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**Brussels, 30 August 2006**

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**ADDENDUM TO THE COVER NOTE**

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from:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	16 August 2006
to:	Mr Javier SOLANA, Secretary-General/High Representative
Subject:	COMMISSION STAFF WORKING DOCUMENT <u>Background documents</u> to the Communication from the Commission to the European parliament, the Council, the European economic and social committee and the Committee of the regions Seventh communication on the application of articles 4 and 5 of directive 89/552/eec "television without frontiers", as amended by directive 97/36/ec, for the period 2003-2004" {COM(2006) 459 final}

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Delegations will find attached Commission document SEC(2006) 1073.

Encl.: SEC(2006) 1073



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 14.8.2006  
SEC(2006) 1073

**COMMISSION STAFF WORKING DOCUMENT**

**Background documents to the**

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN  
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL  
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

**Seventh communication on the application of Articles 4 and 5 of Directive 89/552/EEC  
"Television without Frontiers", as amended by Directive 97/36/EC,  
for the period 2003-2004**

**{COM(2006) 459 final}**

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## **BACKGROUND DOCUMENT 1 – Performance indicators**

The following indicators facilitate the evaluation of the television programmes' achievement of the proportions referred to in Article 4 and 5 of the Directive. Indicators 2 – 5 are based on criteria which are set out in Articles 4 and 5. All performance indicators allow assessing achievements at Member State and at Community level.

### General indicator

- Indicator 1: number of *reported channels covered* by Articles 4 and 5.<sup>1</sup>

Indicator 1 was calculated for each Member State and for all Member States taken together.

These figures were obtained by determining the total number of channels reported by Member States less the number of non-operative channels (NO) and the number of channels which were exempted (EXC) due to the nature of their programmes (news, sports events, games, advertising, teletext services or teleshopping) or due to legal exceptions:

- Article 9 of the Directive: television broadcasts that are intended for local audiences and do not form part of a national network;

- Article 2(6) of the Directive: broadcasts intended exclusively for reception in third countries, and which are not received directly or indirectly by the public in one or more Member States;

- Recital 29 of

Directive 97/36/EC: channels broadcasting entirely in a language other than those of the Member States should not be covered by the provisions of Articles 4 and 5.

Channels for which Member States failed to communicate data relating to Article 4 or 5 (NC) were included.

### Indicators concerning Article 4 (European works)<sup>2</sup>

- Indicator 2: average transmission time reserved for *European works*.

Indicator 2 is presented as average proportion for each individual channel, for each Member State and for all Member States taken together.

It is obtained by determining the average transmission time reserved by each reported channel covered by Article 4 (cf. Indicator 1) for European works in the meaning of Article 6 and by applying that figure to the total qualifying transmission time.<sup>3</sup>

The Member States' averages are based on the average proportions of all covered channels reported by the Member State concerned.

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<sup>1</sup> Cf. Chart 1 and Table 1 in Annex 2.

<sup>2</sup> Cf. Table 2 in Annex 2.

<sup>3</sup> I.e. total transmission time excluding the time appointed to news, sports events, games, advertising, teletext services and teleshopping.

The EU-averages are based on the Member States' averages.

- Indicator 3: compliance rate of all channels achieving or exceeding the majority proportion.

Indicator 3 is presented for each Member State and for all Member States taken together.

It is obtained by determining the number of channels achieving the majority proportion of more than 50% under Article 4 and applying that figure to the total number of reported channels covered by Article 4 (Indicator 1).

The EU-averages are based on the Member States' averages.

#### Indicators concerning Article 5 (European works made by independent producers)<sup>4</sup>

- Indicator 4: average transmission time, or alternatively, depending on the choice made by the Member State when transposing the Directive, the average proportion of the programming budget allocated to *European works by independent producers* (independent productions).

Indicator 4 is presented as average proportion for each individual channel, for each Member State and for all Member States taken together.

It is obtained by determining the average transmission time, or programming budget, reserved by each reported channel covered by Article 5 (cf. Indicator 1) for European works by independent producers and by applying that figure to the total qualifying transmission time.

The Member States' averages are based on the average proportions of all covered channels reported by the Member State concerned.

The EU-averages are based on the Member States' averages.

- Indicator 5: *compliance rate* of channels achieving or exceeding the minimum proportion.

Indicator 5 is presented for each Member State and for all Member States taken together.

It is obtained by determining the number of channels achieving or exceeding the minimum proportion of at least 10% under Article 5 and applying that figure to the total number of reported channels covered by Article 5 (Indicator 1).

The EU-averages are based on the Member States' averages.

- Indicator 6: average transmission time allocated to recent European works by independent producers (recent works).

Indicator 6 is presented as average proportion for each individual channel, for each Member State and for all Member States taken together.

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<sup>4</sup> Confer Table 3 and 4 in Annex 2.

It is obtained by determining the average transmission time reserved by each reported channel covered by Article 5 (cf. Indicator 1) for recent European works by independent producers and by applying that figure to the transmission time reserved for all independent productions.

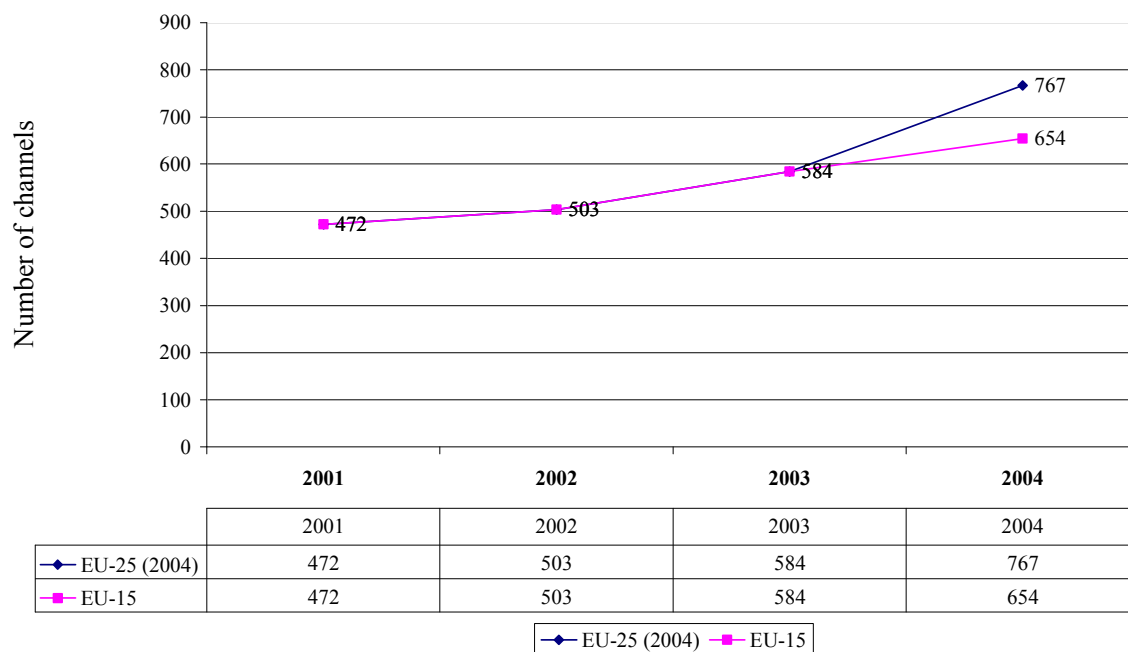
The Member States' averages are based on the average proportions of all covered channels reported by the Member State concerned.

The EU-averages are based on the Member States' averages. In order to better evaluate the actual development in the broadcasting of recent works, the EU-averages figures for recent works were also applied to the total qualifying transmission time.

## **BACKGROUND DOCUMENT 2: Charts and Tables on the application of Articles 4 and 5**

**Chart 1**

**Indicator 1: Reported channels covered by Articles 4 and 5  
(Community level)**



**Table 1****Indicator 1:****Reported channels covered<sup>5</sup> by Articles 4 and 5 (Member State-level)**

<b>Table 1</b>	<b><u>Indicator 1</u></b>					<b>IND 1</b>
	<b>Number of reported channels covered</b>					
<b>year</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>growth</b>	<b>MS</b>
<b>BE</b>	15	19	22	33	18	<b>BE</b>
<b>CY</b>				7	n.a.	<b>CY</b>
<b>CZ</b>				12	n.a.	<b>CZ</b>
<b>DK</b>	6	6	15	16	10	<b>DK</b>
<b>DE</b>	26	26	26	28	2	<b>DE</b>
<b>EE</b>				3	n.a.	<b>EE</b>
<b>GR</b>	33	35	12	12	-21	<b>GR</b>
<b>ES</b>	48	51	45	46	-2	<b>ES</b>
<b>FR</b>	70	75	84	89	19	<b>FR</b>
<b>IE</b>	4	4	4	4	0	<b>IE</b>
<b>IT</b>	53	69	95	87	34	<b>IT</b>
<b>LV</b>				10	n.a.	<b>LV</b>
<b>LT</b>			(4)	4	0	<b>LT</b>
<b>LU</b>	10	10	10	10	0	<b>LU</b>
<b>HU</b>				15	n.a.	<b>HU</b>
<b>MT</b>			(5)	5	0	<b>MT</b>
<b>NL</b>	41	41	49	55	14	<b>NL</b>

<sup>5</sup>

Cf. Indicator 1, Annex 1

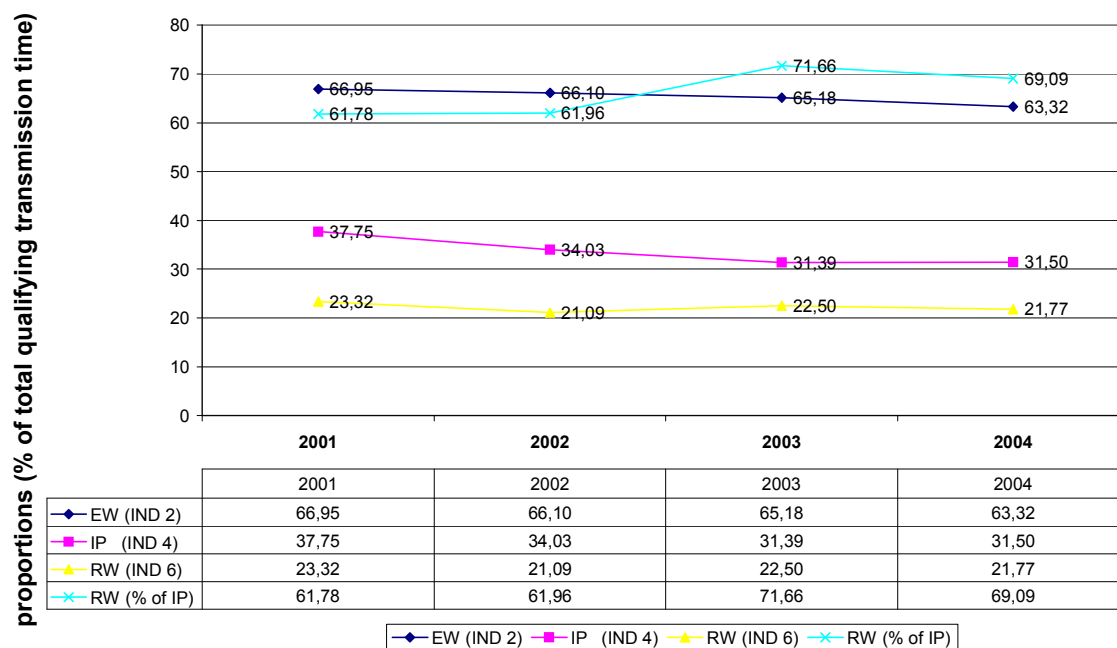
Not covered are the following broadcasts: television broadcasts that are intended for local audiences and do not form part of a national network (Article 9 of the Directive; broadcasts intended exclusively for reception in third countries, and which are not received directly or indirectly by the public in one or more Member States (Article 2(6) of the Directive), channels broadcasting entirely in a language other than those of the Member States should not be covered by the provisions of Articles 4 and 5 (Recital 29 of Directive 97/36/EC).



<b>Table 1</b>	<b><u>Indicator 1</u></b>					<b>IND 1</b>
	<b>Number of reported channels covered</b>					
<b>year</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>growth</b>	<b>MS</b>
<b>AT</b>	7	7	8	11	4	<b>AT</b>
<b>PL</b>				44	n.a.	<b>PL</b>
<b>PT</b>	12	12	12	15	3	<b>PT</b>
<b>SI</b>			(9)	9	0	<b>SI</b>
<b>SK</b>				4	n.a.	<b>SK</b>
<b>FI</b>	4	4	6	7	3	<b>FI</b>
<b>SE</b>	18	21	11	16	-2	<b>SE</b>
<b>UK</b>	125	123	185	225	100	<b>UK</b>
<b>Total</b>	<b>472</b>	<b>503</b>	<b>584</b>	<b>654</b>	<b>182</b>	<b>EU-15</b>
				<b>113</b>		<b>EU-10</b>
	<b>472</b>	<b>503</b>	<b>584</b>	<b>767</b>	<b>295</b>	<b>EU-25</b>

Chart 2

# Development of main indicators from 2001-2004 (Community-level)



**Table 2**

**Indicators 2 and 3:**

**European works (Member State-level)**

Table 2	Indicator 2 EW (European works) (Article 4)					Indicator 3 Compliance rate (Article 4)		IND 2, 3
year	2001	2002	2003	2004	growth	2003	2004	MS
BE	60,00	68,42	58,32	53,50	-6,50	50	55	BE
CY				50,34	n.a.		60	CY
CZ				49,12	n.a.		58	CZ
DK	77,13	64,60	86,20	86,33	9,20	87	88	DK
DE	59,41	59,82	63,57	65,53	6,12	54	61	DE
EE				61,77	n.a.		100	EE
GR	77,02	73,53	68,44	71,04	-5,98	83	92	GR
ES	56,06	61,71	60,92	59,87	3,81	69	74	ES
FR	70,98	71,73	69,90	70,40	-0,58	88	96	FR
IE	49,17	48,67	52,75	52,25	3,58	50	50	IE
IT	62,66	60,72	58,81	62,00	-0,66	59	67	IT
LV				63,29	n.a.		100	LV
LT			(49,75)	53,45	n.a.	(50)	50	LT
LU	80,00	80,00	64,67	62,44	-17,56	70	70	LU
HU				66,94	n.a.		87	HU
MT			(75,01)	77,44	n.a.	(100)	100	MT
NL	87,00	73,83	71,78	65,58	-21,42	65	67	NL
AT	74,47	79,13	72,76	73,72	-0,75	67	64	AT
PL				77,77	n.a.		89	PL
PT	46,98	49,83	64,56	62,32	15,34	75	64	PT
SI			(49,62)	53,23	n.a.	(56)	56	SI

Table 2	Indicator 2					Indicator 3		IND 2, 3
	EW (European works) (Article 4)					Compliance rate (Article 4)		
year	2001	2002	2003	2004	growth	2003	2004	MS
SK				64,33	n.a.		100	SK
FI	70,75	66,25	77,50	70,48	-0,27	100	71	FI
SE	59,08	59,47	53,49	56,90	-2,18	55	56	SE
UK	73,60	73,80	54,00	53,00	-20,6	51	45	UK
EW	66,95	66,10	65,18	64,36	-2,59	68,28		EU-15
				61,77				EU-10
				63,32	-3,63			72,80
IP	37,75	34,03	31,39	31,50	-6,25	78,40	81,92	EU
RW (%TQT)	23,32	21,09	22,50	21,77	-1,56	n.a.		
RW (% IP)	61,78	61,96	71,66	69,09	7,31			

+ Only channels with audience shares above 3% were considered (“de minimis criterion”).

\* This reference period for the first time all covered channels, including secondary channels, have been considered.

**Table 3**

**Indicators 4 and 5:**

**European works by independent producers (Member State-level)**

<b>Table 3</b>	<b><u>Indicator 4</u></b>					<b><u>Indicator 5</u></b>		<b>IND 4, 5</b>
	<b>IP (European works by independent producers) (Article 5)</b>					<b>Compliance rate (Article 5)</b>		
<b>year</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>growth</b>	<b>2003</b>	<b>2004</b>	<b>MS</b>
<b>BE</b>	41,85	41,27	32,36	32,74	-9,11	91	91	<b>BE</b>
<b>CY</b>				43,86	n.a.		100	<b>CY</b>
<b>CZ</b>				22,46	n.a.		33	<b>CZ</b>
<b>DK</b>	30,70	28,00	15,81	19,93	-10,77	60	63	<b>DK</b>
<b>DE</b>	43,09	41,56	35,98	40,99	-2,10	88	93	<b>DE</b>
<b>EE</b>				31,03	n.a.		100	<b>EE</b>
<b>GR</b>	25,37	29,32	25,67	26,31	0,94	100	100	<b>GR</b>
<b>ES</b>	33,86	34,50	31,36	30,17	-3,69	93	91	<b>ES</b>
<b>FR</b>	50,03	46,33	41,16	45,8	-4,23	71	76	<b>FR</b>
<b>IE</b>	26,50	26,75	27,25	24,00	-2,50	100	100	<b>IE</b>
<b>IT</b>	21,33	18,78	23,78	25,00	3,67	44	27	<b>IT</b>
<b>LV</b>				42,66	n.a.		100	<b>LV</b>
<b>LT</b>			(25,95)	34,05	n.a.		100	<b>LT</b>
<b>LU</b>	25,63	27,5	26,78	25,11	-0,52	80	80	<b>LU</b>
<b>HU</b>				33,64	n.a.		67	<b>HU</b>
<b>MT</b>			(39,84)	38,14	n.a.		100	<b>MT</b>
<b>NL</b>	68,92	33,45	32,50	33,42	-35,5	71	80	<b>NL</b>
<b>AT</b>	61,10	61,42	44,95	46,38	-14,72	88	91	<b>AT</b>
<b>PL</b>				27,69	n.a.		86	<b>PL</b>
<b>PT</b>	41,53	26,91	27,66	25,57	-15,96	58	85	<b>PT</b>
<b>SI</b>			(17,12)	16,24	n.a.		67	<b>SI</b>

<b>Table 3</b>	<b><u>Indicator 4</u></b> <b>IP (European works by independent producers)</b> <b>(Article 5)</b>					<b><u>Indicator 5</u></b> <b>Compliance rate</b> <b>(Article 5)</b>		<b>IND 4, 5</b>
<b>year</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>growth</b>	<b>2003</b>	<b>2004</b>	<b>MS</b>
<b>SK</b>				25,75	n.a.		100	<b>SK</b>
<b>FI</b>	28,50	25,50	30,63	29,96	1,46	100	100	<b>FI</b>
<b>SE</b>	35,4	37,87	43,00	36,67	1,27	64	56	<b>SE</b>
<b>UK</b>	32,43	31,35	32,00	30,00	-2,43	68	62	<b>UK</b>
<b>IP</b>	<b>37,75</b>	<b>34,03</b>	<b>31,39</b>	<b>31,47</b>	<b>-6,28</b>	<b>78,40</b>	<b>81,92</b>	<b>EU-15</b>
				<b>31,55</b>				<b>EU-10</b>
				<b>31,50</b>	<b>-6,25</b>			<b>EU-25</b>
<b>RW (% of IP)</b>	<b>61,78</b>	<b>61,96</b>	<b>71,66</b>	<b>69,09</b>	<b>7,31</b>	<b>n.a.</b>	<b>n.a.</b>	<b>EU</b>
<b>RW (% of TQT)</b>	<b>23,32</b>	<b>21,09</b>	<b>22,50</b>	<b>21,77</b>	<b>-1,56</b>			

Table 4

## Indicator 6:

## Recent European works by independent producers (Member State-level)

Table 4	<u>Indicator 6</u> RW (Recent European works by independent producers (% of IP))					IND 6
year	2001	2002	2003	2004	growth	MS
BE	61,98	59,74	89,00	87,39	25,41	BE
CY				22,20	n.a.	CY
CZ				70,26	n.a.	CZ
DK	83,57	82,85	84,78	80,10	-3,47	DK
DE	75,26	77,42	71,53	73,11	-2,15	DE
EE				89,30	n.a.	EE
GR	27,66	31,93	31,87	34,74	7,08	GR
ES	22,72	23,75	73,50	74,84	52,12	ES
FR	69,48	61,95	64,93	61,30	-8,18	FR
IE	98,75	98,75	97,50	97,50	-1,25	IE
IT	68,69	76,62	70,59	69,95	1,26	IT
LV				NC	n.a.	LV
LT			(87,00)	88,50		LT
LU	12,18	16,49	50,00	51,00	38,82	LU
HU				64,17	n.a.	HU
MT			(50,21)	45,99	n.a.	MT
NL	64,46	89,26	74,42	78,10	13,64	NL
AT	66,65	69,27	80,83	84,94	18,29	AT
PL				58,41	n.a.	PL
PT	90,05	74,29	82,68	73,52	-16,53	PT
SI				69,33	n.a.	SI

<b>Table 4</b>	<b><u>Indicator 6</u></b>					<b>IND 6</b>
	<b>RW (Recent European works by independent producers (% of IP))</b>					
<b>year</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>growth</b>	<b>MS</b>
<b>SK</b>				100,00	n.a.	<b>SK</b>
<b>FI</b>	77,00	76,75	64,14	66,63	-10,37	<b>FI</b>
<b>SE</b>	82,26	65,48	71,17	53,92	-28,34	<b>SE</b>
<b>UK</b>	26,05	24,78	68,00	63,00	36,95	<b>UK</b>
<b>RW</b>	<b>61,78</b>	<b>61,96</b>	<b>71,66</b>	<b>70,00</b>	<b>8,22</b>	<b>EU-15</b>
				<b>67,57</b>		<b>EU-10</b>
				<b>69,09</b>	<b>7,31</b>	<b>EU-25</b>



## **BACKGROUND DOCUMENT 3 – Application of Articles 4 and 5 in each Member State**

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## INTRODUCTION

This text complements the Seventh Communication from the Commission to the Council and to the European Parliament on the application of Articles 4 and 5 of Directive 89/552/EEC<sup>6</sup> “Television without Frontiers” (TWF), as amended by Directive 97/36/EC<sup>7</sup> for the period 2003-2004 and drawn up pursuant to Article 4(3)<sup>8</sup>. The Seventh Communication constitutes the Commission’s opinion on the application of Articles 4 and 5 at Community level and presents the principal conclusions which can be drawn from the Member States’ reports. This document contains a detailed analysis of the **application of Articles 4 and 5 in each Member State**.

The Commission is responsible for ensuring the correct application of Articles 4 and 5 in accordance with the provisions of the Treaty. According to Article 4(3) of the “Television without Frontiers” Directive, the Member States are under an obligation to provide the Commission every two years with a report on the application of Articles 4 and 5. Summaries of these reports are reproduced in Annex 4.

This document, which accompanies the aforementioned Commission Communication, comprises two parts:

Part I – Application of Articles 4 and 5: General remarks;

Part II – Application of Articles 4 and 5: Detailed analysis for each Member State.

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<sup>6</sup> OJEC L 298, 17.10.1989.

<sup>7</sup> OJEC L 202, 30.07.1997.

<sup>8</sup> All Articles without specification are Articles of the “Television without Frontiers” Directive

## APPLICATION OF ARTICLES 4 AND 5: GENERAL REMARKS

The following general remarks concern the different methodologies used by each Member State when applying Articles 4 and 5 of the Directive.

In practice, there was generally more monitoring and control of public service channels than of commercial channels, and more monitoring of terrestrial and cable channels than of satellite channels.

Reasons given by Member States for cases of non-compliance were frequently combined in their reports. Also, reasons did not differ notably from one Member State to the other or compared with the reasons given for the previous reference periods. The channels in question were often the same in the various Member States concerned.

The same applies for the reports of measures taken or envisaged by Member States to remedy instances of non-compliance. Serious sanctions in the form of fines were the exception. Mostly, Member States resolved issues by reporting infringements or sending warnings to the broadcasters concerned.

### 1.1. Monitoring and control methods

The Member States' reports refer to methods of monitoring and control which take various forms (actual records, monitoring of daily programmes, collection of data from broadcasters, surveys, sampling) and sometimes differ according to the type of channel or the means of transmission (e.g. monitoring of daily programmes for public service or terrestrial channels and survey for cable). In this connection, the Commission observes that the obligation under Article 4(3) of the "Television without Frontiers" Directive applies to each of the television programmes falling within the jurisdiction of the Member State concerned, irrespective of the type of channels or the means or mode of transmission (terrestrial, satellite, cable, broadband – analogue and/or digital).

### 1.2. Reasons for the cases of non-compliance

Member States gave the following reasons for cases of channels under their jurisdiction which failed to meet the majority and/or minimum proportions referred to under Articles 4 and 5:

- Groups of channels belonging to the same broadcaster achieve the majority proportion or the minimum proportion when taken together, but not individually;

This situation does not guarantee equal competition between the various TV broadcasters and may encourage the scheduling of European works being isolated on one or more specific channels. It can in some cases lead to the results of "small" channels (in terms of audience share) or special-interest channels being artificially aggregated with those of a "major" general interest channels. The Commission observes that, whereas Article 4(1) speaks of "broadcasters" having to reserve proportions of their transmission time, Article 4(3) refers to "television programmes" when it comes to monitoring the achievement of the above-mentioned proportions. Consequently, broadcasters are responsible for the proportions being achieved by **each** channel broadcast.

- Special-interest nature of the channels' programmes;

In many cases, the majority or minimum proportion of transmission time was not met due to the special-interest theme of the programmes (very specific niche markets). This reason may be taken into account if specific reasons were given for the cases of non-compliance. On the other hand, such channels are not entitled to a general ex-ante exemption from their obligation to broadcast a majority proportion which applies each year and for each channel covered<sup>9</sup> by Article 4 and 5.

- The recent nature of the channel;

According to Article 4(3), the Commission may take account in its opinion of the particular circumstances of new television broadcasters. Notwithstanding the recent nature of a channel, many new entrants achieve the proportions referred to under Articles 4 and 5 in their first years of operation in order to penetrate the market.

- Progress achieved;

According to Article 4(3), the Commission may take account in its opinion, in particular, of the progress achieved in relation to previous years. In line with the principle of progressive achievement/improvement, some Member States provide for non-slip-back clauses<sup>10</sup> for channels which fail to meet with the proportions, in addition to the existing rules.

- Subsidiaries of non-EU companies;

Such channels tend to make systematic use of their own catalogue material and rarely show European works.

- Higher costs of European programmes;

This reason may not be taken into account.

### **1.3. Measures envisaged or adopted to remedy cases of non-compliance**

Various types of measures were reported by Member States: ongoing dialogue, subjecting the channels concerned to surveillance, formal notices and other sanctions against broadcasters, which may result in fines or – ultimately – in the withdrawal of the licence. However, there were very few cases where these measures were actually taken.

In this regard, the Commission would point out the need for the Member States concerned to step up control and monitoring measures against trespassing channels and to ensure, where practicable and by appropriate means, that the television broadcasters concerned achieve the proportions of transmission time laid down in Articles 4 and 5 of the Directive, in accordance with the principle of progressive achievement. Especially in cases where channels continually fail to meet the proportions, only a stricter enforcement of the rules in place can ensure the effective application of Articles 4 and 5 at Member State level.

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<sup>9</sup> Cf. Indicator 1, Annex 1;

<sup>10</sup> Cf. also Article 4(2) of the Directive.

## Conclusions

The national reports generally reflect a satisfactory application of the provisions of Article 4. Eight out of 15<sup>11</sup> Member States increased the average majority proportion during the reference period. However, from a mid-term perspective, in relation to previous reference periods, for the majority of Member States there has been a decline at national level. Only five Member States increased the average majority proportion in relation to 2001 and seven Member States were able to raise their average majority proportion in relation to 1999.

Concerning Article 5 (European works created by independent producers), 8 out of 15 Member States increased their average proportions for independent productions over the reference period. Compared with the previous reference period, there was a fall in 11 Member States in relation to the proportions in 2001. An improvement was noted in only four Member States. This trend is however mitigated by two aspects: First, the decreases concerning Article 5 at national level were comparatively moderate in terms of percentage points. Second, the large majority of Member States succeeded in stabilizing their national average transmissions of independent productions at a level well above 25% or one quarter of all European works, whether or not made by independent producers. Considering that Article 5 stipulates only a “minimum” threshold of 10%, this is a notable achievement at Member State level.

## APPLICATION OF ARTICLES 4 AND 5: DETAILED ANALYSIS

### 2.1. Belgium<sup>12</sup>

- **Flemish Community**

Fourteen and five channels were reported not operative in 2003 and 2004 respectively.

#### European works

The reported operative channels covered by Article 4 broadcast an average of 56.65% and 52.32% of European works in 2003 and 2004 respectively, representing an average -4.33 point decrease over the reference period and a decrease of -3.07 points over four years (2001-2004).

For 2003, of a total of 12 covered<sup>13</sup> channels, six exceeded the majority proportion of transmission time laid down in Article 4 of the Directive, while six were well below it. The compliance rate, in terms of number of channels, was 50%.

For 2004, of a total of 21 covered channels, nine exceeded the majority proportion of transmission time laid down in Article 4 of the Directive, while 10 were below it. For two channels no data were communicated. The compliance rate in terms of number of channels was 43%.

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<sup>11</sup> The 10 Member States joining the EU in 2004 reported only figures for 2004.

<sup>12</sup> Two separate reports from the Flemish and the French Community were sent in. This distinction is therefore also reflected in this Communication and in the Commission’s opinion. The figures were however aggregated for the Community-level assessment

<sup>13</sup> “Covered” channels refers to the total number of reported channels less the number of non-operative and “exempted” channels, cf. Indicator 1, Annex 1.

### Independent productions

The average allocation to European works by independent producers for all channels was 31.76% in 2003 and 32.10% in 2004, representing a slight increase (0.34 points) over the reference period but an enormous decrease of 22.44 points over four years (2001-2004).

For 2003, the compliance rate, in terms of number of channels, was 100%, meaning that all 12 channels covered by Article 5 exceeded the minimum proportion of 10%. Average proportions ranged from 11% to 100%.

For 2004, the compliance rate, in terms of number of channels, was 86%. Of a total of 21 channels covered, 18 exceeded the minimum of 10% (percentages ranging from 13% to 100%). Only one channel (Canvas) did not meet the minimum proportion. The data for two channels were not communicated.

The average relative proportion of recent European works by independent producers for channels of all types was 94.78% in 2003 and 95.62% in 2004, representing a slight (0.85 point) increase within the reference period and an increase of 6.66 points over four years (2001-2004).

The proportion of recent works among all independent productions has reached a remarkably high level.

#### • **French Community**<sup>14</sup>

### European works

All the reported channels covered broadcast an average of 60.27% and 59.84% European works in 2003 and 2004 respectively, representing an average decrease of -0.43 points over the reference period and a decrease of -6.84 points over four years (2001-2004).

