dominate Netflix' offer. In relation to Polish productions, there is a noticeable advantage of Polish series over movies. Most of Netflix' Polish productions seem to be mainly dramas and comedies. The lowest number of Polish films related to the genre are action films and animation/family movies – according to the Polish database Filmweb.pl (filmweb.pl) and a study based mainly on the evaluation of the content of selected platforms, which was conducted as a part of the “Media education” course at the Faculty of Journalism, Information and Book Studies at University of Warsaw. The study also pointed out that the platform also relies on national productions – it is seen currently many new Polish series and movies premiered on Netflix, e.g., *Spadek* (Heritage), *Bokser* (Boxer), or the series *Krucjata* (The Crusade).

One of the Polish film journalists about VOD platforms commented in this regard:

“Streaming platforms have significantly influenced the competitiveness of content, production, and distribution in the market. The competition is immense, and there is a possibility of choice. However, at this moment, it is the platforms that set the conditions and decide what the viewer will reach for. The offers of the platform condition the viewers' decisions. [...] Platforms bring benefits to European markets, primarily by providing jobs for local creators and generating European content. It creates a variety of choices for the viewer” (PINT6, film critic, March 2024).

Since its entry into the Polish market in 2016, Netflix initiated changes in the Polish audiovisual market, setting the style and pace. One of its strengths are its original productions, targeted according to the necessities of the national markets.

4.3 Disney+; growing importance among streaming platforms

This American streaming service, a subsidiary of The Walt Disney Company, distributes films and TV series mainly produced by Walt Disney Studios and Walt Disney Television and provides content from brands such as Marvel, National Geographic, Pixar and Star Wars. It is a relatively recent creation: on November 8, 2018, Disney's CEO Bob Iger announced that the new VOD service would be called Disney+ and that its launch was scheduled for the end of 2019 (Castillo, 2018). One year later, on September 12, 2019, a test version was launched in the Netherlands. It was completed at its official launch and debuted in the United States, Canada and the Netherlands on November 12. On the first day, the platform recorded more than 10 million subscribers (Littleton, 2018). In the



second half of March 2020 it was launched in Western Europe, among others in the United Kingdom, Germany and Spain. The service was scheduled to launch in France, but its launch was postponed to April due to the COVID pandemic. **In Poland Disney+ started its operations in June 2022.**

In the subscription model of Disney+, there is the possibility of monthly and annual payments. For the first option, the cost is 28.99 PLN (€6.70), and for the second 289.90 PLN (€67). Users have access to high-quality viewing, up to four concurrent streams, unlimited downloads on up to ten devices, enhanced quality for selected titles (where available), and the ability to set up to seven different profiles, including the possibility for parents to set Kids Profiles that have an easy-to-navigate child-friendly interface to access age-appropriate content (Disney+, 2022).

There are around **four million users of Disney+ in Poland** (the highest number of RU was recorded in November 2022). In September 2024, Disney+ had more than 3.9 million real users (Statista, 2024c). However, the interviews with a Disney+ expert, showed that exact data concerning what Polish audience watches still encounters technological difficulties. The information provided is not totally transparent:

“When it comes to individual Disney+ users, if you log into your computer, sign in, and make a payment, you need to provide your credit card number, and they charge you monthly, but you are billed through the Netherlands, where the Disney+ server is located. So, what you're watching isn't necessarily clear here in Poland. If you have a foreign IP on your computer, it can't be verified at all” (PINT4, Disney expert, May 2024).

Regarding its content, Disney+ mostly relies on its own productions, which creates an overwhelming advantage for American productions, with a strong presence of big budgets productions e.g. Marvel and Lucas Films products. A Disney+ interviewee contextualized this evaluation with the following words:

“The platform is distinguished by its long history of film production. They have a lifetime license for Disney productions, while other platforms purchase a specific number of movies for a limited time” (PINT4, Disney expert, May 2024).

Disney+ plays an important role for the entire The Walt Disney Company, which sheds another light on the general role of the platform and its relation to the company's legacy. Our interviewee admitted to this tight connection to history:



“As you can see, if we look only at VOD, Disney+ definitely has a lot of historical content that it won't get rid of, because it is something that defines us. This distinguishes us from the competition, which purchases content, meaning they have a license granted for a certain period of time depending on the contract, as this is not a fixed value. For example, they might exploit a film for one, two, or three years, and then it disappears. On Disney+, there is certainty that Disney's production will be, it's basically an archival function”. (PINT4, Disney expert, May 2024)

Among these titles, there is a striking lack of Polish productions. On the whole, in Disney+ we can find several titles signed as Polish cooperation. A good example here is the miniseries *The Interpreter of Silence*, a Polish-German co-production, released in 2023. There are also a few short animated Polish productions, such as the older *A Blue Room* (T. Siwinski, 2014). There are not many Spanish or French movies either. Overall, there is a noticeable small number of European productions as the brand positions itself as a global entertainment provider. It therefore seems that in Poland Disney+ does not meet the 30% quota of **European content, if one considers** the data provided by the company in 2022 (whatsondisneyplus.com, 2022).

On the reasons behind the lack of local material, one of the interviewees also pointed out that content related to Poland and Central Europe still struggles sometimes to be presented in a positive way:

“If this content reaches us, it is [sometimes] presented in a somewhat mocking way, suggesting that [for instance] this grandmother is from Eastern Europe, and therefore she is portrayed as backward. So, there is a bit of a **stereotypical understanding** of us here. So, **Europe is rather lumped together into one category just because of its location.**” (PINT4, Disney expert, May 2024)

It is worth also mentioning that, according to a recent European Commission report, Disney+ and Apple TV+ had the lowest average share of European works in the dataset examined (12% and 14% in Italy and Ireland, respectively) (European Commission, 2024b). Disney+'s main servers are located outside Polish territory, and the local branch relies on external statistics. None of them is provided by a nationally controlled agency or institution.



4.4 VOD.TVP.pl; national provider of streaming services

TVP is the national public television in Poland, funded by the Polish state budget. The beginning of TVP dates to 1951, when the first Polish program (TVP1) was launched in the country. Until 1994, when the first private television station (Polsat) was established, TVP was the only television station in Polish territory. It therefore held a television monopoly for over 40 years. Its influence on Polish audiovisual covers also film production. TVP is one of the oldest producers of Polish films and series. It supported Polish film production even before the Polish Film Institute was established.

VOD.TVP.pl is TVP's platform: in addition to movies and series, it provides access to television programs and TVP productions. The platform offers films or series produced by TVP, as well as foreign productions. It also provides a live TV signal from 35 TV stations owned by TVP. The entity providing on-demand audiovisual media services under the name VOD.TVP.pl is a company under the "Telewizja Polska" Spółka Akcyjna with its registered office in Warsaw.

VOD.TVP.pl was launched in 2010 as a sub-site tvp.pl, on which TVP productions were placed. From 15 January 2007 tvp.pl had offered services in video mode on request (TVOD) within the framework of the internet service itvp.pl (2005–2008).

After a process of digital conversion, the offers of TVP S.A. had slightly widened. After 2013, it consisted of three general programs: Program 1, Program 2 and TVP HD. Two news programs are also broadcast: TVP Info, TVP Regional (currently as TVP 3). In the state program package the broadcaster also had six thematic programs: TVP Kultura, TVP Sport, TVP Historia, TVP Seriale, TVP Rozrywka, Belsat TV. In 2014, this package was augmented with TVP ABC (for children), in 2019, TVP Wilno, and in 2021, TVP Mieszkanie and TVP Documentary. The offer was complemented by the satellite program TVP Polonia.

A recent report from 2024 (Statista, 2024b) provides more specific information about its viewership: **VOD.TVP.pl is more popular among Generation X than other video-on-demand services.** There is an even split of male and female TVP VOD users. TVP VOD has a smaller share of low-income users compared to other video-on-demand services. TVP VOD users are more likely to live in cities with over 1 million inhabitants than video-on-demand users in general.

The content aired by the public broadcaster was undeniably shaped by the political developments that began in 2015. The succeeding administrations regarded television as a form of political instrument. Thus, the public broadcaster, in varying degrees of sophistication, reflected



the preferences of the political authorities. However, this display of political parallelism was usually disguised (Hallin & Mancini, 2004). This situation changed when the party Law and Justice assumed control. The process of nationalization and politicization of public television facilitated the establishment in 2016 of a new supervisory body known as the National Media Council. It was stated that the establishment of the Council represents the first stage of the reform of Polish public media, aimed at establishing a system of national media (Money.pl, 2015). **These political changes influenced the catalogue of productions accessible in VOD.TVP.pl in the recent decade.**

The content is mainly based on Polish classics, with a lot of programs targeted at older audiences, especially productions for viewers over 60 years old and in small cities and rural areas (InterFilmLab, 2022). As streaming is mainly used by younger generations, it made the position of VOD.pl weaker. The analysis of Winiarczyk (2022) shows that among young audiences, especially students, only 4% watched VOD.TVP.pl. Among them, Netflix was the leader, especially due to co-sharing account possibilities. New technical possibilities have at the same time allowed for a significant expansion of the offer, which the Polish public broadcaster has eagerly taken advantage of. Nevertheless, the breadth of the offer is somewhat deceptive, as not much of it was really new. A viewer interested in alternative content would quickly become familiar with the offer and eventually lose interest in it, and seek new contents on other platforms.

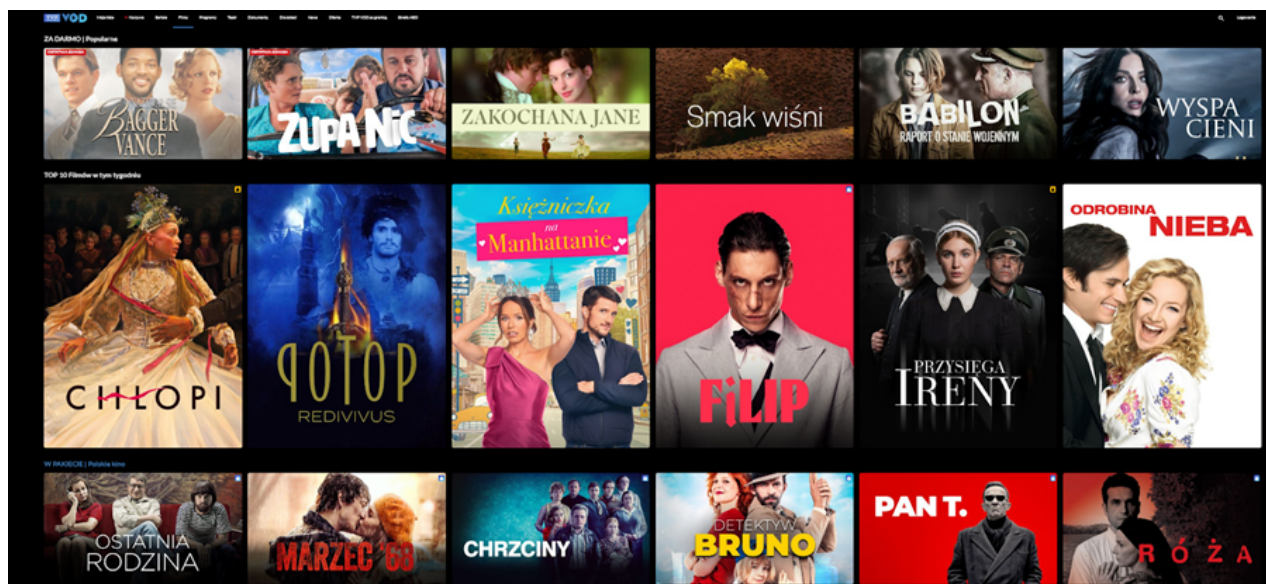


Figure 8. Polish movies on VOD.TVP.pl. Source: <<https://vod.tvp.pl/> June 2024>.

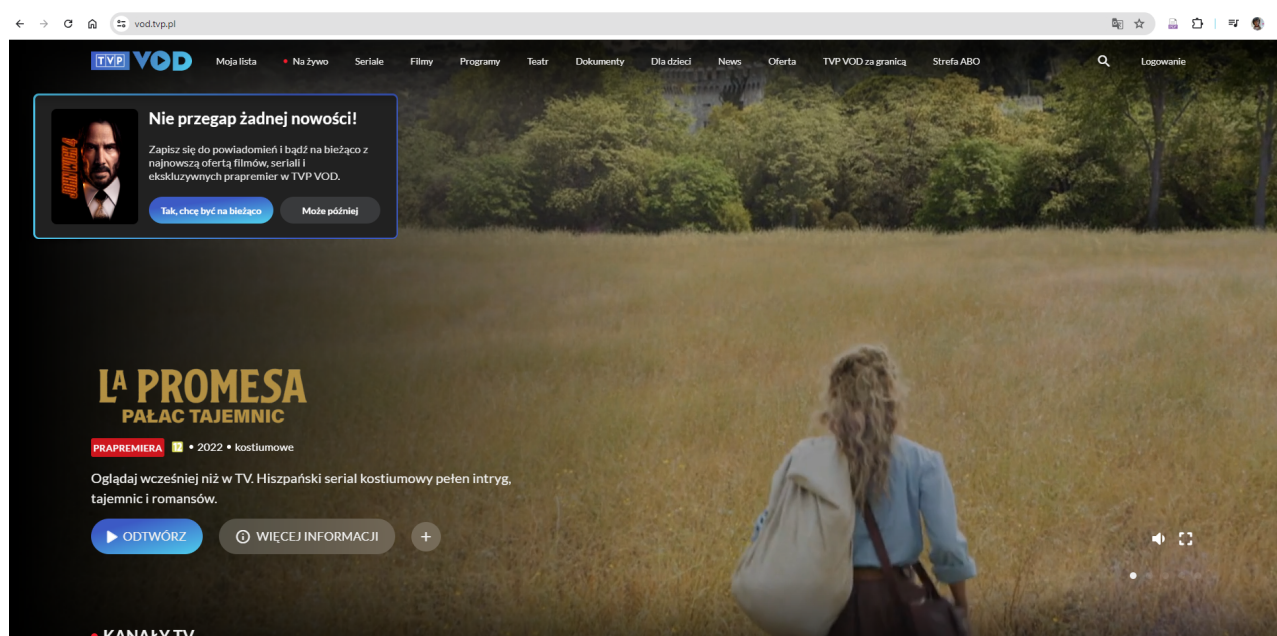


REBOOT (www.thereboot-project.eu) has received funding from European Union's Horizon Europe Research and Innovation programme under Grant Agreement No. 101094769.



The screen above presents a screenshot of the catalogue accessible on VODTVP.pl. It includes Polish movies, such as *Potop* (J. Hoffman), a film from 1974 which was nominated for the Oscars in 1975 and has been recently digitally restored. Next to it is *The Peasants* (D. Kobiela and H. Welchman, 2023), Poland's candidate for the Oscars in 2024. Additionally, other Polish films that have won awards at domestic festivals include other recent hits such as *Ostatnia rodzina* (J. P. Matuszyński, 2016), *Filip* (M. Kwiecinski, 2022), and *Róża* (W. Smarzowski, 2011). Apart from these more recent titles, the platform usually features Polish film classics from the 70s and 80s, as well as new releases, making VOD.TVP.pl one of the main promoters of Polish cinema and Polish content overall.

The photos presented below showcase the interface of the VOD.TVP.pl website. The platform offers access to different categories such as movies, series, children's programs, documentaries, or shows, as well as a live option that leads to live Polish television programs.



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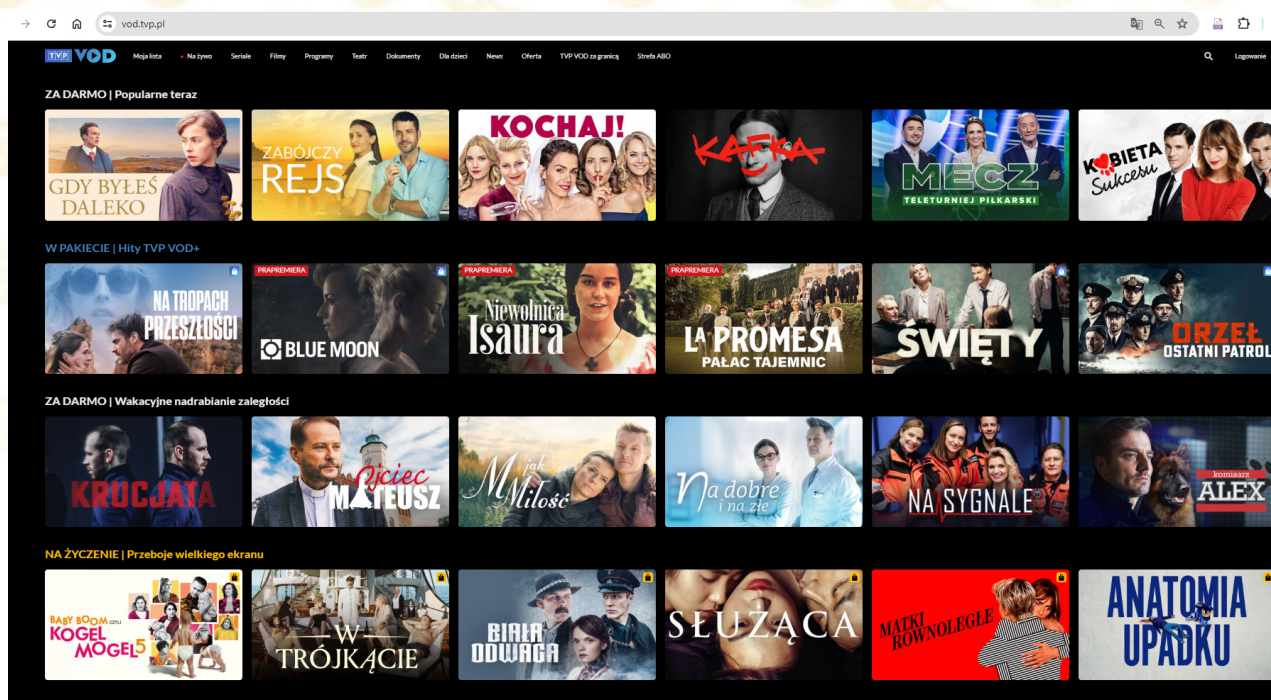


Figure 9. VOD.TVP.pl. catalogue. Source: <<https://vod.tvp.pl/>>.

The platform offers SVOD and TVOD models. The possibility of subscription is offered in four different packages: 30 days for 9.99 PLN (€2.30); 90 days for 14.90 PLN (€3.40); 180 days for 24.99 PLN (€5.70); 360 days for 44.99 PLN (€10.40). In addition, access to each video can be purchased on a one-time basis (Pay-per-view).

An introductory assessment of the content (mainly based on a study conducted as a part of the “Media education” course at the Faculty of Journalism, Information and Book Studies on the basis of the information provided by the specialized site filmweb.pl⁵⁵) confirms a high presence of Polish films on the platform. **VOD.TVP.pl gathers mainly Polish productions of films and series.** The oldest Polish film published on the platform dates back to 1946 and it is called *Wieliczka* (J. Brzozowski). The platform includes a variety of genres – a substantial selection of Polish documentaries depicting the lives of famous Poles, such as the writer Stanisław Lem or recounting historical events like *The Poznań Uprising of 1956*. **As previously mentioned, the platform is also one of the most important producers and distributors in the market.** Among the latest films produced by TVP are, Robert Glinśki’s *Figurant* (2023), *KOS* (P. Masłona, 2023; the film won

⁵⁵ The mentioned film source lists an “infinite” number of Polish movies on VOD.TVP.PL (www.filmweb.pl/films/search). Thanks to the option “search” in the database, the viewers can categorize the data among several options: nationality, year of production, genres and viewers assessments, the platform range of content can be sincerely assessed.



important awards at festivals, including the Polish Feature Film Festival in Gdynia), and the series *Profilarka*. American productions are also present on the platform, albeit not in a dominating manner.

On a more general level, and regarding the potential of the platform, its evaluation by the competitors is generally mixed:

“TVP, which has a gigantic library and produces a lot, but has a terrible approach to VOD. There is enormous potential there, but it has terrible technology and completely fails to promote or integrate the streaming service with its content strategy. There are no algorithms there, as if the streaming service is not considered a part of the strategy. It is an institution that doesn't really have to worry about viewership ratings because it has funding”. (PINT3, Netflix specialist, September 2024).

One of the interviewees, a specialist on Player.pl shared a similar view in an interview from April 2024, in an evaluation that could also apply to other domestic platforms such as player.pl:

“The biggest, real threat to domestic platforms is that entities like Netflix or even Disney+ to some extent **crush the competition with their budgets**. You pay, let's say, 50 PLN (€11) for a subscription and you get access to productions that are completely impossible for a local producer to create. The series are created there with a huge budget, there are even companies that specifically produce content for Netflix. **A local producer simply won't be able to gather such a large budget from this subscription model to produce such content”** (PINT5, Player.pl expert, April 2024).

However, it seems that something has changed through these few months. The newest data presented below (from August and September 2024) reflect a significant change in the public perception of (primary) public platforms in Poland towards a more positive appreciation. This might be due to a strong political shift and change of power in Poland after the parliamentary election in 2023, which led to a change at the senior executive level of management of the Polish national broadcaster.



Leading VOD and OTT platforms month by month (badanie Gemius/PBI) WIRTUALNEMEDIA.PL									
domena	audyt	august 2024				september 2024			
		Participati on in time	real users	average time	range	participati on in time	real users	average time	range
NETFLIX (www+app)	nie	50,15%	9 728 262	5:32:27	32,60%	49,10%	9 961 056	5:20:33	33,50%
MAX (www+app)	nie	10,92%	3 575 340	3:17:01	11,98%	11,11%	4 546 206	2:38:56	15,29%
TVP (www+app)	miks	6,02%	2 009 934	3:13:16	6,74%	8,13%	2 409 912	3:39:18	8,10%
DISNEY+ (www+app)	nie	8,23%	3 140 532	2:49:05	10,52%	6,15%	3 946 158	1:41:15	13,27%
PLAYER (www+app)	tak	4,21%	2 500 794	1:48:41	8,38%	5,98%	2 519 100	2:34:20	8,47%
PRIME VIDEO (www+app)	nie	4,50%	2 902 068	1:40:05	9,72%	4,30%	3 015 144	1:32:42	10,14%
POLSAT BOX GO (www+app)	miks	2,24%	1 436 940	1:40:19	4,82%	2,98%	1 579 500	2:02:46	5,31%
CANAL+ (www+app)	nie	4,11%	2 157 678	2:02:50	7,23%	2,84%	2 077 650	1:28:56	6,99%
SKYSHOWTIME (www+app)	nie	2,14%	1 554 552	1:28:55	5,21%	1,68%	1 414 098	1:17:24	4,76%
SWEET.TV (www+app)	nie	1,29%	353 484	3:56:01	1,18%	1,52%	464 454	3:33:20	1,56%

Table 3. Leading VOD and OTT platforms in Poland. Source: Wirtualnemedi.pl
<<https://www.wirtualnemedi.pl/artykul/platforma-tvp-wyprzedzila-disney-nie-ma-mocnych-na-netfliksa>>
[access: 5.11.2024].

With the start of autumn, the traffic on the platforms of the main television broadcasters has significantly increased. VOD.TVP.pl.pl gained 400,000 users (19.9%) over the course of two months, with an average usage time increase of 26 minutes and 2 seconds (13.5%) and a 2.1% point share (34.9%) in the total video streaming usage time. Thanks to this, VOD.TVP.pl surpassed Disney+, which, despite an increase in the number of internet users by 805.6 thousand (25.6%), recorded a decline in its share by 2.09% points (25.4%) (wirtualnemedi.pl, 2024).

4.5 Conclusions

This section provided data on the specification of the Polish VOD market, described as small to medium one in the European framework. The reports consulted show that in 2024 there are around 16 million users in the country (Statista, 2024a), meaning that approximately 33% of Poles use VOD streaming services (KIM report, 2023).

The case of local, private providers such as CDA Premium contributed to illustrate initial problematic issues with legal transparency and sustainable market regulations; piracy, especially, was a strong concern in the first decade of the 2000s. Another important national trend was the coexistence of strong, global media companies with (local) streaming platforms supported by TV broadcasters, which increased their forms of distribution with VOD services. Interviews and media reports discussed in this chapter support this evaluation. It is also worth emphasizing as a distinctive aspect



that the political changes strongly influenced the competitiveness of Polish media in the last 25 years, due to media engagement in democratic power shifts. This has had an impact on the streaming services (especially VOD.TVP.pl) in the last decade.

The initial VOD services emerged in Poland from 2006 with the most significant expansion occurring between 2010 and 2014. The COVID-19 lockdown 2020-2021 increased the screen time consumption and reinforced digitalisation trends, including VOD usage, especially among young viewers. Few sources indicated that the use of VOD decreases with age in Poland. Among people aged 65 and older, almost 30% have used VOD in the last 30 days; in the 75+ age group, this figure is half. Among younger viewers (belonging to the 16-19 and 20-29 age groups), the use is already up to 90% (KIM, 2023:8).

As already noted, the data on the VOD market is scattered; the National Broadcasting Council established a separate research poll institute only three years ago and runs its own media panels (including VOD) but does not provide this information.

The three providers under consideration (the strongest national public platform (VOD.TVP.pl), the streaming giant Netflix, and the fastest developing international provider (Disney+), showed a very diverse evolution. VOD.TVP.pl increased its users' number partially modernising its offer, while keeping classic Polish films available. Netflix is the dominant force and presents the highest revenue due to its content diversity. Disney+ has built its highly ranked position fast, thanks to well defined entertainment content and strong marketing presence in consumer's culture. Disney+ has also the youngest audience, which gives it positive prospects for the future. On the other hand, the most diverse and fast growing content of Netflix, including local productions, should contribute to further strengthen its position as the leading VOD platform in the country.

Summing up the results, the table presented below displays a content assessment of three platforms in four categories related to their content in terms. First: Does it contain Polish content? Second: does it contain European content? Third: What type of content (based on nationality) is the most abundant? Fourth: Do these VOD platforms meet the 30% European content in its catalogue?



	Netflix	Disney+	VOD.TVP.PL
Polish content	Yes	No	Yes
European content	Yes	Small number	Yes
The largest amount of content:	US American	US American	Polish
Does it meet 30% of European content?	Yes	No	Not defined

Table 4. VOD Platform contents in Poland. Source: prepared by the authors on the basis of the following sources: filmweb.pl, imdb.com, vod.tvp.pl, Whatsondisney+.com website and European Commission Report from 2024.

American films dominate international platforms Netflix and Disney+. When it comes to European content, every platform except Disney+ contains productions from all over Europe. Disney+ depends on its own productions from Walt Disney, Marvel, Star Original, etc. In relation to Polish productions, the leader is VOD.TVP.pl. Furthermore, every platform includes Polish content.

However, no source claimed the 30% quota results for VOD.TVP.pl. Information gathered through its official website or content assessment are not sufficient to establish with assurance if the platform meets the legal requirements. The use of the database filmweb.pl (through advanced search options, which allow to determine the nationality of selected content) seems to confirm that not all European countries have productions available at VOD.TVP.pl. The most searches can be observed for productions from France, Sweden and Slovakia (filmweb.pl). Regarding the requirement of 30% of European content established by EU law, **data on Disney+ is not conclusive either**, as it is not shared by the company or checked by Polish national agencies. However, the Polish expert on Disney+ interviewed for this report states that this VOD platform has mainly American content and does not meet the requirements. On the other hand, **Netflix accomplishes the required quota**. To achieve these numbers, Netflix relies on national production, also more new Polish series and movies are expected to premiere on Netflix.



Referring to the presented assessment of streaming platform content, it should be noted that streaming platforms continue to grow, presenting more and more new content. However, the transformation is constantly in flux; changes are conditioned by many variables (audience interests, financial issues, legal matters, political influence, etc.) that need to be furthermore monitored and evaluated.



REBOOT (www.thereboot-project.eu) has received funding from European Union's Horizon Europe Research and Innovation programme under Grant Agreement No. 101094769.



5 THE SPANISH VOD MARKET: HISTORY AND DOMINANT PROVIDERS

In this section on Spain, the report focuses on three companies that represent three different VOD business models: the VOD service of a large national private broadcaster (Antena 3 Televisión); an independent Spanish VOD service with origins in the film distribution sector (Filmin) and a foreign VOD streamer (HBO, now Max). Before that, and similarly to the previous chapter, the report will first provide a contextualization focusing on the evolution of the national market since 2015.

5.1 Introduction

Prior to the impact caused by the arrival of Netflix in October 2015, the development of streaming services was held back in Spain by several factors. Among them, experts tend to point out the effects of internet piracy, which limited international investment and, more generally, projected a negative image of digital audiovisual consumption. Local film companies, such as Filmotech, managed by the audiovisual rights management organization (EGEDA), were also initially reluctant to develop their own VOD services. Moreover, the effects of the global financial crisis – which were strongly felt in Spain – prevented the development of specific funding programs to encourage the creation of platforms. Only certain measures included in the Plan Avanza 2007, which equated VOD to information society services, were granted (Clares-Gavilán and Medina-Cambrón, 2018). In this situation, the **European Union's MEDIA program was particularly important for some of the early players in the field such as Filmin.**

Thus, the development of VOD platforms was dependent on different factors, among which we highlight both the technological evolution and the user's change of habits, which also had a great impact in Spain (Clares-Gavilán, 2014, p. 256). On the other hand, the legal revision of intellectual property and copyright introduced legal certainty in the audiovisual sector. In 2011, the so-called “Sinde Law” (Law 2/2011 on Sustainable Economy) **focused on the prosecution of piracy** and imposed the same obligations on content providers as television broadcasters, which was a first attempt to regulate and normalize online consumption. **This prompted not only initiatives from the industry, but also the emergence of new players, such as content aggregators focused exclusively on online sales.** Thus, revenues from VOD services grew; in fact, from 2011 to 2016, in Spain they increased by 71.8% annually (Clares-Gavilán and Medina-Cambrón, 2018).



Behind this growth was the **emergence of a multitude of very different VOD services**. The market was however still very volatile and some of these services disappeared after a short period of activity. This was the case of EGEDA's Fimotech (started in 2007, see below), Yodecido (supported by production company Filmax and started in 2009) and Youzee (supported by the international exhibition chain Yelmo and created in 2011).

One of the characteristics of the local VOD market was the diversity of operating agents. These could be classified according to **business ownership** (from telecommunications operators to exclusive content providers); the **business offer** (subscription or transactional); those coming from the **broadcasting industry (Atresplayer, RTVE Play, Mitele)** or from the **film industry (Filmin, FlixOlé)** and lately, we could also add **national (Movistar Plus+) or international (Amazon Prime Video) aggregators**.

Although, as in the Polish case, 2014-15 were the key years in the development of the Spanish VOD market (Neira, 2020, p. 134), since 2007 a set of companies had started to set the scene for the later transformation:

In **2007, Fimotech** was born. It was a VOD portal created by EGEDA (Entidad de Gestión de Derechos de los Productores Audiovisuales). Its creation was an initiative directly focused on combating piracy. Its catalogue specialized in Spanish films, and until 2009, it offered transactional viewing (TVOD). In the long term, its economic viability was not assured and Fimotech closed in 2019.

In **2008 Filmin** was created as an initiative coming from the independent (that is, not part of global majors) film industry (mainly the distribution company Cameo). Initially based on *day-and-date* release model, it then moved to a combined subscription and transactional system. Its catalogue was and is still mainly based on **independent and European cinema**. It stands out for its editing design based on cinephile criteria, being a platform focused on a niche audience. Since 2022, it has been producing and distributing in cinemas its own content. Filmin will be analysed separately later in this chapter.

Wuaki TV, an exclusive online exploitation service, was created in **2009**. It operates throughout Europe, is based on the SVPD system and its catalogue is focused on North American releases and productions. In 2012 it was acquired by the Japanese eCommerce



company Rakuten, and in 2017 it changed its name to Rakuten (online retailer in Japan) and in **2017 it was** renamed **Rakuten.tv**.

In **2011 Yomvi** appeared, a platform belonging to Canal+, a private satellite TV channel which was part of the media conglomerate Sogecable (PRISA group since 2010). It offered an integrated or subscription-based VOD service. In 2015 it became part of Movistar Plus+.

In **2013 Nubeox was started**, later becoming **Atresplayer**. This was the proprietary platform of the private television channel Antena 3, which belonged to the Atresmedia group. Initially, it operated as an *a la carte* television platform, but since **2019** it has also offered a paid service, **Atresplayer Premium**, and has begun to strengthen the line dedicated to exclusive productions.

The reason to consider 2014-15 a key year in the transformation of the market is twofold and follows national and international developments:

- A) The change initially was brought about through some key transformations in the local context: the **acquisition of Canal+ by the major telecommunications provider Movistar** and that of Ono by the international Vodafone. Canal+ had originally belonged to the media conglomerate Prisa, which was also behind Yomvi, the first streaming application in the private television sector. With this move, channels and content were integrated into Movistar Plus+ and Vodafone One, the new platforms of the country's leading telecommunications groups. After the merger, Yomvi ceased to exist as an independent platform and was absorbed into the Pay-TV offer from Movistar Plus+.
- B) **Netflix** landed in Spain in 2015. It was soon followed by HBO (in 2016) and Amazon Prime Video (in 2017) in what were the first steps of a bigger transformation of the national market pushed by international players. The arrival of the global operators reshaped the national VOD landscape, increasing the competition for local operators and consolidating the (s)VOD consumption model and its acceptance by audiences. The Spanish transformations should be thus read in a more general context. That same year Netflix completed its global expansion, being available in more than 190 countries, invested in the breadth of its catalogue, developed through licenses and originals.

In terms of consumption models, these changes also meant the definitive establishment of the subscription as opposed to the transactional model. But its impact on the industry went



beyond that. In 2019, Netflix opened its European production headquarters in Tres Cantos (Madrid), which since then have been gradually expanded.

Further international players followed the transforming example of Netflix:

- **HBO**, the platform of the private American cable television channel HBO, arrived in 2016, supplying mainly its own content. In **2021** HBO was acquired by Warner Bros and became **HBO Max**. Its case will be analysed individually in the next section.
- In **2017**, **Amazon Prime Video**, the platform of the American e-commerce company Amazon, also began operating in Spain. Prime Video is an additional VOD service offered to users with an Amazon Prime account. As a VOD, it produces its own content and acts as a content aggregator, although at the beginning its content was scarce, from 2021 to 2023 it has increased its original plan of productions and reached key agreements to integrate subscriptions with local platforms such as FlixOlé, acontra+ and Atresplayer.
- **2017** saw the launch of **Sky**, the platform of the British cable TV channel Sky, owned by the British media company Comcast. The platform focused on online television content and European productions. In 2020 it ceased its activity in Spain and **in 2023 it reappeared merged with Paramount, as Sky Showcase**, offering content from Universal, DreamWorks, Sky, Nickelodeon, Showtime and Paramount Pictures.
- In **2018**, the American platform **FilmStruck** arrived on the Spanish market, dependent on the Turner and Warner Bros. FilmStruck had a catalogue specialising in American independent films and arthouse cinema. It also streamed the catalogue of The Criterion Collection. Its presence in the market was, however, very limited: although its adaptation to the Spanish market included the marketing of titles by local distributors such as Wanda and A Contracorriente, it ceased its activity only six months after its appearance.
- In **2019 Apple TV+** arrived in Spain, dependent on the technology company Apple Inc. Its catalogue includes series and films produced exclusively by the company itself. It was initially available only on Apple technology devices, until it later became compatible with other operating systems.
- In **2020** (following the strong impact of the lockdown due to the COVID-19 pandemic), **Disney+** launched its activities in Spain with a catalogue that included productions from Fox, Pixar, Marvel, Star Wars and National Geographic. Its arrival in Spain reinforced the major studios position in the national film market and marked the end of the initial phase of rapid



growth that left an increasingly diversified and saturated ecosystem with a strong dependence on global players.

As a result of the growing competition, national VOD services were soon forced to **redefine their strategies**. Initially, **private telecom operators** were interested in creating unitary convergent packages, where TV and VOD content were presented as an add-on. Over time, as demand increased and competition grew, the leading companies decided to offer them as stand-alone services.

- First, **Movistar Plus+** was launched, following the takeover of Canal+ by Telefónica, the country's leading telecommunications company. Initially it was offered as an integrated service for phone users, until 2019 when the company created **Movistar+ Life** as a standalone subscription (that is, that could be accessed separately from telephone and internet services). Movistar Plus+ has several thematic channels, an online TV service and includes access (at an additional cost) to other VOD services such as Disney+, Atresplayer Premium.
- Growing competition also involved **new alliances** that could help cope with an increasingly saturated market. In 2018, Movistar Plus+ started to offer Netflix, as part of an agreement which was only active for Spain and Latin America. Today, Atresplayer is also aggregated.
- In that same year appeared **Vodafone One**, which belonged to the telecommunications company Vodafone, after the latter took over the cable company Ono. As a VOD service, Vodafone One can only be contracted as an integrated television service. It also allows additional subscription to Netflix (since 2016) and HBO (since 2017).

Free-to-air broadcasters were also reacting to the arrival of global streaming services, increasingly betting on their own platforms, improving the catalogue with their own productions and offering pay-per-view modalities. The first relevant launch, in 2008, came with the website of the national public broadcaster **RTVE**. Its original concept was more focused on the idea of public service than on the competition with other operators. Initially, the website provided mainly on-demand access for the content originally broadcast in free-to-air format. However, as years went by and competition grew, RTVE has been committed to the expansion of new content and thematic channels.