In 2003, of a total of 10 covered channels, 5 exceeded the majority proportion of transmission time laid down in that Article. Five channels failed to meet the majority proportion. The compliance rate in terms of number of channels was therefore 50%.

For 2004, of a total of 12 reported and covered channels, 9 exceeded the majority proportion of transmission time laid down in that Article. The compliance rate in terms of number of channels was therefore 75%.

One channel was exceptionally exempted by the report for the reference period.

According to the report, the minimum threshold set for the Belgian French Community is 41.6%. The majority proportion set in Article 4(1) of the Directive only became obligatory as from 2004. The Commission would point out that the proportion defined in Article 4(1) applies for each year and to each of the television programmes falling within the jurisdiction of the Member State concerned. Each Member State has to adopt the necessary legislative measures to comply with its obligations under Community law.

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<sup>14</sup> The Commission would point out that channels RTL TVi and Club RTL broadcast in the French Community of Belgium by TVI S.A. are identical to those broadcast by CLT S.A. in Luxembourg. They were included in the reports of both countries. The same applies to Liberty TV, which is broadcast in Belgium by Event Network and in Luxembourg by Liberty TV.com.

### European works made by independent producers

The average allocation to European works by independent producers for all channels was 33.13% in 2003 and 33.75% in 2004, representing an increase of 0.62 points over the reference period and of 4.58 points over four years (2001-2004).

In 2003, the compliance rate, in terms of number of channels, was 90%. Of a total of 10 covered channels, 9 exceeded the minimum 10% allocation to works by independent producers (percentages ranged from 22% to 53%). One channel failed to reach the minimum proportion. In 2004, the compliance rate, in terms of number of channels, was 100%.

The average relative proportion of recent European works made by independent producers for all channels was 82.07% in 2003 and 74.36% in 2004, representing a 7.72 point decrease over the reference period.

- **German Community**

No report was received from the competent authorities.

## **2.2. Cyprus**

### European works

All covered channels broadcast an average of 50.34% of European works in 2004.

Three out of five reported covered channels exceeded the majority proportion of transmission time laid down in Article 4 of the Directive, while the remaining two were below it. The compliance rate, in terms of number of channels, was 60%.

The report indicated that the programme orientation of one channel towards sports and recreation would explain its low percentage of 29.6%.

The Commission would point out that the proportion defined in Article 4(1) applies for each year and to each of the television programmes falling within the jurisdiction of the Member State concerned. The Commission takes note of Cyprus' intention of awarding a special prize to the channel with the highest proportion of scheduled European works. This appears to be a good incentive to increase proportions in scheduling European works in line with the principle of progressive achievement.

### European works made by independent producers

The average allocation to European works by independent producers for all five channels was 43.86% in 2004.

The compliance rate, in terms of number of channels, was 100%.



The average relative proportion of recent European works by independent producers for all channels was 22.20% in 2004. Compared to the other Member States, this is the lowest average proportion dedicated to recent independent works.<sup>15</sup>

### **2.3. Czech Republic**

Two channels were exempted by the report and four channels were not operating in 2004.

#### European works

All covered channels broadcast an average of 49.12% European works in 2004. Though only slightly below the majority proportion, the Czech Republic is the only Member State whose channels, taken together, did not average over 50%.

Seven out of 12 covered channels exceeded the majority proportion of transmission time laid down in Article 4 of the Directive, while the remaining 5 were below it. The compliance rate, in terms of number of channels, was 58%.

The report indicated that 3 out of 5 programmes were new market entrants. For the remaining 2 channels, the report pointed to difficulties in finding European programmes at competitive prices.

Concerning the channels not achieving the majority proportion, the Commission points out that the proportion laid down in Article 4(1) applies to all television programmes of a broadcaster falling within the jurisdiction of the Member State concerned. However, in line with the principle of progressive achievement, the Commission takes note that three of these channels were new market entrants. According to Article 4(3) the Commission may take account in its opinion of, inter alia, the particular circumstances of new television broadcasters and the specific situation of countries with low audiovisual production capacity or restricted language area. On the other hand, the relative costs of programmes cannot be taken into account.

#### European works made by independent producers

The average allocation to European works by independent producers for all channels was 22.46% in 2004.

The compliance rate, in terms of number of channels, was 33%. Though only one channel was below the minimum proportion, no data were communicated for 7 channels. In this respect, the Commission would point out that the reporting obligation under Article 4(3) of the Directive applies to each of the television programmes within the jurisdiction of the Member State concerned.

The average relative proportion of recent European works by independent producers for all channels was 70.26% in 2004.

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<sup>15</sup> However, it is not clear whether Cyprus reported recent works as percentage of independent works or as percentage of total qualifying works. In the latter case the average proportion of Cyprus would be even higher than the EU-average.

## • 2.4. Denmark

Five channels were exempted by the report. Two channels were not operating in 2003 and one channel was not operating in 2004.

### European works

All reported and covered channels broadcast an average of 86.20% of European works in 2003 and an average of 86.33% in 2004. This represents a 0.13 point increase over the reference period, but a significant increase of 9.20 points over four years (2001-2003).

For 2003, of a total of 15 covered channels, 13 exceeded the majority proportion of transmission time laid down in Article 4 of the Directive. Only two channels were below this threshold. The compliance rate, in terms of number of channels, was 87%.

In 2004, 14 out of 16 covered channels exceeded the majority proportion of transmission time laid down in Article 4, while the remaining two - the same channels as in the previous year (TV 2 Zulu and Tv Danmark 2) - were below it. The compliance rate, in terms of number of channels, was 88%.

The report gave no reasons for the cases of non-compliance. It indicated that TV Danmark 2 will possibly achieve an output of more than 50% of European works due to a sharp rise in 2003.

The Commission observes that Denmark is in the specific situation of a country with low audiovisual production capacity and restricted language area. However, the two channels concerned, which failed to reach the majority proportion, did not show an improvement in their scheduling of European works. Both channels have consecutively decreased their proportions of European works from 2001 until 2004. Denmark should take appropriate measures to ensure that the channels concerned achieve the proportion set in Article 4(1) of the Directive, in line with the principle of progressive achievement.

### European works made by independent producers

The average allocation to European works by independent producers for all channels was 15.81% in 2003 and 19.93% in 2004, representing a 4.12 point increase over the reference period, but a decrease of 10.77 points over four years (2001-2004).

For 2003, the compliance rate, in terms of number of channels, was 60%. Four channels failed to achieve the minimum of 10% allocation to works by independent producers and the data for two channels were not communicated. In 2004 the compliance rate was 63%, with the same channels below the threshold and without reported data.

The Commission would point out that the minimum proportion of transmission time laid down in Article 5 applies to each of the television channels covered<sup>16</sup> by Article 5 each year, with a view in particular to ensuring equal competition for all the television programmes of broadcasters falling within the jurisdiction of the Member State concerned<sup>17</sup>.

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<sup>16</sup> Cf Indicator 1, Annex 1.

<sup>17</sup> Cf. second paragraph of Article 4(3) of the Directive and point 2.2 of the suggested guidelines for the monitoring of the implementation of Articles 4 and 5 of the “Television without Frontiers” Directive, dated 11 June 1999.

The average relative proportion of recent European works by independent producers for all channels was 84.78% in 2003 and 80.10% in 2004, representing a -4.68 point decrease over the reference period. All channels exceeded 50% over the reference period. The report did not communicate data for six channels.

## **2.5. Germany**

For the entire reference period, six local channels were exempted from reporting in application of Article 9 of the Directive. Two channels (Animal Planet and Terra Nova) only started operating in 2004.

### European works

All covered channels broadcast on average 63.57% and 65.53% of European works in 2003 and 2004 respectively, representing an average 1.96 point increase over the reference period and a larger increase of 6.12 points over four years (2001-2004).

For 2003, of a total of 26 reported and covered channels, 14 exceeded the majority proportion of transmission time laid down in Article 4 of the Directive and 12 were below it. The compliance rate, in terms of number of channels, was 54%. For 2004, of a total of 28 covered channels, 17 exceeded the majority proportion of transmission time laid down in Article 4 of the Directive and 11 were below it. The compliance rate, in terms of number of channels, was 61%.

The reason given for the cases of non-compliance were the special-interest nature of the programmes. With regard to remedial measures adopted or envisaged, the report referred to planned or ongoing dialogues with the broadcasters concerned.

The Commission points out that the proportion laid down in Article 4(1) applies to all television programmes covered<sup>18</sup> by Article 4 and falling within the jurisdiction of the Member State concerned, regardless of the nature of its programmes. The Commission also notes that Germany complied, for this reference period, with its obligation to provide full and comprehensive data.

### European works made by independent producers

The average allocation to European works by independent producers for all channels was 35.98% in 2003 and 40.99% in 2004, representing a 5.01 point increase over the reference period but a decrease of 2.10 points over four years (2001-2004).

For 2003, of a total of 26 covered channels in the report, 23 exceeded the minimum of 10% laid down in Article 5 of the Directive. Three channels failed to meet this proportion. The compliance rate, in terms of number of channels, was 88% in 2003. For 2004, 26 out of 28 covered channels exceeded the minimum 10% proportion. Two channels failed to meet the minimum proportion. The compliance rate, in terms of number of channels, was 93% in 2004.

The average relative proportion of recent European works for all channels was 71.53% in 2003 and 73.11% in 2004, representing a 1.59 point increase over the reference period.

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<sup>18</sup> Cf. Indicator 1, Annex 1.

## **2.6. Estonia**

### European works

The three reported and covered channels broadcast an average of 61.77% European works in 2004.

All channels exceeded the majority proportion of transmission time laid down in Article 4 of the Directive. The compliance rate, in terms of number of channels, was therefore 100%.

### European works made by independent producers

The average allocation to European works by independent producers for all channels was 31.03% in 2004.

The compliance rate, in terms of number of channels, was therefore 100%.

The average relative proportion of recent European works by independent producers for all channels was 89.30% in 2004.

The Commission takes note of these positive results.

## **2.7. Greece**

The statistical statement reported data for only 12 channels. The Commission notes that Greece reported 39 channels for the previous reference period (2001-2002) of which 33 and 35 operating channels were covered by Articles 4 and 5 in 2001 and 2002 respectively. The Commission would point out that, according to Article 4(3), every Member State is under a legal obligation to report the relevant data to the Commission for each of the television programmes falling within the jurisdiction of the Member State concerned. The Commission takes note of the fact that the number of reported covered channels was drastically reduced during the present reference period. The Commission would point out that the proportions of transmission time laid down in Article 4 and 5 of the Directive apply each year and for every covered programme with a view in particular to ensuring equal competition for all the television programmes within the jurisdiction of the Member State concerned.<sup>19</sup> The Commission would point out that Greece has to submit a complete statement of all covered channels under its jurisdiction for the reference period 2005-2006.

### European works

The 12 reported channels covered by Article 4 broadcast an average of 68.44% and 71.04% of European works in 2003 and 2004 respectively, representing a 2.60 point increase over the reference period but a decrease of 5.98 points over four years (2001-2004).

For 2003, of a total of 12 reported and covered channels mentioned in the report, 10 exceeded the majority proportion of transmission time laid down in Article 4 of the Directive. Two channels were below the threshold of 50%. The compliance rate was 83%.

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<sup>19</sup> Cf. second paragraph of Article 4(3) of the Directive and point 2.2 of the suggested guidelines for the monitoring of the implementation of Articles 4 and 5 of the “Television without Frontiers” Directive, dated 11 June 1999.

In 2004, of a total of 12 channels covered, 11 exceeded the majority proportion of transmission time laid down in Article 4 of the Directive, while one was below it. The compliance rate, in terms of number of channels, rose to 92% which amounts to a 9-point increase compared to 2003.

#### European works made by independent producers

The average allocation to European works by independent producers for all channels was 25.67% in 2003 and 26.31% in 2004, representing an increase of 0.64 points over the reference period and an increase of 0.94 points over four years (2001-2004).

In 2003 and in 2004, all 12 reported and covered channels met or exceeded the minimum of 10% laid down in Article 5 of the Directive.

The compliance rate, in terms of number of channels of all types, was stable at 100% over the reference period.

The average relative proportion of recent European works by independent producers for all channels was 31.87% in 2003 and 34.74% in 2004, representing an increase of 2.87 points over the reference. Although this represents a slight increase compared to the previous reference period, it is still – compared to other Member States and the EU-average – a relatively low proportion of recent independent productions. In this respect, the Commission notes that there is – according to the principle of progressive achievement – still ample room for improvement.

## **2.8. Spain**

#### European works

All reported and covered channels broadcast an average of 60.92% and 59.87% of European works in 2003 and 2004 respectively, representing an average 1.05 point decrease over the reference period and an increase of 3.81 points over four years (2001-2004).

For 2003, of a total of 45 reported and covered channels, 31 exceeded the majority proportion of transmission time laid down in Article 4 of the Directive, and 13 were below it. Data for one channel were not communicated. The compliance rate, in terms of number of channels, was 69%.

For 2004, of 46 covered channels, 34 exceeded the majority proportion of transmission time laid down in Article 4 of the Directive, while 11 were below it. The compliance rate, in terms of number of channels, was 74%.

Two channels were not operating in 2003 and one channel was not-operating in 2004. Seven channels were exempted by the report for the reference period. No reasons were given for these exemptions. Spain communicated no data for one channel (Canal Canarias).

The Commission would point out that the majority proportion of transmission time laid down in Article 4(1) applies each year for every programme covered by Article 4, regardless of their audience share, with a view in particular to ensuring equal competition for all the television programmes of broadcasters falling within the jurisdiction of the Member State concerned<sup>20</sup>.

#### European works made by independent producers

The average allocation to European works created by independent producers for all channels was 31.36% in 2003 and 30.17% in 2004, representing a 1.19 point increase over the reference period and a decrease of 3.69 points over four years (2001-2004).

For 2003, the compliance rate, in terms of number of channels, was 93%. Of a total of 45 covered channels, two had an allocation to works by independent producers below 10%. For 2004, the compliance rate was 91%. Of a total of 46 covered channels, three were below the minimum proportion.

The average relative proportion of recent European works by independent producers for all channels was 73.50% in 2003 and 74.84% in 2004, representing a 1.34 point increase over the reference period.

## **2.9. France**

#### European works

All reported covered channels broadcast an average of 69.90% and 70.40% of European works in 2003 and 2004 respectively, representing an average 0.50 point increase over the reference period and a decrease of -0.58 points over four years (2001-2004).

For 2003, of a total of 84 covered channels, 74 exceeded the majority proportion of transmission time laid down in Article 4 of the Directive. Seven channels did not meet the target. The data of three channels were not communicated. The compliance rate, in terms of number of channels, was 88%. Five channels were reported as non-operational in 2003.

For 2004, of a total of 89 covered channels, 85 exceeded the majority proportion of transmission time laid down in Article 4 of the Directive. Two channels failed to meet the target. No data were available for two channels. The compliance rate, in terms of number of channels, rose to 96%.

#### European works made by independent producers

The average allocation to European works by independent producers<sup>21</sup> for all channels covered by Article 5 was 41.16% in 2003 and 45.80% in 2004, representing an increase of 4.64 points over the reference period but and a decrease of -4.23 points over four years (2001-2004).

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<sup>20</sup> Cf. second paragraph of Article 4(3) of the Directive and point 2.2 of the suggested guidelines for the monitoring of the implementation of Articles 4 and 5 of the “Television without Frontiers” Directive, dated 11 June 1999.

<sup>21</sup> In the case of the 7 terrestrial channels, the percentage of independent production calculated on the basis of the company’s turnover. 3 cable / satellite channels based their proportions of independent productions on the programming budget.

In 2003, of a total of 84 covered and operative channels, 60 exceeded the minimum proportion of 10% and 2 were below the threshold. No data were provided for 22 channels. In 2004, of a total of 89 covered channels, 68 exceeded the proportion. No data were given for 19 channels. Two channels were below the threshold of 10%. The compliance rate, in terms of number of channels, was 71% in 2003 and 76% in 2004.

The Commission would point out that the reporting obligation under Article 4(3) of the Directive applies to each of the television programmes within the jurisdiction of the Member State concerned and relates to both the majority and the minimum proportion. The Commission observes further that the minimum proportion of Article 5 applies each year with a view in particular to ensuring equal competition for all the television programmes of broadcasters falling within the jurisdiction of the Member State concerned, regardless of different transmission modes.

The average relative proportion of recent European works by independent producers, for all channels of all types, was 64.93% in 2003 and 61.30% in 2004, representing a -3.63 point decrease over the reference period.

The Commission takes note of the measures taken: A penalty was imposed against 1 channel not complying with the broadcasting requirements in 2003; two channels received improvement notices; 1 channel received a notice for not having communicated its data in time. Additionally, the report mentioned that 14 non-Member State channels, 3 information channels, 1 weather channel, 4 sports channels and 2 teleshopping channels were exceptionally exempted.

## **2.10. Ireland**

### European works

All reported and covered channels broadcast an average of 52.75% and 52.25% of European works in 2003 and 2004 respectively, representing an average decrease of -0.5 points over the reference period, but an increase of 3.08 points over four years (2001-2004).

For 2003, of a total of 4 covered channels, 2 exceeded the majority proportion of transmission time laid down in Article 4 of the Directive. Two channels failed to reach the majority proportion. For 2004, again the same two of the four covered channels failed to meet the majority proportion. The compliance rate for the entire reference period was 50%.

### European works made by independent producers

The average allocation by all channels to European works by independent producers was 27.25% in 2003 and 24% in 2004, representing a -3.25 point decrease over the reference period and a decrease of -2.50 points over four years (2001-2004).

All four channels reached or exceeded the minimum proportion of 10% laid down in Article 5 of the Directive (percentages ranging from 10% to 64% in 2003 and from 10% to 48% in 2004). The compliance rate, in terms of number of channels, was therefore 100% over the entire reference period.

The average relative proportion of recent European works was stable at 97.50% over the reference period. Recent European works accounted for almost the entirety of the allocation to European works created by independent producers for all four channels.

Three sports channels were exceptionally exempted from the requirements of Articles 4 and 5.

## 2.11. Italy

### European works

All covered channels broadcast an average of 58.81% and 62.00% of European works in 2003 and 2004 respectively, representing an increase of 3.19 points over the reference period and a decrease of -0.66 points over four years (2001-2004).

For 2003, of a total of 95 channels which were covered by Article 4 of the Directive<sup>22</sup>, 56 exceeded the majority proportion of transmission time laid down in that Article. 39 channels failed to meet the majority proportion of transmission time. The compliance rate was 59%.

For 2004, of a total of 87 channels which are covered by Article 4 of the Directive<sup>23</sup>, 58 exceeded the majority proportion of transmission time laid down in that Article. 28 channels failed to meet the majority proportion of transmission time. The relevant data for one channel were not communicated to the Commission. The compliance rate was 67%.

The Commission would point out that the majority proportion of transmission time laid down in Article 4(1) applies each year with a view in particular to ensuring equal competition for all the television programmes of broadcasters falling within the jurisdiction of the Member State concerned.<sup>24</sup> In addition, the Commission observes that, according to Article 4(3), the report of the Member States on the application of Articles 4 and 5 “shall in particular include (...) the reasons, in each case, for the failure to attain that proportion and the measures adopted or envisaged in order to achieve it.” No particular reasons for the failure to attain the proportions were given in Italy’s statistical statement.

### European works made by independent producers

The average allocation to European works by independent producers for all channels was 23.78% in 2003 and 25.00% in 2004, representing a 1.22 point increase over the reference period and an increase of 3.67 points over four years (2001-2004).

For 2003, the compliance rate, in terms of number of channels, was 44%. Of a total of 85 channels covered by Article 5<sup>25</sup>, only 37 achieved the minimum proportion. Seven channels were below the 10% threshold. Of these, one channel made no allocation to works by independent producers. No data were supplied for 41 channels<sup>26</sup>. Eighteen channels might be exempted on the grounds of the nature of their programmes<sup>27</sup>. In 2004, compliance dropped to

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<sup>22</sup> For 2003, from reported 128 channels, the report exempted 8 channels broadcasting exclusively *news, sports events, games, teleshopping* and showing “mainly interactive programmes and which therefore cannot be considered as part of the traditional schedule”. 25 channels were non-operative in 2003.

<sup>23</sup> For 2004, the report exempted 3 channels broadcasting exclusively *news, sports events, games, teleshopping* and channels showing “mainly interactive programmes and which therefore cannot be considered as part of the traditional schedule”. 38 channels were not operating in 2004.

<sup>24</sup> Cf. second paragraph of Article 4(3) of the Directive and point 2.2 of the suggested guidelines for the monitoring of the implementation of Articles 4 and 5 of the “Television without Frontiers” Directive, dated 11 June 1999.

<sup>25</sup> 25 channels were not operating in 2003.

<sup>26</sup> The Commission considers 39 satellite and cable channels of the 57 “exempted” channels as non-reported (NR) since there is no basis in the text of the Directive for their “exemption” from the obligation to report data according to Article 5.

<sup>27</sup> Cf. Indicator 1, Annex 1.



as low as 27%. Of a total of 73 reported channels covered by Article 5<sup>28</sup>, 20 channels exceeded the minimum proportion. Six channels made an allocation to works by independent producers below 10%. No data were supplied for 47 channels.<sup>29</sup>

In view of the considerable number of channels for which no data were communicated pursuant to Article 5, the Commission would remind the Member States of the need for increased controls and monitoring of the channels concerned and the importance of ensuring – for reasons of fair competition – that these channels comply with their obligation under Community and national law to communicate the requested data as other channels do. In addition, Member States should ensure that the channels concerned achieve – where practicable and appropriate – the proportions of transmission time laid down by Articles 4 and 5 of the “Television without Frontiers” Directive, in line with the principle of progressive achievement.

The Commission notes that channels under Italian jurisdiction recorded – in comparison to the other Member States – the lowest level of compliance on average with their obligations under Article 5.

The Commission would point out that the reporting obligation under Article 4(3) of the Directive applies to each of the television programmes within the jurisdiction of the Member State concerned, regardless of its mode of transmission or its audience share. Further, the Commission observes that the minimum proportion of Article 5 applies each year with a view in particular to ensuring equal competition for all the television programmes of broadcasters falling within the jurisdiction of the Member State concerned<sup>30</sup>, regardless of the different transmission modes. As in previous reference periods, the Italian legislation<sup>31</sup> exempted satellite and cable channels from the obligation to broadcast a minimum proportion of European works made by independent producers and from their obligation to report on the performance under Article 5 of the TWF Directive. The relevant provisions were amended in 2005.<sup>32</sup> The report mentions that “Further differences with the TVSF are likely to be solved in the future.” The Commission observes that Member States may not provide for general “exemptions” from their obligations under the Directive except for cases specified by the Directive. The Commission will continue to examine closely the future implementation and actual application of Article 5 by the Italian authorities.

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<sup>28</sup> 38 channels were non-operational in 2004.

<sup>29</sup> The Commission considers 43 satellite and cable channels of the 60 “exempted” channels as non-reported (NR) since there is no basis in the text of the Directive for their “exemption” from the obligation to report data according to Article 5

<sup>30</sup> Cf. second paragraph of Article 4(3) of the Directive and point 2.2 of the suggested guidelines for the monitoring of the implementation of Articles 4 and 5 of the “Television without Frontiers” Directive, dated 11 June 1999.

<sup>31</sup> Articles 13 and 14 of the Satellite and Cable Broadcasting Regulation stipulate respectively: satellite broadcasts under Italian jurisdiction must comply with the relevant rules on quotas concerning broadcasting and production set out in the applicable legislation for national television broadcasters; satellite and cable broadcasters are not subject to the rules declared to be applicable only to the holders of concessions for the broadcasting of television programmes on terrestrial frequencies, e.g. the obligation to broadcast the works of independent producers; for satellite and cable broadcasters this obligation is replaced by an obligation to set aside a minimum of 20 minutes weekly for the promotion and advertising of Italian and European Union audiovisual works.

<sup>32</sup> Cf. reference in Italy’s report to Decreto Legislativo di 31 Luglio 2005, n. 177.

The average relative proportion of recent European works, whether or not made by independent producers<sup>33</sup>, was 70.59% in 2003 and 69.95% in 2004, representing a 0.64 point decrease over the reference period.

The report lists several broadcasters who will be penalised for not having complied with provisions concerning European works.

## **2.12. Latvia**

### European works

All covered channels broadcast an average of 63.29 % European works in 2004.

All 10 reported covered channels exceeded the majority proportion of transmission time laid down in Article 4 of the Directive. The compliance rate, in terms of number of channels, was 100%.

### European works made by independent producers

The average allocation to European works by independent producers for all channels was 42.66% in 2004.

The compliance rate, in terms of number of channels, was 100%.

The report contained no data on relative proportions of recent European works by independent producers for all channels. Latvia's statistical statement indicated that reporting methods have been changed and, therefore, for the next reference period data on recent works would also be available.

## **2.13. Lithuania**

### European works

All covered channels broadcast an average of 53.45% European works in 2004.

Only 2 out of 4 covered channels exceeded the majority proportion of transmission time laid down in Article 4 of the Directive, while the two remaining channels were below it. The compliance rate, in terms of number of channels, was 50%.

The report stated that “Two national TV broadcasters were not able to achieve the necessary European production proportion for the period 2003/2004 due to the reasons that bind them to the signed agreements for purchasing other than European production works.” In this respect, the Commission points out that the proportion laid down in Article 4(1) applies to all television programmes of a broadcaster falling within the jurisdiction of the Member State concerned. The Commission may take account in its opinion of, in particular, the specific situation of countries with low audiovisual production capacity or restricted language area.

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The figures forwarded by the Italian authorities were calculated, in accordance with Article 2 of Law 122/98, in relation to European works overall, whether or not by independent producers. It is therefore not possible to determine the actual proportion allocated to recent works by independent producers within the meaning of the final sentence of Article 5 of the “Television without Frontiers” Directive. Italy should bring its reporting methods in line with the Community law, the relevant guidelines and the standards of other Member States when communicating data to the European Commission.

However, the reasons given do not qualify to be taken into account. Possibly conflicting private agreements should be resolved so that the channels concerned can fulfil their obligations under Articles 4 and 5 of the Directive.

#### European works made by independent producers

The average allocation to European works by independent producers for all channels was 34.05% in 2004.

The compliance rate, in terms of number of channels, was 100%.

The average relative proportion of recent European works by independent producers for all channels was 88.50% in 2004.

### **2.14. Luxembourg<sup>34</sup>**

No data were supplied for one channel for the entire reference period.

#### European works

All channels broadcast 64.67% of European works in 2003 and 62.44% in 2004. There was a significant decrease of -17.56 points over four years (2001-2004).

For 2003, of a total of 10 covered channels mentioned in the report, 7 exceeded the majority proportion of transmission time laid down in Article 4 of the Directive, 2 channels were below the threshold and data for one channel were not communicated; this represented a compliance rate of 70% in terms of number of channels. For 2004, of a total of 10 covered channels, again 7 exceeded the majority proportion of transmission time, 2 channels failed to reach the majority proportion, and the data for one channel were not communicated. Here too, the compliance rate, in terms of number of channels, was 70%.

Reasons for failure mentioned in the report were the nature of the programmes concerned and the fact that the two channels which did not reach the threshold in 2003 achieved it in the following year.

The Commission would point out that the proportion of transmission time defined in Article 4(1) of the “Television without Frontiers” Directive applies to each of the television programmes of broadcasters falling within the jurisdiction of the Member State concerned<sup>35</sup> for each year under consideration. It also notes that, in accordance with the principle of progressive achievement, there was a resultant improvement over the reference period for 2 of the 4 channels concerned.

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<sup>34</sup> The channels RTL TVi and Club RTL broadcast in the French Community of Belgium by TVI S.A. are identical to those broadcast by CLT S.A. in Luxembourg. Belgium reported different proportions for RTL Club (49% and 32%) in the reference period than Luxembourg (59% and 23%). The same applied to Liberty TV, which is broadcast in Belgium by Event Network S.A. and in Luxembourg by Liberty TV.com. The 3 channels concerned were included in the reports of both countries.

<sup>35</sup> Cf. second paragraph of Article 4(3) of the Directive and point 2.2 of the suggested guidelines for the monitoring of the implementation of Articles 4 and 5 of the “Television without Frontiers” Directive, dated 11 June 1999.

### European works made by independent producers

The average allocation to European works by independent producers for all channels was 26.78% in 2003 and 25.11% in 2004, representing a -1.67 point decrease over the reference period and a decrease of -0.52 points over four years (2001-2004).

In 2003 and 2004, of a total of 10 channels, 8 exceeded the minimum proportion of 10% laid down in Article 5 of the Directive. As in previous years<sup>36</sup>, Nordlicht TV was alone in broadcasting no works of this type. The data for one channel (T.TV) were not reported over the reference period. The compliance rate, in terms of number of channels, was 80% over the reference period.

As reasons for the cases of non-compliance, the report indicated general difficulties (“period of transition”) and the nature and language of the transmitted programmes.

The average relative proportion of recent European works by independent producers for all channels was 50.00% in 2003 and 51.00% in 2004, representing an increase of 1.00 percentage point over the reference period.

## **2.15. Hungary**

### European works

All covered channels broadcast an average of 66.94% European works in 2004.

Thirteen out of 15 reported covered channels exceeded the majority proportion of transmission time laid down in Article 4 of the Directive, while two channels were below it. The compliance rate, in terms of number of channels, was 87%.

The report gave economic reasons and the nature of the programmes concerned as reasons for non-compliance. The report lists criteria for an “exemption” procedure. In this respect, the Commission points out that only individual programmes and not broadcasters may be exceptionally exempted from obligations under Articles 4 and 5 for the reasons -given in the Directive and according to the suggested guidelines adopted on 11 June 1999. Also, the fact that a programme is pay-TV or free-TV is not a suitable criterion for a general exemption.

### European works made by independent producers

The average allocation to European works by independent producers for all channels was 33.64% in 2004. The compliance rate, in terms of number of channels, was 67%.

The average relative proportion of recent European works by independent producers for all channels was 64.17% in 2004.

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<sup>36</sup> Cf. Fifth Communication from the Commission on the application of Articles 4 and 5, 8 November 2002, COM(2002) 612 final; Sixth Communication from the Commission on the application of Articles 4 and 5, 28 July 2002, COM(2004) 524 final;

## **2.2. Malta**

### European works

All covered channels broadcast an average of 77.44% European works in 2004.

All five covered channels mentioned in the report exceeded the majority proportion of transmission time laid down in Article 4 of the Directive. The compliance rate, in terms of number of channels, was 100%.

The report stated that “Two national TV broadcasters were not able to achieve the necessary European production proportion for the period 2003/2004 due to the reasons that bind them to the signed agreements for purchasing other than European production works.” In this respect, the Commission points out that the proportion laid down in Article 4(1) applies to all television programmes of a broadcaster falling within the jurisdiction of the Member State concerned. The Commission may take account in its opinion of, in particular, the specific situation of countries with low audiovisual production capacity or restricted language area. However, the reasons stated in Malta’s report do not qualify to be taken into account. Possible contradicting private agreements should be resolved so that the channels concerned can fulfil their obligations under Articles 4 and 5 of the Directive.

### European works made by independent producers

The average allocation to European works by independent producers for all channels was 38.14% in 2004. The compliance rate, in terms of number of channels, was 100%.

The average relative proportion of recent European works by independent producers for all channels was 45.99%. At more than 20 points below EU-average, this is a comparatively low proportion of recent works by independent producers. Only channels under Greek and Cypriot jurisdiction transmitted fewer recent works.

## **2.17. Netherlands**

Twelve of 67 reported channels were not operating in 2003 and 6 were not operating in 2004. The report exempted 6 channels for the reference period.

### European works

All covered channels broadcast an average of 71.78% of European works in 2003 and of 65.58% in 2004, representing a -6.20 point decrease over the reference period and a larger decrease of -21.42 points over four years (2001-2004).

For 2003, of a total of 49 covered channels mentioned in the report, 32 exceeded the majority proportion and 12 channels failed to meet the proportion of transmission time laid down in Article 4 of the Directive. The data for 5 channels were not communicated in the report. The compliance rate, in terms of number of channels, was 65%.

For 2004, of a total of 55 covered channels, 37 exceeded the majority proportion of transmission time laid down in Article 4 of the Directive. Eighteen channels failed to meet the proportion of transmission time. The compliance rate, in terms of number of channels, was 67%.

The reasons for the cases of non-compliance were specified in the report for each programme failing to achieve the required proportions. These related mainly to the special nature of the programmes concerned or the recent nature of the channel. The Commission would point out that the proportions defined in Article 4(1) and Article 5 apply to each of the television programmes falling within the jurisdiction of the Member State concerned. All the programmes below the threshold must increase their efforts so that the proportions required under the Directive are achieved progressively<sup>37</sup>.

#### European works made by independent producers

The average allocation to European works by independent producers for all channels was 32.50% in 2003 and 33.42% in 2004, representing a 0.92 point increase over the reference period and a considerable decrease of -35.40 points over four years (2001-2004).<sup>38</sup>

In 2003, of a total of 49 reported and operative channels covered by Article 5, 35 exceeded the minimum proportion of 10% and 8 were below it. No data were supplied for 6 channels. The compliance rate, in terms of number of channels, was 71%. In 2004, of a total of 55 operating and covered channels, 44 exceeded this proportion and 8 performed below it. No data were supplied for three channels. The compliance rate, in terms of number of channels, was 80% in 2004.

The average relative proportion of recent European works for all channels of all types was 74.42% in 2003 and 78.10% in 2004, representing a 3.68 point increase over the reference period.

#### **2.18. Austria**

Three of the 12 reported channels were not operating in 2003. One channels was exempted for 2004. the data for one channel was not communicated over the reference period.

#### European works

All covered channels broadcast an average of 72.76% and 73.72% of European works in 2003 and 2004 respectively, representing an average increase of 0.96 points over the reference period and a decrease of 0.75 points over four years (2001-2004).

For 2003, of a total of 9 covered channels, 6 exceeded the majority proportion of transmission time laid down in Article 4 of the Directive. Two channels were below the threshold. The compliance rate, in terms of number of channels, was 67%. For 2004, of a total of 11 covered channels, 7 exceeded the majority proportion of transmission time laid down in Article 4 of the Directive. Three channels were below it. The compliance rate, in terms of number of channels, was 64%. Two channels failed to achieve the majority proportion for the entire reference period (ORF 1 and Premiere Österreich).

Specific reasons for the cases of non-compliance or measures that might have been taken or were envisaged to rectify the situation were not mentioned in the report.

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<sup>37</sup> Cf. second subparagraph of Article 4(3) of the Directive and point 2.2 of the suggested guidelines for the monitoring of the implementation of Articles 4 and 5 of the “Television without Frontiers” Directive, dated 11 June 1999.

<sup>38</sup> This considerable drop was to a large extent due to non-fulfilment of the reporting obligation for a number of channels in 2001.

The Commission observes that Austria is in the specific situation of a country with low audiovisual production capacity, and takes account of the progress that has been achieved in the scheduling of European works in two of the three channels concerned (Premiere Österreich and ORF 1). The latter channel, however, has repeatedly failed to meet the majority proportion. It has to be pointed out that one of the reasons for the proportion defined in Article 4(1), which applies each year, is to ensure equal competition between all television programmes of broadcasters falling within the jurisdiction of the Member State concerned<sup>39</sup>.

#### European works made by independent producers

The average proportion reserved for European works by independent producers for all channels was 44.95% in 2003 and 46.38% in 2004, representing a 1.43 point increase over the reference period and a considerable decrease of 14.72 points over four years (2001-2004).

All covered and operative channels exceeded the minimum of 10% allocation to works by independent producers. The data for one channel were not communicated for both years of the reference period. The compliance rate, in terms of number of channels, was 88% in 2003 and 91% in 2004.

The average relative proportion of recent European works for all channels was 80.83% in 2003 and 84.94% in 2004, representing an increase of 4.11 points over the reference period.

### **2.19. Poland**

Eight out of 52 reported channels were exceptionally exempted from their obligations under Articles 4 and 5 on the basis of Article 9 (local channels).

#### European works

All 44 covered channels broadcast an average of 77.77% European works in 2004.

39 channels exceeded the majority proportion of transmission time laid down in Article 4 of the Directive, while 5 were below the threshold. The compliance rate, in terms of number of channels, was 89%.

The reasons for non-compliance indicated in the report mainly concerned difficulties of broadcasters to adapt programmes to the new legal requirements and other transitional problems. The report indicated that certain special-interest channels had to fulfil lower proportions as laid down in a national regulation. In this respect, the Commission points out that the special interest nature of a programme alone cannot justify a *general* exemption from, or the lowering of the legally defined majority proportion of Article 4 of the Directive. Specific reasons, which are in line with the relevant provision at Community level, have to be given for each case of exemption.

#### European works made by independent producers

The average allocation to European works by independent producers for all channels was 27.69% in 2004. The compliance rate, in terms of number of channels, was 86%.

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<sup>39</sup> Cf. the second paragraph of Article 4(3) of the Directive and point 2.2 of the suggested guidelines of 11 June 1999 for the monitoring of the implementation of Articles 4 and 5 of the “Television without Frontiers” Directive.

The average relative proportion of recent European works by independent producers for all channels was 58.41% in 2004.

## **2.20. Portugal**

Three out of 24 reported channels were not operating in 2003. One channel was not operating in 2004. Nine channels were exempted for the reference period.

### European works

All covered channels broadcast an average of 64.56% and 62.32% of European works in 2003 and 2004 respectively, representing an average -2.24 point decrease over the reference period and an increase of 15.34 points over four years (2001-2004).

For 2003, of a total of 12 channels covered by Article 4 of the Directive, nine exceeded the majority proportion of transmission time laid down in Article 4 of the Directive. Three channels failed to meet the majority proportion of transmission time. The compliance rate, in terms of number of channels, was 75%. For 2004, of a total of 14 operative and covered channels, 9 exceeded the majority proportion of transmission time laid down in Article 4 of the Directive. Five channels failed to meet the proportion of transmission time. The compliance rate, in terms of number of channels, was 64%.

The report mentions that the competent authorities have established an ongoing dialogue with the broadcasters. Further, the competent authorities prefer not to apply penalties, as they are aware that such measures may have adverse effects on operators and may possibly run counter to the “strictly recommendatory objectives of the Directive.”

As regards the average transmission time of European works, the Commission notes that considerable progress has been made by channels under Portuguese jurisdiction. Compared with the previous reference periods, when the averages were constantly below 50%, during this reference period the majority proportion is being comfortably exceeded on average by channels under Portuguese jurisdiction. Also, the Commission observes that compared to the previous reference period there has been considerable improvement in the proportion scheduled by TVI, which has a large audience share on the Portuguese market.

Further, the Commission would point out that Articles 4 and 5 generate legal obligations which apply, where practicable and appropriate, to each television programme falling within the jurisdiction of the Member State concerned.

### European works made by independent producers

The average allocation to European works by independent producers for all channels was 27.66% in 2003 and 25.57% in 2004, representing a -2.09 point decrease over the reference period and a bigger decrease of -15.96 points over four years (2001-2004).

In 2003, of a total of 12 channels covered by Article 5 of the Directive, 7 exceeded the minimum proportion of 10% laid down in Article 5 of the Directive. Five channels were below the threshold. In 2004, 11 out of 13 exceeded this threshold, while 2 channels failed to reach the minimum proportion. The compliance rate, in terms of number of channels, rose from 58% in 2003 to 85% in 2004.

The average relative proportion of recent European works was 82.68% in 2003 and 73.52% in 2004, representing a -9.16 point decrease over the reference period.



## **2.21. Slovenia**

41 out of 52 reported channels were exceptionally exempted from their obligations under Articles 4 and 5 in 2004 (local channels). Two channels were not operating in 2004.

### European works

All 9 channels covered by Article 4 broadcast an average of 53.23% European works in 2004.

In 2004, 5 covered channels exceeded the majority proportion of transmission time laid down in Article 4 of the Directive, while 3 were below the threshold. The data for one channel were not communicated. The compliance rate, in terms of number of channels, was 56%.

The Commission notes that Slovenia is a country with low audiovisual production capacity and restricted language area.

### European works made by independent producers

The average allocation to European works by independent producers for all channels was 16.24% in 2004. Six channels broadcast more than 10% of independent productions. Two were below the minimum proportion. The data for one channel were not communicated. The compliance rate, in terms of number of channels, was 67%.

The average relative proportion of recent European works by independent producers for all channels was 69.33% in 2004.

## **2.22. Slovakia**

### European works

All 4 reported and covered channels broadcast an average of 64.33% European works in 2004.

In 2004, all 4 channels exceeded the majority proportion of transmission time laid down in Article 4 of the Directive. The compliance rate, in terms of number of channels, was 100%.

### European works made by independent producers

The average allocation to European works by independent producers for all channels was 25.75% in 2004. The average transmissions of all 4 channels were above the minimum proportion set in Article 5. The compliance rate, in terms of number of channels, was 100%.

The average relative proportion of recent European works by independent producers for all channels was 100% in 2004.

The Commission takes note of these positive results.

## **2.23. Finland**

In 2003 and 2004, respectively three and two of the nine reported channels were exceptionally exempted due to the nature of their programmes (sports, news) and pursuant to Article 9 (local channel).

### European works

All reported channels covered by Articles 4 broadcast an average of 77.50% and 70.48 % of European works in 2003 and 2004 respectively, representing an average 7.02 point decrease over the reference period. Compared with the previous reference period, there was an insignificant -0.02 change in the average allocation to European works over four years (2001-2004).

In 2003, all 6 channels covered exceeded the majority proportion of transmission time laid down in Article 4 of the Directive. The compliance rate, in terms of number of channels, was therefore 100%. In 2004, 5 out of 7 channels exceeded the majority, 2 channels were below the 50% threshold. The compliance rate, in terms of number of channels, was therefore 71%.

The Commission notes that Finland is a country with low audiovisual production capacity and restricted language area.

### European works made by independent producers

The average allocation to European works by independent producers for all channels was 30.63% in 2003 and 29.96% in 2004, representing a -0.67 point decrease over the reference period and an increase of 1.46 points over four years (2001-2004).

Over the reference period as a whole, all covered channels referred to in the report exceeded the minimum proportion of 10% laid down in Article 5 of the Directive (percentages ranging from 25% to 43% in 2003 and from 21% to 47% in 2004). The compliance rate was 100% during the current preference period.

The average relative proportion of recent European works was 64.14% in 2003 and 66.63% in 2004, representing a 2.48 point increase over the reference period.

## **2.24. Sweden**

Four of the 23 reported channels were exceptionally exempted during the reference period. Eight and three channels were not operating in 2003 and 2004 respectively.

The report indicated that the channels which were exceptionally exempted were small niche channels with small audience shares whose programmes were solely focused on US entertainment content. In this respect, the Commission would point out that the special-interest nature of a programme alone can not justify a *general* exemption from the legally defined majority proportion set out in Article 4 of the Directive. Specific reasons, which are in line with the relevant provision at Community level, have to be given for each specific case of exemption. Thus, an exemption cannot generally be granted on the basis of the fact that a programme focuses on content of the US entertainment industry. Article 4(3) of the TWF Directive lays down a legal obligation for every Member State to provide a statistical statement on the achievement of the proportion referred to in Articles 4 and 5 for *each* of the television programmes falling within the jurisdiction of the Member State concerned.

### European works

All covered channels broadcast an average of 53.49% and 56.90% of European works in 2003 and 2004 respectively, representing an average 3.41 point increase over the reference period and a -2.18 decrease over four years (2001-2004).

For 2003, of 11 operating channels covered by Article 4 of the Directive, six exceeded the majority proportion of transmission time while the remaining five did not meet this proportion. The compliance rate, in terms of number of channels of all types, was 55%.

For 2004, of a total of 16 operating channels covered by Article 4, nine exceeded the majority proportion while seven channels did not meet this proportion. The compliance rate, in terms of number of channels of all types, was 56%.

The Commission would point out that the proportion of transmission time laid down in Article 4(1) applies each year to all the television programmes of broadcasters within the jurisdiction of the Member State concerned, with a view, in particular, to ensuring equal competition<sup>40</sup>.

#### European works made by independent producers

The average allocation to European works by independent producers for all covered channels was 43.00% in 2003 and 36.67% in 2004, representing a decrease of -6.33 points over the reference period and an increase of 1.27 points over four years (2001-2004).

In 2003, of a total of 11 channels covered by Article 5, 7 exceeded the minimum proportion of 10% laid down in Article 5 of the Directive. One channel was below this threshold. No data were supplied for 3 channels. The compliance rate, in terms of number of channels, was therefore 64% in 2003. In 2004, of a total of 16 covered channels, 9 exceeded the minimum 10% threshold while 3 channels failed to meet the minimum proportion. No data were supplied for 4 channels and no reasons for this were given in the report. The compliance rate, in terms of number of channels, was 56% in 2004.

The average relative proportion given over to recent European works was 71.17% in 2003 and 53.92% in 2004, representing a -17.25 point decrease over the reference period.

As already pointed out, Article 4(3) of the TWF lays down a legal obligation for every Member State to provide a statistical statement on the achievement of the proportion referred to in Articles 4 and 5 for each of the television programmes falling within the jurisdiction of the Member State concerned.

### **2.25. United Kingdom**

48 of 233 reported channels were not operating in 2003 and 8 channels ceased operation or were non-operational in 2004. This amounts to an increase of 49 reported channels over 4 years (2001-2004). Additionally, the report listed 79 channels which were exceptionally exempted.<sup>41</sup> These were channels broadcast in a language other than that of a Member State, teleshopping channels, news channels, channels consisting entirely of sports events and gaming channels.

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<sup>40</sup> Cf. second paragraph of Article 4(3) of the Directive and point 2.2 of the suggested guidelines for the monitoring of the implementation of Articles 4 and 5 of the “Television without Frontiers” Directive of 11 June 1999.

<sup>41</sup> Cf. United Kingdom, C) Further Comments, Annex 4.

## European works

All channels covered by Article 4 broadcast an average of 54% and 53% of European works in 2003 and 2004 respectively, representing an average -1.00 point decrease over the reference period and a decrease of -20.60 percentage points over four years (2001-2004).

For 2003, of a total of 185 channels covered<sup>42</sup> by Article 4, 95 exceeded the majority proportion of transmission time laid down in that Article. 80 channels broadcast a proportion of European works which was not above 50%. Data were not supplied for 10 channels. The compliance rate for channels of all types was 51%.

For 2004, of a total of 225 channels covered by Article 4 of the Directive, 101 exceeded the majority proportion of transmission time laid down in Article 4 of the Directive. 113 channels scheduled fewer European works than laid down in Article 4. No data were available for 11 channels. The compliance rate for channels of all types was 45%.

The Commission observes that the compliance rate of UK channels with regard to the scheduling of European works has dropped over four years by -10 percentage points. Considering that compliance was already at relatively low levels during the last reference period, these are poor results. UK is the only Member State with a compliance rate for the majority proportion under Article 4 which has dropped below 50% to only 45%. Even taking into account that the country-averages for the scheduling of European works are above 50% for both years, the compliance rate is an important additional performance indicator which helps to assess comprehensively the situation. The Commission would point out that the fact that transmission times reserved for European works on more than half of the operating channels under UK jurisdiction, which are covered by Article 4, fell below the 50% threshold required by that Article in 2004, should give rise to some concern.

## European works made by independent producers

The average allocation to European works by independent producers for all channels of all types was 32% in 2003 and 30% in 2004, representing a -2 point decrease over the reference period and a decrease of -2.43 points over four years (2001-2004).

In 2003, of a total of 185 channels covered by Article 5 of the Directive, 126 exceeded the minimum proportion of 10% laid down in that Article. 49 channels did not reach that proportion. The data for 10 channels were not communicated in the report. The compliance rate, in terms of number of all covered channels, was 68%.

In 2004, of a total of 225 channels covered by Article 5 of the Directive, 140 exceeded this proportion, while 74 channels did not reach it. The data for 11 channels were not communicated. The compliance rate, in terms of number of channels covered by Article 5, fell to 62% in 2004.

The average relative proportion given over to recent European works by independent producers for all channels was 68% in 2003 and 63% in 2004, representing a -5 point decrease over the reference period.

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<sup>42</sup> This does not include the 79 channels which were exempted by the report due to the nature of their programmes and the 48 channels which were non operational in 2003.

The main reasons for the cases of non-compliance were given in the report: the subject matter of the channel, the recent nature of the channel, the difficulty in finding European programmes or in finding them at competitive prices, subsidiaries of companies based in non-member countries broadcasting programmes mostly from their own stock.

With regard to the channels for which the report did not supply data, the Commission observes that Article 4(3) of the TWF lays down a legal obligation for every Member State to provide a statistical statement on the achievement of the proportion referred to in Articles 4 and 5 for each of the television programmes falling within the jurisdiction of the Member State concerned.

As regards the large number of cases of non-compliance under Articles 4 and 5, the Commission takes note of the specific reasons stated in the report for each case and of the broadcasters' intentions in most cases, in line with the principle of progressive achievement, to improve their proportions in the scheduling of European works. However, some of the reasons which were given in the report, for instance that some broadcasters have difficulties in finding European works (at competitive prices), are in principle not acceptable. The Commission observes that the proportions of transmission time laid down in Article 4(1) and Article 5 applies each year to each of the television programmes of broadcasters within the jurisdiction of the Member State concerned.

## **BACKGROUND DOCUMENT 4 - Summary of the reports from the Member States**

Keys:

<b>EW</b> European works / TQT <sup>43</sup> (cf. Article 5 TWF Directive)	<b>P</b> European works made by independent producers / TQT <b>RW</b> Recent European works by independent producers / IP (cf. Article 5 TWF Directive)
<b>TQT</b> Total qualifying transmission time (excluding news, sport events, games, advertising, teletext services and teleshopping)	

<b>AS</b>	Audience share of channels
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<b>E</b>	Audience share figures not freely available. Estimated at less than 1%.
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<b>NC</b>	Channels for which NO data were communicated
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<b>NO</b>	channels not-operative during the period concerned
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<b>Type</b>	Channel type: public service, commercial, niche, interactive, near video-on demand, teleshopping, news, sports, other
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<b>TM</b>	Transmission mode: (digital) terrestrial, satellite, cable, ADSL
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<b>EXC</b>	channels exceptionally exempted <sup>44</sup> or discharged under "where practical" clause (specific reasons to be given by MS)
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<sup>43</sup> Cf. Article 6 TWF Directive

<sup>44</sup> The reporting obligation under Article 4(3) applies to all transmissions by broadcasters within the jurisdiction of a Member State, with the following exceptions: Articles 4 and 5 do not apply to “news, sports events, games, advertising, teletext services and teleshopping”. Article 9 states that Articles 4 and 5 do not apply to “television broadcasts that are intended for local audiences and do not form part of a national network”. Recital 29 of the Directive 97/36/EC states that “channels broadcasting entirely in a language other than those of the Member States should not be covered by the provisions of Articles 4 and 5”. Article 2(6) states that the Directive 97/36/EC does not apply to broadcasts intended exclusively for reception in third countries, and which are not received directly or indirectly by the public in one or more Member States.

## BELGIUM

*The Commission received two reports, one from Belgium's French Community (BE-FR – Communauté française de Belgique) and one from the Flemish Community (BE-FL – Vlaamse Gemeenschap). No report was received from the German-speaking Community (Deutschsprachige Gemeinschaft).*

Total number of reported channels	Reference period	Method(s) of monitoring
Flemish channels: 26 French speaking channels: 13	2003 / 2004	BE-FL: Reports from the broadcasters BE-FR: Overall figures or sampling

### I. Proportions from Flemish (Dutch speaking) channels (BE-FL)

BE-FL	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Broadcaster	Channel	2003	2004	2003	2004	2003	2004
VRT	Tv1 / Eén	78%	77%	15%	15%	91%	89%
	Ketnet/Canvas	68%	NO	11%	NO	88%	NO
	Ketnet	NO	57%	NO	13%	NO	87%
	Canvas	NO	85%	NO	7%	NO	88%
	Sporza	NO	100%	NO	94%	NO	99%
VMMa	VTM	48%	58%	30%	38%	68%	75%
	Kanaal Twee	38%	41%	32%	34%	97%	97%
	Jim Tv	100%	94%	17%	19%	100%	100%
SBS Belgium	VT4	24%	25%	23%	24%	96%	94%
	Vijf Tv	NO	23%	NO	14%	NO	96%
Media Infinitum	Vitaya	76%	72%	10%	15%	100%	100%
Event Vlaanderen	LibertyTv.Com	70%	84%	70%	65%	100%	100%
Belgian Business Tv nv	Kanaal Z	100%	100%	100%	100%	100%	100%
Pay Tv Co	Canal+ Rood	26%	26%	23%	23%	99%	99%
	Canal+ Blauw	26%	24%	25%	24%	99%	99%
	Canal+16/9	26%	NO	26%	NC	99%	NC
	Canal+ Geel	NO	31%	NO	31%	NO	99%

BE-FL	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Broadcaster	Channel	2003	2004	2003	2004	2003	2004
	Fezztival	NO	13%	NO	13%	NO	99%
Mediacom NV	TV 2000	NO	NO	NO	NO	NO	NO
NV Network Tv	Network Tv	NO	NO	NO	NO	NO	NO
BVBA Actua TV	Actua Tv	NO	NO	NO	NO	NO	NO
MTV Networks Belgium	TMF Vlaamse editie	NO	NC	NO	NC	NO	NC
NV Euro 1080	Euro 1080	NO	NO	NO	NO	NO	NO
Canal Plus NV	Canal+ Rood Nederland	NO	31%	NO	30%	NO	99%
	Canal+ Blauw Nederland	NO	25%	NO	25%	NO	99%
	Canal+16/9 Nederland	NO	28%	NO	27%	NO	99%

**A) Reasons given by Member State for failure to reach proportions**

Majority proportion of European works (Article 4)

**VMMa**

- VTM: The percentage rose from 48% in 2003 to 58% in 2004. This is a clear sign that the channel is making the necessary efforts to offer European productions.
- Kanaal Twee: *Kanaal 2* (Channel 2) does not reach the 50% European productions target (41% in 2004). It should, however, be noted that this percentage is increasing compared to years past.
- Jim Tv: This channel targets primarily young people and has a remarkably high percentage of European productions.

When the three channels of the Vlaamse Mediamaatschappij (VMMa – Flemish Media Company) are taken as a whole, the Article 4 objectives are achieved. For that reason, the Flemish Community does not consider it necessary to take additional measures.

**SBS Belgium**

- VT4: The 50% target has not been reached. There has been a slight increase, however: 22% in 2002, 24% in 2003 and 25% in 2004. *VT4* is, however, a small player on the market. Local and European productions are quite expensive and require extra investment. *VT4* therefore makes sure that European productions are broadcast during primetime. Investments in European productions will be increased in the future, and the channel



wishes to project a more Flemish image. *VT4* began as a British channel and since 2002 has been recognised as a Flemish channel.

- *Vijf Tv*: With 23% European productions, *Vijf Tv* (Five TV) does not reach the target percentage. However, *Vijf Tv* only began operations on 1 October 2004. It has limited broadcasting time and resources. Its budget goes primarily towards broadcasting bought-in programmes. In the future, greater resources will be spent on local and European productions.

Overall, SBS Belgium does not achieve the Article 4 targets. *VT4* does show a slight increase and says that in the future it will invest more in European and local productions. The Flemish Media Authority will monitor the degree to which this objective is achieved. At the current time, NO conclusions can be drawn concerning *Vijf Tv*.

### **PayTvCo**

PayTvCo, formerly *Canal + Televisie*, is a pay television broadcaster that spreads its programmes over three channels. In 2004, the name *Canal + 16/9* was replaced by *Canal + Geel* (Canal + Yellow). On 15 October 2004, PayTvCo received an award for its pay channel *Fezztival*.

None of the four channels achieves the 50% European productions target. Given the specific nature of these pay channels, it is not easy for them to reach the quota standard. Nor is it not necessary to intervene.

#### **1. Minimum proportion of European works by independent producers (Article 5)**

In this regard, just one observation can be made with respect to public broadcaster VRT, specifically the channel *Canvas*, for 2004.

VRT's second channel is shared by *Ketnet* (aimed at children and young people) and *Canvas* (information, culture, education). During the summer of 2004, a part of the broadcasting time on the second channel was also occupied by *Sporza*. *Sporza* is a temporary sports channel whose aim is to offer viewers as many sport-related programmes as possible, focusing on the Olympic Games and European Championship football. 2004 figures for the second channel reflect *Canvas*, *Ketnet* and *Sporza*.

*Canvas*'s programming did not reach the target. When the second channel is taken as a whole, the Article 5 provisions were more than met.

***B) Measures taken or envisaged by the Member State : No observations***

***C) Further comments***

The media landscape in Flanders consists of one public broadcaster, private broadcasters targeting the entire Flemish Community and one pay-TV broadcaster. Regional broadcasters do not fall under the scope of Articles 4 and 5.

## II. Proportions from French speaking channels (BE-FR)

BE-FR	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Broadcaster	channel	2003	2004	2003	2004	2003	2004
RTBF (1)	La Une	68,76%	71,40%	21,84%	38,95%	83,29%	58,20%
RTBF (2)	La Deux	88,77%	91,62%	31,67%	22,45%	86,90%	85,71%
TVi S.A.	RTL-TVi	45,76%	55,40%	23,54%	23,80%	73,80%	62,03%
TVi S.A.	Club RTL	49,00%	32,30%	23,35%	28,70%	44,02%	67,84%
TVi S.A.	Plug TV	NO	47,95%	NO	23,50%	NO	97,50%
BTV S.A.	AB3	54,00%	53,00%	46,90%	28,60%	82,60%	12,68%
BTV S.A.	AB4	NO	43,30%	NO	34,80%	NO	24,75%
BeTV S.A.	Canal+	47,00%	57,60%	40,10%	48,20%	92,60%	98,19%
BeTV S.A.	Canal+Jaune	43,20%	51,90%	42,30%	51,60%	95,32%	98,70%
BeTV S.A.	Canal+Bleu	48,90%	59,70%	42,30%	50,80%	94,60%	99,36%
MCM Belgique	MCM	57,32%	53,86%	52,61%	42,15%	67,60%	87,32%
Event Network	Liberty TV	100,00%	100,00%	6,71%	11,91%	100,00%	100,00%
Belgian Business TV	Canal Z	EXC	EXC	EXC	EXC	EXC	EXC

### A) Reasons given by Member State for failure to reach proportions

#### 1. European works (article 4):

##### RTL TVI, CLUB RTL and PLUG TV

In the 2003 fiscal year, the overall quota for the two TVI channels operational during this period, RTL-TVi and CLUB RTL, was 47.96%.

In the 2004 fiscal year, the overall quota for the three TVI s.a channels operational during this period, RTL-TVi, CLUB RTL and PLUG TV, was 43.4%.

These two proportions are above the threshold set as the minimum level for the Belgian French Community (41.6%).

Among its reasons for failure to attain the required proportions, the station points to the fact that CLUB RTL is a topic-based channel, and that PLUG TV is new and broadcasts very audience-specific programmes, which has prevented it from drawing precise conclusions in terms of European quotas.

#### CANAL +, CANAL + Jaune and CANAL + Bleu:

In 2003 the overall proportion of the three channels broadcast by Be TV (formerly Canal+ Belgium) was 46.37%, higher than the threshold set as **the minimum** level for the Belgian French community (41.6%)

The station stated that in the 2003 financial year it was dependent on feature film releases, which were mainly American. Furthermore, some eligible European programmes previously acquired from its former parent company have been taken off air.

The station stated that, as of 2004, it had also put in place an internal monitoring system enabling it to react more quickly to statistical increases in the European works it broadcasts.

#### AB3 and AB4

The two channels operated by BTV (formerly YTV) have an overall quota of 49.9% for the 2004 financial year, therefore exceeding the minimum level required and practically meeting the majority proportion required.

Independent producers:

#### LIBERTY TV

This themed channel focuses on internally produced tourism documentaries and studio productions. From a starting point of 6.71% in 2003, the broadcaster rectified the situation in 2004 achieving a proportion of 11.91%.

Recent works:

#### LIBERTY TV

The proportion is included in the proportion of independent works described below.

### ***B) Measures taken or envisaged by the Member State***

#### RTL-TV, CLUB RTL and PLUG TV

In its 2003 annual audit report, the Authorisation and Supervisory Board of the Conseil supérieur de l'audiovisuel (CSA) noted the failure to comply with a majority proportion of European works during the 2003 financial year. Noting the broadcasters' compliance with the threshold set as the minimum levels required, the Board stated that it would pay particular attention to compliance with the majority proportion, which became obligatory from 2004, and sent a warning to this effect to the broadcaster.

In its 2004 annual audit report, the CSA's Authorisation and Supervisory Board noted the failure to comply with a majority proportion of European works in the 2004 financial year.

As this majority proportion had then become mandatory, it opened infringement proceedings.

### LIBERTY TV:

In its 2003 annual audit report, the CSA's Authorisation and Supervisory Board noted that the broadcaster failed to comply with a majority proportion of independent and recent European works in the 2003 financial year. As it became mandatory to attain this proportion only from 2004, the Board stated that it would pay particular attention to compliance with this rule from 2004, and to this end sent a warning to the broadcaster.

The station remedied the situation in 2004.