In 2019, the two new additions to the market came from the two main national private broadcasters: **Atresplayer Premium**, which was the streaming service from the Atresmedia group, and **Mitele**



Plus, from Mediaset. The new services pushed also the creation of thematic channels focused on attracting new generations of viewers, who were less dependent on a linear television schedule: Flooxer, MtMad and Playz (Clares-Gavilán et al., 2019, p. 134).

This market's transformation was accompanied by growing consumption. In 2022, still under the impact of COVID-19 pandemic, 60% of Spanish households paid OTT services (Stoll, 2023). In comparison, only around 40.5% of the country's population had access to OTT content in 2019.

Two other VOD players with important ties to the film industry started their operations in the Spanish market in the period post 2015: **FlixOlé**, a platform specialized in Spanish cinema and owned by Spanish film producer Enrique Cerezo, appeared in **2018**. Following an aggressive acquisition strategy over the last decades, his distribution company Mercury Films had managed to acquire a large part of the rights to national films. In **2022**, **acontra+** was launched by the distribution and exhibition company A Contracorriente, one of the main Spanish independent distributors. **acontra+** has a catalogue based on films distributed and produced by A Contracorriente, and they operate both on TVOD or SVOD modes; it also offers packages combined with tickets to attend the company's film cinemas, where the films can also be enjoyed.

acontra+ and **FlixOlé**, as well as other paid VODs such as Atresplayer or DAZN or specific catalogues (AMC+, Mezzo), can be also accessed through Amazon Prime Video through complementary subscriptions.

It is also important to highlight a specific aspect of the Spanish case, not applicable to many other EU countries (Iordache, 2022): **all these companies operate from Spanish territory, which means that national law applies to them. This is due mainly to Spain's strategic position (that is, its relation to Latin America) for the specific production and co-production of works for streaming.**

As in the Polish case, in Spain it is only possible to approximate VOD viewership through indirect means, such as the quarterly reports on the metrics of the streaming services offered by JustWatch. In its report for the second quarter of 2024 (pictured below), Netflix and Prime Video shared a similar market share (24%). **Amazon Prime Video's** remarkable growth is evident to the point of competing directly with **Netflix** and snatching the leadership in the 1st quarter of 2024. This is due, among other reasons, to its specific subscription model, included in the popular Prime accounts, which



includes free delivery and return of purchases for its customers, as well as music and books on demand.

Third place goes to **Disney+**, with a 15% share, only four years after its arrival in Spain. It is followed by **HBO Max** in the next position with 13%, and **Apple TV+** (7%), which had shown a constant but slow growth in the last years. **Filmin** (also with a 7% share) and **Movistar+** (with 5%; its offer includes cable and IPTV) stand out, as they are the only national operators with a notable presence. The remaining 8% includes all other operators registered in Spain. In this regard, it is worth noting the case of Filmin, as it is a platform focused on a specific niche audience, interested in independent and European auteur cinema.

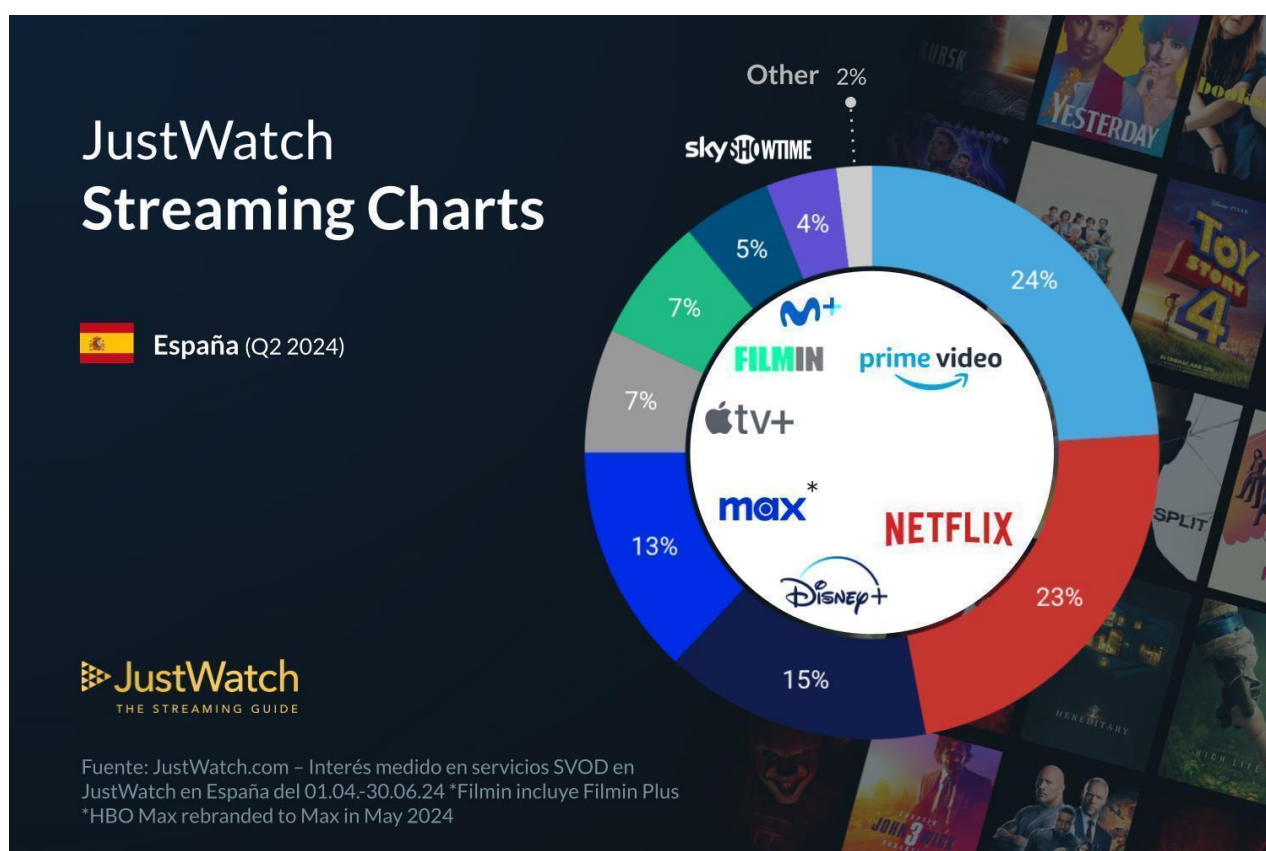


Figure 10. VOD operators in Spain. Source: JustWatch.com

Factors such as price, catalogue content, in-house productions, editing design and the ability to fine-tune recommendations all play a role in determining audience preferences when choosing to subscribe to one or more platforms. However, despite relative variations, and the fact that the sector is immersed in the transformation process typical of the post-streaming wars period, it can be



inferred that **the positions of VOD platforms in terms of percentage of subscribers have remained similar in the last two years.**

Finally, it is also worth highlighting the role of VOD platforms as an important instrument for the **creation of Spanish and European film and audiovisual content** (Corredoira and Grossocordón Cortecero, 2021). With the General Law on Audiovisual Communication coming into force in 2022, platforms are now obliged to devote 30% of their catalogue to European works and to allocate 5% of their revenues to the advance financing of European audiovisual works, which undoubtedly represents an opportunity for growth in the audiovisual production industry.

As already explained in chapter three, Spain also included sub-quotas for the support of works in Spanish and other co-official languages such as Catalan and Basque. Preliminary studies about the effects of these legal changes (García Leiva, Albornoz and Gallo, 2024, p. 94) show an increase, albeit very uneven, in catalogues studied (Netflix, Prime Video, HBO Max, Disney+ y Apple TV+) between 2022 and 2023. **The real visibility of the works** (mainly fiction films in Spanish) is however low within the catalogues offered by the companies.⁵⁶

According to the data included in the latest CNMC compliance report (2024a) for the year 2021 and the pre-financing obligation, the results are generally positive. However, although the calculated investment in European productions exceeds the 5% obligation, **the sums allocated specifically for film financing are decreasing each year, going from 32.67% in 2016 to 27% in 2019 and to 23.04% in 2021. This decrease leads to the conclusion that the investments made by television broadcasters and operators in Spanish films are more related to the purchase of broadcasting rights, which in turn highlights the importance of broadcasters of the whole industry in this scenario.**

As a preliminary conclusion, we could say that as of today (2024) the Spanish VOD market presents a landscape in which **providers, especially foreign ones, are partnering with cable and telephone or retail companies to offer bundled services that help them adapt to the particularities of the national audiences:** Movistar Plus+ offers for instance packages with Netflix and HBO; Vodafone bundles also Netflix; Prime Video has currently distribution agreements with acontra+, HBO and Atresplayer to reach other audiences.

⁵⁶ See also other recent publications by Albornoz, García Leiva & Gallo (2023) and Albornoz & Gallo (2024) on the importance of the Spanish work in the subscription models.



As in the previous chapter, the next part of the report will now provide content assessments on three VOD services in Spain. The evaluation is in each case completed with an introductory part that provides contextualization.

5.2 HBO Max (Max): from cable TV to VOD

In the Spanish case, HBO Max provides an example of an American broadcaster successfully converted into a VOD provider. One of the reasons that motivated us to choose this platform for this report is the lack of in-depth and updated studies of HBO in Spain, even though it was the second international streaming service to be launched in the country. The selection is also based on the fact that this is a television network entering a market other than its own and with a new technology, which will also allow us to focus on the reaction of the Spanish television market. This is also a case less researched than Netflix, of which we do have a considerable number of academic studies both in the form of articles and monographs.⁵⁷

Our main objective is to analyse the strategy of Home Office Box (HBO) with HBO Max in Spain, including the study of a relevant sample of its catalogue, to understand how the platform positions itself in the Spanish market with respect to the rest of platforms. The report will also analyse how HBO Max's catalogue has been adapted to the revised AVMSD.

As with other examples under consideration, HBO's success seems to have both benefited from and contributed to the end of the classic linear television model (Montero, Paz and Lacalle, 2022). The latest data available from GECA's 2022 Annual Report on television consumption per individual in Spain (Figure 11 below) corroborate the lack of interest in this model. As can be seen, television consumption has fallen to 183 minutes per viewer, the lowest figure since 1992. In addition, the graph shows that in the last two years after the confinement, the figures have fallen exponentially.

⁵⁷ See, among others, Lobato (2019) & Lotz (2022), Neira (2020) & Aresté (2020) from a Spanish perspective, Castro & Cascajosa or its impact on Spanish productions (2023) as well as Wayne & Castro (2021) from a comparative perspective.



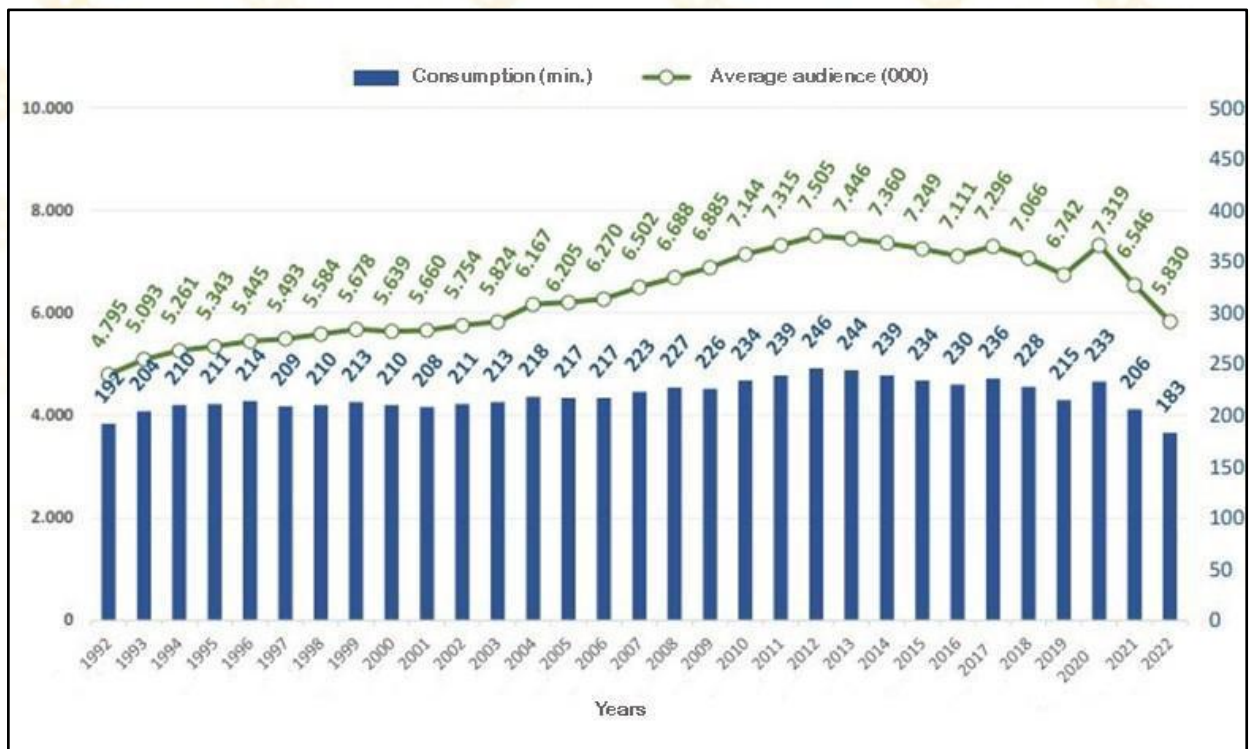


Figure 11. Historical annual evolution of television consumption per individual (number of minutes and average audience) from 1992 to 2022 in Spain. Source: GECA, 2022.

In *Inside the rise of HBO* Bill Mesce Jr. (2015) delves into the trajectory and development of HBO in the US, from its beginnings as a small television network to its current position in the creation and distribution of high-quality original content. His analysis helps to understand the transformation of the company parallel to the change in technology and TV viewing habits. HBO debuted as a Pay-TV service in the fall of 1972 in Charles Dolan's Sterling Manhattan Cable. To stand out and differentiate itself in the market, HBO bet on a different strategy. It decided to emphasize its offer, based on movies without cuts and commercials (Contreras, 2019). The strategy was very effective as in 1975 it became the first US network to transmit its programming via satellite and thus became the first national cable channel (Gregersen, 2023).

In 1980, HBO introduced a second channel, Cinemax, to compete with Showtime. As a result, it overtook Showtime, positioning itself as a company willing to pay high prices to movie studios for movie distribution rights. Likewise, **HBO also started financing films in exchange for broadcast rights**. In 1982, HBO, CBS Inc. and Columbia Pictures jointly launched the film studio Tri-Star



Pictures, which eventually came completely under Columbia's control. In 1991, HBO and Cinemax each established a second channel, called HBO 2 and Cinemax 2, respectively. These two cable channels were the first to be "multiplexed"; that is, their signals were combined with those of the original HBO and Cinemax channels to be part of the same broadcast (Gregersen, 2023).

"In 1990, the directors of HBO made a decision that would mark the history of the television medium. In view of the difficulties they encountered to develop their model, they considered starting to produce and broadcast original series for exclusive broadcasting on the channel" (Contreras, 2019).

As Sánchez Millas states (2023), "in 1997, the channel decided to completely change its marketing planning, going from differentiating itself from other channels to differentiating itself from television as a whole. This strategy was confirmed with the slogan "HBO, *it's not TV*". After the success of *Dream On* (1990-1996) its creators were hired by Warner and NBC to develop a new project: *Friends*, which was central in the growth of the service. The success of this series has managed to extend beyond the year 2004, when its last episode premiered.

However, during the second decade of the 21st century, HBO stopped being a reference in the television market among American audiences; the company reoriented its business model through VOD to try to reach other audiences, especially those younger "cord-cutters" (without cable connection) or people even without a TV set.

HBO's arrival in Spain in 2016 was by the hand of a global telecommunications company, Vodafone: "HBO Spain was the VOD streaming service offered by the HBO Nordic section, which belongs to HBO Europe. With a fixed subscription to the streaming platform, it was possible to access a wide catalogue of the channel's US productions, as well as some of the contents belonging to Warner Media." (Fernández, 2022)

In recent years HBO has made several changes that contributed to alter the global streaming landscape. At the end of 2022, David Zaslav, CEO and president of Warner Bros Discovery, announced HBO Max's return to Prime Video in the United States after a de-branding from Amazon the previous year. This decision was vitally important in the US, as Prime Video had surpassed Netflix in subscribers. This was the main reason behind the decision to present Max as a package within Prime, something which had been already effective in Spain (image below).



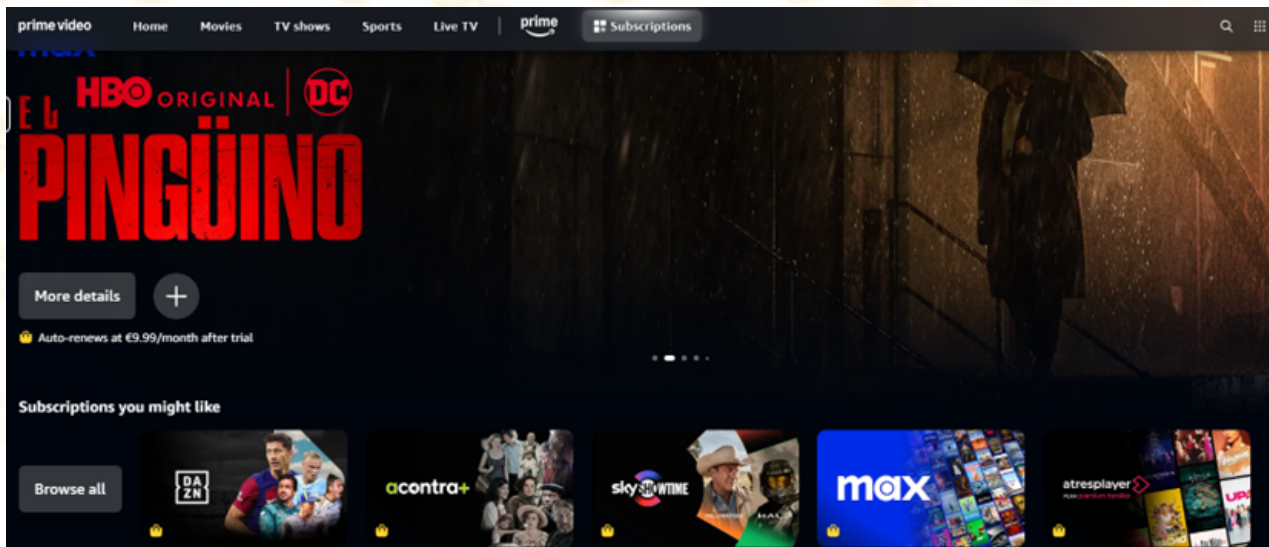


Figure 12. HBO contents in Amazon Prime Video. Source: Amazon Prime Video.