### CANAL +, CANAL + Jaune and CANAL + Bleu:

In its 2003 annual audit report, the CSA's Authorisation and Supervisory Board noted that the broadcaster failed to comply with a majority proportion of European works in the 2003 financial year. Noting that the broadcaster complied with the minimum levels required, the Board stated that it would pay particular attention to compliance with the majority proportion, which became mandatory from 2004, and sent a warning to this effect to the broadcaster.

The broadcaster remedied the situation in 2004.

### AB3 and AB4

The CSA's Authorisation and Supervisory Board noted, in its 2004 annual audit report, that in the 2004 financial year the BTV s.a. station failed to comply with the 10% proportion of recent independent European works, both individually for AB3 (3.6%) and AB4 (8.6%) and for these services as a whole (5.2%). As this majority proportion has now become mandatory, it has opened infringement proceedings.

### ***C) Further comments***

1. In the Belgian French community, the CSA monitors compliance with the different European quotas based on the following factors: an annual declaration made by broadcasters; sending a sample of one week of programmes per quarter, which is defined after broadcasting by the regulatory body, using an electronic chart and dated and categorised data; an audit of calculation methods; checking the data against the published programme schedules and, from 2004, against a sample of programmes stored on a monitoring system; lastly, in cases of non-compliance, an investigation procedure, hearing and a decision taken by the independent authority accompanied by a penalty. The CSA may also impose penalties if stations fail to communicate the appropriate data. The audit reports and any decisions taken by the CSA in the event of non-compliance are published, specifically on its website: [www.csa.be](http://www.csa.be)
2. The legal requirements for quotas of European works have been strengthened by the new Broadcasting Act of 27 February 2003 which was fully applicable to the 2004 financial year. The majority proportion of European works, as well as the proportion of independent works (10%) and recent works (10%), is now compulsory.

## Article 43

*§1 The Belgian station for the French community, RTBF, and other broadcasting services shall ensure that the majority proportion of their time on air is dedicated to European works, including original works by authors from the French community, with the exception of time for news programmes, sports events, games, advertising, advertising own programmes, teleshopping or teletext services.*

*§2. The broadcasting services referred to in §1 shall ensure that 10 percent of all transmissions consists of European works by independent producers of broadcasting services, including independent producers from the French community, with the exception of time for news programmes, sports events, games, advertisements, advertising own programmes, teleshopping and teletext services.*

*These works may not have been produced more than 5 years before they are first broadcast.*

*§3. This article shall not apply to broadcasting services aimed at a local audience and which are not part of a national network. Nor shall it apply to television broadcasting services which exclusively use a language other than the languages which are official or recognised by the Member States of the European Union and whose programmes are aimed exclusively at being picked up outside the European Union and which are not received directly or indirectly by audiences in one or more Member States.*

3. The report has been presented and submitted for comments to the associations representing the independent production and other production sectors. The following observations were made at this hearing: there was support for the quality control work carried out by the CSA; the non-linear services such as on-demand video services should also be required to comply with the various European quotas; the concept of a work should be better defined with reference to artistic criteria; there are worrying signs in terms of support for independent production which elucidate the wish of one major station targeting the public in the French community and established for a long time on Francophone territory to be subject to Luxembourg jurisdiction.

## CYPRUS

<i>Total number of reported channels</i>	<i>Reference period</i>	<i>Monitoring method</i>
7	01.05.2004 – 31.12.2004	Sampling

CY	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Broadcaster	Channel	2003	2004	2003	2004	2003	2004
Cyprus Broadcasting Corporation	CyBC-1		60		58		24
Cyprus Broadcasting Corporation	CyBC-2		30		29		9
ANTENNA LTD	Antenna		55		52		30
PLIROFORIAKI & POLITISTIKI ETERIA "O LOGOS" O.E.	Mega		72		69		36
SIGMA RADIO TV PUBLIC LTD	Sigma		35		12		12
LUMIERE TV LTD	Lumiere TV		EXC		EXC		EXC
RADIOTILEOPTIKI ETERIA APLHA LTD	Alpha TV		EXC		EXC		EXC

### *A) Reasons given by Member State for failure to reach proportions*

#### 1. Majority proportion of European works (Article 4)

##### CyBC-2

CyBC-2 is considered to be the sports and recreational oriented channel of the public broadcasting service. From this point of view, its programme orientation justifies its low percentage of 29,6% of European works. CyBC-1 however, which is also operated by the public broadcasting corporation, has achieved a quite satisfying percentage of 60,3% in European works.

##### Sigma

Sigma channel has indeed transmitted a low percentage of European Works during the reported period. The Cyprus Radio – Television Authority will come in contact with the channel in order to find ways to increase its percentage.

#### 2. Minimum proportion of European works by independent producers (Article 5)

No observations

***B) Measures taken or envisaged by the Member State***

The measures that the Authority is considering in taking towards increasing the level and percentages of European works being broadcasted from all TV channels under its jurisdiction are:

- Communicate with all national TV channels with the purpose of identifying problems and give the appropriate solutions in order to maintain and/ or increase the percentages of European works accordingly.
- Award a new special prize during its Annual Award Ceremony for the TV channel that achieved the highest percentage in European works within that specific year.

***C) Further comments:*** No observations

## CZECH REPUBLIC

<i>Total number of reported channels</i>	<i>Reference period</i>	<i>Monitoring method</i>
18	01.05.2004 – 31.12.2004	

<b>CZ</b>	<b>←MS</b>	<b>EW (% of TQT)</b>		<b>IP (%TQT)</b>		<b>RW (%IP)</b>	
<b>Broadcaster</b>	<b>channel</b>	2003	2004	2003	2004	2003	2004
FTV Prima	Prima		62%		28%		100%
CET 21	Nova		52%		26%		27%
CT	CT 1		82%		9%		65%
CT	CT 2		90%		12%		68%
Region Media	24.cz		EXC		EXC		EXC
Galaxie sport	Galaxie sport		EXC		EXC		EXC
Česká programová společnost/Spektrum			69%		NC		NC
Česká programová společnost/Supermax			67%		NC		NC
HBO ČR	HBO		19%		NC		NC
HBO ČR	HBO 2		20%		NC		NC
HBOČR	HBO (Croatia,Slovenia)		15%		NC		NC
HBO ČR	Cinemax		NO		NO		NO
HBO ČR	Cinemax 2		NO		NO		NO
HBO PP	HBO		24%		NC		NC
HBO PP	HBO 2		24%		NC		NC
OCT Network	OCT.TV		NO		NO		NO
Minimax Media	A+		NO		NO		NO
Stanice O	O (óčko)		67%		37%		91%



## ***A) Reasons given by Member State for failure to reach proportions***

### **1. Majority proportion of European works (Article 4)**

- a) when the channel commenced broadcasting in the reference period:

HBO (Croatia, Slovenia), HBO (HBO PP), HBO 2 (HBOPP)

- b) difficulty in finding European programmes or in finding European programmes at competitive prices and therefore not appropriate to apply the quotas:

HBO (Czech version), HBO 2 (Czech version)

### **2. Minimum proportion of European works by independent producers (Article 5)**

- a) when the channel commenced broadcasting in the reference period:

HBO (Croatia, Slovenia), HBO (HBO PP), HBO 2 (HBOPP)

- b) when the channel finished broadcasting

Supermax

- c) difficulty in finding European programmes or in finding European programmes at competitive prices and therefore not appropriate to apply the quotas

HBO (Czech version), HBO 2 (Czech version)

- d) wrong qualification of the “independent producer”

The case of misunderstanding of Czech television when it used different qualification of the notion of the independent producer. The matter was clarified and in the future there should not be a problem (for the first half of 2005 Czech television had 14,1% of IP)

- e) unable to identify producer

## ***B) Measures taken or envisaged by the Member State***

Regarding the programmes which failed to fulfil the quotas under Art. 4 and 5 of the TVWF directive the competent authority will enter into dialogue with the broadcasters in order to improve the situation, unless the fulfilment of these proportions should prove to be not feasible in the light of the special nature of these programmes.

Clarification of the notion “independent producer” will help Czech television to fulfil the quota.

## ***C) Further comments*** : No observations

## DENMARK

<i>Total number of reported channels</i>	<i>Reference period</i>	<i>Monitoring method</i>
22	2003 / 2004	

DK	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Broadcaster	channel	2003	2004	2003	2004	2003	2004
DR	DR 1	82%	84%	14%	16%	63%	53%
DR	DR 2	84%	85%	16%	16%	63%	53%
TV 2/DANMARK A/S	TV 2	55%	54%	41%	42%	79%	78%
TV 2 Zulu A/S	TV 2 Zulu	36%	31%	30%	25%	58%	63%
TV 2 Charlie A/S	TV 2 Charlie	NO	92%	NO	83%	NO	54%
TV/MiDTVEST	TV/MIDTVEST	100%	100%	23%	11%	100%	100%
TV2/NORD	TV2/NORD	100%	100%	NC	NC	NC	NC
TV SYD	TV SYD	100%	100%	17%	25%	100%	100%
TV 2/ØSTJYLLAND	TV 2/ØSTJYLLAND	100%	100%	0%	0%	NC	NC
TV 2 LORRY	TV 2 LORRY	100%	100%	0%	0%	NC	NC
TV 2/FYN	TV 2/FYN	100%	100%	NC	NC	NC	NC
TV2 ØST	TV 2 ØST	100%	100%	0%	0%	NC	NC
TV 2/BORNHOLM	TV 2/BORNHOLM	100%	100%	0%	0%	NC	NC
CIAC Holding	DK4	100%	100%	12%	11%	100%	100%
NORDJYSKE Medier	24NORDJYSKE	100%	100%	23%	20%	100%	100%

DK	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Broadcaster	channel	2003	2004	2003	2004	2003	2004
SBS BROADCAST DANMARK	TV DANMARK	36%	35%	30%	30%	100%	100%
CIAC A/S	4Sport	NO	NO	NO	NO	NO	NO
Mesopotamia Broadcast A/S	ROJ TV	EXC	EXC	EXC	EXC	EXC	EXC
Mesopotamia Broadcast A/S	METV	EXC	EXC	EXC	EXC	EXC	EXC
Mesopotamia Broadcast A/S	MMC	EXC	EXC	EXC	EXC	EXC	EXC
Mesopotamia Broadcast A/S	NUCE	EXC	EXC	EXC	EXC	EXC	EXC
Dan Toto A/S	DanToto Racinglive	EXC	EXC	EXC	EXC	EXC	EXC

***A) Reasons given by Member State for failure to reach proportions***

1. Majority proportion of European works (Article 4)

Two channels, which had audience shares of 2% and 4% respectively in 2004, are broadcasting less than 50% in 2005.

2. Minimum proportion of European works by independent producers (Article 5)

Four regional TV 2 channels (see section C) do not broadcast any programmes produced by independent producers. These are channels which primarily broadcast locally produced news and current affairs programmes.

***B) Measures taken or envisaged by the Member State***

The Radio and Television Board intends to impress on the two channels on which European works account for less than 50% of programmes broadcast that they must aim to ensure that more than half of their airtime which is not taken up by news programmes, coverage of sports events, competitions and teleshopping is allocated to European programmes.

### ***C) Further comments***

The eight regional TV 2 channels (TV/MIDTVEST, TV2/NORD, TV SYD, TV 2/ØSTJYLLAND, TV 2 LORRY, TV 2/FYN, TV2 ØST, TV 2/BORNHOLM) broadcast between 30 minutes and one hour a day in slots on TV 2's terrestrial channel. This is the first time information has been submitted on these programmes, which are mainly locally produced news and magazine programmes. Some of the regional channels have been unable to make a distinction between magazine programmes and news programmes.

TV 2 says that, when defining independent producers, they have applied the definitions of parent and subsidiary company found in company law, as specified in Section 2 of the Public Limited Companies Act (*aktieselskabslov*) and Section 2 of the Private Limited Companies Act (*anpartsselskabslov*). However, the TV 2 regions are considered to be non-independent producers.

TV 2 Charlie was launched on 1 October 2004

The following channels are not included in the statistical summary:

- 4 Sport, launched on 1 January 2005
- ROJ TV, broadcasts exclusively in Kurdish
- METV, broadcasts exclusively in Kurdish
- MMC, broadcasts exclusively in Kurdish
- NUCE, broadcasts exclusively in Kurdish
- DanToto Racinglive, broadcasts sports news only.

## GERMANY

<i>Total number of reported channels</i>	<i>Reference period</i>	<i>Monitoring method</i>
34	2003 / 2004	<p>Reports from public service broadcasters</p> <p>Commercial channels were reported by regulators</p>

DE	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Broadcaster	channel	2003	2004	2003	2004	2003	2004
ARD	ARD	91%	91%	34%	35%	88%	85%
ZDF	ZDF	87%	85%	25%	25%	76%	68%
ARD/ZDF	Phoenix	99%	99%	1%	1%	1%	1%
ARD/ZDF	Kinderkanal	83%	83%	43%	44%	83%	80%
ARD/ZDF/ORF/SRG	3sat	96%	96%	33%	32%	83%	83%
Euvia Media AG	9Live	100%	100%	10%	10%	100%	100%
Discovery Communication Deutschland GmbH	Animal Planet	NO	30%	NO	40%	NO	90%
Bibel TV Stiftung GmbH	Bibel TV	85%	85%	85%	85%	85%	85%
Bloomberg L.P.	Bloomberg TV	100%	100%	0%	0%	0%	0%
Discovery Communication Deutschland GmbH	Discovery Channel	45%	42%	25%	30%	95%	95%
Disney Channel BUENA VISTA (Germany GmbH)	Disney Channel	30%	34%	8%	12%	30%	34%
DSF Deutsches SportFernsehen GmbH	DSF	91%	97%	59%	65%	99%	99%
ProSiebenSat1 Media AG	Kabel 1	23%	24%	23%	24%	16%	18%
MTV Networks GmbH&CoKG	MTV	34%	32%	24%	23%	90%	87%

DE	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Broadcaster	channel	2003	2004	2003	2004	2003	2004
ProSiebenSat1 Media AG	N24	31%	40%	25%	29%	100%	97%
n-tv Nachrichtensender	n-tv	98%	95%	60%	57%	99%	99%
Premiere	Premiere	30%	30%	30%	30%	75%	75%
ProSiebenSat1 Media AG	ProSieben	57%	65%	45%	52%	69%	70%
RTL Television GmbH	RTL	75%	80%	57%	66%	72%	79%
RTL2 Fernsehen GmbH&CoK	RTL2	34%	43%	32%	41%	71%	76%
ProSiebenSat1 Media AG	SAT 1	78%	83%	65%	83%	74%	75%
RTL Disney Fernsehen GmbH	Super RTL	29%	35%	29%	35%	80%	80%
Tele 5 TM-TV GmbH&Co KG	Tele 5	35%	60%	35%	60%	32%	56%
ONYX Television GmbH	Terra Nova	NO	75%	NO	71%	NO	NC
VIVA Fernsehen GmbH	VIVA	36%	38%	20%	23%	86%	88%
VIVA Plus Fernsehen GmbH	VIVA Plus	45%	52%	36%	43%	93%	94%
VOX Film-und Fernsehen GmbH&CoKG	VOX	46%	44%	34%	34%	96%	91%
DCTP Entwicklungsgesellschaft für TV Programm mbH und SpiegelTV GmbH	XXP	95%	96%	98%	98%	67%	69%
	Hamburg 1	EXC	EXC	EXC	EXC	EXC	EXC
	RNFplus	EXC	EXC	EXC	EXC	EXC	EXC
	tv.münchen	EXC	EXC	EXC	EXC	EXC	EXC
	Tele 5	EXC	EXC	EXC	EXC	EXC	EXC

DE	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Broadcaster	channel	2003	2004	2003	2004	2003	2004
	TV III a	EXC	EXC	EXC	EXC	EXC	EXC
	tv.berlin	EXC	EXC	EXC	EXC	EXC	EXC

***A) Reasons given by Member State for failure to reach proportions***

Phoenix	Special-interest broadcaster, event coverage and documentary channel
Animal Planet	Special-interest broadcaster, documentary channel
Discovery Channel	Special-interest broadcaster, documentary channel
Kabel 1	Specific programming focus: motion picture classics from the 1950s to 1980s
N 24	Special-interest broadcaster, news broadcaster; as of 2003, also broadcasts Discovery Channel documentaries
Premiere	Special-interest broadcaster, pay TV, subscription TV, some channels well above quota requirements
RTL 2	-
Super RTL	Special-interest broadcaster, children's broadcaster, 50% owned by Disney
Terra Nova	Special-interest broadcaster for nature documentaries, programming is centralised and in Paris
Viva	Special-interest broadcaster, music broadcaster
Viva Plus	Special-interest broadcaster, music broadcaster
Vox	-

***B) Measures adopted or envisaged by the Member State***

Where channels have failed to achieve the proportions laid down in Articles 4 and 5 of the EC Directive, the German authorities have entered into talks with the relevant broadcasters to discuss the situation (provided that the failure to achieve these proportions was not due to the specialised nature of the channels in question). In some cases, these talks have already had some initial success. However, during the period concerned, the economic situation of private television broadcasters has worsened due to a general decrease in revenue from advertising.

***C) Further comments***

Local broadcasters which are exempted by Article 9 of the TVWF Directive:

Hamburg 1, RNF Plus, TV München, Tele 5, TV III a, TV Berlin.

## ESTONIA

<i>Total number of reported channels</i>	<i>Reference period</i>	<i>Monitoring method</i>
3	01.05.2004 31.12.2004	Daily monitoring, carried out by the independent research company TNS  EMOR

EE	←MS	TM	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Broadcaster	channel		2003	2004	2003	2004	2003	2004
Eesti Televisioon	ETV	terrestrial		81%		22%		83%
AS Kanal2	Kanal 2	terrestrial		54%		32%		94%
AS TV3	TV 3	terrestrial		51%		39%		91%

### *A) Reasons given by Member State for failure to reach*

1. Majority proportion of European works (Article 4)

2. Minimum proportion of European works by independent producers (Article 5)

### *B) Measures taken or envisaged by the Member State*

### *C) Further comments*

Cable TV broadcasters being within the jurisdiction of Estonia are regarded as local ones, not forming part of a national network.

Pursuant to Article 9 of “Television without Frontiers” Directive, stating that Articles 4 and 5 do not apply to “television broadcasts that are intended for local audiences and do not form part of a national network”, information concerning cable TV channels has not been submitted.



## GREECE

<i>Total number of reported channels</i>	<i>Reference period</i>	<i>Monitoring method</i>
12	2003 / 2004	

GR	←MS	TM	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Broadcaster	channel		2003	2004	2003	2004	2003	2004
Hellenic Broadcasting Corporation	ET 1	Terrestrial	66	85	22	25	2	84
Hellenic Broadcasting Corporation	NET	Terrestrial	74	76	20	16	79	49
Hellenic Broadcasting Corporation	ET 3	Terrestrial	79	78	14	16	7	6
ELEFTHERH THLEORASI A.E.	ALTER CHANNEL	Terrestrial	74	69	32	23	23	19
ANTENNA TV S.A.	ANTENNA TV (ANT1)	Terrestrial	66	70	28	31	27	27
THLETYPOS ANONYMH ETAIREIA THLEOPTIKON PROGRAMMATON	MEGA CHANNEL	Terrestrial	82	95	43	58	35	15
MAKEDONIA TV S.A.	MAKEDONIA TV	Terrestrial	74	69	53	50	10	10
ALPHA DORYFORIKH THLEORASH S.A.	ALPHA	Terrestrial	80	81	34	32	25	24
RADIOTHLEOPTIKH S.A.	902 ARISTERA STA FM	Terrestrial	81	81	12	12	7	7
NEA THLEORASH S.A.	STAR CHANNEL	Terrestrial	51	52	19	22	100	100
NETMED HELLAS S.A.	FILMNET-SUPERSPORT-FOX KIDS	Cable	46	44	10	11	43	43
MULTICHOICE HELLAS A.E.E.	NOVA	Satellite	48	52	20	21	25	33

***A) Reasons given by Member State for failure to reach proportions***

**1. Majority proportion of European works (Article 4)**

**BROADCASTER: NETMED HELLAS**

As mentioned in the document by the National Council for Radio & Television (E.S.R.), the Broadcaster Netmed Hellas, which provides cable TV services through channels Filment, Supersport and Foxkid, did not meet the Directive requirements with regard the transmission percentages of European works (46,21% and 44,23 for the years 2003 and 2004 accordingly). As noted in the relevant document by Netmed Hellas, the Broadcasting Organization failed to meet the standards set in the Directive for the following reason: as it provides cable TV services through the above mentioned channels, its main objective is the transmission of popular film products, which are American in their majority. Intensive efforts are being made, however, as also mentioned in the relative document by Netmed Hellas, in order to increase the percentages in question.

**2. Minimum proportion of European works by independent producers (Article 5)**

No observations.

***B) Measures taken or envisaged by the Member State***

No observations.

***C) Further comments***

The Broadcasting Organization SEVEN X has been included in the list with the legally functioning TV channels in Greece (see attached list issued by the National Council for Radio & Television). For reasons of transmission problems, due to administrative changes etc. within the Broadcasting Organization, their providing us with the required information was not possible.

## SPAIN

<i>Total number of reported channels</i>	<i>Reference period</i>	<i>Monitoring method</i>
54	2003 / 2004	<ul style="list-style-type: none"> <li>– Data are collected by a company specialising in the broadcasting sector with which the Spanish administration has a technical assistance contract.</li> <li>– Data are supplied by the television broadcasters themselves (in the case of channels broadcasting nationally) or by the Autonomous Communities (in the case of channels broadcasting regionally).</li> <li>– Data are checked and analysed before the final assessment.</li> </ul>

ES	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Broadcaster	channel	2003	2004	2003	2004	2003	2004
ENTE PÚBLICO RTVE S.A.	La Primera	69,36%	64,01%	12,66%	11,38%	75,40%	78,21%
	La 2	62,83%	60,95%	10,97%	10,71%	75,20%	73,25%
	TVE Internacional	68,52%	69,32%	20,65%	22,88%	87,21%	89,42%
	Canal Clásico	87,83%	93,60%	16,01%	20,28%	46,96%	36,76%
	Grandes documentales	93,89%	98,35%	13,56%	23,82%	82,79%	91,56%
	Nostalgia	98,07%	98,97%	17,35%	12,83%	0,47%	1,02%
GESTEVISIÓN TELECINCO S.A.	Telecinco	60,94%	70,36%	44,02%	54,20%	97,49%	98,53%
ANTENA 3 DE TELEVISIÓN S.A.	Antena 3 TV	58,90%	63,20%	47,10%	47,80%	93,08%	96,32%
SOGECABLE S.A.	Canal +	50,50%	52,60%	14,44%	18,87%	80,20%	78,00%
TELEVISIÓ DE CATALUNYA	TVE 3	58,69%	59,86%	34,52%	30,25%	79,33%	56,55%
	K3/33	53,81%	55,48%	34,73%	37,29%	61,85%	65,19%
	TVC Internacional	83,13%	82,71%	35,88%	38,87%	81,32%	89,26%

ES	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
	TVC Canal Satélite	82,00%	NO	30,64%	NO	81,03%	NO
TELEVISIÓN VALENCIANA	Canal Nou	51,40%	52,62%	38,66%	32,20%	75,20%	70,13%
	Punt 2	80,56%	72,68%	45,81%	43,01%	34,79%	51,51%
E. P. RADIO TELEVISIÓN VASCA	ETB 1	93,00%	97,50%	10,55%	11,23%	90,40%	89,70%
	ETB 2	50,40%	53,20%	12,14%	13,55%	90,40%	89,70%
TELEVISIÓN DE GALICIA	TVG	68,04%	62,73%	10,02%	10,00%	90,10%	92,30%
TELEVISIÓN AUTÓNOMICA DE MADRID	Telemadrid	47,80%	54,50%	11,80%	8,60%	32,10%	58,50%
RADIO TELEVISIÓN DE ANDALUCÍA	Canal Sur	80,60%	52,00%	26,30%	25,00%	58,50%	56,20%
	Canal 2 Andalucía	85,30%	61,00%	22,40%	35,00%	63,30%	66,80%
TELEVISIÓN AUTÓNOMICA CANARIA	Televisión de Canarias (inicio emisión 2002)	37,60%	50,30%	29,10%	28,20%	52,40%	58,60%
TELEVISIÓN AUTÓNOMICA CASTILLA-LA MANCHA	Castilla-La Mancha TV (inicio emisión 2002)	51,30%	65,70%	16,70%	15,80%	62,40%	69,20%
FOX INTER. CHANNEL ESPAÑA S.L.	Fox (inicio emisión 01/06/2001)	12,84%	6,43%	12,84%	6,43%	64,95%	66,86%
	National Geographic (el operador NO asume la responsabilidad editorial hasta julio 2004)	NO	37,00%	NO	32,00%	NO	96,36%
FOX KIDS ESPAÑA S.L.	Jetix (inicio emisión 04/12/1998)	45,00%	50,00%	44,70%	49,50%	67,80%	52,00%
PARAMOUNT COMEDY CHANNEL ESPAÑA S.L.	Paramount Comedy	64,71%	67,15%	52,11%	46,88%	99,,50%	100%
TURNER	Cartoon Network	22,83%	25,28%	15,60%	5,50%	100,00%	100,00%

ES	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
BROADCASTING SYSTEM ESPAÑA	(inicio emisión 1999)						
	Turner Clasic Movies (inicio emisión 1999)	39,90%	47,00%	39,90%	47,00%	NC	NC
	Boomerang (inicio emisión 2004)	NO	21,00%	NO	21,00%	NO	NC
FACTORÍA DE FICCIÓN	Factoría de Ficción	74,60%	62,30%	74,60%	62,30%	95,67%	89,60%
AXN CHANNEL ESPAÑA S.L.	AXN (inicio emisión 05/11/198)	49,90%	50,20%	6,13%	10,18%	55,70%	50,10%
WALT DISNEY COMPANY IBERIA	Disney Channel (inicio emisión 17/04/1998)	40,14%	42,00%	23,29%	26,63%	97,15%	88,95%
	Disney Channel+1 (inicio emisión 16/11/2001. Contratación conjunta e inseparable con el anterior canal)	40,14%	42,00%	23,29%	26,63%	97,15%	88,95%
	Playhouse Disney (inicio emisión 16/11/2001)	43,66%	40,07%	31,77%	27,03%	80,53%	44,23%
	Toon Disney (inicio emisión 16/11/2001. Contratación conjunta e inseparable con el anterior canal)	8,79%	30,20%	6,80%	29,13%	95,16%	100,00%
COSMOPOLITAN IBERIA S.L.	Cosmopolitan TV	52,00%	55,00%	38,00%	48,00%	69,00%	60,00%
SOGECABLE MÚSICA S.L.	40 TV	66,90%	67,70%	19,20%	18,70%	95,00%	95,00%
	40Latino	72,72%	70,12%	27,27%	28,57%	95,00%	95,00%
CINEMANÍA S.L.	Canal Cinemanía	22,01%	19,05%	20,91%	18,78%	15,72%	31,31%
CIT S.L.	Viajar	97,00%	98,00%	80,00%	80,00%	99,00%	100,00%
	Documanía	81,00%	75,00%	81,00%	75,00%	98,00%	98,00%
	Caza y pesca	97,00%	97,00%	60,00%	10,00%	100,00%	100,00%
UNIVERSAL	Calle 13 (inicio	19,56%	22,04%	16,36%	15,06%	17,40%	64,60%

ES	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
STUDIOS NETWORK ESPAÑA S.L.	emisión 13/06/1999)						
MULTIPARK MADRID S.A.	Canal cocina	95,30%	92,10%	90,10%	88,60%	91,84%	84,60%
PRODUCTORA CANARIA DE PROGRAMAS	Canal Canarias	NC	NC	NC	NC	NC	NC
SOCIEDAD GESTORA DE TV NET TV S.A.	NET TV	60,00%	86,00%	60,00%	32,80%	60,00%	55,80%
VEO TELEVISIÓN S.A.	Expansión TV	EXC	EXC	EXC	EXC	EXC	EXC
DIGITAL +	Canal OT	EXC	EXC	EXC	EXC	EXC	EXC
REAL MADRID MULTIMEDIA S.L.	Real Madrid TV	EXC	EXC	EXC	EXC	EXC	EXC
CONGRESO DE LOS DIPUTADOS	Canal Congreso de los Diputados	EXC	EXC	EXC	EXC	EXC	EXC
SOGEABLE FUTBOL S.L.	Sportmanía	EXC	EXC	EXC	EXC	EXC	EXC
COMPAÑÍA INDEPENDIENTE DE NOTICIAS DE TV S.L.	CNN+	EXC	EXC	EXC	EXC	EXC	EXC
BARCELONA F. C.	Canal Barça	EXC	EXC	EXC	EXC	EXC	EXC

***A) Reasons given by Member State for failure to reach proportions***

**1. Majority proportion of European works (Article 4)**

In general the various television broadcasters meet the requirement laid down in Article 4 of the Directive. Those channels that have not attained the proportion reserved for European works are in the transitional period specified by the Spanish law which transposes the “Television Without Frontiers” Directive, according to which the proportion reserved for European works can be attained progressively, so that four years after broadcasting has begun the proportion reaches 40% of broadcasting time. The proportion rises annually until it reaches the required percentage. The audience levels for these channels (which are mainly thematic or niche channels) are very low and on average represent less than 0.5% of the audience share.

## 2. Minimum proportion of European works by independent producers(Article 5)

Compliance is greater with this requirement than for Article 4. Those broadcasters not reaching the set limit for transmission of European works by independent producers are in the same transitional situation and have the same audience levels as above. They too are on course to attain the set percentage.

### ***B) Measures taken or envisaged by the Member State***

If, once the transitional period is over, the quotas of European works and of European works by independent producers set in Articles 4 and 5 have not been reached, or if a television broadcaster falls back below these percentages, the Spanish administration will give notice to the broadcaster (or the Autonomous Community in the case of regional broadcasters) that it must attain the required proportions. In the case of continued non-compliance, and if this is of a serious nature, the Spanish administration will impose penalties on broadcasters under the State's jurisdiction or urge Autonomous Communities to take the necessary enforcement measures in respect of broadcasters under their jurisdiction.

### ***C) Further comments***

No observations

## FRANCE

<i>Total number of reported channels</i>	<i>Reference period</i>	<i>Monitoring method</i>
83 in 2003 89 in 2004	2003/2004	<p><b>- Broadcasting:</b>  <u>terrestrial channels:</u> monitoring of daily programmes through CSA database.  <u>cable channels:</u> broadcasters' report analysed and monitored by CSA.</p> <p><b>- Production:</b>  <u>terrestrial channels:</u> broadcasters' report monitored by CSA.  <u>cable channels:</u> Broadcaster's statement.</p>

FR	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Broadcaster	Channel	2003	2004	2003	2004	2003	2004
France Télévisions	France 2 <sup>1</sup>	79%	80%	15%	16%	98%	98%
France Télévisions	France 3 <sup>1</sup>	78%	82%	17%	17%	96%	98%
France Télévisions	France 5 <sup>1</sup>	88%	88%	12%	13%	94%	92%
Télévision Française 1	TF1 <sup>1</sup>	65%	66%	13%	14%	97%	98%
Canal+ SA	Canal+ <sup>1</sup>	60%	60%	12%	12%	98%	97%
Métropole Télévision	M6 <sup>45</sup>	65%	66%	16%	15%	94%	91%
AB Sat SA	AB 1	56%	60%	NC	NC	NC	NC
AB Sat SA	AB Moteurs	85%	82%	NC	NC	NC	NC
AB Sat SA	Action	59%	58%	NC	NC	NC	NC
AB Sat SA	Animaux	77%	78%	NC	NC	NC	NC
BRTV	Berbère TV	100%	100%	38%	29%	85%	44%

<sup>45</sup> independent productions percentage based on the revenues of the channels



FR	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
BEUR TV	BEUR TV	NC	NC	NC	NC	NC	NC
CANAL J	CANAL J	69%	68%	45%	41%	42%	63%
AB Sat SA	Chasse et Pêche	93%	93%	NC	NC	NC	NC
Ciné Info SA	Cine Cinema Info	69%	64%	32%	21%	100%	100%
MULTITHEMATIQUES SA	C.C Auteur	47%	56%	27%	48%	34%	25%
MULTITHEMATIQUES SA	C.C Premier	47%	48%	19%	26%	59%	55%
MULTITHEMATIQUES SA	C.C Emotion	47%	52%	27%	30%	28%	24%
MULTITHEMATIQUES SA	C.C Frisson	43%	50%	29%	29%	32%	35%
MULTITHEMATIQUES SA	C.C Famiz	47%	48%	31%	28%	10%	9%
MULTITHEMATIQUES SA	C.C Classic	46%	52%	24%	38%	12%	11%
AB Sat SA	CINE BOX <sup>46</sup>	61%	58%	NC	NC	NC	NC
AB Sat SA	CINE COMIC <sup>47</sup>	63%	66%	NC	NC	NC	NC
AB Sat SA	CINE POLAR	60%	67%	NC	NC	NC	NC
AB Sat SA	CINE FX	63%	67%	NC	NC	NC	NC
SECC	COMEDIE*	61%	53%	10%	33%	63%	47%
TV Gourmand	Cuisine TV*	82%	87%	27%	44%	61%	60%
Canal +	DEMAIN	NC	100%	NC	100%	NC	100%
Disney Channel France SA	DISNEY CHANNEL	57%	53%	34%	37%	74%	84%

<sup>46</sup>

Stopped broadcasting in September 2004

<sup>47</sup>

percentage of independent production based on the programming budget

FR	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
AB Sat SA	ENCYCLOPEDIA	69%	72%	NC	NC	NC	NC
Paris Mutuel Urbain PMU	EQUIDIA	95%	84%	85%	75%	59%	82%
AB Sat SA	ESCALES	93%	83%	NC	NC	NC	NC
TPS Jeunesse	EUREKA	61%	65%	61%	65%	39%	45%
France Téléfilms	FESTIVAL	75%	69%	71%	63%	16%	48%
Fun TV SNC	FUN TV	78%	73%	30%	28%	96%	96%
I-line SA	GAME ONE	94%	95%	9%	15%	100%	100%
Gourmet SA	Gourmet TV <sup>48</sup>	92%	NC	19%	NC	78%	NC
Histoire SA	HISTOIRE	74%	85%	58%	43%	26%	34%
Fox Kids France	JETIX (ex FOX KIDS)	60%	62%	20%	30%	63%	69%
Canal Jimmy SA	JIMMY	44%	53%	19%	46%	51%	35%
Kiosque SNC	KIOSQUE	59%	60%	NC	60%	NC	100%
Association Notre Dame de Paris	KTO	51%	96%	51%	43%	65%	65%
Lagardère	La Chaîne Météo	100%	84%	11%	75%	100%	100%
Médiacast	LIVE 1	85%	91%	0%	0%	0%	0%
EDI TV SNC	M6 MUSIC	67%	67%	56%	56%	94%	94%
AB Sat SA	MANGAS	62%	62%	NC	NC	NC	NC
MULTITHEMATIQUES SA	Ma Planète	NO	85%	NO	75%	NO	58%
Match TV SA	MATCH TV <sup>49</sup>	85%	80%	13%	10%	100%	96%

<sup>48</sup> As a procedure of official liquidation was opened against this channel in 2005, it did not transmit a report for year 2004

FR	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
MCM SA	MCM	68%	64%	48%	50%	62%	84%
MCM SA	MCM POP (ex MCM 2)	77%	76%	75%	75%	27%	31%
MCM SA	MCM TOP	NO	66%	NO	65%	NO	84%
MEZZO SA	MEZZO	91%	81%	81%	70%	84%	69%
Monégasque des Ondes	MONTE CARLO TMC	68%	70%	45%	43%	14%	32%
AB Sat SA	MOTORS TV	93%	97%	83%	74%	100%	100%
Telcarte SA	Multivision	58%	68%	58%	68%	98%	95%
AB Sat SA	MUSIQUE CLASSIQUE	99%	99%	NC	NC	NC	NC
Société d'exploitation de documentaires SCS	ODYSSEE	75%	88%	67%	69%	94%	84%
Paris Première SA	PARIS PREMIERE	75%	78%	73%	76%	67%	34%
TPS Jeunesse	PIWI	NO	64%	NO	64%	NO	45%
Planète Câble SA	PLANETE	69%	76%	61%	70%	56%	63%
Planète Câble SA	PLANETE CHOC (ex Planète Future)	60%	67%	51%	55%	67%	60%
Planète Câble SA	PLANETE THALASSA <sup>50</sup>	90%	97%	76%	36%	77%	62%
Disney Channel France SA	PLAYHOUSE DISNEY	53%	58%	36%	42%	86%	88%
AB Sat SA	RFM TV	72%	78%	NC	NC	NC	NC
MULTITHEMATIQUES SA	SEASONS	88%	99%	21%	46%	86%	80%
Extension TV SA	SERIE CLUB	60%	53%	20%	10%	33%	10%
123 Multimédia SA	Tchatche TV (ex123	NC	53%	NC	0%	NC	0%

<sup>49</sup>

<sup>50</sup>

percentage of independent production based on the programming budget

At its first statement for a full year (2003) Planète Thalassa had misinterpreted the notion of independency. As a partner of France 3, it is reasonable to think that in 2003, the actual percentage of independent production was close to the one of 2004

FR	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
	SAT)						
Senior Communications SAS	TELE MELODY	68%	67%	68%	67%	7%	14%
TPS Jeunesse	TELETOON	67%	66%	66%	66%	78%	69%
Sedi TV SNC	TEVA	59%	55%	28%	25%	58%	64%
TF6 SCS	TF6	59%	50%	27%	14%	58%	27%
TF1	TFOU	55%	60%	NC	58%	NC	22%
Canal J	TIJI	64%	67%	33%	33%	59%	85%
Disney Channel France SA	TOON DISNEY	51%	52%	45%	52%	36%	58%
AB Sat SA	TOUTE L'HISTOIRE	85%	82%	NC	NC	NC	NC
TPS Cinéma	TPS CINECULTE	69%	70%	69%	70%	51%	55%
TPS Cinéma	TPS Cinextreme	NO	71%	NO	71%	NO	47%
TPS Cinéma	TPS CINEFAMILY	NO	58%	NO	58%	NO	30%
TPS Cinéma	TPS CINESTAR	67%	53%	67%	53%	75%	45%
TPS Cinéma	TPS CINETOILE	68%	66%	68%	66%	33%	35%
TPS Cinéma	TPS HOME CINEMA	62%	63%	62%	63%	73%	42%
TPS Cinéma	TPS STAR	66%	63%	66%	63%	74%	41%
Trace TV SA	TRACE TV	53%	53%	46%	51%	100%	90%
Société Universal Studios Channels France	13ème RUE	63%	65%	53%	55%	57%	45%
TV Breizh SA	TV BREIZH	70%	55%	14%	13%	100%	95%
Société Satellimages TV5	TV5	99%	83%	70%	73%	NC	NC
Voyage SAS	VOYAGE	83%	95%	44%	67%	87%	92%

FR	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
AB Sat SA	XXL	76%	66%	NC	NC	NC	NC
AB Sat SA	ZIK	71%	65%	NC	NC	NC	NC

**A) Reasons given by Member State for failure to reach proportions**

1. Majority proportion of European works (Article 4)

Except for seven channels (Canal Jimmy and six channels mainly devoted to broadcasting cinematographic works: Ciné Cinéma Premier, Ciné Cinéma Auteur, Ciné Cinéma Emotion, Ciné Cinéma Frisson, Ciné Cinéma Famiz and Ciné Cinéma Classic), all other channels broadcasting in 2003 complied with the 50% limit for European works.

In 2004 only two channels, Ciné Cinéma Premier and Ciné Cinéma Famiz, did not reach the set limit of 50% of European works but came close to this target with 48%.

Beur TV did not communicate its figures to the Council.

2. Minimum proportion of European works by independent producers (Article 5)

Calculated either through broadcasting time or programme budget(\*), the proportion reserved for works by independent producers has been observed by nearly all the channels.

Game One, which barely attained 9% in 2003, greatly exceeded the set limit by 15% in 2004.

Channels Live 1 and Tchatche TV broadcast programmes produced in-house.

The channels of the AB sat and Beur TV group have not communicated their proportion of European works from independent producers to the Council.

**B) Measures taken or envisaged by the Member State**

Improvement notices to comply with broadcasting quotas in future are sent each year to those channels which have not attained the proportion reserve required by French rules.

As the French rules are stricter than the requirements in Article 4 of the TWF Directive, these notices cover non-compliance with this Article.

A penalty was imposed on Canal Jimmy on 1<sup>st</sup> February 2005 for the 2003 financial year and penalty proceedings have been open again on 26 July 2005 for 2004 for not complying with the requirements for broadcasting European audiovisual and cinematographic works.

Beur TV, which did not send activity reports for 2003 and 2004, was given notice to send them on 7 December 2004 and 26 July 2005 respectively.

Two film channels were sent improvement notices for non-compliance with the 50% limit for European works: Ciné Cinéma Frisson for the 2003 financial year and Ciné Cinéma Premier for 2004.

***C) Further comments***

Channels exempted from the quotas laid down in Articles 4 and 5 do not appear in the table. Among those are 14 non-Member State channels licenced by France. 3 information channels and one weather channel, 4 sports channels and two teleshopping channels.

## IRELAND

<i>Total number of reported channels</i>	<i>Reference period</i>	<i>Monitoring method</i>
7	2003 / 2004	Quantitative analysis of schedule period conducted by the regulator (the Broadcasting Commission of Ireland) in relation to commercial channels  CCS – Broadcast Analysis System – using Escort 2.4 (EBU) in relation to public service channels (RTÉ).

IE	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Broadcaster	channel	2003	2004	2003	2004	2003	2004
RTÉ	RTÉ One	57%	56%	20%	20%	100%	100%
RTÉ	RTÉ Two	41%	42%	15%	18%	100%	100%
RTÉ	TG4	68%	63%	64%	48%	95%	95%
TV3	TV3	45%	48%	10%	10%	95%	95%
NASN	Sky 417 Ch	EXC	EXC	EXC	EXC	EXC	EXC
Setanta PPV 1	Sky 438 Ch	EXC	EXC	EXC	EXC	EXC	EXC
Setanta PPV 2	Sky 439 Ch	EXC	EXC	EXC	EXC	EXC	EXC

### *A) Reasons given by Member State for failure to reach proportions*

#### 1. Majority proportion of European works (Article 4)

##### RTÉ 2

The exclusion of significant Sports coverage on RTÉ Two, particularly the Olympics and European Soccer.

However, the proportion of European Works included in RTÉ's combined output (RTE1, RTE2 and TG4) is in excess of the 50% required under the Directive

### TV 3

For the reasons outlined hereunder, it was not practical for TV3 to meet the European works quota when news and sports programming is excluded from the Total Qualifying Time (TQT) in 2003 or 2004.

- (i) size and nature of the Irish terrestrial television sector,
- (ii) the stage of development of the broadcaster, and
- (iii) the importance of indigenous news and sports programming for Irish audiences.

However, the situation remains under review and progress is being made by the station. At 48% for 2004, the broadcaster is just below the 50% requirement and compliance with the requirement remains the objective.

### 2. Minimum proportion of European works by independent producers (Article 5)

No observations.

### ***B) Measures taken or envisaged by the Member State***

#### RTE 2

Increase European productions across genres other than News and Sports

#### TV 3

The regulator (BCI) is engaged in ongoing discussion with TV3 regarding compliance with this requirement.

### ***C) Further comments***

Three of the four reported channels are specialist services featuring sports programming only. As such, these channels are exceptionally exempted from the requirements of Article 4 and 5. The channels in question are: - NASN (North American Sports Network), Setanta Pay Per View 1 and Setanta Pay Per View 2.



## ITALY

<i>Total number of reported channels</i>	<i>Reference period</i>	<i>Monitoring method</i>
128	2003 / 2004	Information received from broadcasters

IT	←MS	EW (% of TQT)		IP (%TQT)		RW (%EW)	
Broadcaster	Channel	2003	2004	2003	2004	2003	2004
RAI							
RAI RADIOTELEVISIONE ITALIANA SPA	RAI UNO	78	77	21	26	78	69
RAI RADIOTELEVISIONE ITALIANA SPA	RAI DUE	63	68	29	26	62	66
RAI RADIOTELEVISIONE ITALIANA SPA	RAI TRE	71	69	27	26	68	68
RAISAT	RAISAT ALBUM	100	NO	EXC	NO	44	NO
RAISAT	RAISAT ART	90	NO	EXC	NO	63	NO
RAISAT	RAISAT CINEMA	58	NO	EXC	NO	41	NO
RAISAT	RAISAT CINEMA WORLD	NO	69	NO	EXC	NO	39
RAISAT	RAISAT EXTRA	85	83	EXC	EXC	90	98
RAISAT	RAISAT FICTION	80	NO	EXC	NO	49	NO
RAISAT	RAISAT GAMBERO ROSSO	91	91	EXC	EXC	93	97
RAISAT	RAISAT PREMIUM	91	93	EXC	EXC	40	52
RAISAT	RAISAT RAGAZZI	82	78	EXC	EXC	100	62
RAISAT	RAISAT SHOW	72	NO	EXC	NO	85	NO

IT	←MS	EW (% of TQT)		IP (%TQT)		RW (%EW)	
Broadcaster	Channel	2003	2004	2003	2004	2003	2004
RTI							
R.T.I.	Canale 5	62	73	16	17	91	91
R.T.I.	Italia 1	43	40	12	12	59	66
R.T.I.	Rete 4	58	58	21	19	65	74
R.T.I.	Comedy Life	50	NO	14	NO	67	NO
R.T.I.	Duel	30	23	7	7	73	72
R.T.I.	Happy Channel	96	95	20	23	57	60
R.T.I.	ITALIAN TEEN TELEVISION	29	43	8	18	76	74
R.T.I.	MT Channel	90	89	46	33	80	84
MTV + LA7							
LA7 TELEVISIONI SPA	La7	55	49,89	20	16	78	76
MTV ITALIA S.R.L.	MTV BRAND:NEW	67	82	32	27	97	98
MTV ITALIA S.R.L.	MTV HITS	67	81	34	20	98	99
MTV ITALIA S.R.L.	MTV	71	75	17	21	98	98
Sky							
SKY ITALIA SRL	Sky On Air	NO	100	NO	EXC	NO	100
SKY ITALIA SRL	Sky Assist	NO	100	NO	EXC	NO	100
SKY ITALIA SRL	Sky	NO	99	NO	EXC	NO	100
SKY ITALIA SRL	Zona Giochi	NO	100	NO	EXC	NO	100

IT	←MS	EW (% of TQT)		IP (%TQT)		RW (%EW)	
Broadcaster	Channel	2003	2004	2003	2004	2003	2004
SKY ITALIA SRL	Sky Sport 3 + Calcio Estate Sky Sport	NO	80	NO	EXC	NO	100
SKY ITALIA SRL	Sky Meteo 24	NO	100	NO	EXC	NO	100
SKY ITALIA SRL	Sky Cinema Classics	NO	78	NO	27	NO	11
SKY ITALIA SRL	Diretta Gol	NO	98	NO	EXC	NO	100
SKY ITALIA SRL	Sky Sport	NO	98	NO	EXC	NO	100
SKY ITALIA SRL	Calcio Sky (già Stream Calcio 1)	100	100	EXC	EXC	100	100
SKY ITALIA SRL	Canale Viaggi	35	NO	35	NO	100	NO
SKY ITALIA SRL	INFO (già Stream INFO)	100	NO	EXC	NO	100	NO
SKY ITALIA SRL	Palco	48	NO	11	NO	100	NO
SKY ITALIA SRL	Primafile	58	100	37	EXC	100	100
SKY ITALIA SRL	Primafile Sky (già Stream Prima Fila 6)	41	35	8	4	98	100
SKY ITALIA SRL	Sky Cinema 1 (già Stream Prima Fila 1)	48	51	25	9	99	97
SKY ITALIA SRL	Sky Cinema 16:9 (già Stream Prima Fila 5)	49	46	27	12	97	95
SKY ITALIA SRL	Sky Cinema 2 (già Stream Primafile 2)	48	51	25	9	99	97
SKY ITALIA SRL	Sky Cinema 3 (già Stream Cinema Stream)	35	48	19	8	74	86
SKY ITALIA SRL	Sky Cinema Autore (già Stream Prima Fila 3)	56	64	29	18	92	86

IT	←MS	EW (% of TQT)		IP (%TQT)		RW (%EW)	
Broadcaster	Channel	2003	2004	2003	2004	2003	2004
SKY ITALIA SRL	Sky Cinema Max (già Stream Prima Fila 4)	41	31	21	5	94	80
SKY ITALIA SRL	Sky Sport 1 (già Stream Sport Stream)	87	87	EXC	EXC	96	100
SKY ITALIA SRL	Sky Sport 2 (già Stream Calcio Stream)	93	89	EXC	EXC	100	100
SKY ITALIA SRL	Stream 1 (già Stream Stream 1)	0	NO	EXC	NO	0	NO
SKY ITALIA SRL	Stream 2 (Grande fratello)	100	NO	EXC	NO	100	NO
SKY ITALIA SRL	Stream Calcio 2	EXC	NO	EXC	NO	EXC	NO
SKY ITALIA SRL	Stream Calcio 3	EXC	NO	EXC	NO	EXC	NO
SKY ITALIA SRL	Stream Calcio 4	EXC	NO	EXC	NO	EXC	NO
SKY ITALIA SRL	Stream Calcio 5	EXC	NO	EXC	NO	EXC	NO
SKY ITALIA SRL	Tele+ 16:9	28	NO	11	NO	94	NO
SKY ITALIA SRL	Tele+ bianco	42	NO	19	NO	91	NO
SKY ITALIA SRL	Tele+ Grigio	37	NO	19	NO	70	NO
SKY ITALIA SRL	Tele+ Nero	85	NO	EXC	NO	99	NO
SKY ITALIA SRL	Tele+30	42	NO	19	NO	91	NO
SKY ITALIA SRL	TVL	87	NO	6	NO	92	NO

IT	←MS	EW (% of TQT)		IP (%TQT)		RW (%EW)	
Broadcaster	Channel	2003	2004	2003	2004	2003	2004
TEAM TV SPA	Stream News	EXC	NO	EXC	NO	EXC	NO
Multithématique							
CANALI DIGITALI	PLANET	75	73	EXC	EXC	76	84
CANALI DIGITALI	Jimmy	32	35	EXC	EXC	48	60
CINE CINEMA	Cineclassics	45	NO	EXC	EXC	10	NO
CINE CINEMA	Cinecinemas2	54	NO	EXC	EXC	33	NO
CINE CINEMA	Cinecinemas1	53	NO	EXC	EXC	35	NO
SEASONS	Seasons - Caccia e pesca	NO	97	NO	EXC	NO	99
Eurocast							
EUROCAST ITALIA	Polonia 1	49	100	EXC	EXC	26	38
EUROCAST ITALIA	Tele 5	74	100	EXC	EXC	35	39
EUROCAST ITALIA	Top Shop	EXC	EXC	EXC	EXC	EXC	EXC
Tele+							
EUROPA TV SPA	EUROPA TV - TELEPIU' 30	42	NO	16	NO	89	NO
EUROPA TV SPA	EUROPA TV - TELEPIU' BIANCO	42	NO	15	NO	93	NO
Prima Tv Spa	PRIMA TV - TELEPIU' 16:9	39	NO	16	NO	91	NO

IT	←MS	EW (% of TQT)		IP (%TQT)		RW (%EW)	
Broadcaster	Channel	2003	2004	2003	2004	2003	2004
Prima Tv Spa	PRIMA TV - TELEPIU' GRIGIO	49	NO	22	NO	82	NO
Prima Tv Spa	PRIMA TV - TELEPIU' NERO	91	NO	EXC	NO	100	NO
Omega TV SPA	Palco	48	NO	5	NO	95	NO
Omega TV SPA	+ Calcio	100	NO	EXC	NO	100	NO
Fox							
Fox International Channels Italy srl	Fox	23	20	EXC	EXC	100	99
Fox International Channels Italy srl	The History Channel	45	51	EXC	EXC	97	87
Fox International Channels Italy srl	A1	55	49,16	EXC	EXC	84	95
Fox International Channels Italy srl	National Geographic Channel	45	54	EXC	EXC	97	94
Fox International Channels Italy srl	Foxlife	NO	40	NO	EXC	NO	99
Fox International Channels Italy srl	National Geographic Channel (2a versione)	NO	46	NO	EXC	NO	95
Fox International Channels Italy srl	The History Channel +1	NO	54	NO	EXC	NO	85
Fox International Channels Italy srl	National Geographic Channel +1	NO	61	NO	EXC	NO	96
Fox International Channels Italy srl	National Geographic Channel (3a versione)	NO	26	NO	EXC	NO	100
Rete Blu							
Rete Blu	TELELAZIO RETE BLU	0	0	EXC	EXC	0	0

IT	←MS	EW (% of TQT)		IP (%TQT)		RW (%EW)	
Broadcaster	Channel	2003	2004	2003	2004	2003	2004
Rete Blu	SAT 2000	52	52	33	33	54	53
Gruppo Sitcom							
ALICE	Alice	100	99	EXC	EXC	100	100
INN Spa	INN	0	0	EXC	EXC	0	0
Leonardo	Leonardo	100	100	EXC	EXC	100	100
Marcopolo	Marcopolo	100	94	EXC	EXC	100	100
NUVOLARI	Nuvolari	100	100	EXC	EXC	100	100
Nuova Franciacorta							
NUOVA FRANCIACORTA	RTB INTERNATIONAL	85	88	29	32	66	63
NUOVA FRANCIACORTA	RETEBRESCIA	92	89	33	38	64	57
Telestudio Modena							
TELESTUDIO MODENA SRL	STUDIOEUROPA	100	100	100	EXC	100	100
TELESTUDIO MODENA SRL	TELESTUDIO MODENA	100	100	EXC	EXC	100	100
Radio Italia							
RADIO ITALIA SPA	VIDEO ITALIA SOLO MUSICA ITALIANA	100	100	EXC	EXC	0	0
RADIO ITALIA SPA	PLAYLIST ITALIA	NO	100	NO	EXC	NO	0

IT	←MS	EW (% of TQT)		IP (%TQT)		RW (%EW)	
Broadcaster	Channel	2003	2004	2003	2004	2003	2004
Others							
ELEFANTE TV S.P.A.	ELEFANTE TV	EXC	EXC	EXC	EXC	EXC	EXC
RETE A SRL	RETE A	60	64	37	55	94	79
TELEVISION BROADCASTING SYSTEM SPA	RETECAPRI	8	8	3	EXC	100	31
24 ORE TELEVISION S.P.A.	VENTIQUATTRORE.TV	85	66	100	100	100	100
AGENZIA SICILIANA INFORMAZIONE	SICILIA CHANNEL	NO	0	NO	EXC	NO	0
ANICAFLASH SRL	coming soon television	50	NC	EXC	NC	0	NC
CECCHI GORI GROUP FIN.MA.VI. S.P.A.	CINEMOVIE	89	NO	0	NO	25	NO
C.F.N. CLASS FINANCIAL NETWORK SPA	CFN CLASS FINANCIAL NETWORK	100	NO	EXC	NO	100	NO
CLASS CNBC SPA	CLASS CNBC	NO	100	NO	EXC	NO	100
EDI ON WEB SRL	Superpipa	0	NO	EXC	NO	0	NO
EDI ON WEB SRL	Conto TV	NO	0	NO	EXC	NO	0
Edizioni Tagliamonte	Napoli Nova	0	13	EXC	EXC	0	23
ELETV SPA	DeeJay Tv	54	52	48	37	88	93
EUROTELEVISION S.P.A.	TELEGENOVA	0	0	EXC	EXC	0	0



IT	←MS	EW (% of TQT)		IP (%TQT)		RW (%EW)	
Broadcaster	Channel	2003	2004	2003	2004	2003	2004
FOX KIDS ITALY SRL	FOX KIDS	54	46	54	46	49	44
IL DENARO TV SRL	Denaro TV	NO	0	NO	EXC	NO	0
L'ANTENNA SRL	OASI TV	0	0	EXC	EXC	0	0
Milan Channel S.r.l.	milan channel s.r.l	NO	52	NO	EXC	NO	100
M.P.1 S.R.L.	Milan Channel	49,97	NO	EXC	NO	100	NO
MATCH MUSIC SRL	MATCH MUSIC SATELLITE	NO	0	NO	EXC	NO	0
MEDIOLANUM CHANNEL SRL	MEDIOLANUM CHANNEL	100	100	EXC	EXC	100	100
ORANET SRL	Romasat	0	0	15	EXC	0	0
RETE 7 S.p.A.	E' TV	2	5	EXC	EXC	0	0
ROCK TV SRL	ROCK TV	0	0	EXC	EXC	0	0
RTL 102,500 HIT RADIO S.r.l.	102.5 HIT CHANNEL	66	63	EXC	EXC	100	100
SARDINIA CHANNEL SRL	SARDINIA CHANNEL	NO	NO	NO	NO	NO	NO
Universal Studios Networks Italia S.r.l.	STUDIO UNIVERSAL	42	44	EXC	EXC	36	7
TUSCANY SAT in liquidaz	TUSCANY SAT SRL LIQU	NO	NO	NO	NO	NO	NO
FASTWEB	FASTWEB CHANNELS	EXC	EXC	EXC	EXC	EXC	EXC

### ***A) Reasons given by Member State for failure to reach***

The broadcasters/content providers failed to meet the scheduling percentages stated by the TVSF Directive.

There are no general reasons that may be explaining their behaviour: the channels violating the TVSF provisions are usually minor satellite channels, often re-transmission of local programming schedules, recently appeared on the scene. In most cases the broadcasters simply do not take into account that, when broadcasting on satellite instead that on local analogue terrestrial frequencies, their channels become bound to the same rules governing the national broadcasting (among which the articles 4 and 5 of the TVSF).

It must be noted, as a matter of fact, that the channels which have a higher appeal on the viewers (as the audience share indicates) are normally complying with the Directive obligations.

Few exceptions are some big groups (Fox International Channels Italy Srl and Universal Studios Network Italia Srl) which are focusing their programming schedules mainly on works produced in the United States and therefore they find problems in complying with the TVSF provisions. Universal Studios Network Italia Srl itself, in fact, has already been sanctioned for having violated the provisions concerning the European Works in the years 2001-2002.

Name of broadcaster (or group)	Name of channel	EW 2003	EW 2004	IP 2003	IP 2004	RW 2003	RW 2004
Fox International Channels Italy srl	All the channels of the group	41,5	45,2	Exc	Exc	92,8	92,9
Eurocast Italia	All the channels of the group	59,3	100,0	Exc	Exc	0,0	38,2
Rete Blu	All the channels of the group	21,0	21,7	Exc	Exc	54,0	53,1
Television Broadcasting System Spa	Retecapri	8,0	7,9	2,6	Exc	100,0	30,6
Agenzia Siciliana Informazione	Sicilia Channel	No	0,0	No	Exc	No	0,0
Anicaflash Srl	Coming Soon Television	50,0	Nc	Exc	Nc	0,0	Nc
Cecchi Gori Group Fin.Ma.Vi. S.P.A.	Cinemovie	88,5	No	0,0	No	25,1	No
Edi On Web Srl	Superpippa	0,0	No	Exc	No	0,0	No
Edi On Web Srl	Conto Tv	No	0,0	No	Exc	No	0,0
Edizioni Tagliamonte	Napoli Nova	0,0	12,5	Exc	Exc	0,0	22,9

Eurotelevision S.P.A.	Telegenova	0,0	0,0	Exc	Exc	0,0	0,0
Il Denaro Tv Srl	Denaro Tv	No	0,0	No	Exc	No	0,0
L'antenna Srl	Oasi Tv	0,0	0,0	Exc	Exc	0,0	0,0
Match Music Srl	Match Music Satellite	No	0,0	No	Exc	No	0,0
Oranet Srl	Romasat	0,0	0,0	15,2	Exc	0,0	0,0
Rete 7 S.P.A.	E' Tv	2,3	4,7	Exc	Exc	0,0	0,0
Rock Tv Srl	Rock Tv	0,0	0	Exc	Exc	0,0	0
Universal Studios Networks Italia S.R.L.	Studio Universal	41,8	44,5	Exc	Exc	35,6	6,7

**All other channels not included in the table above will not be sanctioned, even though they did not meet the required percentages, due to the discrepancies between the TVSF and the Italian legislation.**

As explained in the following section C, in fact, the strategy applied by the Italian legislation aimed at introducing gradually stricter rules concerning the European works and the works of Independent producers, in application of the clauses “where practicable and by appropriate means” and “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” included in articles 4 and 5 of the TVSF.

According to this strategy, for example, the **Decreto Legislativo 31 luglio 2005, n. 177, has extended the provisions regarding the works by Independent producers also to satellite channels. Further differences with the TVSF will be likely solved in the future.**

### ***B) Measures taken or envisaged by the Member State***

All broadcasters failing to comply with articles 4 and 5 of the TVSF Directive in the years 2001-2002 have been communicated to the competent Sanctioning Department of the Italian National Regulatory Authority (hereinafter referred to as “Agcom”) for the sanctioning procedure, according to the provisions of the Law 249/97 which established Agcom itself. Just to make some examples, the following table shows some of the channels that have been sanctioned during the years 2001-2002 and the amount of the sanction itself:

N°	Channel name	Fee paid
1	Tele+ 16/9	25000 euro
2	Palco	25000 euro
3	Canal Jimmy	10330 euro
4	Cine Cinemas 2	10330 euro
5	Fox Kids	30000 euro
6	Disney Channel	20660 euro + 20660 euro
7	Universal Studios	20660 euro

Although no sanctioning procedures regarding the reported period (years 2003-2004) have been undertaken yet<sup>51</sup>, it is forecast that all broadcasters and content providers who will be found guilty for not complying with articles 4 and 5 of the TVSF Directive during the period covered by this report will be judged by the Sanctioning Department by the end of 2006.