In October 2021 HBO underwent a complete renovation in the country, being replaced by HBO Max. The new platform created by WarnerMedia presents a considerable change in the content offered; instead of showcasing exclusively its own productions, it has turned into "a platform where one can watch productions created by WarnerMedia channels. This means offering content from HBO, DC, Warner Bros, Cartoon Network and Max Originals among many others". (Tones, 2021)

Alessandro Araimo, EVP & Managing Director of Italy & Iberia, presented this transformation **as a proof of commitment to local productions** at the launch of the new brand identity in Spain in May 2024:

"WBD has been present in Spain for decades and this is a very important market for us, not only in Europe but worldwide. We have many essential brands such as Warner Bros., Discovery, TCM, Eurosport and many more. We have a lot of content and a strong commitment to local production, because this is a market where local content is very important." (Academia TV, 2024)

Leah Hooper-Rosa, WBD streaming leader, highlighted similar points in the strategy of the company, as she indicated that Spain is one of the most important markets in Europe for Max. Spain is in her eyes also one of the first countries in the region, where they were now launching the rebranded streaming service after its initial arrival in the United States and Latin America:

"As we move forward with the global rollout of Max, we **see a long-term future where there will be a handful of leading streaming services in the world, and our ambition**



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is to be among the top three in terms of subscriber numbers, audience share and, of course, profitability”.⁵⁸

As for the **content available in Spain**, the original HBO premieres in Spain were released simultaneously with their US counterparts, meaning that if an American series premiered on a specific day, episodes were available in Spain on the same day (Sánchez Millas, p. 21).⁵⁹ Episodes were originally available only in their original language, without Spanish dubbing. Meanwhile, series from other providers like Warner, SONY, and FOX were made available one day after their US premiere. HBO Spain offers two subscriber profiles: HBO Normal and HBO Family. The primary difference between these profiles is their target audience, as each profile provides a tailored catalogue to suit the viewers' preferences.

Another of HBO's big bets in its positioning in the Spanish market had already taken place in 2017 through an agreement with the Spanish media company Mediaset España⁶⁰ to broadcast the series *Supermax*. That same year, HBO Spain decided to make its first original Spanish production, a series based on the novel *Patria*, by the writer Fernando Aramburu, which has had a significant impact (Alonso, 2020).

Regarding its pricing strategy and alliances, HBO presented itself with an attractive launch price (€4.95 per month for an annual subscription). Max's regular and standard price is now €9.99 monthly, for its 'basic' option, and €13.99 for the 'premium' one. Likewise, when access is through Amazon Prime Video, the price remains at €9.99 per month including several catalogues (below), which implies a reduction for new customers arriving through Amazon. These prices are like those offered directly on Max.com/en (below), and similar to those proposed by Netflix in Spain in 2024, after the introduction of the ad subscription model, with a standard price similar to Max's premium and a higher one (€17.99) for its premium option (which is right now the most expensive on the market).⁶¹

Regarding the content of the catalogue, the analysis is based on a sample of 317 films (gathered through the databases indicated in the introductory part of this document),

⁵⁸ Press release: Max se presenta en España, 9 mayo 2024 <https://press-spain.max.com/post/max-se-presenta-en-espana>

⁵⁹ According to data available from JustWatch, the HBO Max catalog had a total of 1,497 contents (1002 movies and 495 series) in May 2023. The final sample size for this study is 317 contents (Sánchez Millas & Corredoira, 2023).

⁶⁰ The company is controlled by the Italian-based company MFE – MediaForEurope N.V., which is majority-owned by Berlusconi family's Fininvest Group.

⁶¹ Netflix Spain prices in early 2024: Standard plan with adds: €5.49; Standard plan €12.99; Premium plan: €17,99.

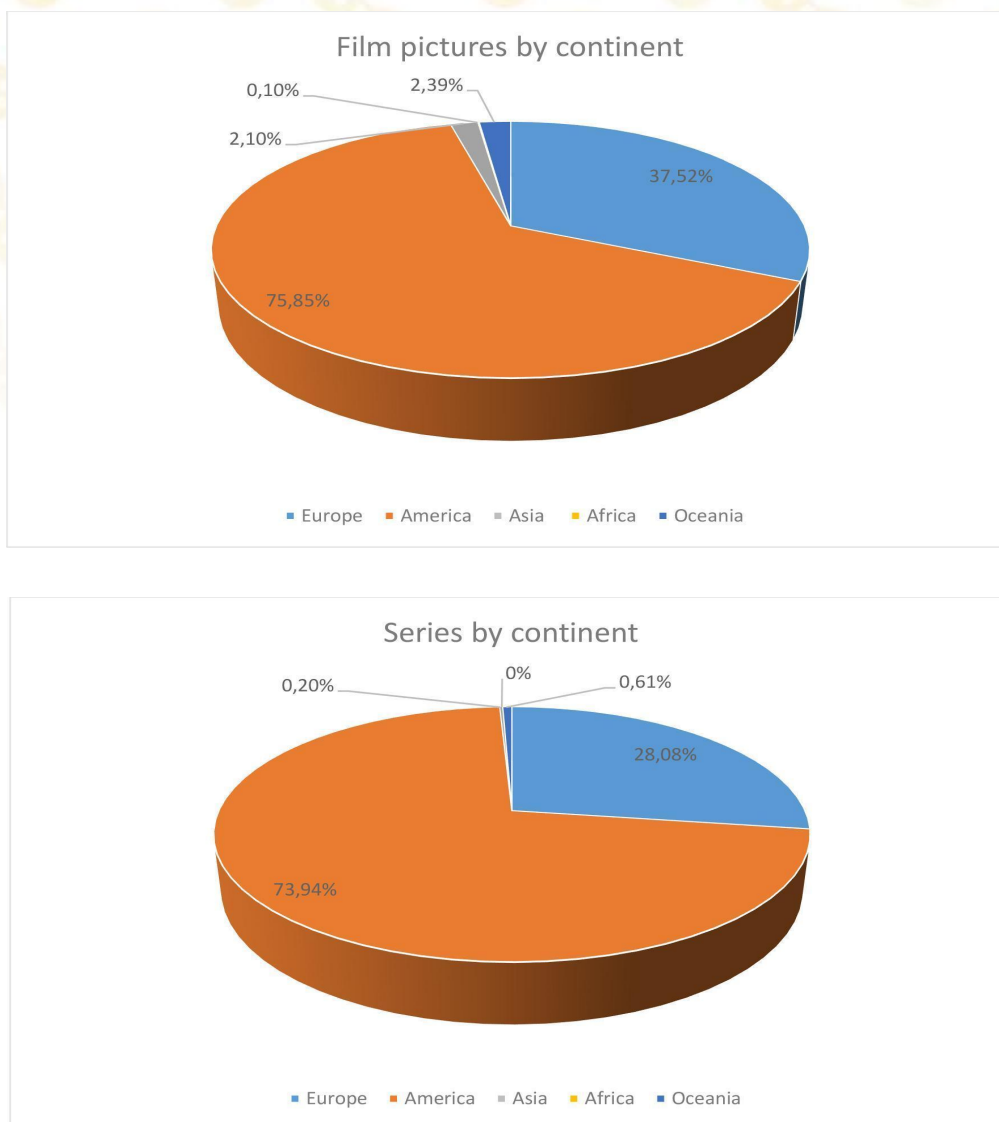


documentaries and series, which was researched in order to verify if the company complies with the catalogue quota requirements established in the AVMSD. As already pointed out, in Spain the LGCA requires the catalogue to have a 30% quota of European production, in addition to which 50% must be in an official or co-official language (equivalent to 15% of the total) and, within this sub-quota, 40% must be in co-official languages (representing 6% of the total).

If we compare the size of the HBO Max catalogue with those of Netflix and Amazon Prime Video, studied by Daniel Fondón (2021) and Corredoira & Grossocordón Cortecero (2021), **we observe that HBO Max (1,497) is the platform with the least content.** Netflix had a total of 2,684 titles and Amazon Prime Video 3,875. These two platforms are the ones with the most subscribers in Spain and have made a special effort to purchase, dub or subtitle works. HBO Max distributes its titles in 13 genres: action, animation, science fiction and fantasy, comedy, documentaries, drama, European, family, reality, romantic, horror and thriller. The genres that stand out the most in both movies and series are drama, comedy and documentaries. These data coincide with the results obtained in the aforementioned studies on Netflix and Amazon Prime Video, where drama and comedy are the most prominent genres on both platforms. The main difference in the case of HBO Max is the **notable presence of documentary content**, which occupies a prominent place in the form of movies and series. This contrasts with Amazon Prime Video and Netflix, where the presence of documentary content is not as relevant.

As can be seen in the graphs, American titles dominate the HBO Max catalogue, with European audiovisual works coming in second with more than 35% of the movies and close to 30% of the series. These results may demonstrate the brand's goal to address more effectively its European audience, despite having its origin in the United States and competing mainly in that market. Content from other continents is poorly represented on the platform, with feature films produced in Asia, Africa and Oceania accounting for less than 5% of the titles. These numbers are even lower for series, since content coming from Asia, Africa and Oceania do not even reach 1%.





Figures 13 and 14. Audiovisual production (film pictures and series) by continent. Source: Sánchez Millas with data obtained from JustWatch (June 2023).

5.3 Filmin: a European film platform

As already pointed out, Filmin is, together with Movistar, one of the two major providers of on-demand content in Spain with mainly Spanish capital and a key player in today's audiovisual landscape. Filmin (of the company Comunidad Filmin, S.L.) was the brainchild of Juan Carlos Tous, José Antonio de Luna, and Jaume Ripoll, who worked together at the **film distribution company Cameo Films** (Pardo Funes, 2022). The first years of the company, after its founding in 2007 were



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marked by financial difficulties. **Its participation in the MEDIA program** in 2010 (Clares-Gavilán, 2013) was in this regard central; FILMIN could relaunch the project and face with certain guarantees the challenges posed by the arrival of the international platforms after 2015. The hardships lasted however more than 10 years, the turnabout came in 2018-2019, when Filmin started to produce benefits (Pardo Funes, 2022).

In 2008 Filmin debuted in streaming with *Un tiro en la cabeza* (J. Rosales, 2008), a film that marked its identity from the beginning as a company interested in supporting national independent producers. The film premiered simultaneously on the platform and in cinemas.

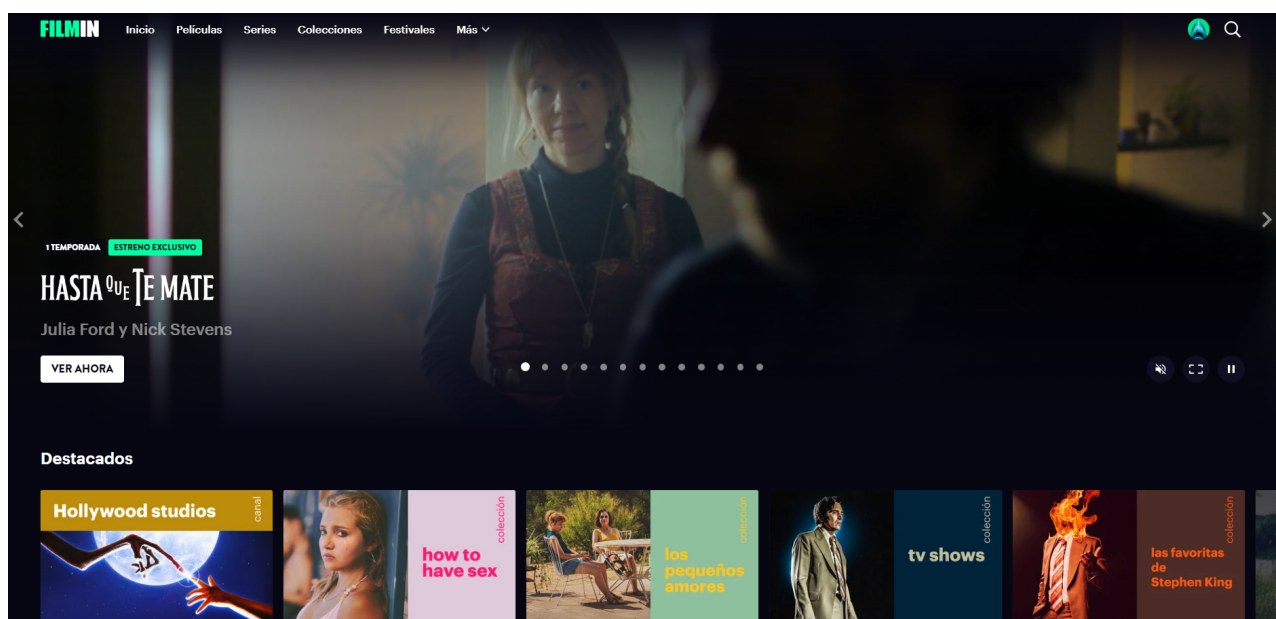


Figure 15. Filmin Homepage. Source: Filmin.es

During its first years, the company struggled however with the support and operation related problems of their first internet platform. At the same time, Filmin was also fighting piracy, which was central in the Spanish film market crisis between 2008 and 2012. The main challenge over those years, as Ripoll and others have often pointed out, was to **convince Internet users that it was better to pay for a subscription for a certain number of movies than to download them or watch them online for free**. Besides legal measures that put pressure on illegal content providers, it was the arrival of the big platforms in Europe around 2015 that really changed the relation to piracy and the way national audiences approached streaming services.

The arrival of Netflix in Spain was a social and marketing boost. It also impacted those local platforms such as Filmin, which clearly benefited from the deep transformation of the market caused



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by this new arrival. Netflix's huge advertising campaign was echoed in news programs and in the press, and helped visualize a distribution model that until then had not received enough attention. In words of the cofounder Juan Carlos Tous: "everyone was talking about Netflix and its advantages with the flat rate, when in 2012 we [Filmin] were the first flat rate in Europe to watch movies" (Seedrocket, 2020).

Filmin can be accessed now in any country of the European Union, it has no active geo-blocking in the United States, offers subtitles in several languages, and has also a Catalan version (Catalan dubbing and subtitles are also offered to the users). In addition, the platform is also available in Mexico. Regarding the weight of Catalan content, **in 2023 the Executive Council of Catalonia announced that it would lay down special conditions** (such as a sub quota of productions originally in Catalan) for Filmin as it is domiciled in Barcelona. The platform has expressed its opposition to this proposal.⁶² Right now, the project is at a standstill.

At the same time, through its collaborations with national and international film festivals, agreements with rights holders and even online broadcasts, **the platform seeks to present itself not only as a space to watch films, but also as a film community**. As cofounder Ripoll summed up:

"We were an online film platform, we created an online film festival that later became a hybrid film festival (Atlàntida Mallorca Film Fest), and now we are an online platform that produces, distributes and exhibits" (Corredoira & Grossocordón Cortecero, 2021).

Since they started making profits in 2019, **Filmin has been able to produce their first original miniseries** (*Doctor Portuondo*, 2021) and distribute films to cinemas that were later screened by the platform.

Recent academic studies such as Rodríguez and Fernández Meneses (2024) have focused on the four strategies that define Filmin's current position in the Spanish Market. They define its offer as cultural middlebrow and highlight its strong network of collaborations with festivals and a curated catalogue with a focus on arthouse cinema. The authors also stress the platform's "European identity" and their engagement with classical films. On the following pages the report will focus on

⁶² Through the Spanish Association of Video On Demand (Aevod), Filmin has claimed that the Generalitat is not competent for this level of interventionism" in *El Confidencial*, July/10/2023. https://www.elconfidencial.com/empresas/2023-07-10/filmin-rebela-generalitat-controlar-contenidos_3692244/.



how some of these levels combine through an analysis of the presence of European cinema on the platform.

As in the study of the previous platforms, we include a reference to the subscription's price or its strategies of “bundling” with other services as we consider it to be key in each platform's positioning in the national market. Filmin was among the very few companies offering an annual subscription at the beginning, following the example of Amazon Prime Video for the US market. Subsequently, Netflix, Disney+ and Apple TV+ began to offer monthly subscriptions. As a way of maintaining its independent profile, it can be accessed directly (no third parties such as Amazon Prime Video, no bundling with Movistar Plus+).

Filmin's VOD business model is mixed, based on **subscription** (monthly or annual €84) and **rental** per title (72 hrs). The content search engine is practically the same as in the rest of the platforms, being able to search by title, genres, types (series/movies) and directors. At the same time, Filmin's own particularities are added to the offer: a *festivals* tab and a *collections* tab. The first helps present collaborations and partnerships with certain festivals that make their works in competition available through Filmin during a short period of time. The collections are, in short, the substantial grouping of content in the catalogue, which in turn is also sectioned into a new tab called thematic channels (more related to current events, with a clearer curated profile).

As Judith Clares-Gavilán analysed (2014, pp. 141–151), Filmin is an eminently European platform, propelled by European funding and aid (MEDIA program) integrated (and cofounder) of EUROVOD, the network of independent European Video on Demand platforms, and with a catalogue focused on European film productions. In fact, **more than half of the percentage of its catalogue is European** and fulfils the quotas required by the revised AVMSD.

Filmin stated, in the CNMC report on compliance with the European quota, that in 2019 its catalogue consisted 61 % of works of European origin and 33% of works in Spanish languages; in 2020 the share was very similar, 62% versus 34%. The main change came in 2021 when it presented 59% European work versus 68% in Spanish languages (CNMC, 2023a, pp. 6–11).

But this is not just a question of content **but also of a business model that sees in European content a way of positioning itself in the market and gaining competitiveness**. According to García Leiva in her categorisation of the VOD business model, Filmin would belong to that group of



small platforms that stand out due to the specialisation in their offer, developing clear positioning strategies by audience segments (García Leiva, 2019, pp. 11–12).

Compared to global giants such as Netflix or Max, **Filmin presents itself as an alternative company due to its size, geographical area of action and contents.** Its catalogue, and in general, the **whole identity of the platform is built around the idea of European auteur cinema, independent cinema, festivals and world classics**, although in reality its offer is not just limited to these kinds of productions. The focus on these types of productions forms the structural basis of its business model and **editorial direction**. As its co-founder, Editorial and Development Director, Jaume Ripoll pointed out:

"We put the focus on the director's part, on the authorial part of the works. On Filmin the director's name is much more prominent than it may be on other platforms, it is almost at the same level as the title. It is clear to us that many subscribers, and those who are not yet subscribers, can find new talents on Filmin. Therefore, one of our main differences is discovery as a driver of subscriber interest, subscriber's curiosity". (J. Ripoll, interview April 2022).

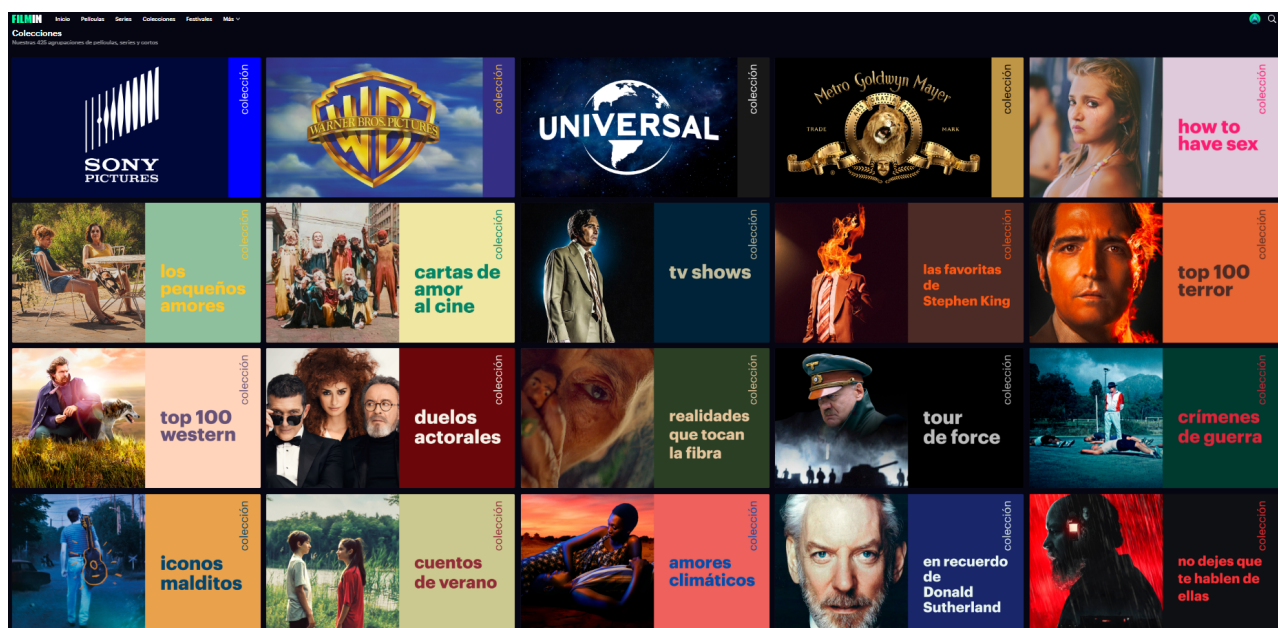


Figure 16. Filmin Collections. Source: Filmin.es

Like large platforms such as Netflix, Filmin's main business model is subscription, i.e., its entire project and its profits are paid for by those users who subscribe. **The main asset of the Spanish**



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platform is its catalogue. Although in recent years it has been able to position itself with good numbers, it does not have the magnitude or sufficient capital to mass produce as Netflix does, raise the subscription price, or make advertising profitable as Prime Video or Movistar+ does.

Although the dominant operators in the Spanish market continue to be the North American platforms, Filmin leads the satisfaction among its users, according to a recent study of consumer tastes (by OCU) in 2023.

VOD Platform	Global satisfaction
Filmin	76
Disney +	76
Netflix	73
Fixolé	70
Apple TV	70
Amazon Prime Video	70

OCU

Table 5. Consumer tastes on VOD Platforms in Spain.

Source: Organización de Consumidores y Usuarios (OCU) /Spanish Consumers and Users Organization (OCU) <<https://www.ocu.org/tecnologia/television/informe/plataforma-tv-online>>

5.4 Atresplayer: a broadcaster as VOD provider

Atresmedia is today one of the most important media conglomerates in Spain. Founded in 1988 under the name of Antena 3, the company obtained one of the first three free-to-air television licenses (together with Telecinco, while Canal + was Pay-TV) that broke the television monopoly in Spain (until then all in the hands of the public broadcaster RTVE). It quickly consolidated its position as one of the country's leading broadcasters, covering other sectors of the media market (radio, film production and, more recently, streaming) (see Trevejo Curi, 2024). In 2018, Atresmedia made an essential strategic shift by fully integrating digital into all areas of the company to adapt in a media environment dominated by digital technologies.

Today, through **Atresplayer**, Atresmedia offers content under the SVOD model, allowing users to choose between two options: free viewing with advertising or subscription without ads. In a context of intensified market fragmentation this has allowed Atresmedia to maintain its relevance and attract



a diverse and growing user base of 600,000 paying subscribers according to its CEO José Antón, in an interview with Trevejo & Corredoira in April 2024. This reflects in the expansion of its live offer with new free-to-air, thematic and program-specific channels and a family subscription plan. Atresplayer not only allows users to access its usual range of programs, series and movies, but **has also begun to produce exclusive content**, seeking to position itself as a viable competitor to the streaming giants.

Prior to the creation of Atresplayer, Atresmedia employed its first video-on-demand system in 2011, known as “Lounge Mode” (see figure 17). Subsequently, it launched Antena 3's "Premium Lounge Mode", which offered access to premium content 48 hours before their free-to-air broadcast, as well as unlimited access to a subscription catalogue with more than 1.000 episodes of TV series and programs, all without commercial breaks and in standard quality.



Figure 17. Antena 3 Lounge Mode. Source: Antena3.com

In 2013, Atresplayer was launched as Atresmedia's internet and television video on demand streaming service, allowing access to series and programs from different channels of the Antena 3 broadcasting group (Antena 3, la Sexta, Neox and Nova) through computers, tablets, smartphones, Smart TVs and consoles (see table 5). From the beginning, the site was focused on



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incorporating innovative technical functionalities and its contents were available in HD and HD+ quality; it also offered the possibility of enjoying content without internet connection, access to original versions of foreign series and subtitles, the creation of playlists and the option of sharing content on the main social media, through a registration system that allowed personalised access to the different contents. The transformation of the streaming service can be summed up as follows:

Category	Atresplayer: 2013	Atresplayer: 2019	Atresplayer: 2024
Main content	Atresmedia series and programs	Spanish series and some international content	Wide variety of series, movies and in-house productions
Interactivity	Low, standard functionalities	Media, with integration in social networks	High, with advanced interactive features
Subscription model	User registration	Pay-per-subscription without advertising	Diversification of plans, including premium and access to exclusive content
Transmission quality	Standard and HD quality, Dolby Digital	HD, Dolby Digital	4K in original productions, HD in other productions, Dolby Atmos-Vision
Supported devices	PC, consoles and mobile devices	Expansion to Smart TVs and consoles	Universal compatibility with smart devices, including tv dongles
Additional functions	Play and pause, <i>offline</i> downloads (laptops only)	Offline downloads, multiple profiles	Offline downloads, multiple profiles, advanced parental controls
Technological innovations	Basic streaming platform	Improved interface and support for more devices	Implementation of advanced technologies and 4K HDR support



Table 6. Evolution of the Atresmedia platform: Atresplayer. Source: Trevejo Curi, 2024.

In 2014 the platform achieved a monthly average of 4.4 million users, exceeding by 21% the traffic of its predecessor, *Modo Salón* [Lounge Mode]. In 2019, responding to market demands and user expectations, the reformulation of its platform under the name Atresplayer Premium strengthened its digital offer with the launch of a more robust subscription model. It included the addition of exclusive content of its own production, it significantly expanded the offer and added a new paid function.

Today, the model has adapted to the evolution of consumption and user demand with the introduction of the Atresplayer Premium Family package. It includes different user profiles (see figure 18), 4K image quality and ad-free content, elements that have been well received in the market and significantly enrich the previous offer.

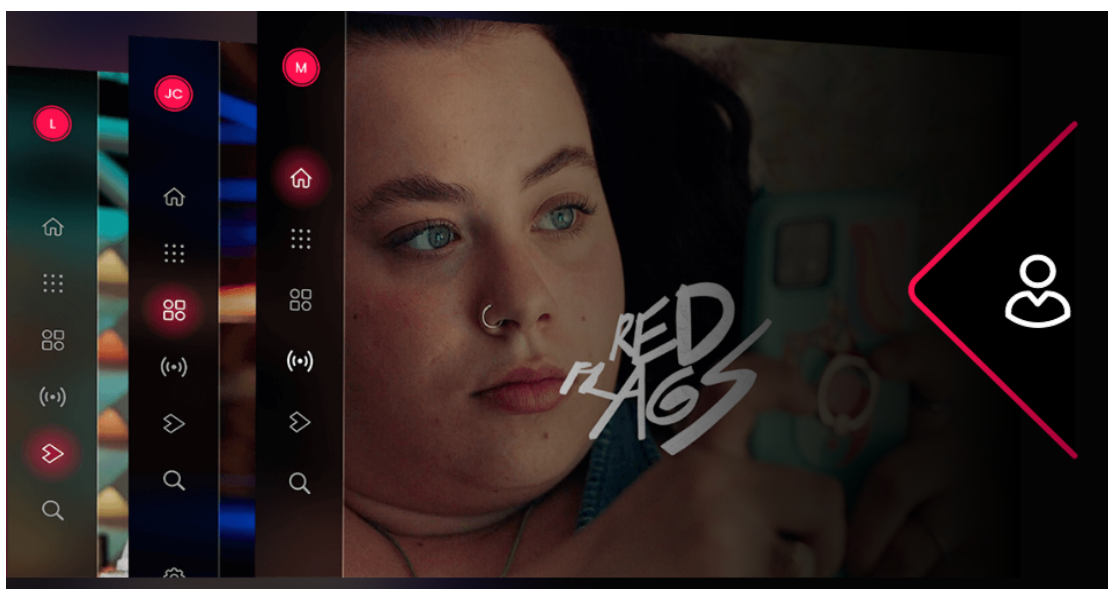


Figure 18. Three family premium plan profiles. Source: Atresplayer.com

This adaptation reflects how content has become **more specialized**. **With audiences becoming increasingly fragmented**, producers are now looking to develop programs that appeal to both broad segments of the audience and specific niches, significantly increasing the variety. In such a fast-changing market, they believe it is key to stay on top of and test new opportunities as they arise and fit with demand and timing. For this reason, Emilio Sánchez-Ceballos, director of Atresplayer, recently claimed in an interview for this project with J. Trevejo and L. Corredoira, that the company is open to **new packaging models** or even agreements with third parties.



José Antón, CEO of Atresmedia Televisión, highlights the concept of "hyper-distribution" as a strategy that focuses on maximizing the reach of media content across different platforms and viewing modalities. This approach allows viewers to choose how, when and in what format to consume content, from watching it with the standard advertising load to options that reduce or completely eliminate ads. Antón, argues that "falling behind in technology could result in the loss of viewers"; he therefore emphasized "the need to constantly evolve to meet the demands of an audience that accesses content in very different ways compared to two decades ago" (J. Antón, personal interview, April 2024).

Regarding pricing and new distribution agreements, the premium content or paid version costs €4.99 per month or €49.99 per year, although there are temporary offers with discounts. Aware of the importance of expanding its audience, in July 2023, Atresmedia partnered with Prime Video to launch a new premium family plan on the platform. This alliance has enabled the integration of the Atresplayer streaming service as a monthly subscription channel on Prime Video (Figure 19), offering subscribers access to all Atresmedia's exclusive content. **This solution is unique regarding the positioning of Spanish providers among the catalogues of its global competitors.**

Antena 3 is one of the few European broadcasters that has partnered in the **packaging of its catalogue with other strong platforms.** José Antonio Antón points out that the alliance with Prime Video had the purpose of knowing the impact that could be generated by positioning itself on a platform with the characteristics of Amazon Prime Video. For Antena 3, one of the main concerns during the negotiations with Amazon was to ensure that Atresmedia could have control or understanding of how their users and content are managed within Amazon Prime *channels*, as well as how they manage it in other environments. The company has not shared the information regarding the impact of this measure. If the subscription is through Amazon Prime Video the cost is the same (€7.99 per month); it has no discounts.

Although the agreement between Amazon Prime Video and Atresmedia is a strategic alliance, it is not exclusive. As mentioned above, Atresplayer is also available on Movistar Plus+.

Another example of this strategy is Apple TV+, with which Atresplayer has been incorporated under the **federation model**, which means that its content is integrated directly into the Apple TV+ menus. Thanks to this integration, elements such as the "continue watching" list, personalized suggestions



and new releases from the Atresmedia catalogue are displayed alongside content from other streaming services.

Atresmedia does not rule out replicating the integration model with Prime Video in the future, since it would be beneficial for the user because it offers a convenient and well-integrated experience. The main difference with the alliance between Atresmedia and Amazon Prime Video is that in channels, the Atresmedia content is always in the Amazon Prime Video environment and in the rest of the partnerships it leads the user to the Atresmedia environment.

Focusing now on European content, Atresplayer VOD service offers 80% European content in its catalogues. And this applies to the entire broadcast network's streaming service. It should be noted however, that there is a distortion in the data when we talk about “European works” in television, as this includes entertainment as opposed to “European audiovisual works” which is adjusted to cinema, series and documentaries. In the 2018 Directive this is left open as the definition is not very precise”.⁶³

In particular “approximately 50-60% of our catalogue of European works are audiovisual works (primarily series) and 40% are European works that are not audiovisual works” (that is, television contests, sports etc.), stated Miguel Langle, Director of Legal Affairs of Atresmedia, in an interview for this project.

Focusing now on the catalogue of “European audiovisual works” present in Atresplayer, the data sent to the CNMC to prove the observance of the European quota shows that already in 2019 Antena 3 had 76% of European works, 94% of which were in Spanish languages. In turn, regarding genres, it declared 37% of European series, 3% of European films and 7% of documentaries. This compliance is more than enough, as it should not be forgotten that Spain has been obliging television channels to a 30% quota since 2010.

Year	% Catalogue reserved for European works (out of the total catalogue)	% Reserved for Spanish-language works (within the previous %)	% European works included in the catalogue (films)	% European works included in the catalogue (series)	% European works included in the catalogue (documentaries)	% European works included in the catalogue (European works that are NOT audiovisual works)

⁶³ See art. 13 AVMSD in Legal Annexes



2023	80.66%	88.69%	11.29%	25.81%	4.83%	38.73%
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Table 7. European and Spanish works included in the catalogue of Atresplayer in 2023. Source: prepared by the authors.

For Atresmedia, **following the legal framework provided by the Council of Europe's Convention on Transfrontier Television signed in 1989 and its later updates, the very concept of “European” has been addressed including UK's⁶⁴ and Turkish content.** In the discussions raised in the CETS on the consideration of the quota of European works, it has been accepted that both the UK and Turkey are included even though they are not members of the EU.⁶⁵

While Turkish fiction is a very important content on Antena 3 Televisión in free-to-air mode, the platform is dominated by mainly Spanish and British works. It is therefore important that “European audiovisual works” include British and Turkish productions.

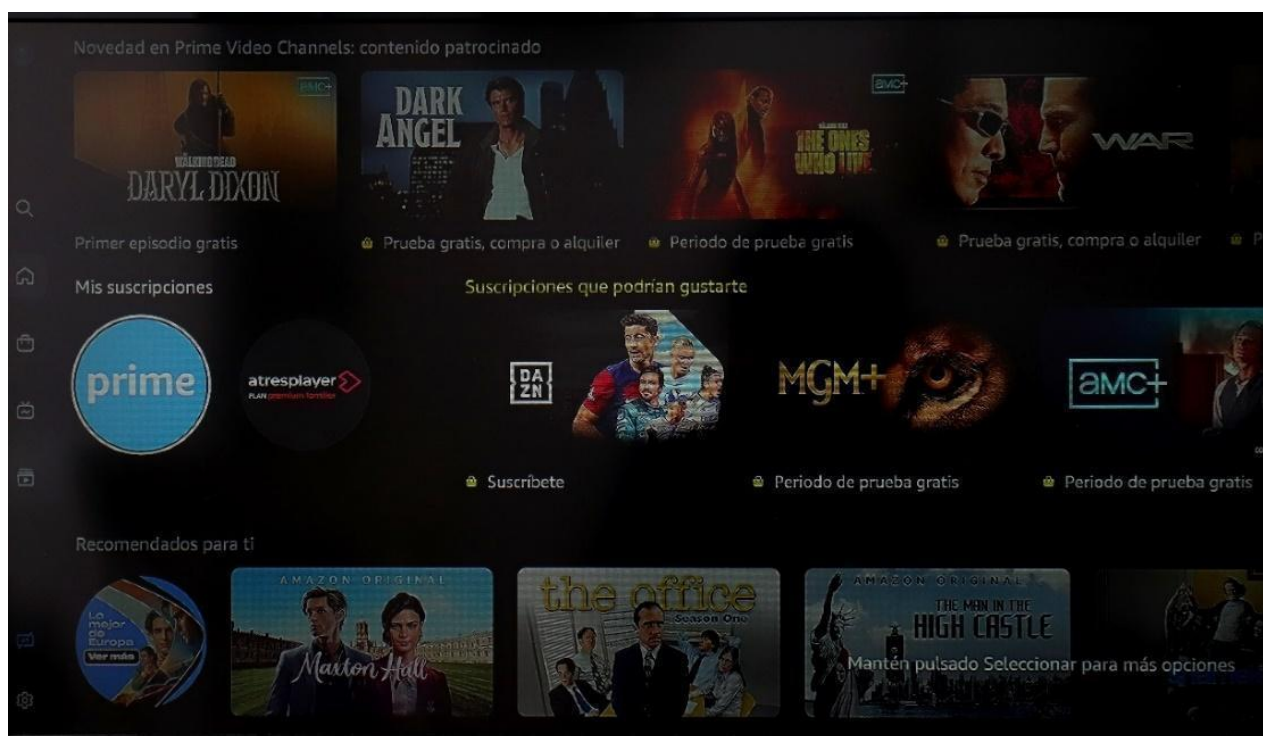


Figure 19. Atresplayer premium family plan from the Prime Video interface. Source: Amazon Prime Video.

⁶⁴ We refer to the Post-Brexit rules for the European audiovisual sector by the Council of Europe, adopted in 2021.

⁶⁵ Interview with Miguel Langle, Legal Advisor Atresmedia, November 2024.



5.5 Conclusions

The point of departure for the analysis was provided by a national VOD market dominated by global players (at the time Netflix and Amazon Prime Video) and where none of the local providers currently reaches 10% of the market share. The industrial origin of these smaller companies is very diverse but, among them, those with strong ties to the film industry such as Filmin stand out. While the first historical developments in this context came around 2007, the key to the 2014-2015 transformation of the national market was the arrival of international players. As in other European countries, the impact of COVID-19 accelerated previous developments.

As further defining characteristic, we see that providers, especially foreign ones, are usually partnering with cable and telephone or retail companies to adapt to the particularities of the national audiences: Movistar Plus offers for instance packages with Netflix and HBO; Vodafone TV bundles also Netflix, and Prime Video has currently distribution agreements with acontra+, HBO and Atresplayer to reach other audiences.