Of course, the sanctioning procedure will not be applied to:

- those broadcasters/content providers which did not broadcast at all during the whole year (indicated in Annex 1 as “Non Operational”);
- those broadcasters/content providers which broadcast only works not covered by the reserve obligations (news, sport events, games, advertising, teletext services or teleshopping);
- those broadcasters/content providers which, while not complying with the obligation to set aside for European works 50% of their scheduling time, have nonetheless broadcast a percentage of European works higher than 43%<sup>52</sup>
- those channels which have failed to meet the thresholds but are part of a group of channels controlled by a single company/person. In this case, the Italian legislation obliges Agcom to take under consideration only the full broadcasting schedule of all the channels belonging to the same group (provided that each channel reserves for European Works a minimum quota of 20% of its transmission time), and not the breach of a single channel<sup>53</sup>

### ***C) Further comments***

Since the last report to the EU Commission regarding the broadcasters’ compliance with the obligations set by articles 4 and 5 of the “Television without frontiers” Directive, the rules governing broadcasters’ obligations in Italy have changed radically. The article 2 of the Law 30 April 1998, n° 122, has been initially integrated by the Law 3 maggio 2004, n. 112, and then abrogated by the Decreto Legislativo 31 luglio 2005, n. 177 (hereinafter referred to as the “**Broadcasting Code**”), which has put together all the provisions in the broadcasting sector.

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<sup>51</sup> explained in the following section C, the data concerning the years 2003-2004 have been gathered though a new telematic procedure that took some time to be developed and be applied; the data have been made available to Agcom only on September 2005 and there was no time to communicate the breaches to the competent Sanctioning Department

<sup>52</sup> in accordance with Article 2(3) of the Quotas Regulation mentioned in section C of this Annex, a shortfall of under 7% with reference to the reserve obligation for European works of 50% of scheduling time brings to the broadcaster only the obligation to provide reasons for his failure to meet the threshold. These reasons cannot be investigated by Agcom, which is not entitled to apply any sanction.

<sup>53</sup> in accordance with Article 2(4) of the Quotas Regulation mentioned in section C of this Annex, a channel earmarking a percentage smaller than the required threshold for European works, works by independent producers or recent works may not be sanctioned if it belongs to a group of channel controlled by a unique company or person, provided that the whole broadcasting schedule (with the exception of a minimum quota of 20% for each channel) of all the channels of this group meet the required threshold.

The regulation on the promotion of distribution and production of European works (hereinafter referred to as the “Quotas Regulation”) approved by Agcom with its Decision No 9/99 of 16 March 1999 is still in force.

The following paragraphs will summarize the main obligations for the broadcasters and content providers according to the articles 6 and 44 of the new Broadcasting Code:

- scheduling obligations – national broadcasters and content providers, irrespective of broadcasting standard, must –where practicable- reserve more than 50% of the monthly transmission time to European works, excluding time devoted to news, sports events, games, advertising, teletext services, talk shows and teleshopping. The same provisions apply with reference to peak viewing times;
- at least 50% of this percentage must be made up of recent works (produced in the **past five years**);
- national broadcasters and content providers<sup>54</sup> must –where practicable- reserve at least 10% of broadcasting time to European works produced by independent producers, not counting time devoted to news, sports events, games, advertising, teletext services, talk shows and teleshopping. The public service broadcaster must earmark a quota of at least 20% for independent producers;
- investment obligations – broadcasters under Italian jurisdiction, irrespective of the broadcasting standard, must reserve at least 10% of their net annual revenue from advertising for the production and purchase of audiovisual programmes produced in Europe, including films, works by independent producers and programmes for children. At least 40% of this quota must be invested in production and purchase of European movies.

The Quotas Regulation adopted by the Communications Authority introduces the following additional provisions:

- Article 2(3) introduces the obligation to provide specific reasons for any shortfalls in the thresholds set for European works. The Authority may not investigate such reasons if the shortfalls do not exceed 7% of the thresholds laid down;
- Article 2(4): when several channels belong to or are controlled by a single company or person, the thresholds reserved to European works are determined on the basis of the channels’ overall programme schedules (with a minimum 20% for each channel) and on the basis of the total net proceeds from yearly advertising gained by all the channels of the group.

As it appears, therefore, the issue concerning the limited application of the provision in favour of the independent producers only to the analogue terrestrial broadcasters has been solved by the Broadcasting Code, which extends the obligation to all content providers.

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<sup>54</sup> extension of this obligation to the content providers is one of the main innovations of the Broadcasting Code

However, since the Broadcasting Code has been adopted in Italy only on July 2005, during the period covered by this report all of the satellite and cable channels in Italy were still exempted. Therefore, in the column regarding **works by independent producers**, all satellite channels have been considered exempt. The figures sent by those channels that provided their data regardless of the exemption have been shown only for statistical purposes.

It must also be observed that in Italy the provision set in favour of the **recent works** is applied to all European works and not only to the works by independent producers. The Italian legislator, in other words, has specifically obliged all broadcasters and content providers to earmark for recent works at least 50% of their transmission time dedicated to European works. Thus, in the column of the Annex 1 regarding the recent works thresholds, the percentages shown is referred to the amount of European works (%EW), not to the amount of works by independent producers (%IP).

One last remark concerning the **monitoring procedures**: to monitor their compliance with the obligations regarding European works, Italian channels are obliged to provide (using the tools and the procedures of the “*auto-certificazione*” set by the Italian government) their data concerning the programme schedule and the thresholds. In order to simplify the “*auto-certificazione*”, from year 2001 the Authority has provided some specific forms — named Q1, Q2, Q2/C and D — as part of the statement named “*Informativa Economica di Sistema*” (hereinafter referred to as IES) which the broadcasters and the content providers are obliged to submit every year by the end of July<sup>55</sup>. Naturally, since these data are gathered on the basis of self-declarations, the Authority verifies their reliability by means of sample checks. Starting from 2003, all communications operators are obliged to send their IES statements through a web-based platform and a dedicated server which requires an internet connection. Since this new communication channel between Agcom and the communications operators relies on the web-connection, some broadcasters and content providers are experiencing problems in sending the required data. As it seems that the data regarding some broadcasters and a few content providers are missing, Agcom is evaluating whether this is due to connection problems to the dedicated server or to the broadcaster’s negligence. In the latter case, of course, the broadcaster/content provider will be sanctioned.

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<sup>55</sup> Pursuant to the combined provision of Article 1(28) of Law No 650 of 23 December 1996 and Article 1(3 of the Authority's decision No 129/02/CONS.

## LATVIA

<i>Total number of reported channels</i>	<i>Reference period</i>	<i>Monitoring method</i>
10 in 2004	01.05.2004 31.12.2004	Information received from broadcasters

LV	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Broadcaster	Channel	2003	2004	2003	2004	2003	2004
Latvijas Televīzija	LTV1		68%		12%		NC
Latvijas Televīzija	LTV 7		60%		18%		NC
TV Rīga	TV 5		69%		67%		NC
Baltcom TV SIA	TV 24		100%		100%		NC
Baltcom IVS	KINO 2		60%		60%		NC
Baltcom IVS	TV 21		60%		60%		NC
Baltcom IVS	TV 21 Galerija		60%		60%		NC
TV 3 Latvia	TV 3		51%		19%		NC
Latvijas neatkarīgā televīzija	LNT		55%		13%		NC
Pirmais Baltijas kanāls	Pirmais Baltijas kanāls		51%		17%		NC

### *A) Reasons given by Member State for failure to reach proportions*

#### 1. Majority proportion of European works (Article 4)

#### 2. Minimum proportion of European works by independent producers (Article 5)

National Broadcasting council cannot provide the data for the proportion of recent works produced by independent producers started because just from the year 2005 the Council has changed the report form for broadcasters to give the information on this proportion.

### *B) Measures taken or envisaged by the Member State*

The improved report form for the broadcasters will allow collecting precise data on recent works of independent producers from the year 2005.

***C) Further comments***

The information attached (excel sheet) is collected according to information given by those broadcasting organisations which operates in national level or region of Riga (capital of Latvia), as well as those organisations having broadcasting licences on broadcasting of own produced programs.

With the help of EU PHARE Twinning lights program the Council will generally improve its monitoring system.



## LITHUANIA

<i>Total number of reported channels</i>	<i>Reference period</i>	<i>Monitoring method</i>
4	2003/2004	<ul style="list-style-type: none"> <li>- Collecting data from the broadcasters;</li> <li>- Cross-checking by radio and Television Commission of Lithuania</li> </ul>

LT	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Broadcaster	channel	2003	2004	2003	2004	2003	2004
Lietuvos radijas ir televizija	LTV	64%	82%	44%	63%	89%	90%
Laisvas ir nepriklausomas kanalas	LNK	38%	33%	10%	15%	90%	92%
TELE-3	TV3	45%	47%	18%	20%	89%	91%
Baltijos TV	BTV (from 2002.05.15 to 2004.09.15) - TV4	52%	52%	32%	38%	80%	81%

### ***A) Reasons given by Member State for failure to reach proportions***

#### 1. Majority proportion of European works (Article 4)

Two national TV broadcasters were not able to achieve the necessary European production proportion for the period of 2003/2004 due to the reasons that bind them to the signed agreements for purchasing other than European production works.

#### 2. Minimum proportion of European works by independent producers (Article 5)

### ***B) Measures adopted or envisaged by the Member State:***

The Radio and Television Commission, which regulates and controls the activities of broadcasters in Lithuania hold a few round-table discussions with the broadcasters failing to comply with the provisions of the Law concerning European works and cleared out the reasons for failing to do so. It was assured by the broadcasters that they would do their best to gradually increase the number of European work quota in their programme transmission time in future.

### ***C) Further comments:*** No observations

## LUXEMBOURG

<i>Total number of reported channels</i>	<i>Reference period</i>	<i>Monitoring method</i>
10	Calendar years 2003/2004	- recorded: RTL9, LibertyTV.com, Nordlicht TV  - sampled: RTL TVi, Club RTL, RTL4, RTL5  - estimated: RTL- TéléLëtzebuerg,

LU	←MS	EW (% TQT)		IP (% TQT)		RW (% PI)	
broadcaster	channel	2003	2004	2003	2004	2003	2004
CLT-UFA	RTL Télé Lëtzebuerg	70%	72%	12%	13%	92%	92%
CLT-UFA	RTL TVi	46%	55%	24%	24%	74%	62%
CLT-UFA	Club RTL	59%	23%	23%	18%	44%	35%
CLT-UFA	RTL4	53%	59%	39%	40%	68%	72%
CLT-UFA	RTL5	54%	48%	45%	44%	64%	66%
CLT-UFA	RTL9	48%	51%	40%	36%	9%	26%
CLT-UFA	RTL9	52%	54%	43%	36%	28%	39%
Liberty TV.com	Liberty TV	100%	100%	15%	15%	71%	67%
Nordlicht	Nordlicht TV	100%	100%	0%	0%	0%	0%
Everyday Media	T.TV	NC	NC	NC	NC	NC	NC

### *A) Reasons given by Member State for failure to reach proportions:*

#### 1. Majority proportion of European works (Article 4)

Four of CLT-UFA's programmes failed to reach the required majority proportion of European works for one of the two reference years.

- In 2003 the records for RTL-Tvi were based on a sample 4-week period, and the set threshold of 50% was not reached during this time. The situation was remedied in 2004.
- In 2004 the proportion of European works on Club RTL during the sample period, in which programme schedules were based around flagship music programmes, fell 26.86% below the threshold. A higher proportion of programmes were non-European works. Club RTL intends to boost the number of European works it broadcasts in order to meet the required proportion.
- The slight 1.03% shortfall for RTL5's European works quotas as a whole is due to the fact that the channel mainly broadcasts sport and news, programmes which do not qualify as European works under the Directive. In 2005 RTL5 should be able to comply with the prescribed quotas given the development of its programme schedules and audience.
- RTL9, which fell 1.8% below the threshold in 2003, corrected the situation in 2004.

## 2. Minimum proportion of European works by independent producers (Article 5)

In 2003 and 2004, CLT-UFA's programmes as a whole reached the level of production of works by independent producers laid down in the Directive.

Nordlicht and T.TV are low-budget channels in Luxembourgish. As in previous years, Nordlicht produces all its programmes itself.

Everyday Media S.A. is not able to provide the requested statistical statements as T.TV was going through a period of transition, i.e. changing from initially broadcasting music programmes aimed at young people to more general television.

### ***B) Measures taken or envisaged by the Member State***

RTL has been formally instructed to take the steps needed to ensure this situation does not arise again.

Everyday Media S.A. has been formally instructed to take the steps needed to ensure it complies with its obligations in the future.

### ***C) Further comments:*** No observations

## HUNGARY

<i>Total number of reported channels</i>	<i>Reference period</i>	<i>Monitoring method</i>
15	2003/2004	Weekly data provision

HU	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Broadcaster	channel	2003	2004	2003	2004	2003	2004
Magyar Televízió Rt.	MTV1		78,4%		38,4%		66,5%
Magyar Televízió Rt.	M2		82,9%		35,0%		76,2%
Duna Televízió Rt.	DUNA TV		94,2%		86,9%		87,3%
Viasat Hungária Műsorszolgáltató Rt.	Viasat3		14,9%		2,3%		100,0%
Magyar RTL Televízió Rt.	RTL KLUB		54,6%		34,8%		38,3%
MTM-SBS Televízió Rt.	TV2		50,4%		37,0%		66,5%
HBO Rt.	HBO		24,9%		22,5%		93,9%
Mixolid Szolgáltató Rt.	Fix Televízió		53,5%		0,0%		0,0%
AGRO-TV-ATV Rt.	MATV		99,1%		3,6%		100,0%
Budapest TV Rt.	BPTV		63,9%		19,6%		27,4%
Spektrum TV Rt.	Spektrum		55,9%		53,0%		69,4%
Z+ Műsorszolgáltató Rt.	VIVA TV		46,0%		45,9%		94,4%

HU	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Broadcaster	channel	2003	2004	2003	2004	2003	2004
Filmmúzeum Rt.	Film-múzeum Rt		88,3%		65,8%		29,9%
PAX TV Rt.	PAX Televízió		97,0%		58,2%		34,4%
HÍR Televízió Rt	HírTV		100,0%		1,4%		78,5%

***A) Reasons given by Member State for failure to reach proportions***

**1. Majority proportion of European works**

Two channels failed to fulfil the quota:

- HBO

- Viasat 3

(HBO was exempted – see above)

Viasat 3 (**Viasat Hungária Rt.**) – requested for exemption referring to economic reasons, and to program acquisition contracts made before the entry into force of the quotas.

**2. Minimum proportion of European works by independent producers**

Four channels failed to fulfil the quota:

- Viasat 3

- Fix TV

- Magyar ATV

- Hír TV

Hír TV (**Hír Televízió Rt.**) – as a news channel, it is exempted.

Viasat 3 (**Viasat Hungária Rt.**) – see explanation above.

Fix TV (**Mixolid Szolgáltató Rt.**) and Magyar ATV (**AGRO-TV-ATV Rt.**) – almost all of their programs are deemed as produced on their own. With regard to the year 2004 ORTT did not examine the fulfilling of the content requirements, it only controlled the completion of the data provision of the broadcasters. (All of the broadcasters have fulfilled this obligation.)

## ***B) Measures taken or envisaged by the Member State***

ORTT has made the list of independent producers referred by the given broadcasters, and it examined – by virtue of the company registry – whether the statements are adequate to the legal requirements. ORTT has concluded that the enterprises are fulfilling the legal requirements applying to the independent producers.

## ***C) Further comments***

### 1. Method of the data provision

The protocol referring to the broadcasters is made of five columns:

1. Enlisting of programs that fall under the quota, and those which do not.
2. Place of production (in case of co-production the Act II of 2004 on Motion Picture is to be applied).
3. Year of production.
4. Statement on the status (independence) of the producer.
5. Name of the producer (production company).

ORTT asks for data also those broadcasters that are wholly or partially exempted.

### 2. Definition of recent work

ORTT used the terminology of the Media Law, and considered those works recent that were produced not longer than 5 years before.

### 3. Exempted channels

Section 7 of Act I of 1996 on Radio and Television Broadcasting (hereinafter: Media Law) determines the obligation concerning the broadcasting of European works and the works made by independent producers.

On the basis of the mandate given by Section 7, subsection 3 of the Media Law the National Radio and Television Commission (hereinafter: ORTT) made its decision [Decision 505/2004. (IV. 15.) amended by the Decision 627/2004. (V. 5.)] on the gradual application of the requirements of Section 7, the exemptions from the fulfilment and the procedural questions. The decisions states that the obligation of fulfilling the quotas commences on January 1, 2005 (the year following the entry into force of the Treaty on the Accession to the European Union) and applies to the same calendar year.

General conditions of the exemption according to the Decision of ORTT:

1. From Subsection 1, 2 and 4 of Section 7: television broadcaster broadcasting exclusively “news, sports events, game, advertising, teleshopping and screentext service” programs, and the duration of these programs shall be reduced from the total programming time;
2. From Subsection 1, 2 and 4 of Section 7: local television broadcaster defined in point 10, Section 2 of the Media Law, if it is not part of a national network;

3. From Subsection 1, 2 and 4 of Section 7: television broadcaster broadcasting only on a language different from the languages of any Member State, if such language is represented in not whole but significant part of the programming time of the channel, the exemptions shall be applied in those parts of the programming time;

4. From Subsection 1, 2 and 4 of Section 7: television broadcaster exclusively receivable in a third country if it is neither directly nor indirectly receivable in a Member State;

5. From Subsection 1, 2 and 4 of Section 7: television broadcaster of which targeted reception area falls exclusively beyond the borders of Hungary, if it is neither directly nor indirectly receivable in Hungary;

6. From Subsection 1, 2 of Section 7: upon request the pay televisions may be exempted.

The ORTT may exempt the thematic and the satellite broadcaster upon its individual reasonable request. The exemption may apply to a given period, wholly or partially, in advance, on more occasions, assessing that given market conditions.

On the basis of the above the exempted broadcasters:

Broadcaster	Quota	Period	Decision
HBO Rt.	Section 7, subsection 1 Section 7, subsection 2	Indefinite time	1859/2004. (XII.15.)
Spektrum Rt	Section 7, subsection 1: European quota, Hungarian language quota Section 7, subsection 2: Hungarian independent quota	- in advance, for 5 years, extendable - in advance for 10 years, extendable -for 10 years, extendable	1860/2004. (XII.15.)

## MALTA

<i>Total number of reported channels</i>	<i>Reference period</i>	<i>Monitoring method</i>
5	2004	Broadcasters reporting;  Audience survey carried out by Malta Broadcasting Authority

MT	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Broadcaster	channel	2003	2004	2003	2004	2003	2004
PBS Ltd	TVM [1]	98%	91%	80%	62%	75%	62%
PBS Ltd	Education 22 [2]	100%	98%	NC	20%	100%	98%
Media.Link Communications Ltd. [3]	NET TV	57%	54%	19%	34%	16%	33%
One Productions Ltd. [4]	Super One TV	63%	72%	23%	33%	23%	6%
Smash Communications Ltd [5]	Smash TV	57%	72%	37%	42%	37%	30%

### *A) Reasons given by Member State for failure to reach proportions*

#### 1. European works

N/A – quota reached

#### 2. Independent productions

N/A – quota reached

***B) Measures taken or envisaged by the Member State :*** No observations

***C) Further comments :*** No observations



## NETHERLANDS

<i>Total number of reported channels</i>	<i>Reference period</i>	<i>Monitoring Method</i>
67	2003/2004	*

(\*) The public broadcasting service compiles data on public broadcasting on the channels *Nederland 1*, *Nederland 2* and *Nederland 3* based on total programming (minus the categories to which exceptions apply such as news, sports, etc.). The data are submitted to the Netherlands Media Authority (*Commissariaat voor de Media*). The remaining broadcasters have reported to the *Commissariaat voor de Media* on the basis of a sample, selected by the *Commissariaat*, of weeks 7, 17, 29 and 42 (2003) and the periods 13-19 March 2004, 8-14 May 2004, 11-17 September 2004 and 6-12 November 2004.

NL	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Broadcaster	Channel	2003	2004	2003	2004	2003	2004
Publieke landelijke omroep	Nederland 1	94	94	44	45	94	93
Publieke landelijke omroep	Nederland 2	83	91	48	51	96	95
Publieke landelijke omroep	Nederland 3	92	93	35	37	89	83
St. Samenwerkende Publieke Omroepen Midden Nederland	Utrecht	100	100	74	38	100	100
Stichting Omroep drenthe	Drenthe	100	100	43	39	100	100
Stichting Omroep Gelderland	Gelderland	100	100	38	12	100	100
Stichting Omroep Limburg	Limburg	100	100	48	53	100	100
Stichting Omroep Zeeland	Zeeland	100	100	12	14	100	100
Stichting Omroep Fryslân	Fryslân	100	100	30	29	100	100
Stichting Regionale Omroep Brabant	Brabant	100	100	51	36	100	100

NL	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Stichting Regionale Omroep Flevoland	Flevoland	100	100	69	68	100	100
Stichting Regionale Omroep Rotterdam-Rijnmond en omgeving	Rijnmond	100	100	29	46	99	100
Stichting Regionale Omroep West	West	100	100	34	58	100	100
Stichting Regionale Televisie Noord	Groningen	100	100	39	20	100	100
Stichting RTV Noord-Holland	Noord-Holland	100	100	14	42	100	98
Stichting RTV Oost	Oost	100	100	38	36	100	100
Wereldomroep	Wereldomroep	100	100	9	4	100	100
SBS Broadcasting b.v.	Net 5	33	34	26	32	54	84
SBS Broadcasting b.v.	SBS 6	45	49	31	26	86	83
TV 10 b.v. p/a SBS Broadcasting B.V.	Veronica/Jetix	45	52	29	40	86	95
Yorin TV b.v.	Yorin	36	55	34	39	55	73
Albeda College	ETV.NL	NO	96	NO	23	NO	100
Carthage II B.V. p/a SBS Broadcasting b.v.	Irisz	NO	55	NO	37	NO	85
Clear Television Network B.V.	Clear TV	NO	29	NO	28	NO	100
Extreme Sports Channel V.O.F.	EX Extreme Sports Channel	EXC	EXC	EXC	EXC	EXC	EXC
InfoThuis Nieuwe Media B.V.	InfoThuis TV	NO	100	NO	100	NO	100

NL	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
InfoThuis Nieuwe Media B.V.	InfoThuis TV (editie Westland/Midden Delfland)	NO	100	NO	100	NO	100
KinderNet C.V.	Nickelodeon	31	37	27	36	29	42
N.V. Multikabel	MultiView	EXC	EXC	EXC	EXC	EXC	EXC
Regionaal Omroep Beheer B.V.	ROB TV	100	100	6	26	100	99
Regionaal Televisie Netwerk Limburg B.V.	TV Limburg diverse edities	NO	100	NO	26	NO	100
ZeelandNet	DeltaTV	100	NO	0	NO	0	NO
Stichting Servicechannel	Service Channel	92	NO	92	NO	91	NO
Regio News Network	RNN7	100	EXC	0	EXC	0	EXC
Global Entertainment	Ultr Blue / Don't Panic TV	65	NO	60	NO	100	NO
Ultra Blue tv	Ultra Blue tv	68	NO	56	NO	100	NO
Royaal B.V.	Royaal TV	NO	100	NO	23	NO	100
Stichting Huissen TV	Huissen TV	EXC	EXC	EXC	EXC	EXC	EXC
United Football Broadcasting B.V.	Het Voetbalkanaal	EXC	EXC	EXC	EXC	EXC	EXC
UPC Programming b.v.	UPC Avante	55	NO	42	NO	57	NO
UPC Programming b.v.	UPC Avante (EE)	55	NO	42	NO	55	NO
UPC Programming b.v.	UPC Club	39	45	25	43	100	49
UPC Programming b.v.	UPC Club (CE)	NO	0	NO	0	NO	0
UPC Programming b.v.	UPC Club(EE)	35	42	23	41	88	53

NL	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Visie Marketing & Media B.V.	Tilburg-TV	0	0	0	0	0	0
Vision-Net TV Produkties B.V.	VSM-TV	EXC	100	EXC	0	EXC	0
Yorin TV b.v.	Yorin Store	EXC	EXC	EXC	EXC	EXC	EXC
MTV Networks B.V.	MTV The Netherlands	0	38	0	25	0	95
MTV Networks B.V.	The Music Factory (TMF)	100	55	14	44	100	99
The Box Holland b.v.	The Box	28	5	26	3	0	97
A Ti Vi	A Ti Vi	0	0	0	0	0	0
Arrivo on demand B.V.	Arrivo	28	32	28	32	95	96
Arrivo on demand B.V.	Arrivo (Austria)	NC	34	NC	34	NC	NC
Arrivo on demand B.V.	Arrivo (Germany)	NC	37	NC	37	NC	NC
Arrivo on demand B.V.	Arrivo (Norway)	NC	36	NC	36	NC	NC
Arrivo on demand B.V.	Arrivo (Sweden)	NC	37	NC	37	NC	NC
Canal+ Entertainment Holland B.V.	X-Zone	50	50	50	48	100	54
Free - X TV B.V.	Backroom/FreeX TV2	NO	67	NO	NC	NO	NC
Free - X TV B.V.	Free-X TV	76	56	NC	NC	NC	NC
Free - X TV B.V.	Xdream	NO	57	NO	NC	NO	NC
Mintrade B.V. p/a IBSBM	Exotica	NO	0	NO	0	NO	0
Private Blue and Gold Broadcasting B.V.	Private Blue	98	98	40	34	100	78
Private Blue and Gold Broadcasting	Private Gold	100	90	0	23	0	8

NL	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
B.V.							
Satellite Data Broadcasting b.v.	Livesex tv	NC	46	NC	46	NC	100
Satellite Data Broadcasting b.v.	Sexview	58	35	58	35	100	100
STV International B.V. p/a Loyens en Loeff	Playboy TV / Spice Platinum	52	62	34	56	26	90
Te Ve Sur	Te Ve Sur	NO	0	NO	0	NO	0

### ***A) Reasons given by Member State for failure to reach proportions***

#### **1. Majority proportion of European works (Article 4)**

As shown in Annex I, in 2003 11 of the 49 broadcasters did not meet the required percentage of European productions. In 2004, 18 of the 55 broadcasters did not meet the percentage. This gives an incorrect picture, however. In 2003 and 2004, four broadcasters were exempted from the standard percentage obligation, which was lowered. The four broadcasters did meet this lower percentage. That being the case, for 2003 the compliance rate was in fact 75% rather than 67%. And for 2004, 75% rather than 67%.

#### **SBS Broadcasting BV**

The percentage of European productions on *SBS6* has increased 4% over 2003 and is now approximately 50%. The *Net 5* channel has reached 34%, a 1% increase over 2003. During discussions on the reporting year 2003, SBS promised that it would broadcast more European programmes in 2004. Where *Net 5* is concerned, however, this promise was not kept. SBS explained this by saying that a number of Dutch productions were postponed or dropped in 2004. For some programmes, the production costs had already been paid to the producer in their entirety, because of which there was NO budget left over for new programmes. For this reason, the open time was filled in with reruns from the fiction library, which is composed primarily of American material. SBS did state that an examination of its budget showed that more than 50% went towards Dutch productions and, as a result, towards European productions. SBS also indicated that they expect the percentage of European productions to increase in 2005.

#### **Yorin**

*Yorin* met the European-production percentage target in 2004 but not in 2003. In 2004, *Yorin* broadcast a great deal of reality programmes. These are mostly Dutch or UK productions.

#### **Clear Television Network BV**

*Clear tv* began broadcasting in October 2004, offering six hours per day. Consequently, the data provided for 2004 cover one week only.

## UPC

UPC was granted an exemption for the European-production percentage requirements for channels UPC club (CE) and UPC club (EE) because these are new channels. The percentage for UPC club (CE) was set at 0% in 2004 and the percentages for UPC club (EE) at 10% in 2003 and 15% in 2004. These percentages were met by UPC. The three club channels ceased operations in July 2005.

## Visie Marketing & Media B.V.

*Tilburg TV* had expected that it would not have to provide data, because, given its local character, it had NO obligations regarding the broadcasting of European productions. However, *Tilburg TV* can be viewed in 10 different municipalities, which means that it is not eligible for the exemption in Article 9 of the European directive. The percentage of European productions will likely be 100% since only regional programmes are broadcast.

## MTV Networks BV

As regards the *Nickelodeon* channel, MTV Networks BV invoked the following reasons for failing to satisfy the required percentage of European productions. *Nickelodeon* is a niche channel targeting children exclusively. Children's programmes are expensive. In a small country with a limited language area, that makes it impossible to produce (or have produced) a significant amount of children's programmes. Moreover, there are not a great deal of European children's programmes, and what is available does not always correspond to what *Nickelodeon* wishes to offer: programmes without violence and that are educational. For those reasons, *Nickelodeon* broadcasts many of its "own" programmes from the United States. MTV Networks BV has made a reasonable case that if you look at its budget, more than 50% is spent on European productions. MTV Networks BV has also said that it expects to broadcast additional European productions in 2005 because since December 2004 a daily programme has been broadcast that is a European production.

Regarding the *MTV* channel, MTV Networks BV has indicated that, besides video clips, more and more regular programmes are being broadcast. These regular programmes are frequently European productions. Regular programmes cost *MTV* much more than video clips. *MTV* has made a reasonable case that if you look at its budget, more than 50% is spent on European productions. It has also been indicated that beginning in 2006 a greater portion of broadcast time will be dedicated to European productions because more and more programmes will be made in-house. Efforts were begun in this regard in 2005, but they will only bear fruit in 2006.

## The Box

This programme consisted primarily of music clips and was created in 2004 based on viewer input. For that reason, the broadcaster had little influence on the programme content. According to the broadcaster, the amount of European clips was, however, sufficient.

In early 2005, The Box was taken over by MTV Networks BV and was unable to provide any further explanation of the figures presented.

## **Ativi**

Ativi is a channel that targets people from the Antilles living in the Netherlands. Programmes come from the Antilles and Venezuela. Ativi has been informed that if it cannot meet the required percentage of European productions, it can request an exemption under certain conditions. At the current time, NO reaction has been received from Ativi.