The same questions posed in the conclusions of the Polish chapter, can be answered here again in relation to the Spanish case; all three analysed examples reach a percentage which is enough to meet the legal requirements posed by the revised AVMSD.

The results of HBO are however interesting to contextualize regarding other foreign platforms operating in Spain. We see for instance that European titles are more present in the catalogue of Amazon Prime Video, where they reach 52% in films.⁶⁶ This may be one of the reasons that explains Prime Video's growth and current lead in the Spanish market, as the same happens with respect to series: on Prime Video, American titles have advantage over European ones, although the latter still have a high presence in the catalogue (42%). These numbers still exceeded the European content available on HBO Max by a wide margin.

Beyond confirming the general numbers regarding the presence of EU content, the focus on Filmin helped also illustrate an alternative model where European content provides a differentiation within a very competitive market. Compared to other companies such as Netflix or Max, Filmin cultivates an identity as an alternative company due to its size, geographical area of action but essentially

⁶⁶ See the studies on Netflix and Amazon Prime Video by Daniel Fondón (2021) and Corredoira & Grossocordón Cortecero (2021).



through its contents. Building on classic cinephile references, this identity is structured around the idea of independent and European auteur cinema, festivals and world classics.

The example of Atresplayer helped illustrate another model, for which European contents are also crucial, however in a different constellation. Its CEO highlighted in this regard the idea of "hyper-distribution" as a strategy that focuses on maximizing the reach of media content across different platforms and viewing modalities. In this case, the focus seemed to be on meeting the constantly evolving demands of viewers accessing content in very different ways.

Beyond highlighting the industrial diversity of the market, in which international companies, those with stronger ties with the EFI or with local broadcasters, are forced to constantly compete and collaborate, a final note echoes one aspect already indicated at the end of the previous chapter. In January 2025, as this report was about to be completed, Filmin announced that the company is currently looking for buyers; apparently, Amazon and Movistar+'s Telefónica have already expressed their interest in the acquisition. This will surely force future researchers to re-evaluate the idea of independence that has been so crucial in the company's public identity. Therefore, as in the Polish case, we now close these conclusions with a similar invitation to further monitor and evaluate the changes as part of an ecosystem constantly in flux.



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6 DISCUSSION

The report focused first (chapter three) **on illuminating the impact of the AVMSD's revision from 2018 in both national case studies and the specificities of its transposition. The way these legal changes reflected on three selected examples of VOD platforms in each country was addressed separately in chapters four and five.** As a result, the four research objectives exposed in the introduction have been directly addressed and the questions that elaborated on them have been answered (with some of the limitations already mentioned in the previous pages).

Chapter three traced initially a transformation of the European VOD marked by three milestones: the technological development that made possible the emergence of the first VOD services in the second half of the 2000s; the impact caused by Netflix's global expansion around 2014-15 (with the subsequent European legal reaction that culminated with the AVMSD's revision in 2018); and the consequences of the COVID-19 pandemic in 2020, which accelerated previous trends. This spectacular growth of the VOD sector came hand in hand with an increasing interaction with different areas (production, distribution and exhibition) of the European and national film industries. At the same time, the reaction of the EU-policies and its implementation was illustrated through the analysis of three specific areas: the scope of the AVMSD and its actual application on VOD services in Poland and Spain; b) the promotion and financing of European works, including broadcasting quotas; c) the regulations on the protection of consumers, including minors.

Based on the research done in both case studies, and although in some ways it is surely still too early to evaluate its long-term effects, the late transposition of the revised AVMSD in Poland and Spain has generated a generally positive effect on the European works quota. **At the same time, there are some specificities that this report considers relevant to highlight in this final part.** The transposition required VOD service providers to devote at least 30% of their catalogues to European works; moreover they must be prominently displayed through clear identification of origin, searchable options or promotional material. In the Spanish case, this 30% also applied to content in co-official languages other than Spanish.

The results obtained in the quantitative study for the Spanish case showed that HBO Max exceeded the 30% required. It is however relevant to stress that, in terms of the definition of the "European works", there is no distinction between members and non-members of the European Union: therefore, content produced by Turkey or the United Kingdom (despite Brexit), is considered



European. These aspects must be taken into account when considering the results of Atresmedia, which, as the VOD service of a private broadcaster, reflected a broader approach to the questions of European content (with an average of 80%), that included European audiovisual works (that is cinema, series and documentaries) but clearly goes beyond that. Incorporating the example of Filmin (also with a compliance average of 60% of European content), the report also pointed out how in this case the reference to European cinema served also another goal, as it helped to cement the market identity of a successful, independent VOD platform. These results seem to confirm previous research that stated that Spain is the country “where the share of European content is the highest in the film catalogues with 47% compared to the EU9 average of 43%, due to a higher share of Spanish films, with 18% compared to the EU9 average of 13% for national films” (Grece and Tran, 2023).

The analysis of the Polish examples has faced important difficulties due to the lack of transparency and data provided by the platforms. As indicated in the introductory part, in those cases, the report provided content assessments based on external databases and expert interviews. When it comes to European content, every platform analysed presented European productions, including Polish ones. Netflix, as well as VOD.TVP.pl, seemed to provide enough European audiovisual works to meet the requirements imposed by the AVMSD. However, national official agencies have not provided sufficient data to assess how much European, non-Polish content is part of VOD.TVP.pl. Despite these limitations, these assessments seem to specify previous research on Polish SVOD that defined Poland as the country “where the share of EU non-national content is the highest in both the film and the TV season catalogues.” (Grece and Tran, 2023).

The report aimed to highlight other specificities. A notable feature of the Spanish case is that **platforms not established in Spain have been obliged to comply with a new quota for the financing of European audiovisual works.** They must contribute to the advance financing of works (films, series, documentaries or animation), as public and private television channels in Spain have done for the last 30 years, with contributions adapting to their income and a focus on independent productions in the co-official languages and works directed or created by women. These contributions can be allocated to the fund for the promotion of cinematography and audiovisual works at the Spanish national film agency ICAA, to the production or the platforms’ own works or to the purchase of rights: the different possibilities should help diversify the platforms’ interactions with the rest of the national/continental film industry and **contribute to overcome**



some of the resistance encountered among the national film communities. Especially after the rapid transformation post COVID-19 there has been **a recurring concern among Spanish and Polish producers over the role that independent film producers may play** in a media landscape dominated by platforms. There is a particular worry that global players will limit the role of independent production companies solely to the role of executive producers.

In Poland, the AVMSD transposition brought similar regulations for linear TV broadcasters and VOD providers; **the impact of the AVMSD revision was reflected not only in the Broadcast Act (which covers radio, TV, VOD and VSP) but also in the Cinematography Act**, as it outlined the legal framework for financial contributions for film works. Interestingly, **Poland also introduced an investment obligation for VOD services** (the so-called "VOD tax") **not as part of the AVMSD transposition, but nearly a year later as part of the COVID-19 crisis relief program** called "Anti-Crisis Shield 3.0".

As in the Spanish case, this contribution has been channelled towards the National (Polish) Film Institute (PISF) and is used to fund its "operational programs", including film production, festivals, other film events, cinema support and the promotion of Polish films abroad. The tax has been set at 1.5% of revenues generated in Poland, whether from advertising or user fees (whichever is higher during the accounting period). In 2020, for just two quarters, the tax contributed over 8.9 million PLN (€2,086,511.55) to the budget of the Polish Film Institute (PISF), where it has been used for the support of the national film production, festivals and the promotion of Polish films abroad. In 2021, this amount rose to 23.7 million (€5,556,216.15), and in 2022, it reached almost 32.8 million PLN (€7,689,615.60). However, the full list of contributors remains confidential, thus limiting the research on these matters. In Spain, this 5% tax (also known as the "Netflix tax") was also part of the AVMSD transposition.

In Spain, the CNMC controls and monitors these contributions and publishes an annual report, providing the required transparency. According to data from November 2024, Netflix has invested €68 million in different works by virtue of this obligation. The CNMC has made it public (2024c), although the title of the works is omitted as it is considered confidential data. In the case of Atresmedia – with data from 2022 –, the same agency calculated €94.9 million (2023b). Finally, in the case of Filmin, the company presented €20 million in revenues and 1.5 million invested in European productions for the tax year 2022 (2023c).



Both forms of fiscal intervention have similar goals and the report considers them effective and a positive way to compensate for the dominant position of foreign VOD providers in national markets.

Regarding the **methodology**, some institutions have been quite opaque in providing information. This affects the companies under analysis but also the state authorities responsible for the supervision of the market, as for instance in the case of the above mentioned “VOD tax”.



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7 CONCLUSIONS AND POLICY RECOMMENDATIONS

Within the context of broader research on the impact of EU film policies in diverse film cultural and industry areas, this report sought to analyse the relevance of the VOD market, as seen in the examples provided by Spain and Poland. The importance of VOD platforms for the different areas of the EFI (production, distribution and exhibition) has been indicated by previous research and illustrated in other tasks of this Horizon project.

In general, regarding the EU Directive 2018/1808, the report considers its outcome positive when it comes to the growth of European production. Platforms must continue to promote European content, not only to comply with the Directive, but also to compete effectively in Europe, where the market is still dominated by global players.

We recommend however that the next Directive should be more specific regarding compliance and transparency. To achieve this, VOD platforms should be required to provide publicly accessible, detailed data on their content offerings, particularly European and non-national productions, in a format that is easily accessible and user-friendly, ensuring accurate assessments of compliance with the AVMSD and national regulations.

Compliance with these obligations must be mandatory, serving both the public interest and the interests of the market. Additionally, standardised data reporting frameworks should be established to support regulatory bodies in evaluating platform content. Strengthening collaboration between platforms and authorities is essential to improve data sharing, while enhanced monitoring mechanisms, such as regular audits, would ensure better oversight. The information collected by national authorities should be made available to all stakeholders and incumbents on an annual basis to foster transparency and accountability, particularly in cases where the data is not protected by trade secrets. Finally, future policy should encourage platforms to diversify their European content offerings to meet broader content-origin objectives.

Financing obligations should also help foster the film industry in both countries. Beyond their immediate impact on funding, we believe that these forms of legal and fiscal intervention have a significant positive effect on the competitiveness of the national and European film industries and we recommend continued support for such measures. In light of the rapid transformation following COVID-19, Spanish and Polish producers have voiced ongoing concerns about the position of independent film producers in a platform-driven media landscape.



Nonetheless, the general perception is also that collaboration with VOD providers has also turned into a strategic component for national production companies in Poland and especially Spain. These legal provisions may be therefore central to foster competitiveness in a way that reflects the diversity of the European film (and audiovisual) industry. At the same time, they leverage their paradoxical advantage – that is, the European (film) industry’s wealth of alternatives, where different voices and stakeholders (micro, small, and medium-sized enterprises) are present and punctually collaborate to promote projects that enjoy various ways of circulation, in different countries of the internal market. This creates a model better equipped to ensure cultural diversity and the democratic values typically associated with the European project.



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9 ANNEXES

9.1 List of abbreviations

AVMSD	Audiovisual Media Services Directive
AVOD	Advertising-based video on demand
CAGR	Compound annual growth rate
CNMC	Comisión Nacional de los Mercados y la Competencia (Spanish National Markets and Competition Commission)
EAO	European Audiovisual Observatory
EFI	European Film Industry
FINA	Polish National Film Archive
ERGA	European Regulators Group for Audiovisual Media Services
ICAA	Instituto de la Cinematografía y de las Artes Audiovisuales (Spanish National Film Agency)
IFTA	Independent Film & Television Alliance
KIM	Krajowy Instytut Mediów (Polish National Media Institute)
KRRiT	Krajowa Rada Radiofonii i Telewizji (Polish National Broadcasting Council)
LGCA	Ley General de Comunicación Audiovisual (Spanish General Law of Audiovisual Communication)
OTT	Over the top
PISF	Polski Instytut Sztuki Filmowej (Polish Film Institute)
RTVE	Radio-Televisión Española (Spanish public national broadcaster)
SVOD	Subscription-based video on demand
TVOD	Transactional video on demand
UER	Particularly relevant users using video-sharing services
VOD	Video on Demand
VSP	Video services providers through a platform



9.2 List of interviewees

Person (or pseudonym)	/ Company	/ Country	/ Date of the interview
Jaume Ripoll	Filmin	Spain	April 2022/May 2023
Javier Bardají	Atresmedia	Spain	March 2024
Carlos Aguilar	CNMC	Spain	September 2023
José A. Antón	Atresmedia	Spain	April 2024
Emilio Sánchez-Ceballos	Atresplayer	Spain	May 2024
Miguel Langle	Atresmedia	Spain	November 2024
PINT1 ⁶⁷	Media scholar	Poland	July 2024
PINT2	Media scholar/former KRRiT	Poland	April 2024
PINT3	Expert (Netflix)	Poland	September 2024
PINT4	Expert (Disney)	Poland	May 2024
PINT5	Expert (Player.pl)	Poland	April 2024
PINT6	Film Critic	Poland	March 2024
PINT7	Media Scholar/FINA	Poland	January 2024

⁶⁷ According to the Polish university Ethical Committee the data should be fully anonymised and should not distinguish the identity of the interviewee.



9.3 Correlation table on transposition of the AVMSD

Subject	Article in the revision of the AVMSD ⁶⁸	SPAIN Article in LGCA ⁶⁹	POLAND Broadcasting Act of 29 December 1992 ⁷⁰ (if not specified otherwise)
<i>Definitions</i>	1	2, 111, 121, 128, 129, 131,	4, 15b (with exceptions mentioned in 1a, 2)
Determining jurisdiction	2, 28a	3, 39	1a, 6, 10, 37c, 44a, 47ca, 47t
<i>Restrictions on the country of origin principle</i>	3	43 – 46	1, 45, 46a, 46b, 47ja
<i>Circumvention of jurisdiction</i>	4	47	1a, 46b
<i>Self-regulation and co-regulation</i>	4a	12, 14, 15	3a
<i>Transparency</i>	5	42	14a, 47c, 47m
<i>Rights of the public</i>	6	4	18, 47h, 53, 53c
Broadcast periods for cinematographic works	8	-	-
<i>Promotion of European works</i>	13	110 – 120	6, 47t, Cinematography Act - Consolidated 10 November 2022 - art. 19
Reserving time for European works	16	114 – 116	6, 15
Reserving [time] for independent producers	17	115 – 116	15a
Exceptions to reservations	18	114, 117	15, 15a
Contact committee	29	-	-
Authorities and regulatory bodies	30	Law 3/2013 of 4 June 2013.	6-12, 56 Constitution of the Republic of Poland - art. 213 to 215
Exchange of information between regulators	30a	48	6, 37c, 47ca,
Establishment of European Regulators Group for Audiovisual Media (ERGA)	30b	-	-

⁶⁸ Directive of the European Parliament and of the Council of 14 November 2018 amending 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 in view of changing market realities. Consolidated text: 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) (codified version), EUR-Lex - 02010L0013-20181218 – EN based on OJ L 95, 15.4.2010, p. 1–24 and OJ L 95, 15.4.2010, p. 1–24 [online: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02010L0013-20181218>].

⁶⁹ Law 13/2022 of 7 July 2022 (General Audiovisual Media Act). Published in the Official State Gazette (BOE) of 8 July [2022] <https://www.boe.es/boe/dias/2022/07/08/pdfs/BOE-A-2022-11311.pdf>

⁷⁰ The Broadcasting Act of December 29, 1992; , consolidated 5 August 2022 (published in the official journal “Dz.U.” of 2022, item 1722 with further changes), [online: <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU19930070034/U/D19930034Lj.pdf>].



9.4 Spanish and Polish AVMSD Transposition

	I. Directive 2010/13/EU as amended by Directive 2018/1808/EU	II. National legislation and implementing measures	
Article	EU Directive. Text in English	SPAIN (a) Art General Law 13/2022 of 7 July, Audiovisual Communication	POLAND (a) Art Broadcasting Act of 29 December 1992, consolidated 5 August 2022 (if not specified otherwise)
Chapter I – DEFINITIONS			
(1)(1)	‘(a) “Audiovisual media service” means: (i) a service as defined by Articles 56 and 57 of the Treaty on the Functioning of the European Union, where the principal purpose of the service or a dissociable section thereof is devoted to providing programmes, under the editorial responsibility of a media service provider, to the general public, in order to inform, entertain or educate, by means of electronic communications networks within the meaning of point (a) of Article 2 of Directive 2002/21/EC; such an audiovisual media service is either a television broadcast as defined in point (e) of this paragraph or an on-demand audiovisual media service as defined in point (g) of this paragraph; (g) ‘on-demand audiovisual media service’ (i.e. a non-linear audiovisual media service) means an audiovisual media service provided by a media service provider for the viewing of programmes at the moment chosen by the user and at his individual request on the basis of a catalogue of programmes selected by the media service	Art. 2.1. Audiovisual media services: A service whose main purpose or with a dissociable section whose main purpose is to provide, under the editorial responsibility of an audiovisual media service provider, through electronic communications networks, programmes with a view to informing, entertaining or educating the general public, and to broadcast audiovisual commercial communications. Art. 2.6. On-demand or non-linear television audiovisual media service: an audiovisual media service provided for the viewing of programmes and audiovisual content at the time chosen by the viewer and at their own request on the basis of a catalogue of programmes selected by the service provider. Art. 2.13. Video-sharing platform service: a service whose main purpose or with a dissociable section whose main purpose or whose essential functionality is to provide to the general public, via electronic communications networks, programmes or user-generated videos or both, for which the platform provider has no editorial responsibility, with a view to informing, entertaining or	Art. 4 1) media service means a service in the form of a channel or on-demand audiovisual media service which is under the editorial responsibility of its provider and the principal purpose of the service or a dissociable section thereof is the provision of programmes, to the general public, in order to inform, entertain or educate, by means of telecommunications networks; a commercial communication is also a media service; (...) 6a) on-demand audiovisual media service is a media service provided within the frame of business operations carried out for this purpose, consisting in the provision of audiovisual programmes to the general public in accordance with the catalogue of programmes created by the service provider; (...) 22a) video-sharing platform means a service provided electronically as part of a business activity in this field, where the primary purpose or essential functionality of that service or a dissociable section thereof is devoted to providing programmes, user-generated videos or other communications to the general public, for which the service provider does not have editorial responsibility, in order to inform, entertain or educate, and the organisation of which is



I. Directive 2010/13/EU as amended by Directive 2018/1808/EU		II. National legislation and implementing measures	
Article	EU Directive. Text in English	SPAIN (a) Art General Law 13/2022 of 7 July, Audiovisual Communication	POLAND (a) Art Broadcasting Act of 29 December 1992, consolidated 5 August 2022 (if not specified otherwise)
	provider.⁷¹ 1.a bis) “video-sharing platform service” means a service as defined by Articles 56 and 57 of the Treaty on “The Functioning of the European Union, where the principal purpose of the service or of a dissociable section thereof or an essential functionality of the service is devoted to providing programmes, user-generated videos, or both, to the general public, for which the video-sharing platform provider does not have editorial responsibility, in order to inform, entertain or educate, by means of electronic communications networks within the meaning of point (a) of Article 2 of Directive 2002/21/EC and the organisation of which is determined by the video-sharing platform provider, including by automatic means or algorithms in particular by displaying, tagging and sequencing”.	educating, as well as to broadcast commercial communications, and whose organisation is determined by the provider, among other means, by using automatic algorithms, in particular by means of presentation, labelling and sequencing.	determined by that provider, including by automatic means or algorithms in particular by displaying, tagging and sequencing; Art. 2 (...) 2. The Act shall not apply to: (...) 6a) electronically supplied services enabling content to be shared by the recipients of those services (social media services), on condition that the provision of audiovisual programmes or user-generated videos does not constitute an essential functionality of those services; 3. When assessing the essential functionality of a service as referred to in paragraph 2(6a), account shall be taken of the link between the audiovisual content and the main type or types of business pursued by a given service, the quantitative and qualitative importance of audiovisual content to that service, the method of generating revenue through audiovisual content and the availability of tools within that service aimed at increasing the visibility or attractiveness of audiovisual content.

⁷¹ This section has not been amended by Directive 2018/1808/EU. Reference to the text of Directive 2010/13/EU is also provided.



	I. Directive 2010/13/EU as amended by Directive 2018/1808/EU	II. National legislation and implementing measures	
Article	EU Directive. Text in English	SPAIN (a) Art General Law 13/2022 of 7 July, Audiovisual Communication	POLAND (a) Art Broadcasting Act of 29 December 1992, consolidated 5 August 2022 (if not specified otherwise)



REBOOT (www.thereboot-project.eu) has received funding from European Union's Horizon Europe Research and Innovation programme under Grant Agreement No. 101094769.



Determining jurisdiction

(2) 28 A	“If a media service provider has its head office in one Member State but editorial decisions on the audiovisual media service are taken in another Member State, the media service provider shall be deemed to be established in the Member State where a significant part of the workforce involved in the pursuit of the programme-related audiovisual media service activity operates. If a significant part of the workforce involved in the pursuit of the programme-related audiovisual media service activity operates in each of those Member States, the media service provider shall be deemed to be established in the Member State where it has its head office. If a significant part of the workforce involved in the pursuit of the programme-related audiovisual media service activity operates in neither of those Member States, the media service provider shall be deemed to be established in the Member State where it first began its activity in accordance with the law of that Member State, provided that it maintains a stable and effective link with the economy of that Member State”.	Art. 3. Scope. 1. The audiovisual media service shall be subject to the provisions of this Law as long as the provider of said service is established in Spain. 2. For the purposes of the previous paragraph, an audiovisual media service provider is considered to be established in Spain in the following cases: a) When the provider has its headquarters in Spain and the editorial decisions on the audiovisual media service are taken in Spain. b) When the provider has its headquarters in Spain, even though editorial decisions on the audiovisual media service are taken in another Member State of the European Union, provided that a significant proportion of the staff carrying out the programming activity of the audiovisual media service works in Spain. c) When the provider has its headquarters in another Member State of the European Union, editorial decisions on the audiovisual media service are taken in Spain, and a significant proportion of the staff carrying out the programming activity of the audiovisual media service works in Spain. d) Where the provider has its headquarters in Spain and a significant proportion of the staff carrying out the programming activity of the audiovisual media service works in Spain and in another Member State. e) When the provider first started its activity in Spain, provided that it maintains a stable and effective link with the Spanish economy, even though a significant proportion of the staff carrying out the programming activity of	Art. 1a 1. The Act shall apply to media service providers and video-sharing platform providers based in Poland. 2. A media service provider shall be deemed to be established in the territory of the Republic of Poland if it meets at least one of the following conditions: 1) it is established in Poland and: a) decisions are taken in Poland on a regular basis for the purpose of exercising editorial responsibility and linked to the day-to-day operation of the media service (editorial decisions), or b) a significant share of those employed to carry out programme-related activities on the basis of an employment relationship or civil-law contract operate in Poland, and editorial decisions regarding the media service are taken in another Member State of the European Union, or c) a significant share of those employed to carry out programme-related activities on the basis of an employment relationship or civil-law contract operate both in Poland and in another Member State of the European Union; 2) editorial decisions are taken in Poland and a significant share of those employed to carry out programme-related activities on the basis of an employment relationship or civil-law contract operate in Poland, and the media service provider is established in another Member State of the European Union;
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		the audiovisual media service does not work either in Spain or in any Member State. f) When the provider has its headquarters in Spain, but editorial decisions on the audiovisual media service are taken in a state that is not a member of the European Union, or vice versa, provided that a significant proportion of the staff carrying out the activities of the audiovisual media service works in Spain. g) When the provider to which the provisions of the previous subparagraphs do not apply: 1. Uses an uplink to a satellite located in Spain. 2. Uses a satellite capacity belonging to Spain, even if it does not use an uplink to a satellite located in Spain. 3. The video-sharing platform service provider shall be subject to the provisions of this Law provided that it is established in Spain, in accordance with Law 34/2002 of 11 July 2002 on information society services and electronic commerce. 4. A video-sharing platform service provider that is not established in a Member State shall be considered to be established in Spain for the purposes of this Law when said provider: a) has a parent company or a subsidiary company established in Spain; or b) is part of a group and another company of that group is established in Spain. For these purposes, the following definitions shall apply. 1.) 'Parent company': A company that controls one or more subsidiary companies. 2.) 'Subsidiary company': A company controlled by a parent company, including subsidiaries of a higher-ranking parent company.	3) the media service provider began to provide the media service in the Republic of Poland or pursuant to the law of the Republic of Poland and maintains stable and effective business relations with the Republic of Poland, unless a) the media service provider's seat is located in another Member State of the European Union and editorial decisions about the media service are made in another Member State of the European Union, or b) a major part of the workforce engaged in the provision of the media service on the basis of an employment contract or a contract for services operates in another Member State of the European Union in which the media service provider has its seat, or if editorial decisions about the media service are made in another Member State of the European Union. 3. A media service provider shall also be deemed established in the territory of the Republic of Poland also if a major part of the workforce engaged in the provision of the media service on the basis of an employment contract or a contract for services operates in the Republic of Poland and if the provider: 1) has its seat in the territory of the Republic of Poland and editorial decisions about the media service are made in a state which is not a Member State of the European Union, or 2) has its seat in a state which is not a Member State of the European Union and editorial decisions about the media service are made in the Republic of Poland. (...)
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		3.) 'Group': A parent company, all its subsidiary companies and all other companies having economic and legal organisational links to them. 5. For the purposes of the application of the previous paragraph, when the parent company, the subsidiary company or the other companies in the group are established in different Member States, the video-sharing platform service provider shall be considered to be established in Spain if its parent company is established in Spain or, failing that, if its subsidiary is established in Spain or, failing that, if the other company in the group is established in Spain. .. Art. 39. State register of audiovisual media service providers, video-sharing platform service providers and audiovisual media aggregation service providers. 1. A State register of audiovisual media service providers, video-sharing platform service providers and audiovisual media aggregation service providers is hereby created, dependent on the Ministry of Economic Affairs and Digital Transformation. 2. The following providers shall be registered in the register referred to in this Article: a) Providers of national television audiovisual media services. b) Providers of public audiovisual media services at state level. c) Providers of public audiovisual media aggregation services at state level. d) Video-sharing platform service providers. e) Providers of radio audiovisual media services at state level. f) Providers of on-demand sound audiovisual media services at state level.	5. Video-sharing platform providers shall be considered to be based in Poland if they are established in Poland. 6. Video-sharing platform providers not established in Poland but which have in Poland a parent undertaking within the meaning of Article 3(1)(37) of the Accounting Act of 29 September 1994 (Journal of Laws 2021, item 217), a branch within the meaning of Article 3(4) of the Act of 6 March 2018 on the rules governing the participation of foreign undertakings and other foreign persons in commercial activities in Poland (Journal of Laws 2021, items 994 and 1641), representation within the meaning of Article 21 of the aforementioned Act [of 6 March 2018], or a subsidiary undertaking as referred to in Article 3(1)(39) of the Accounting Act of 29 September 1994, shall also be considered to be a video-sharing platform provider based in Poland, unless 1) they are established in another Member State of the European Union; 2) they have a parent undertaking in another Member State of the European Union established before the parent undertaking was established in Poland, provided that the undertaking established in another Member State maintains a stable and effective link with the economy of that Member State; 3) they have a branch, representation or other subsidiary in another Member State of the European Union established before the branch, representation or subsidiary was established in Poland, provided that the branch, representation or subsidiary established in another Member State maintains a stable and
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		g) Users of particular relevance of video-sharing platform services, in accordance with the terms of Article 94(2). 3. The management of the register referred to in this Article shall be exclusively electronic. 4. The organisation and operation of the register referred to in this Article shall be established by regulation.	effective link with the economy of that Member State; 7. The National Broadcasting Council shall publish and keep up to date a list of media service providers and video-sharing platform providers based in Poland, including: 1) the name of the media service provider or video-sharing platform provider; 2) an indication of the provider's media services or video-sharing platforms; 3) the legislation under which the media service provider or video-sharing platform provider was found to be based in Poland. Art. 6 (...) 3. The National Broadcasting Council shall send to the European Commission: 1) a list of media service providers and video-sharing platform providers based in Poland, as referred to in Article 1a(7), Art. 47t (...) 8. Article 14 of the E-Services Act of 18 July 2002 shall not apply to matters regulated by this Chapter.
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Promotion of European Works			
Article 13	Member States shall ensure that media service providers of on-demand audiovisual media services under their jurisdiction secure at least a 30 % share of European works in their catalogues and ensure	Article 117. Obligation to pre-finance European audiovisual works. 1. Providers of linear or on-demand television audiovisual media services established in Spain and providing their services	Art. 47f 1. Providers of on-demand audiovisual media services shall promote European works, including works produced originally in the Polish language, in particular by:



	prominence of those works.	in Spain, and providers of linear or on-demand television audiovisual media services established in another EU Member State and offering their services to Spain shall be obliged to pre-finance European audiovisual works. 2. The obligation established in the previous paragraph shall not be required of providers with a low turnover, or of audiovisual media services with a low audience or in those cases where the obligation is impracticable or unjustified by reason of the nature or subject matter of the audiovisual media service, under the terms to be determined by law. 3. The amount of the pre-financing obligation for European audiovisual works provided for in subparagraph 1 shall be determined on the basis of the revenue accrued in the preceding financial year, in accordance with the income statement, from providing television audiovisual media services in the Spanish audiovisual market. 4. The obligation provided for in paragraph 1 may be fulfilled through direct participation in the production of the works, by acquiring the rights to exploit them or by contributing to the Fondo de Protección de la Cinematografía (Cinematography Protection Fund), the management of which is the responsibility of the Institute of Cinematography and Audiovisual Arts, in accordance with Article 19(3) of Law 55/2007 of 28 December 2007 (Cinema Act), or by contributing to the Protection Fund for Film and Audiovisual Content in Co-official Languages other than Spanish, as laid down in Article 36 of the above-mentioned Law. 5. In the case of co-productions, the contribution by independent producers shall not be counted for the purposes of compliance with	1) proper identification of the origin of the programmes available in the catalogue of programmes as well as providing the option to search for European works, including works produced originally in the Polish language, or 2) placement of information and materials promoting European works, including works produced originally in the Polish language. 2. On-demand audiovisual media service providers shall reserve at least 30% of their catalogue for European programmes, including original works produced in the Polish language, and to accord them appropriate visibility in their catalogues. 3. The percentage share referred to in paragraph 2 shall be calculated on the basis of the number of programmes available in the catalogue for a given quarter. A single season of a series shall be treated as one programme. Cinematography Act of 30 June 2005, consolidated 10 November 2022 art. 19 (...) 3. The television broadcaster shall pay the [Polish Film] Institute 1.5% of revenue obtained from broadcasting commercial communications or obtained from fees charged directly to subscribers for access to broadcast channels, where such revenue is higher over a given billing period. 3a. Television broadcasters established in another Member State of the European Union shall make the payment referred to in paragraph 3, determined on the basis of the revenue obtained in Poland. 4. Digital platform operators shall pay the Polish Film Institute 1.5% of revenue obtained from fees charged for accessing television channels broadcast or re-broadcast on a digital platform. 5. Cable television operators shall pay the Polish Film Institute 1.5% of
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		the financing obligation. 6. The contribution to the Film Protection Fund by liable parties shall be calculated in the first instance as financing carried out in the production of audiovisual works by independent producers, unless otherwise indicated or where the amount exceeds the investment to be made for that purpose. 7. For the purposes of complying with the pre-financing obligation for European audiovisual works, the production or purchase of rights to films that are likely to receive the X rating in accordance with Law 55/2007 of 28 December 2007 on cinema shall not be taken into account. 8. Local providers of audiovisual media services that do not belong to a national network shall be exempt from compliance with the obligation to finance European works. Article 118. Obligation to pre-finance European audiovisual works for providers of public television audiovisual media services. 1. Public television audiovisual media service providers shall earmark six per cent of their eligible revenues for pre-financing European audiovisual works. 2. The total financing obligation for public television audiovisual media service providers must respect the following conditions: a) A minimum of 70% must be allocated to audiovisual works made by independent producers, either on their own initiative or by commission, in accordance with the terms of Article 112, in the official language of the state or in one of the official languages of the Autonomous Communities. Of this sub-quota, the public television audiovisual media service provider at state level shall in any case reserve: 1. ° a minimum of 15% to	revenue obtained from fees charged for accessing re-broadcast television channels and the provision of re-broadcasting services. 6a. On-demand audiovisual media service providers shall pay the Polish Film Institute 1.5% of revenue obtained from fees charged for accessing publicly available on-demand audiovisual media services or revenue obtained from broadcasting commercial communications where such revenue is higher over a given billing period. 6b. On-demand audiovisual media service providers established in another Member State of the European Union shall make the payment referred to in paragraph 6a, determined on the basis of the revenue obtained in Poland.
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		audiovisual works in the official languages of the Autonomous Communities, taking into account their weighting in terms of population, and reserving at least 10% for each one; 2. ° a minimum of 30% to audiovisual works directed or created exclusively by women. b) A minimum of 45% must be allocated to cinematographic films of any genre made by independent producers, either on their own initiative or by commission, in accordance with the terms of Article 112, in the official language of the state or in one of the official languages of the Autonomous Communities. c) At least 12% must be allocated to animation and documentaries. 3. Autonomous Communities with official languages may regulate additional obligations for providers of public television audiovisual media services at Autonomous Community level. Moreover, if one or more audiovisual media service providers at Autonomous Community level subject to the financing obligation laid down in this Chapter and one or more associations representing the majority of cinematographic producers agree, the way in which the financing obligations laid down in this Article can be agreed upon, as long as the proportions established in this Article are respected.	
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13(6), 1 st sentence	The obligation imposed pursuant to paragraph 1 and the requirement on media service providers targeting audiences in other Member States set out in paragraph 2 shall not apply to media service providers with a low turnover or a low audience.	Article 119. Obligation to pre-finance European audiovisual works for providers of linear or on-demand television audiovisual media services. 1. The obligation to pre-finance European audiovisual works shall be modulated according to the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises. 2. Providers of linear or on-demand television audiovisual media services whose revenues calculated in accordance with Article 117(3) are equal to or higher than EUR 50 million shall dedicate 5% of their revenue on an annual basis to financing European audiovisual works, purchasing operating rights for European audiovisual works already completed and/or contributing towards the Film Protection Fund or the Fund for promoting cinematography and audiovisual content in co-official languages other than Spanish. The total financing obligation for providers must respect the following two conditions: a) A minimum of 70% must be allocated to audiovisual works made by independent producers, either on their own initiative or by commission, in accordance with the terms of Article 112, in the official language of the state or in one of the official languages of the Autonomous Communities. Of this sub-quota, linear or on-demand television audiovisual media service providers shall in any case reserve: 1. ° a minimum of 15% to	Art. 47f (...) 4. Paragraph 2 [of Art. 47f] shall not apply to: 1) catalogues making publicly available only non-European audiovisual programmes; 2) on-demand audiovisual media service providers which are microenterprises within the meaning of Article 7(1)(1) of the Business Act of 6 March 2018; 3) on-demand audiovisual media service providers where the number of users of all publicly available on-demand audiovisual media services during the previous calendar year did not exceed 1% of subscribers to data transmission services providing broadband internet access; the number of users of data transmission services providing broadband internet access is determined on the basis of inventory data as referred to in Article 29(1) of the Telecom Networks and Services Development Support Act of 7 May 2010 (Journal of Laws 2021, item 777 and 784).’; Cinematography Act of 30 June 2005, consolidated 10 November 2022 art. 19 (...) 6c. The obligation referred to in sections 6a and 6b shall not apply to an entity providing an on-demand audiovisual media service: 1) being a micro-entrepreneur



		audiovisual works in the official languages of the Autonomous Communities, taking into account their weighting in terms of population, and reserving at least 10% for each one; 2. ° a minimum of 30% to audiovisual works directed or created exclusively by women. b) A minimum of 40% must be allocated to cinematographic films of any genre made by independent producers, either on their own initiative or by commission, in accordance with the terms of Article 112, in the official language of the state or in one of the official languages of the Autonomous Communities. 3. Providers of linear or on-demand television audiovisual media services whose revenues calculated in accordance with Article 117(3) are lower than EUR 50 million and higher than or equal to EUR 10 million shall dedicate 5% of their revenue on an annual basis to financing European audiovisual works, purchasing operating rights for European audiovisual works already completed and/or contributing towards the Film Protection Fund. The total financing obligation of the provider shall respect a minimum of 70% for allocation to audiovisual works made by independent producers, either on their own initiative or by commission, in accordance with the terms of Article 112, in the official language of the state or in one of the official languages of the Autonomous Communities. 4. Linear or on-demand television audiovisual media service providers whose revenue calculated in accordance with Article 117(3) is lower than EUR 10 million shall be exempt from this obligation. 5. Autonomous Communities with official languages may regulate additional obligations for	within the meaning of art. 7 (1) (1) of the Act of 6 March 2018. - Entrepreneurs' Law (Journal of Laws of 2021, item 162 and 2105 and of 2022, item 24, 974 and 1570) or 2) whose number of users of all on-demand audiovisual media services made available to the public by it in the year preceding the year in which the obligation to make a payment to the Institute is determined did not exceed 1% of subscribers to data transmission services providing broadband Internet access; the number of users of data transmission services providing broadband Internet access shall be determined on the basis of data from the inventory referred to in art. 29 inventory of telecommunication infrastructure and public telecommunication networks of the Act of 7 May 2010 on supporting the development of telecommunication services and networks (Journal of Laws of 2022, item 884 and 2164). 6ca. The obligation referred to in sections 3 and 3a shall not apply to: 1) a broadcaster which is a micro-entrepreneur within the meaning of Article 7 explanation of concepts paragraph 1 item 1 of the Act of 6 March 2018. - Entrepreneurs' Law or 2) a broadcaster whose total audience share of all programmes distributed in the year preceding the year in which the obligation to pay to the Institute is determined did not exceed 1%.
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		providers of television audiovisual media services at Autonomous Community level.	
13(6), 2nd sentence	Member States may also waive such obligations or requirements where they would be impracticable or unjustified by reason of the nature or theme of the audiovisual media services.	Art. 117. 2. The obligation established in the previous paragraph shall not be required of providers with a low turnover , or of audiovisual media services with a low audience or in those cases where the obligation is impracticable or unjustified by reason of the nature or subject matter of the audiovisual media service, under the terms to be determined by law.	Art. 47f (...) 4. Paragraph 2 [of art. 47f] shall not apply to: 1) catalogues making publicly available only non-European audiovisual programmes; 2) on-demand audiovisual media service providers which are microenterprises within the meaning of Article 7(1)(1) of the Business Act of 6 March 2018; 3) on-demand audiovisual media service providers where the number of users of all publicly available on-demand audiovisual media services during the previous calendar year did not exceed 1% of subscribers to data transmission services providing broadband internet access; the number of users of data transmission services providing broadband internet access is determined on the basis of



			inventory data as referred to in Article 29(1) of the Telecom Networks and Services Development Support Act of 7 May 2010 (Journal of Laws 2021, item 777 and 784).’;
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Chapter VI - PROMOTION OF DISTRIBUTION AND PRODUCTION OF TELEVISION PROGRAMMES



REBOOT (www.thereboot-project.eu) has received funding from European Union's Horizon Europe Research and Innovation programme under Grant Agreement No. 101094769.