## **Arrivo on demand BV**

*Arrivo* has been granted an exemption from the European-production percentage requirement, because it is a theme-based channel just beginning operations. The percentage has been set at 25%, which *Arrivo* has met. Arrivo on demand BV has stated that it was under the presumption that the exemption covered all four Arrivo channels. However, the exemption has been granted for *Arrivo* only and not for *Arrivo Austria, Germany, Norway and Sweden*. Legal proceedings are currently underway to resolve the matter.

## **Mintrade**

The Erotica channel has received an exemption from the required percentage of European productions because it is a new channel. The percentage for 2004 was set at 0%.

## **Satellite Data Broadcasting BV**

This company operates two pornography channels that alternate regular programmes with advertisements for the two channels. The percentage requirement has not been met. The broadcaster has given NO reason for this. This theme-based broadcaster will be informed concerning the possibility of applying for an exemption.

## **Tevesur**

Tevesur began test broadcasts in 2003 and regular broadcasting in 2004. The data supplied by Tevesur were insufficient to be able to evaluate whether the quota requirement has been met. The percentage of European productions has therefore been set at 0%.

## 2. Minimum proportion of European works by independent producers (Article 5)

### **Wereldomroep**

The Wereldomroep (world broadcasting service) rebroadcasts a selection of Dutch-language programmes originally shown on Dutch public channels. Programmes are chosen according to their content's appropriateness for a Dutch audience living outside the Netherlands. In the opinion of the Media Authority, the public broadcaster broadcasts a sufficient quantity of European productions to comply with the intention of the Directive.

### **ROB TV**

ROB TV began broadcasting at the end of 2003. That being the case, in 2003 it did not meet the required quantity of independent productions. It did meet this requirement in 2004.

## **Vision Net TV**

*VSM TV*'s broadcast content consists almost exclusively of an electronic newspaper. The newspaper is interrupted for merely a few hours per week by regular programming, produced in-house by the broadcaster. This represents an extremely limited portion of the broadcast time.

## **The Box**

The independent-production requirement has not been met because the European-production percentage requirement has not been met. There is a great deal of independently produced European content, but it is the viewer who determines what is actually broadcast.

## **Free X-TV**

The percentage of independent productions could not be determined based on the broadcaster's report. Nevertheless, given the nature of the programming and the fact that the percentage requirement for European productions is met, it can be assumed that the percentage requirement for independent productions is also met.

### ***B) Measures taken or envisaged by the Member State***

The Media Authority held talks with all broadcasters with an audience of more than 3% that did not meet the percentage requirement for European productions in 2003 and 2004. During these discussions, the broadcasters explained why they had not met the quota requirement and what measures they would take to meet the requirement in the future. Talks were also held with MTV Networks BV, which, given its position on the Dutch market, is a major player even though its channels, individually, do not exceed the 3% mark.

SBS indicated that it had taken steps to ensure that *Net 5* would broadcast a sufficient amount of European productions in the future. SBS did show that it spends a large part of its budget on European productions. The Media Authority informed SBS that if in 2005 *Net 5* again fails to meet the quota percentage, penalties will be considered.

MTV Networks BV indicated that it had taken measures to broadcast a sufficient quantity of European productions on the *Nickelodeon* and *MTV* channels in the future. MTV Networks BV also indicated that these channels spend a large portion of their budgets on European productions. If the situation does not improve sufficiently in 2005, the Media Authority will also consider what measures should be taken.

### ***C) Further comments***

On 1 January 2002, the Policy Rules for programme quotas came into force. These set out the policy on enforcement of the rules on programme quotas and explain the notions *Europese productie* (European production) and *onafhankelijke productie* (independent production) in detail. They also explain what should be understood by *in aanmerking te nemen zendtijd* (transmission time in the reference period), how the various percentages must be calculated and how broadcasters must file their reports. The European guidelines have been incorporated into the policy rules.



Under the Rules, from 2002 broadcasters are required to report on all programmes transmitted during a period of four weeks selected by the Media Authority. This means that the broadcasters must submit a report covering their entire programming during those four weeks. From 2002, the broadcaster is required to specify, for each programme component, whether it counts as part of the transmission time in the reference period, whether it is a European and/or independent production, and the year of production. All broadcasters have to report using a form drawn up by the Media Authority. The different percentages are calculated based on all these data. The Media Authority also assesses the accuracy of the information. It is checked whether the broadcaster has correctly identified a production as a European product and whether the production has been correctly included in the transmission time in the reference period. Starting in 2002, broadcasters may NO longer simply provide total percentages, but must also document them with programme data.

The independent television producers (OTP) have percentage figures for (European) independent productions broadcast by the public broadcasting service. The Media Authority has submitted the statistical overview to the OTP.

## AUSTRIA

<i>Total number of reported channels</i>	<i>Reference period</i>	<i>Monitoring method</i>
12	2003 / 2004	<p>Statutory reporting obligation of broadcaster;</p> <p>Failure to report incurs an administrative penalty (Paragraph 64 (1) Nr 9 PrTV-G (Private Television Act))</p>

AT	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Broadcaster	channel	2003	2004	2003	2004	2003	2004
ORF	ORF 1	44%	46%	16%	17%	84%	90%
ORF	ORF 2	82%	83%	33%	32%	92%	89%
ORF/Sitour Gruppe	TW1	98%	97%	60%	59%	92%	98%
ATV Privatfernsehgmbh	ATV+	55%	38%	53%	38%	65%	90%
Sat 1 Privatrundfunk und Programmgesellschaft mbH	Sat 1 Österreich	100%	100%	100%	100%	100%	100%
K-TV Fernsehgesellschaft mbH & Co KEG	K-TV	100%	96%	19%	21%	50%	44%
Fashion TV Programmgesellschaft mbH	Fashion TV	66%	67%	58%	60%	100%	80%
TIV Kabel-Fernsehgesellschaft mbH	GoTV	NO	70%	NO	15%	NO	95%
Premiere Fernsehen GmbH	Premiere Österreich	37%	40%	21%	22%	64%	63%
Pro Sieben Austria GmbH	Pro Sieben Österreich	NO	100%	NO	100%	NO	100%
MEC Sport und Entertainment GmbH	RaceON TV	NO	EXC	NO	EXC	NO	EXC
X-Gate Multimedia GmbH	TV6	NO before September 2003 / NC	NC	NO before September 2003 / NC	NC	NO before September 2003 / NC	NC

***A) Reasons given by Member State for failure to reach proportions***

No observations.

***B) Measures taken or envisaged by the Member State***

No observations.

***C) Further comments***

Audience shares:

The figures indicated relate to the market shares determined in the Teletest. Figures are available only for ORF and ATV+ as well as Sat 1 since the other broadcasters included in the report in the relevant period did not take part in the Teletest. It should also be noted that the market shares of Sat. 1 include not only the broadcast Austria "niche" programmes, but also the German umbrella programmes in Austria. This market share must be qualified insofar as it depends on the transmission mode as to whether a viewer can receive the Austria "niche".

ORF programmes:

With an average share of European works of 63.7%, the ORF registered an increase in 2004 compared with the previous year (2003: 62.2%). In 2004 ORF1 recorded a 45.9% share. In ORF2 the figure was 83.2% (2002: 82.1%).

As regards independent works, the previous high level was also maintained in 2004. The proportion of works made by independent producers was 16.7% in ORF1 (2003: 15.7%) and 31.9% in ORF2 (2003: 33.2%), which gives an average of 23.9% for 2004 (2003: 24.0%).

The proportion of recent works was also stable in 2004. The proportion of broadcast productions of independent producers accounted for by recent works was 89.6% in 2004.

The ORF is endeavouring to further increase these proportions.

TW1:

TW1 is a 24-hour special interest channel (with repeats from 24.00 to 07.00) for travel (topical travel magazine, travel destinations), current weather (weather reports, weather information, weather data, weather panorama cameras), leisure (leisure tips) and sport (live transmissions and magazine programmes). The percentages given in the table relate to the following numbers of hours: TQT 2003 6 765 hours, 2004 6 576 hours; EW 2003 6 630 hours, 2004 6 368 hours; IP 2003 4 059 hours, 2004 3 894 hours; RW 2003 3 721 hours, 2004 3 816 hours;

ATV+:

The decrease in the proportion of EW in the TQT is due to the fact that in the year of the inclusion of terrestrial broadcasting the broadcaster provided significantly more own productions to be included in the quota and a number of special interest magazines. Because of a lack of acceptance by the public, a number of these were phased out of the programming

in 2004 and are NO longer produced. In their place, more sport was introduced into the programme as a result of the acquisition of transmission rights for the national football league. Sports events and football matches cannot however be taken into consideration when determining quotas. This can be seen from the following figures: whereas in 2003 the time to be entered under TQT was 5 158 hours, this number decreased in 2004 to 4 750 hours.

#### SAT1:

SAT1 Privatrundfunk und ProgrammgesmbH provides niche programming (which is inserted in the normal SAT1 schedule) of a maximum of two hours per day, which however is not fully exploited. The programmes (motoring programmes, sports magazine, lifestyle, health) are then repeated a number of times during the week, with recent productions of a magazine programme being broadcast every fourteen days for the most part. The above data relate to the initial broadcast of programmes. Initial broadcasts accounted for 65.5 hours in 2003 and 63.5 hours in 2004. All productions without exception are made entirely in Austria by independent producers. All of these productions are recent works, since without exception they were produced very near to the time of transmission and repeated soon after the first broadcast.

#### KTV:

KTV Fernseh GmbH & Co KEG is a specialised channel showing broadcasts with a Christian/Catholic perspective including the transmission of masses and other "live services" via satellite. The individual percentages given relate to the following number of hours:

TQT 2003: 1 283 hours of which EW 1 283 hours, IP 240 hours and RW 120 hours. TQT 2004: 1 432 hours of which EW 1 378 hours, IP 300 hours and RW 132 hours. The broadcasts include coverage of religious services, group discussions on religious topics as well as research and information on subjects relating to Christianity.

#### Fashion TV:

This specialised fashion channel (24 hours a day, including repeats) offers advertising and topical fashion information, particularly coverage of fashion shows in and outside Europe, and also international fashion events as well as (edited highlights of) fashionable events (competitions, presentations, society events). No presenters are used for the items broadcast.

Given that the channel is concerned exclusively with presenting the latest fashions, its broadcasts consist mainly of items produced fairly recently. In view of the fact that the programmes on offer do not receive attention from other broadcasters and these programmes are thus not made for any other TV broadcasters, independent productions account for 100% of broadcasts.

The percentage figures relate to total qualifying transmission time (TQT) of 8 760 hours (2003), excluding advertising and news, EW circa 5780 hours, IP circa 5 100 hours and RW circa 5 100 hours of the broadcast schedule. The figures taken for 2004 were as follows: TQT 7 884 hours, EW 5 250 hours, IP 4 730 hours and RW 3 784 hours.

#### GoTV:

This broadcaster has transmitted its programme via satellite since 1 May 2004 and has therefore only been subject to reporting requirements in 2004. The percentage figures relate to 5 519 hours of European works, 1 183 hours of works made by independent producers and 1 123 hours of recent works. A total of 7 884 hours of programmes were broadcast during the year.

#### Premiere:

In 2003, 7 248 hours were broadcast (excluding news, sports reports, etc.). Of these, 2 694 hours consisted of European works. 1 500 hours of programming were made by independent producers. Of these in turn, 953 hours were recent works.

#### RaceONTV:

The broadcaster has only had a licence for satellite broadcasting since 30 January 2004. It transmits live horse races from the USA and the Magna Racino Austria. In addition to the races themselves, commentaries and information on the horse races (betting information, results) are transmitted by means of an information menu and split screen. The programmes are encoded and can only be received at race tracks and in sports bars and betting shops but not in private households. There were NO preliminary or background reports or the like in 2004.

Simply by virtue of the fact that the transmissions are only of horse races, mainly from the USA, the channel transmits only sport, with a result that Articles 4 and 5 cannot be implemented in practice or it must be assumed that for the purposes of the European Commission guidelines on the implementation of Articles 4 and 5 (cf. Point 2.2) the broadcaster is not subject to the reporting obligation, since it broadcasts only sports reports, the majority of which are from the USA.

#### Pro7:

In October 2003 the Pro Sieben Rundfunk and Medienproduktion GmbH was granted a licence for a daily half-hour "niche" programme (news and reporting on local events from an "infotainment" angle) on ProSieben. The niche had not yet been established in 2003. In 2004, under the terms of the licence granted by the regulatory authority Kommaustria, the niche programme amounted to 15 minutes daily (from 20.00 to 20.15), of which on average 10 minutes consisted of news. The remainder of the 15 minutes was devoted to reports on local events. Because of its content, this magazine programme must be considered a European work, which is made by independent producers and which because of its topicality also regularly represents a recent work within the meaning of the Directive. Moreover, on ten occasions in 2004 a further magazine programme lasting 25 minutes was also broadcast, and this should also be regarded as a work made by independent producers and a recent work.

#### TV6:

In September 2003 the X-Gate Multimedia Broadcasting GmbH began test broadcasts of the TV6 channel. Since then, bankruptcy proceedings have been instigated against TV6, with a result that it is not at the moment possible to obtain useful data, since applications can only be made to the administrator. In its unencoded programming, TV6 transmitted mainly

teleshopping and adult entertainment. In addition part of the programme was encoded. The broadcaster is currently facing legal supervision proceedings brought by the regulatory authority.

Other broadcasters:

Apart from the broadcasters named in the report, a number of other broadcasters broadcast programmes in local and regional cable networks and two other broadcasters transmitted a terrestrial programme for an individual province in Austria during the reporting period. Since all these broadcasts are aimed at a local audience and are not connected to a national television network, then in accordance with Article 9 of the Directive the broadcasters concerned are not subject to the reporting obligation.

Three other broadcasters licensed for satellite broadcasting in 2004 have not so far begun their transmissions.

## POLAND

<i>Total number of reported channels</i>	<i>Reference period</i>	<i>Monitoring method</i>
52	01.05.2004 31.12.2004	Collection data from broadcasters

PL	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Broadcaster	channel	2003	2004	2003	2004	2003	2004
Telewizja Polska SA	Program 1		72%		27%		60%
Telewizja Polska SA	Program 2		84%		21%		64%
Telewizja Polska SA	TV Polonia		99%		17%		45%
Telewizja Polska SA	TVP 3 Regionalna Białystok		90%		13%		NC
Telewizja Polska SA	TVP 3 Regionalna Bydgoszcz		93%		18%		NC
Telewizja Polska SA	TVP 3 Regionalna Gdańsk		94%		15%		NC
Telewizja Polska SA	TVP 3 Regionalna Katowice		90%		15%		NC
Telewizja Polska SA	TVP 3 Regionalna Kraków		91%		15%		NC
Telewizja Polska SA	TVP 3 Regionalna Lublin		91%		14%		NC
Telewizja Polska SA	TVP 3 Regionalna Łódź		91%		14%		NC
Telewizja Polska SA	TVP 3 Regionalna Poznań		94%		16%		NC
Telewizja Polska SA	TVP 3 Regionalna Rzeszów		87%		12%		NC

PL	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Telewizja Polska SA	TVP 3 Regionalna Szczecin		90%		14%		NC
Telewizja Polska SA	TVP 3 Regionalna Warszawa		89%		15%		NC
Telewizja Polska SA	TVP 3 Regionalna Wrocław		90%		15%		NC
Telewizja Polsat SA	Polsat		53%		33%		85%
TVN SA	TVN		71%		17%		96%
Polskie Media Sp z o. o.	TV 4		50%		36%		93%
Telewizja Polsat SA	Polsat Sport		94%		87%		92%
Telewizja Polsat SA	Polsat 2		91%		56%		91%
Telewizja Polsat SA	Polsat Zdrowie i Uroda		72%		57%		100%
TVN SA	TVN Siedem		18%		7%		38%
TVN SA	TVN Style		73%		12%		50%
TVN - 24 Sp. z o. o.	TVN 24		100%		0%		0%
TVN - 24 Sp. z o. o.	TVN Meteo		95%		33%		0%
TVN Turbo Sp. z o. o.	TVN Turbo		87%		54%		100%
Canal+Cyfrowy Sp. z o. o.	Canal+ Polska		45%		32%		66%



PL	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Canal+Cyfrowy Sp. z o. o.	Canal+ Żółty		41%		32%		71%
Canal+Cyfrowy Sp. z o. o.	Canal+ Niebieski Sport		62%		20%		79%
Canal+Cyfrowy Sp. z o. o.	Ale kino!		45%		41%		15%
Canal+Cyfrowy Sp. z o. o.	Minimax		44%		23%		72%
Canal+Cyfrowy Sp. z o. o.	Minimini		66%		63%		37%
Canal+Cyfrowy Sp. z o. o.	Planete		83%		66%		63%
Antel Sp. z o. o.	Tele 5		53%		4%		39%
Antena 2 Sp. z o. o.	Pilot		98%		0%		0%
4fun.tv. Sp. z o. o.	4fun.tv.		53%		53%		70%
Fundacja Lux Veritatis	TRWAM		86%		13%		70%
International Movie Productions TV LTD	TMT		67%		55%		43%
Kino Polska TV Sp. z o. o.	Kino Polska		100%		92%		6%
Mango - Media Sp. z o. o.	Mango		EXC		EXC		EXC
Media Biznes Sp. z o. o.	TV Biznes		100%		20%		100%
Prowincja Zakonu Braci Mniejszych Konwentualnych	Niepokalanów Puls		70%		58%		61%

PL	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Służewiec - Tory Wyścigów Konnych	Hipika TV		62%		3%		33%
Telestar Sp. z o. o.	iTV		100%		11%		100%
Wyższa Szkoła Społeczno- Ekonomiczna	Edusat		100%		3%		33%
Prywatna Telewizja Aval Sp. z o. o.	TV Aval		EXC		EXC		EXC
Stowarzyszenie Telewizyjne Lubań	TV Lubań		EXC		EXC		EXC
Telewizja Dolnośląska Sp. z o. o.	TeDe		EXC		EXC		EXC
Tadeusz Dąbrowski	Studio NTL		EXC		EXC		EXC
Telewizja Regionalna Bryza Sp. z o. o.	TV Bryza		EXC		EXC		EXC
Telewizja Zielona Góra Sp. z o. o.	TV Zielona Góra		EXC		EXC		EXC
Telewizja Regionalna Zagłębia Miedziowego Sp. z o. o.	TV Legnica		EXC		EXC		EXC

***A) Reasons given by Member State for failure to reach proportions***

**1. Majority proportion of European works (Article 4)**

Coming into force of the amended regulations of the Broadcasting Act concerning European works and European works produced by independent producers on 1 May 2004 without any *vacatio legis* made broadcasters adapt the programmes broadcast by them to the new regulations immediately. The new regulations concerning European works and European works produced by independent producers include more complex criteria for classifying programmes as European, the definition of an independent producer has been introduced and broadcasters have been obliged to allocate a half of the time of broadcasting European works produced by independent producers to works produced up to 5 years before being broadcast. Not all the broadcasters managed to adapt their programme services to the new regulations at once. Problems with meeting the requirements concerning European quota and quota

concerning European independent producers were mainly encountered by small television broadcasters broadcasting their programme services via satellite.

TVN Siedem, Canal+ Żółty and Minimax did not reach the required 50% share of European works in the period covered by this report.

- a) TVN SA allocated only 18% of **TVN Siedem** time to European works because it had not enough time to adapt its pool of broadcasts to the new legal environment and the programmes purchased earlier did not meet the new regulations. Moreover, the adaptation of the programme service of TVN Siedem to the amended regulations makes the long-term validity of the previously concluded license agreements much more difficult in its opinion. The broadcaster announced having taken steps in order to increase the share of European works: it has concluded new license agreements on broadcasting German and UK TV serials and has begun producing programmes specifically designed for TVN Siedem.
- b) The broadcaster allocated 41% of the qualified broadcasting time of Canal+ Żółty – a paid, encoded satellite channel – to European works. This percentage is not in conformity with Art. 4 of the Directive and with the regulation concerning lower share of programs originally produced in the Polish language and of European works in television program services issued by the National Broadcasting Council (NBC) according to the will of the Polish legislator. The regulation exceptionally permitted a decrease in the threshold of the European works to 45% by broadcasters of specialised channels for which the number of available European works is insufficient. The broadcaster announced that the specificity of Canal+ Żółty was the reason for the failure to achieve the mandatory threshold of the European works. The broadcasting licence obliges the broadcaster in conformity with its application to make up its programme of the latest cinema and television films. It results from the broadcaster's explanations that it encountered many difficulties with purchasing a number of licenses for European works enabling it to meet the legal requirements in force. The broadcaster also informed that it had contributed to the production of cinema films over the last 10 years by financing 60 films with the total amount of PLN 115,000,000.
- c) Minimax is a satellite channel for children. The broadcasting licence obliges the broadcaster to allocate 60% of the time to cartoons. The broadcaster explained that the share of European works in its programme service being below the required threshold of 50% was caused by the reconstruction of the programme schedule carried out in the 2nd half of 2004 and the change in legal regulations.
- d) The share of European works in Canal+ Polska and Ale kino! (film channels) was lower than required by the Directive. However, these are specialised channels. Therefore, the broadcaster was allowed to exceptionally decrease the percentage of such broadcasts to 45% pursuant to regulation of NBC concerning lower share of programs originally produced in the Polish language and of European works in television program services.

## 2. Minimum proportion of European works by independent producers (Article 5)

- a) TV Polonia did not reach the required threshold of 50% of the qualified broadcasting time allocated to works produced by independent European producers within the last 5 years in the period covered by the report. It results from the broadcaster's explanations that this was caused by TV Polonia's programme service being made up of archival programmes produced by Polish TV before 2000 as a rule. By designing the channel, the broadcaster responds to the demand of viewers being Poles and persons of Polish origin resident in various countries from Australia to North America in the first place. The channel is also available in cable television networks in Poland. Its purpose is to present the achievements of Polish culture.
- b) Telewizja Polska SA has not provided any data concerning the share of European works produced by independent producers within the last 5 years in 12 regional channels because, according to the information provided by it, it had not managed to start the new reporting system adapted to the amended legal regulations in its regional branches. The said system was started on 1 January 2005.
- c) The broadcaster of TVN Siedem, in the period covered by the report, allocated 7% of the qualified broadcasting time to European works produced by independent producers and 38% of the time of broadcasting European works produced by independent producers to works produced up to 5 years before being broadcast. The broadcaster informed that this was caused by difficulties with completing its broadcast stock with programmes meeting the new legal requirements within a short time. The broadcaster also explained that it had to perform license agreements previously signed. The broadcaster assures it will make every effort so that the percentage of independent producers' works meets the legal requirements in 2005.
- d) The broadcaster informed that the absence of European works produced by independent producers and works produced within the last 5 years from TVN 24 was caused by the specificity of the channel including 60% of news produced by TVN 24 on its own as any news channel does. A small part of the programme service was made up of feature broadcasts, mainly comments, opinions, views and forecasts related to current events presented by experts, journalists and politicians.
- e) It results from the broadcaster's explanations that the absence of European works produced by independent producers within the last 5 years from TVN Meteo was caused by the specialty of that channel. In 2004, TVN Meteo was made up of weather news coming from Poland and the rest of the world in 90%. Programmes other than news were a small part of it and also concerned weather.

- f) By granting the broadcasting licence covering Ale kino!, NBC granted the broadcaster's request to enable creation of a specialised channel for amateurs wholly dedicated to cinema, its history and evolution and to classic films from the 1950 – 1990 period. Therefore, in the broadcaster's opinion, works produced within the last 5 years are not within that specialty.
- g) According to the broadcasting licence granted to the broadcaster, the Minimini channel is designed for kindergarten-aged children. The broadcaster indicates in its explanations that it is guided by the good of its viewers in making up its programme. Therefore, the quality criterion is essential for the choice of programmes. According to the broadcaster, the latest films by independent producers do not always meet its requirements. Therefore, it encountered problems with filling 50% of the time of broadcasting European works produced by independent producers with works produced within the last 5 years. The broadcaster believes that it encountered another difficulty caused by the fact that European works by independent producers took as much as 63% of its programme service.
- h) According to the broadcaster, the distribution of Tele 5 via satellite and cable networks prevents it from reaching a large audience and, therefore, generating high advertising income. The broadcaster maintains that financial problems caused by a decline in value of the advertising market and a strong competition from foreign broadcasters holding NO licences for Poland and broadcasting in Polish was the main reason for its failure to reach the required percentage of European works produced by independent producers. Moreover, as the broadcaster informed, a large part of its rights to broadcast programmes meeting the criteria for European works produced by independent producers and produced up to 5 years before being broadcast expired in 2004. Lack of funds prevented the broadcaster from investing enough in programmes meeting the requirements of the Broadcasting Act. The broadcaster declares purchasing programmes enabling it to meet the statutory requirements and systematic increases in the share of such programmes in its programme service.
- i) The broadcasting licence obliged Antena 2 sp. z o. o., the broadcaster of Pilot, a niche channel, to provide information about the current contents of programme services broadcasted in Polish in a graphic form and about new television, cinema, theatre and musical broadcasts and their authors. The broadcaster did not meet the legal regulations with respect to European works produced by independent producers and works produced within the last 5 years. The broadcaster did not notify NBC of the reasons for its failure to meet the legal regulations. It abandoned broadcasting the Pilot channel on 1 January 2005.
- j) The broadcaster of the TMT channel did not explain why it had not ensured the required share of independent producers' works produced up to 5 years before being broadcast in its programme, but it warranted that it had made amendments to the TMT programme schedule designing system ensuring the compliance of the programme next year.

- k) Kino Polska is designed as a film channel. By granting the broadcasting licence, NBC granted the broadcaster's request to enable the creation of a channel showing fiction (cinema and television) and documentary films produced in Poland as well as foreign films produced with the participation of Polish actors and artists (directors, story writers, camera operators, composers, set designers, etc.). The broadcaster informed that it had not managed to make up a programme service containing a 50% share of European works produced by independent producers within the last 5 years due to the specificity of the channel. In the broadcaster's opinion, meeting the said condition in 2004 was the more difficult for it that 92% of the programmes were European works produced by independent producers.
- l) The broadcasting licence obliges Służewiec – Tory Wyścigów Konnych sp. z o. o. to create Hipika TV, a niche channel for the audience interested in horse races. This channel is specialised in broadcasting and re-broadcasting horse races in Poland and abroad and announcing race results on boards. Races, broadcast and re-broadcast, accounted for 77% of the programme in 2004. The broadcaster informed NBC that it had not reached the thresholds of European works produced by independent producers and works by independent producers produced up to 5 years before being broadcast because it encountered difficulties in purchasing programmes being in conformity with the specialty of the channel. The broadcaster ensured it would endeavour to adapt its programme service to the legal regulations in force.
- m) The Warsaw School of Social and Economic Studies, the broadcaster of Edusat, is obliged to create educational programme service by the terms of its broadcasting licence. The broadcaster informed that it had not ensured the required share of independent producers' works and, therefore, independent works produced up to 5 years before being broadcast last year, because lectures (mainly live) for extramural students of the Warsaw School of Social and Economic Studies accounted for 80% of its programme. The programme service of Edusat did not include any commercials or teleshopping. It is a non-profit TV station financed with the tuition fees paid by the students.

#### ***B) Measures taken or envisaged by the Member State***

The National Broadcasting Council sent letters requesting the presentation of reasons for failure to meet the legal regulations in force to the broadcasters and notified them of the control of their programme services to be performed in 2005. NBC also warned the broadcasters that legal sanctions provided for in the Broadcasting Act would be applied if repeated non-compliances are stated.

#### ***C) Further comments***

1. Polsat Zdrowie i Uroda, Planete and 4fun.tv included in the report have been broadcast from July 2004 and TVN Style and TV Biznes only from 2004.

2. TV Pilot includes statistical data for the second half of 2004 because the broadcaster did not supply any data for May and June 2004. Obtaining those data is not possible any more, because the broadcaster abandoned broadcasting on 1 January 2005.

3. We cannot state whether the share of European works and works by independent producers in each channel has increased or decreased in 2004 compared to 2003 because statistical data of those years are incomparable. The legal regulations concerning European and independent European works in force in 2003 provided for different criteria for classifying programmes as produced by a European producer. They did not include any detailed definition of an independent producer, either. Moreover, previously a different definition of qualified broadcasting time was applied to the calculation of percentage of European works or independent producers' works. The percentage share of such works in the programme service was calculated as the share in the total broadcasting time without excluding news, sports events transmissions, games, commercials and teleshopping.

4. In 2004, the programmes services of Studio NTL, TV Bryza, TV Zielona Góra, TV Legnica, TV Aval, TV Lubań and TeDe mainly included news and were designed for local viewers. They were not a part of the nation-wide network. Pursuant to Article 9 of the Directive, Poland is exempted from submitting reports on the implementation of Articles 4 and 5 of the Directive with respect to the above-mentioned channels.

## PORTUGAL

<i>Total number of reported channels</i>	<i>Reference period</i>	<i>Monitoring method</i>
24	2003 / 2004	Sampling procedure, on a random basis, complemented, in specific cases by data provided by TV operators

PT	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Broadcaster	channel	2003	2004	2003	2004	2003	2004
RTP, SA	RTP 1	72%	63%	21%	17%	73%	55%
RTP, SA	RTP2 (2:)	53%	61%	31%	26%	53%	71%
RTP, SA	RTP Internacional	100%	96%	46%	28%	100%	94%
RTP, SA	RTP África	73%	64%	9%	22%	100%	83%
RTP, SA	RTP N	NO	100%	NO	40%	NO	87%
RTP, SA	RTP Memória	NO	67%	NO	EXC	NO	EXC
SIC, SA	SIC	44%	46%	17%	16%	92%	79%
SIC, SA	SIC Internacional	91%	98%	77%	71%	92%	94%
SIC, SA	SIC Gold	28%	46%	5%	7%	100%	0%
SIC, SA	SIC Radical	29%	31%	5%	15%	85%	91%
SIC, SA	SIC Mulher	56%	45%	0%	7%	0%	56%
SIC, SA	SIC Comédia	NO	24%	NO	16%	NO	52%
TVI,SA	TVI	61%	57%	51%	47%	98%	95%
TVI,SA	TVI Eventos	EXC	EXC	EXC	EXC	EXC	EXC
SPORT TV PORTUGAL, SA	Sport TV	EXC	EXC	EXC	EXC	EXC	EXC
LISBOA TV, SA	SIC Notícias	69%	76%	9%	21%	100%	100%



PT	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
LISBOA TV, SA	Canal Programação TV Cabo	EXC	EXC	EXC	EXC	EXC	EXC
PORTO TV, SA	NTV	100%	NO	62%	NO	100%	NO
TV MEDICINA,SA	TV Medicina / Saúde	EXC	EXC	EXC	EXC	EXC	EXC
TV CABO AUDIOVISUAIS, SA	Lusomundo Premium	EXC	EXC	EXC	EXC	EXC	EXC
TV CABO AUDIOVISUAIS, SA	Lusomundo Gallery	EXC	EXC	EXC	EXC	EXC	EXC
TV CABO AUDIOVISUAIS, SA	Lusomundo Action	EXC	EXC	EXC	EXC	EXC	EXC
TV CABO AUDIOVISUAIS, SA	SMS Tv	EXC	EXC	EXC	EXC	EXC	EXC
PT CONTEÚDOS, SA	Lusomundo Happy	EXC	EXC	EXC	EXC	EXC	EXC

***A) Reasons given by Member State for failure to reach proportions***

See below under C).