(16)	1. Member States shall ensure, where practicable and by appropriate means, that broadcasters reserve for European works a majority proportion of their transmission time, excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping. This proportion, having regard to the broadcaster's informational, educational, cultural and entertainment responsibilities to its viewing public, should be achieved progressively, on the basis of suitable criteria. Where the proportion laid down in paragraph 1 cannot be attained, it must not be lower than the average for 1988 in the Member State concerned. 2. Where the proportion laid down in paragraph 1 cannot be attained, it must not be lower than the average for 1988 in the Member State concerned. However, in respect of Greece and Portugal, the year 1988 shall be replaced by the year 1990. 3. Member States shall provide the Commission every 2 years, starting from 3 October 1991, with a report on the application of this Article and Article 17. That report shall in particular include a statistical statement on the achievement of the proportion referred to in this Article and Article 17 for each of the television programmes falling within the jurisdiction of the Member State concerned, the reasons, in each case, for the failure to attain that proportion and the measures adopted or envisaged in order to achieve it. The Commission shall inform the other Member States and the European Parliament of the reports, which shall be accompanied, where appropriate, by an opinion. The	Section 2. Obligation to meet quota of European audiovisual works and promote linguistic diversity. See art. 114-116 Article 114. European audiovisual works quota obligation in audiovisual media services. 1. Television audiovisual media service providers shall reserve a percentage of their programming or catalogue for European works as provided for in the following Articles. 2. The circumstances and terms in which an exemption or relaxing of compliance with the obligation laid down in the preceding paragraph may be granted shall be established in legislation for providers with low turnover, audiovisual media services with low audience or cases where the obligation is impracticable or unjustified due to the nature or subject matter of the audiovisual media service in question. Article 115. European audiovisual works quota in linear television audiovisual media services. 1. Providers of linear television audiovisual media services shall reserve at least 51% of their annual programming time for European audiovisual works. 2. At least 50% of the quota provided for in the previous paragraph shall be reserved for works in the official language of the state or in one of the official languages of the Autonomous Communities.	Art. 15 1. Television broadcasters shall devote at least 33% of their quarterly transmission time to programmes originally produced in the Polish language, excluding news services, advertisements, telesales, sports broadcasts, text broadcasts and tele-tournaments. (...) 3. Television broadcasters shall devote more than 50% of their quarterly transmission time to European programmes, excluding news services, advertisements, teleshopping, sports broadcasts, text broadcasts and televised games. 3a. The Chairman of the National Council, upon the application of a broadcaster of a television programme distributed solely by the information and communication system, may by decision determine a lower share of the programmes referred to in sections 1 and 3 in the television programme, taking into consideration the number of the audience and the range of the programme as well as the possibility of performing the obligations imposed on the broadcaster. 4. The National Council shall, by regulation, determine the lower share of the programmes referred to in paragraphs 1 and 3 in the television programme and in the radio programme of the works referred to in paragraph 2 for
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	Commission shall ensure the application of this Article and Article 17 in accordance with the provisions of the Treaty on the Functioning of the European Union. The Commission may take account in its opinion, in particular, of progress achieved in relation to previous years, the share of first broadcast works in the programming, the particular circumstances of new television broadcasters and the specific situation of countries with a low audiovisual production capacity or restricted language area.	Of this sub-quota, the public audiovisual media service provider at state level shall in any case reserve a minimum of 15% for audiovisual works in any of the official languages of the Autonomous Communities, taking into account their weighting in terms of population, and reserving at least 10% for each one. 3. At least 10% of total broadcasting time shall be reserved for European works by producers who are independent of the service provider, and half of this 10% must have been produced within the last 5 years. 4. Linear television audiovisual media services offered for exclusive dissemination in other EU Member States by providers shall be exempt from compliance with the terms of subparagraph 2 of this Article. 5. The broadcasting time referred to in this Article shall be calculated with the exclusion of the time devoted to news programmes, sports events, gaming and audiovisual commercial communications. 6. In relation to the obligations laid down in subparagraph 2, the Autonomous Communities with an official language may regulate additional obligations for public audiovisual service providers in the corresponding Autonomous Community territories. Article 116. European audiovisual works quota in the catalogue of on-demand television audiovisual media services. 1. Providers of on-demand television audiovisual media services shall reserve at least	1) broadcasters in the first year of their broadcasting, 2) specialised programmes for which there are not enough programmes referred to in paragraphs 1 and 3 or works referred to in paragraph 2, 3) programmes for the broadcasting of which a concession has been granted specifying that the programmes are intended for national and ethnic minorities and communities speaking a regional language 4) (repealed) - taking into account the necessity to maintain the proportion of programmes originally produced in Polish and European programmes and taking into account the possibility of fulfilling those obligations in given categories of programmes. Art. 6 (...) 3. The National Broadcasting Council shall send to the European Commission: (...) 3) a report on the implementation by media service providers of the requirements laid down in Articles 15(3), 15a(1) and 47f(2) of this Act, and Article 19(3), (3a), (6a) and (6b) of the Cinematography Act of 30 June
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		30% of the catalogue for European works. 2. At least 50% of the quota provided for in the previous paragraph shall be reserved for works in the official language of the state or in one of the official languages of the Autonomous Communities. Of this sub-quota, the public on-demand television audiovisual media service provider at state level shall in any case reserve a minimum of 40% for audiovisual works in any of the official languages of the Autonomous Communities, taking into account their weighting in terms of population, and reserving at least 10% for each one. 3. On-demand television audiovisual media services offered for exclusive dissemination in other EU Member States by providers shall be exempt from compliance with the terms of subparagraph 2. 4. On-demand television audiovisual media service providers shall guarantee the prominence of such European works in their catalogues. 5. In relation to the obligations laid down in subparagraph 2, the Autonomous Communities with an official language may regulate additional obligations for public on-demand television audiovisual service providers at Autonomous Community level.	2005 (Journal of Laws 2021, items 257 and 1676), – within the timeframes laid down in Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending 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 (Audiovisual Media Services Directive) in view of changing market realities (OJ L 303, 28.11.2018, p. 69).’;
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(17)	Member States shall ensure, where practicable and by appropriate means, that broadcasters reserve at least 10 % of their transmission time, excluding the time allotted to news, sports events, games, advertising, teletext services and teleshopping, or alternately, at the discretion of the Member State, at least 10 % of their programming budget, for European works created by producers who are independent of broadcasters. This proportion, having regard to the broadcaster's informational, educational, cultural and entertainment responsibilities to its viewing public, should be achieved progressively, on the basis of suitable criteria. It must be achieved by earmarking an adequate proportion for recent works, that is to say works transmitted within 5 years of their production.	See above art. 115 and 116.	Art. 15a 1. Television broadcasters shall allot at least 10% of quarterly transmission time to European programmes made by independent producers, excluding news broadcasts, advertising, teleshopping, sports broadcasts, textual displays and game shows. 2. Television broadcasters shall allot at least 5% of quarterly transmission time to European programmes made by independent producers in the 5 years prior to broadcast, excluding news, advertising, teleshopping, sports broadcasts, textual displays and game shows. 3. Specialised television broadcasters may be subject to a smaller share than that referred to in paragraph 2 as regards European programmes made by independent producers in the 5 years prior to broadcast. (...) 7. The National Broadcasting Council shall establish, by regulation, a smaller share of European programmes made by independent producers in the 5 years prior to broadcast for television channels where, due to their specialised nature, an insufficient number of such programmes exist, taking into account the impact of the nature of the television channels on the possibility for broadcasters to fulfil these obligations.
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EXCEPTIONS TO RESERVATIONS			
(18)	This Chapter shall not apply to television broadcasts that are intended for local audiences and do not form part of a national network	See above art. 114.2 and 115.6 and below Art. 117.8. Local providers of audiovisual media services that do not belong to a national network shall be exempt from compliance with the obligation to finance European works.	See above: Broadcasting Act of 29 December 1992, consolidated 5 August 2022, art. 15 (3a) and art. 15a (3) as well as below: Art. 15 (...) 4. The National Council shall, by regulation, determine the lower share of the programmes referred to in paragraphs 1 and 3 in the television programme and in the radio programme of the works referred to in paragraph 2 for (...) 3) programmes for the broadcasting of which a concession has been granted specifying that the programmes are intended for national and ethnic minorities and communities speaking a regional language
Chapter XI- COOPERATION BETWEEN REGULATORY BODIES OF THE MEMBER STATES			
(30) (30a)	1. Each Member State shall designate one or more national regulatory authorities⁷², bodies, or both. Member States shall ensure that they are legally distinct from the government and functionally independent of their respective governments and of any other public or private body. This shall be without prejudice to the possibility for Member States to set up regulators having oversight over different sectors. 2. Member States shall ensure that national regulatory authorities or bodies exercise their powers impartially and transparently and in accordance with the objectives of this Directive, in particular media	Article 48. Cooperation of the competent audiovisual authorities with the audiovisual regulatory authorities of other Member States of the European Union. In the context of the mutual exchange of information between national audiovisual regulatory authorities or bodies of the Member States of the European Union, the following measures shall be established: a) Where the audiovisual authority responsible for maintaining the register provided for in Article 39 receives notification from a television audiovisual media	Constitution of the Republic of Poland Art. 213 1. The National Broadcasting Council shall safeguard freedom of speech, the right to information and the public interest in radio and television. 2. The National Broadcasting Council shall issue regulations and, in individual cases, adopt resolutions. Art. 214 1. Members of the National Broadcasting Council shall be appointed by the Sejm, the Senate and

⁷² In Spain is the Comisión Nacional de Mercados de la Competencia, created by Law 3/2003, of 4 June 2013. URL: cnmc.es



	pluralism, cultural and linguistic diversity, consumer protection, accessibility, non-discrimination, the proper functioning of the internal market and the promotion of fair competition. National regulatory authorities or bodies shall not seek or take instructions from any other body in relation to the exercise of the tasks assigned to them under national law implementing Union law. This shall not prevent supervision in accordance with national constitutional law. 3. Member States shall ensure that the competences and powers of the national regulatory authorities or bodies, as well as the ways of making them accountable are clearly defined in law. 4. Member States shall ensure that national regulatory authorities or bodies have adequate financial and human resources and enforcement powers to carry out their functions effectively and to contribute to the work of ERGA. Member States shall ensure that national regulatory authorities or bodies are provided with their own annual budgets, which shall be made public. 5. Member States shall lay down in their national law the conditions and the procedures for the appointment and dismissal of the heads of national regulatory authorities and bodies or the members of the collegiate body fulfilling that function, including the duration of the mandate. The procedures shall be transparent, non-discriminatory and guarantee the requisite degree of independence. The head of a national regulatory authority or body or the members of the collegiate body fulfilling that function within a national regulatory authority or body may be dismissed if they no longer fulfil the conditions required for the performance of their duties which are laid down in advance at national level. A dismissal decision shall be duly justified, subject to prior notification and made available to the public. 6. Member States shall ensure that effective appeal mechanisms exist at	service provider under Spanish jurisdiction that it will provide a service entirely or mainly intended for an audience in another Member State, it shall inform the national regulatory authority or body in the Member State of reception. b) When the audiovisual authority responsible for maintaining the register provided for in Article 39 receives an application relating to the activities of a provider under Spanish jurisdiction from a regulatory authority in another Member State of the European Union to whose territory the provider's service is directed, the competent audiovisual authority in Spain shall process the application within 2 months. c) If the information received refers to an audiovisual media services provider entered on an Autonomous Community Register, the competent audiovisual authority for keeping the State register shall obtain the required information using the mechanisms for cooperation between audiovisual registers regulated in Article 41, and, if necessary, request information from the competent audiovisual authority at Autonomous Community level. Article 120. Control and monitoring of the obligation to promote European audiovisual works. 1. The National Commission on Markets and Competition shall be responsible for controlling and monitoring the obligations set out in this Chapter in the case of audiovisual media service providers at state level and providers established in another EU Member State and offering their services to Spain, following mandatory consultation with the Institute for Cinematography and Audiovisual Arts. 2. The procedure, the calculation mechanisms and the information that may be obtained from national audiovisual media service providers	the President of the Republic of Poland. 2. Members of the National Broadcasting Council may not belong to a political party or trade union or engage in a public activity that cannot be reconciled with the duties they exercise. Art. 215 The operating rules and procedures of the National Broadcasting Council, its structure, and detailed rules for the appointment of its members shall be laid down in law. Broadcasting Act of 29 December 1992, consolidated 5 August 2022 Art. 8 (...) 3. During the term of office of the members of the National Broadcasting Council, their membership of any of the following shall be suspended:: 1) (no longer applicable) 2) governing bodies of associations, trade unions, church organisations and religious associations. 4. The duties of the members of the National Broadcasting Council may not be combined with ownership of stocks and shares in a company, with any other form of participation in a media service provider or radio or television producer, or with any gainful activity, save for teaching or research as an academic or for creative work. Art. 6 1. The National Broadcasting Council shall safeguard freedom of speech on radio and television, the independence of media service
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	national level. The appeal body, which may be a court, shall be independent of the parties involved in the appeal. Pending the outcome of the appeal, the decision of the national regulatory authority or body shall stand, unless interim measures are granted in accordance with national law.’; Article 30a 1. Member States shall ensure that national regulatory authorities or bodies take appropriate measures to provide each other and the Commission with the information necessary for the application of this Directive, in particular Articles 2, 3 and 4. 2. In the context of the information exchange under paragraph 1, when national regulatory authorities or bodies receive information from a media service provider under their jurisdiction that it will provide a service wholly or mostly directed at the audience of another Member State, the national regulatory authority or body in the Member State having jurisdiction shall inform the national regulatory authority or body of the targeted Member State. 3. If the regulatory authority or body of a Member State whose territory is targeted by a media service provider under the jurisdiction of another Member State sends a request concerning the activities of that provider to the regulatory authority or body of the Member State having jurisdiction over it, the latter regulatory authority or body shall do its utmost to address the request within two months, without prejudice to stricter time limits applicable pursuant to this Directive. When requested, the regulatory authority or body of the targeted Member State shall provide any information to the regulatory authority or body of the Member State having jurisdiction that	subject to compliance with the obligation shall be established by regulation. 3. In the case of audiovisual media service providers at Autonomous Community level, the competent audiovisual authority in the Autonomous Community shall be responsible for control and monitoring.	providers and video-sharing platform providers, the interests of audiences and users, and ensure open and pluralistic broadcasting. 2. The tasks of the National Council shall include in particular: (...) 9) organising and initiating international cooperation in the field of broadcasting, including cooperation with EU Member State regulatory bodies responsible for media services or video-sharing platforms and the European Commission, and creating and acceding to agreements drawn up within the framework of the European Regulators Group for Audiovisual Media Services (ERGA); 10) cooperating with relevant organisations and institutions on the protection of copyright and the rights of performers, producers, media service providers and video-sharing platform providers; (...) 3. The National Broadcasting Council shall send to the European Commission: 1) a list of media service providers and video-sharing platform providers based in Poland, as referred to in Article 1a(7), 2) a report on the implementation by media service providers of the requirements laid down in Articles 18a and 47g, 3) a report on the implementation by media service providers of the requirements laid down in Articles 15(3), 15a(1) and 47f(2) of this Act, and Article 19(3), (3a), (6a) and (6b) of the Cinematography Act of 30 June 2005 (Journal of Laws 2021, items 257 and 1676),
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	may assist it in addressing the request.		4) a report on anti-content-sharing measures taken by video-sharing platform providers, as referred to in Article 47p(1), 5) a report on the state of media education, including an evaluation of actions by media service providers and video-sharing platform providers in this area, – within the timeframes laid down in Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending 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 (Audiovisual Media Services Directive) in view of changing market realities (OJ L 303, 28.11.2018, p. 69).’;
Creation of ERGA			
(30 b)	Article 30b 1. The European Regulators Group for Audiovisual Media Services (ERGA) is hereby established. 2. It shall be composed of representatives of national regulatory authorities or bodies in the field of audiovisual media services with primary responsibility for overseeing audiovisual media services, or where there is no national regulatory authority or body, by other representatives as chosen through their procedures. A Commission representative shall participate in ERGA meetings. 3. ERGA shall have the following tasks: (a) to provide technical expertise to the Commission: — in its task to ensure a consistent implementation of this Directive in		



	all Member States, — on matters related to audiovisual media services within its competence; (b) to exchange experience and best practices on the application of the regulatory framework for audiovisual media services, including on accessibility and media literacy; (c) to cooperate and provide its members with the information necessary for the application of this Directive, in particular as regards Articles 3, 4 and 7; (d) to give opinions, when requested by the Commission, on the technical and factual aspects of the issues pursuant to Article 2(5c), Article 3(2) and (3), point (c) of Article 4(4) and Article 28a(7). 4. ERGA shall adopt its rules of procedure.’		
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Disclaimer

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