***B) Measures taken or envisaged by the Member State***

Se below under C).

***C) Further comments***

**1. General observations**

- 1.1. To supplement the information given on the two forms attached to letter INFSO A1/KE/pp D(2005)616549 from the Director-General of DG Information Society and Media, Fabio Colasanti, the Portuguese authorities have also prepared a report - as in previous years - since this is the only way to fully understand the performance of television operators falling within Portuguese jurisdiction as regards the application of Articles 4 and 5 of the "television without frontiers" (TWF) Directive in the period 2003 to 2004.

- 1.2. Acknowledging the importance the Commission gives to the audience shares achieved by the programme services considered, the Portuguese authorities reiterate their view - already formally expressed<sup>56</sup> - that the Commission's position has NO valid legal basis and is based on assumptions which do not meet basic requirements regarding clarity, objectivity and equal treatment.
- 1.3. In accordance with Article 4(3) of the TWF Directive, the Portuguese authorities have prepared this report on 2003 and 2004.

The criteria set out in "Suggested new guidelines for monitoring application of Articles 4 and 5 of the Television without frontiers Directive" (Annex 1 to COM(2000) 442 final of 17 July 2000<sup>57</sup>) have been applied.

The percentages presented for assessing the performance of television operators, with reference to Articles 4 and 5 of the TWF Directive, were calculated by actual sampling, supplemented and checked, in specific cases, with information supplied by the operators themselves.

The report comments on each operator and, where applicable, states what measures have been adopted or planned.

The figures for European works, independent productions and recent works are set out in the four tables attached. Tables 1 and 2 give the percentages obtained for different channels held by the public service operator and private operators respectively. Table 3 gives the weighted broadcasting averages for each operator, considered overall. Table 4 gives a list of programme services exempt.

## 2. Comments on each operator:

### i) Radiotevisão Portuguesa – Serviço Público de Televisão SA

Of all the programme services operated by RTP, only **RTP África** - whose programmes are intended for audiences in some of the former Portuguese colonies<sup>58</sup> but are also received in Portugal, by cable and satellite - did not achieve, in 2003, the minimum required for *independent productions*. The percentages obtained reflect the fact that in the period concerned, as in 2002, the programme service in question focused on programmes produced internally, notably programmes made for the African communities, in line with the principle that programmes should be tailored to the needs of their particular audience.

In any event, the percentages achieved by the public television service operator overall<sup>59</sup> show that it fully complied with the recommendatory objectives laid down in Articles 4 and 5 of the Directive, as in previous years.

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<sup>56</sup> Cf. Letter DGEAC of 16 December 2004, ref. EAC C1 EK/Ir D(2004) 29033, and related correspondence.

<sup>57</sup> Fourth Communication from the Commission to the Council and the European Parliament on the application of Articles 4 to 5 of Directive 89/552/EEC "Television without frontiers" for the period 1997 to 1998.

<sup>58</sup> Angola, Cabo Verde, Guiné-Bissau, Mozambique and S. Tomé e Príncipe. The programmes are broadcast by satellite and rebroadcast by terrestrial means in all these countries, except Angola, where they can only be received via satellite.

<sup>59</sup> See table 3 attached, which sets out the annual weighted averages for the performance of each operator in 2003-2004.

It should be noted that RTP started operating two new programme services in 2004: **RTP N**<sup>60</sup> and **RTP Memória**. However, with regard to the latter, the Portuguese authorities believe<sup>61</sup> that its regular programmes should have to comply with the percentages given in Article 4 only, and not those in Article 5.

ii) SIC – Sociedade Independente de Comunicação SA

1. Regarding *European works*, in 2003 and 2004 the following programme services did not meet the objectives laid down in Article 4: **SIC**, **SIC Gold**, **SIC Radical** and **SIC Mulher** (the latter only in 2004).

However, **SIC**'s percentages were higher than in 2001- 2002 and the figures for 2003-2004 (43.8 and 46.3%) are already close to the minimum laid down in Article 4. **SIC Gold**: despite good results in 2001-2002, the figures dropped significantly in 2003,<sup>62</sup> due to the fact that this "archive channel" rebroadcasts programmes already shown by the main SIC programme service, which has a relatively small stock of programmes. This, together with low audience levels, was one of the main reasons SIC Gold stopped broadcasting in October 2004. **SIC Radical**: although its percentage of European programmes is lower than that required by Article 4 of the Directive, and despite the fact that it is relatively new, the figures have been improving since 2002. The opposite is true of **SIC Mulher**, which had 55.7% in 2003 and only 45% in 2004, although this is still quite close to the majority percentage required for European works. The performance of **SIC Comédia** should be relativised, as this thematic programme service (mostly humour and comedy) only started broadcasting in mid-October 2004.

Regarding *works referred to in Article 5 of the Directive*, the following should be mentioned: **SIC Gold** - with negative performance until it finally stopped broadcasting -, **SIC Radical** - which, after low figures in 2003 (5.3%), improved significantly in 2004 (14.5%) - and **SIC Mulher** - which had 0% in 2003 because the sampling period considered was atypical, owing to the random way in which the it was selected.

2. The overall broadcasting percentages for SIC – Sociedade Independente de Comunicação SA for *European works* in 2003 and 2004 are, respectively, 49.2% and 53.1%,<sup>63</sup> i.e. figures we regard as acceptable given the objectives laid down. For *independent works* and *recent works*, the percentages for 2003 and 2004 were significantly higher than those required by Article 5 of the Directive.

iii) TVI – Televisão Independente SA

For several years TVI's figures for *European works* have been gradually increasing - as recommended in Article 4(1) of the Directive - and their results for 2003-2004 were clearly positive.

For independent productions and recent works, TVI's percentages for 2003-2004 were substantially higher than those required by Article 5 (as they were in 2001-2002).

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<sup>60</sup> This is a new programme service where information - intended for all Portuguese territory - is predominant and regional news services play an important role, with programmes tailored to each region.

<sup>61</sup> See explanation in point (vi).

<sup>62</sup> Stabilised, however, the following explanation in point (vi).

<sup>62</sup> Stabilised, however, the following year.

<sup>63</sup> The figures for 2004 do not include SIC Comédia, as its figures are atypical, for the reasons given above.

iv) Lisboa TV – Informação e Multimédia SA

The SIC Notícias news service is relatively new (it began in 2001). This and, above all, the specific nature of its programmes (*a priori* expressly exempted from Community broadcasting percentages) prevented its other programmes which could be included in the percentages for *independent productions* from meeting the requirements of the Directive in 2003. The figure was largely exceeded the following year (21.2%).

v) Porto TV – Informação e Multimédia SA

Although it has the same characteristics and problems as SIC Notícias, in 2003 the NTV programme service fully complied with the percentages laid down for *European works*, *independent productions* and *recent works*. Figures for 2004 are not available for this channel, which stopped broadcasting on 31 May this year after a short existence which began in October 2001.

vi) Operators/programme services exempt

Under Article 4(3) of the Directive the requirement that Member States provide the Commission every two years with a report is, in principle, applicable to "*each of the television programmes falling within the jurisdiction of the Member State concerned*". In order to clarify certain concepts in the Directive and thereby avoid any differences in interpretation and application, the Commission has already specified, in apparently categorical terms, the exemptions from this requirement.<sup>64</sup> However, in practice the Community also tends towards flexibility and reasonableness.<sup>65</sup> Consequently - and bearing in mind that the central objective of the provisions of chapter III of the Directive is to ensure the development and exploitation of *creative* European works - the Portuguese authorities believe that, in addition to the exemptions specified by the Commission, other exemptions from the rules laid down in Articles 4 and 5 of the Directive should clearly be granted – *inter alia* for certain television programme services under Portuguese jurisdiction, because of their specific nature, as described below. This does not include **Canal Programação TV Cabo**, **TV Medicina/TV Saúde**, **TVI Eventos** and **Canal Parlamento**, already mentioned by the Portuguese authorities in the previous exercise,<sup>66</sup> whose situation remains unchanged.

***Lusomundo Premium, Lusomundo Gallery, Lusomundo Action, Lusomundo Happy***

This is a group of thematic programme services with national coverage and conditioned access, broadcast by cable and satellite, which TV Cabo Audiovisuais SA, and PT Conteúdos – Actividade de Televisão e de Produção de Conteúdos SA, part of the same business venture, started operating between 2003 and 2005. They both broadcast films, mainly American ones. **L. Premium** focuses on recent works, while **L. Gallery** broadcasts films which are on average over five years old; **L. Action** shows action and adventure films while **L. Happy** shows comedy, animation and entertainment. The productions are mainly American but in the

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<sup>64</sup> Cf. Note 7 in document COM (2004) 524 of 28.7.2004 and note 5 in the letter from DG Information Society and Media, ref: INFSO A1/KE/pp D(2005)616549.

<sup>65</sup> For example, in COM (98) 199 final of 03.04.1998, the Commission stresses that broadcasters' particular circumstances, such as whether it is feasible for a particular type of channel to meet the quota, are a factor in the assessment of the specific situation of each broadcaster, in order to decide whether or not infringement proceedings should be brought against them.

<sup>66</sup> See SEC (2004) 1016 of 28.07.2004 (attached to the Sixth Communication from the Commission on the application of Articles 4 and 5 of Directive 89/552/EEC "Television without frontiers", as amended by Directive 97/36/EC, for 2001-2002), *operators/channels excluded from the exercise*, pp. 96-97.

assessment leading to authorisation of these channels, the AACS [Alta Autoridade para a Comunicação Social] considered their commitment to include European works in their programming, and the requirement to broadcast independent productions. However, since the latter still constitute a marginal proportion of the programmes, given the vocation and nature of the services in question, it is not reasonable or feasible to require that they observe the transmission percentages laid down in Articles 4 and 5 of the Directive.

### ***SMS TV***

This is a television channel operated by TV Cabo Audiovisuais SA since November 2003, which, as stated in the explanatory note presented to the AACS, the national entity responsible for approving it, is a new television programme service that combines media and telecommunications, with programming based on communication from and between viewers about entertainment, films and discussion, using the Short Message Service (SMS). As the promotion of telecommunication products like SMS is predominant on this channel, the AACS authorised it on condition that it be converted into a teleshopping thematic channel, without including any elements of conventional television programming and, consequently, expressly exempt from the provisions of Articles 4 and 5 of the Directive.

### ***Sport TV***

The Portuguese authorities included Sport TV in previous exercises because, although it mainly shows sporting events which are a priori expressly excluded from the broadcasting percentages, it also broadcasts other programmes. Therefore, in line with the principles of the Directive in this area, the Portuguese authorities have been considering whether to include the other programmes in the broadcasting percentages fixed at Community level, and presenting the results accordingly.

However, we believe this approach leads to meaningless results, given that the remaining programmes considered for the purposes of the Directive are so very few in number [almost none]. We therefore think it is legitimate to maintain that the particular nature of the Sport TV's programming exempts it from the quantitative objectives laid down in Articles 4 and 5 of the Directive.

### ***RTP Memória (partially)***

This is a programme service of a general nature operated by the public service operator, transmitted by cable and satellite, which rebroadcasts the best works available in the RTP's huge, unique archive which holds almost five decades of programmes. Therefore, and at least for as long as it does not produce its own programmes, it only makes sense for this programme service to have to comply with the percentages laid down in Article 4, not Article 5.

## **3. Final observations:**

As shown above, during the period concerned failure to meet the recommendatory objectives laid down in Articles 4 and 5 of the TWF Directive was limited, for television operators under Portuguese jurisdiction - considered overall, in accordance with Community rules - to Lisboa Tv - Informação e Multimédia SA, for independent productions (8.8%, recorded in 2003) and SIC – Sociedade Independente de Comunicação SA, for European works (49.2%, also checked in 2003), although some channels held and operated by SIC did not achieve, in certain cases, for the reasons given above, the percentages laid down in Articles 4 and 5. The same applies, mutatis mutandis, to the particular case of RTP-África (regarding independent productions in

2003), operated by the public service operator, which, however, as already emphasised, also achieved percentages well beyond those required in all cases.

Overall, the Portuguese authorities believe the results are positive. Of particular note is the performance of TVI, whose percentages reverse, for the first time, the negative trend consistently apparent in previous reports, with respect to application of Articles 4 and 5.

Regarding the occasional deviations recorded - and although the situation will continue to be closely monitored, as part of the ongoing dialogue with all television operators -, the Portuguese authorities would again repeat that they prefer not to apply penalties, as they are aware that such measures may have adverse effects on the operators and may possibly run counter to the strictly recommendatory objectives of the Directive.

#### 4. Annexes:

##### 4.1. Lists of operators/television programme services considered

##### Radiotevisão Portuguesa – Serviço Público de Televisão, SA

1	RTP1	Gen, Ncond, Nac, Hrtz+Cb+Sat
2	2:	Gen, Ncond, Nac, Hrtz+Cb+Sat
3	RTP Internacional	Gen, Ncond, Int, Sat
4	RTP África	Gen, Ncond, Int, Cb+Sat
5	RTP N	Gen, Ncond, Nac, Cb+Sat
6	RTP Memória	Gen, Ncond, Nac, Cb+Sat

##### SIC – Sociedade Independente de Comunicação, SA

7	SIC	Gen, Ncond, Nac, Hrtz+Cb+Sat
8	SIC Internacional	Gen, Cond, Int, Sat
9	SIC Gold	Gen, Ncond, Nac, Cb+Sat
<b>10</b>	<b>SIC Radical</b>	<b>Gen, Ncond, Nac, Cb+Sat</b>
11	SIC Mulher	Tem, Ncond, Nac, Cb+Sat
12	SIC Comédia	Tem, Ncond, Nac, Cb+Sat

##### TVI – Televisão Independente, SA

<b>13</b>	<b>TVI</b>	<b>Gen, Ncond, Nac, Hrtz+Cb+Sat</b>
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##### Lisboa – TV – Informação e Multimédia, SA

<b>14</b>	<b>SIC Notícias</b>	<b>Tem, Ncond, Nac, Cb+Sat</b>
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**15 NTV Tem, Ncond, Nac, Cb+Sat**

4.2. List of exempted television programme services:

TVI Eventos Gen, Ncond, Nac, Hrtz+Cb+Sat

Canal Programação TV Cabo Tem, Ncond, Nac, Cb+Sat

TV Medicina / Saúde Tem, Cond (\*), Nac, Cb+Sat

**Canal Parlamento n.a.**

Lusomundo Premium Tem, Cond, Nac, Cb+Sat

Lusomundo Gallery Tem, Cond, Nac, Cb+Sat

Lusomundo Action Tem, Cond, Nac, Cb+Sat

SMS Tv Tem, Ncond, Nac, Cb+Sat

Lusomundo Happy Tem, Cond, Nac, Cb+Sat

**Sport TV Tem, Cond, Nac, Cb+Sat**

RTP Memória (partially) Gen, Ncond, Nac, Cb+Sat

(\*) for part of the programme

Key:

*Tem* Thematic *Int* International coverage

*Gen* General *Cb* Cable

*Cond* Conditional access *Sat* Satellite

*Ncond* Unconditional access *Hrtz* Hertzian

*Nac* National coverage

4.3. Tables relating to Articles 4 and 5 of the TWF Directive

**Table 1: Percentages of European works, independent productions and recent works broadcast by the public service operator RTP**

BROADCASTING ORGANISATION	CHANNEL	EUROPEAN WORKS	INDEPENDENT PRODUCTIONS	RECENT WORKS
		2003 2004	2003 2004	2003 2004
RTP SA	RTP1	72.3 62.5	20.5 17.3	72.5 54.9
	RTP2 (a 2 :)	53.1 61.1	30.8 26.2	53.1 71.0

	RTP Internacional	99.9 96.0	46.1 28.0	100.0 94.0
	RTP África	73.3 64.1	8.5 21.8	100.0 82.7
	RTP N (1)	----100.0	----39.5	----86.6
	RTP Memória (2)(a)	----67.0	(a) (a)	(a) (a)

(1) Began broadcasting on 31 May 2004

(2) Began broadcasting on 4 October 2004

(a) Exempt for works referred to in Article 5 of the TWF Directive (see Table 4)

**Table 2: Percentages of European works, independent productions and recent works broadcast by private operators**

BROADCASTING ORGANISATION	CHANNEL	EUROPEAN WORKS	INDEPENDENT PRODUCTIONS	RECENT WORKS
		2003 2004	2003 2004	2003 2004
SIC SA	SIC	43.8 46.3	17.1 16.3	92.0 79.0
	SIC Internacional	90.5 97.7	76.9 71.0	91.5 93.6
	SIC Gold (1)	27.7 45.5	4.7 6.8	100.0 0.0
	SIC Radical	28.5 30.9	5.3 14.5	84.6 91.1
	SIC Mulher (2)	55.7 45.0	0.0 7.1	0.0 56.1
	SIC Comédia (3)	----23.6	----15.8	----51.7
TVI SA	TVI	60.7 56.7	50.9 46.9	98.4 95.0
LISBOA – TV – INFORMAÇÃO MULTIMÉDIA SA E	SIC Notícias	69.2 76.1	8.8 21.2	100.0 100.0
PORTO – TV – INFORMAÇÃO MULTIMÉDIA SA E	NTV (4)	100.0----	62.3----	100.0----

(1) Stopped broadcasting in October 2004

(2) Began broadcasting in March 2003

(3) Began broadcasting on 18 October 2004

(4) Stopped broadcasting on 31 May 2004



**Table 3: Weighted averages for the broadcasting of European works, independent productions and recent works per operator**

BROADCASTING ORGANISATION	EUROPEAN WORKS	INDEPENDENT PRODUCTIONS	RECENT WORKS
	2003 2004	2003 2004	2003 2004
RTP SA (1)	76.7 75.1	26.5 26.1	81.4 77.8
SIC SA (2)	49.2 53.1	20.8 23.1	73.6 64.0
TVI SA	60.7 56.7	50.9 46.9	98.4 95.0
Lisboa – TV – Informação e Multimédia SA	69.2 76.1	8.8 21.2	100.0 100.0
Porto - TV – Informação e Multimédia SA(3)	100.0----	62.3----	100.0----

(1) For European works the calculation does not include the RTP Memória programme service; this only started broadcasting on 4 October 2004, so the figures are atypical.

(2) The calculation does not include the SIC Comédia programme service; this only started broadcasting on 18 October 2004, so the figures are atypical.

(2) The NTV programme service stopped broadcasting in May 2004, so NO calculation has been made for that year.

**Table 4: Programme services exempt**

BROADCASTING ORGANISATION	CHANNEL	EUROPEAN WORKS	INDEPENDENT PRODUCTIONS	RECENT WORKS
		2003 2004	2003 2004	2003 2004
RTP SA	RTP Memória (a)	----67.0	<i>Exempt</i>	<i>Exempt</i>
TVI SA	TVI Eventos	<i>Exempt</i>	<i>Exempt</i>	<i>Exempt</i>
SPORT PORTUGAL SA	Sport TV	<i>Exempt</i>	<i>Exempt</i>	<i>Exempt</i>
LISBOA – TV – INFORMAÇÃO MULTIMÉDIA SA	Canal Programação TV Cabo	<i>Exempt</i>	<i>Exempt</i>	<i>Exempt</i>
TV MEDICINA SA	TV Medicina / Saúde	<i>Exempt</i>	<i>Exempt</i>	<i>Exempt</i>
TV CABO AUDIOVISUAIS SA	Lusomundo Prmium	<i>Exempt</i>	<i>Exempt</i>	<i>Exempt</i>
	Lusomundo Gallery	<i>Exempt</i>	<i>Exempt</i>	<i>Exempt</i>
	Lusomundo Action	<i>Exempt</i>	<i>Exempt</i>	<i>Exempt</i>

BROADCASTING ORGANISATION	CHANNEL	EUROPEAN WORKS	INDEPENDENT PRODUCTIONS	RECENT WORKS
		2003 2004	2003 2004	2003 2004
	SMS Tv	<i>Exempt</i>	<i>Exempt</i>	<i>Exempt</i>
PT CONTEÚDOS – ACTIVIDADE DE TV E PRODUÇÃO DE CONTEÚDOS SA	Lusomundo Happy	<i>Exempt</i>	<i>Exempt</i>	<i>Exempt</i>

(a) Only for works referred to in Article 5 of the TWF Directive.

## SWEDEN

<i>Total number of reported channels</i>	<i>Reference period</i>	<i>Monitoring method</i>
23	2003 / 2004	Broadcasters own reporting

SE	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Broadcaster	channel	2003	2004	2003	2004	2003	2004
Sveriges Television AB	SVT 1	83	82	17	22	51	62
Sveriges Television AB	SVT 2	87	86	14	18	76	76
Sveriges Television AB	Kunskapskanalen	NO	98	NO	17	NO	14
Sveriges Utbildningsradio AB	UR	99	98	16	19	100	100
TV4 AB	TV4	53	58	76	80	NC	94
TV4 AB	TV4 Film	NO	33	NO	33	NO	8
TV4 AB	TV4 Plus	58	51	100	51	NC	93
TV1000 AB	TV 1000	20	14	100	100	100	100
TV1000 AB	Cinema	21	12	21	100	100	100
TV 6 Sverige AB	6	65	NO	0	NO	0	NO
TV 6 Sverige AB	Viasat Nature	NO	65	NO	0	No	0
TV 6 Sverige AB	Viasat Action	NO	65	NO	0	No	0
NonStop Television AB	E!	EXC	NO	EXC	NO	EXC	NO
NonStop Television AB	Star!	NO	EXC	NO	EXC	NO	EXC
NonStop Television AB	Showtime	NO	EXC	NO	EXC	NO	EXC

SE	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
C More Entertainment AB	Canal+	36	36	NC	NC	NC	NC
C More Entertainment AB	Canal+ Film	32	39	NC	NC	NC	NC
C More Entertainment AB	Canal+ Film	34	34	NC	NC	NC	NC
C More Entertainment AB	C More Film	NO	39	NO	NC	NO	NC
DTU Television AB	DTU 7	EXC	EXC	EXC	EXC	EXC	EXC
Länkomedia AB	NollEttan Television	EXC	EXC	EXC	EXC	EXC	EXC
Babylon Media Föreningen	Suroyo TV	NO	100	NO	0	NO	0
Skånekanalen AB	Skånekanalen	EXC	NO	EXC	NO	EXC	NO

***A) Reasons given by Member State for failure to reach proportions***

**1. Majority proportion of European works (Article 4)**

Film channels with works reflecting commercial supply but where three have reported measures that will increase their numbers: TV4 Film has signed agreement with Nordic film distributor which reportedly will increase European production rate, TV1000 & Cinema – owner committed to developing a Scandinavian Film Channel with higher proportion European productions.

**2. Minimum proportion of European works by independent producers (Article 5)**

Small niche channels with very low AS.

***B) Measures taken or envisaged by the Member State***

No observations.

***C) Further comments***

Channels for which NO AS are given are channels where NO statistics are available. Supposedly these channels, which are all small niche channels, do not have an audience share big enough to be reported.

The channels that have been exceptionally exempted (EXC) are 1. Three small niche channels solely focused on US entertainment industry. (NonStop Television AB) and Three regional channels (DTU Television AB, Länkomedia AB and Skånekanalen AB)

Film-channels have been classified as niche-channels.

## SLOVENIA

<i>Total number of reported channels</i>	<i>Reference period</i>	<i>Monitoring method</i>
52	01.05.2004 – 31.12.2004	Annual report by broadcasters

SL	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Broadcaster	channel	2003	2004	2003	2004	2003	2004
Kanal A d.o.o.	Kanal A	54,7	55,8	2,9	8,2	17,8	69,8
XTENSION d.o.o.	NET TV	27,46	28,06	16,98	16,98	100	100
POP TV d.o.o.	POP TV	78,2	73,1	4	6,4	72,3	84,1
Tele 59 d.o.o.	RTS	EXC	EXC	EXC	EXC	EXC	EXC
RTV Slovenija	RTV Slovenija	80,2	54,9	10	12,5	61,3	67,3
Vigred d.o.o.	TV Krpan Laško	EXC	EXC	EXC	EXC	EXC	EXC
Telefilm, Lešnik s.p.	Silvo Televal	EXC	EXC	EXC	EXC	EXC	EXC
ORON Zavod za obveščanje, raziskovanje, organiziranje načrtovanje	in Televizijski kanal Loška dolina	EXC	EXC	EXC	EXC	EXC	EXC
TV IDEA Kanal 10 d.o.o.	KANAL 10	EXC	EXC	EXC	EXC	EXC	EXC
TV Celje d.o.o.	Televizija Celje	EXC	EXC	EXC	EXC	EXC	EXC
M3 plus d.o.o.	METKA	EXC	EXC	EXC	EXC	EXC	EXC
Naklo d.o.o.	TV Lep Logatec	EXC	EXC	EXC	EXC	EXC	EXC
VASCOM Zavod za izobraževanje in videoprodukcijo	VASCOM Pivka	EXC	EXC	EXC	EXC	EXC	EXC

SL	←MS		EW (% of TQT)		IP (%TQT)		RW (%IP)	
STUDIO	FORMA	Savinjska	EXC	EXC	EXC	EXC	EXC	EXC
Samo Sadnik s.p.		televizija						
Pinterič & Co d.n.o.		ROPOT TV	EXC	EXC	EXC	EXC	EXC	EXC
Video	Audio	Film						
d.o.o.		TV Primorka	EXC	EXC	EXC	EXC	EXC	EXC
Kabelska	televizija	Kabelska	EXC	EXC	EXC	EXC	EXC	EXC
Ormož		televizija						
		Ormož						
Kulturno	društvo	TV Galeja	EXC	EXC	EXC	EXC	EXC	EXC
Izzivi								
Video	studio	90-						
kanal 3		Kanal 3	EXC	EXC	EXC	EXC	EXC	EXC
Euro 3TV d.o.o.		EPTV	71,4	66,9	14,6	15,1	3	16,8
Televizija	Novo	Vaš kanal	7,2	EXC	4,5	EXC	100	EXC
mesto d.o.o.								
J&V d.o.o.		TV Ljubljana	EXC	EXC	EXC	EXC	EXC	EXC
Zavod	Kabelska	TV Medvode	EXC	EXC	EXC	EXC	EXC	EXC
televizija	Medvode							
Vi-tel d.o.o.		Vitel	EXC	EXC	EXC	EXC	EXC	EXC
Zavod za	KTV in	Studio	EXC	EXC	EXC	EXC	EXC	EXC
informiranje		Bistrica						
Slovenska Bistrica								
EVJ	Elektroprom	ETV	EXC	EXC	EXC	EXC	EXC	EXC
d.o.o								
Kabelska	produkcija	I-TV	NO	NO	NO	NO	NO	NO
d.o.o.								
Poseidon d.o.o.		Čarli TV	NO	40,9	NO	44,1	NO	100
KTV	Dravograd	Televizijski	EXC	EXC	EXC	EXC	EXC	EXC
d.o.o.		kanal Loška						
		dolina						
XTENSION d.o.o.		NET XXL	NO	80	NO	10	NO	100

SL	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Ajkom d.o.o.	TV PLUS	EXC	EXC	EXC	EXC	EXC	EXC
JTV d.o.o.	TV Šiška	EXC	EXC	EXC	EXC	EXC	EXC
Zavod Neviodunum	TV Krško	EXC	EXC	EXC	EXC	EXC	EXC
HI-FI videostudio d.o.o.	TV AS	EXC	EXC	EXC	EXC	EXC	EXC
Loka TV d.o.o.	Deželna TV Loka	EXC	EXC	EXC	EXC	EXC	EXC
Avdio video signal Miran Zorc s.p.	TV Grosuplje	EXC	EXC	EXC	EXC	EXC	EXC
Skyline d.o.o.	Studio signal	EXC	EXC	EXC	EXC	EXC	EXC
AB videoprodukcija Berakovič Anton s.p.	Lokalna TV Trbovlje	EXC	EXC	EXC	EXC	EXC	EXC
TV 3 d.o.o.	Prva	8,26	NR	0	NR	0	NR
VTV Studio d.o.o.	vTv Vaša televizija	20	EXC	2	EXC	100	EXC
Mini GO d.o.o.	Mestni studio	NO	NO	NO	NO	NO	NO
Videoprodukcija Martin Ivanuša s.p.	Televizija Ptuj	NO	EXC	NO	EXC	NO	EXC
ATV Babnik & Co d.n.o.	ATV Signal Litija	EXC	EXC	EXC	EXC	EXC	EXC
Domates d.o.o.	Sponka TV	EXC	EXC	EXC	EXC	EXC	EXC
KTRC Radeče	Video strani KTRC Radeče	EXC	EXC	EXC	EXC	EXC	EXC

SL	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Media team Timotej Pečoler s.p.	TV Prometej	EXC	EXC	EXC	EXC	EXC	EXC
Moj TV d.o.o.	Moj TV	EXC	EXC	EXC	EXC	EXC	EXC
Občina Miklavž na Dravskem polju	TVM Miklavž	EXC	EXC	EXC	EXC	EXC	EXC
Privat d.o.o.	TV Paprika	EXC	EXC	EXC	EXC	EXC	EXC
TELE TV d.o.o.	Gorenjska televizija GTV	EXC	EXC	EXC	EXC	EXC	EXC
TV Studio Radgona Jože Čosič s.p.	TV Studio Radgona Kanal 11	EXC	EXC	EXC	EXC	EXC	EXC
Televideo d.o.o.	TV Pika	99,19	26,19	99,13	16,66	99,13	16,66

***A) Reasons given by Member State for failure to reach proportions***

**1. Majority proportion of European works (Article 4)**

The provision of the Mass Media Law which implements the Directive TVSF programme quotas system defines that the broadcasters which fails to reach the proportion of European audio-visual works should increase the proportion of these works each year in comparison with the proportion of annual transmission time in the previous year, whereby the minimum initial proportion shall be twenty per cent of the annual transmission time. The Mass Media Law entered into force in 2001, the transitional period for the quota system expired with the end of 2002. So we do expect that in short period of time all the broadcasters would be able to fulfil the programme quotas. There are two encouragement mechanisms – public tenders – which are aimed to help the broadcasters to reach this programme quota.

**2. Minimum proportion of European works by independent producers (Article 5)**

See the answer above.

Additional reason could be that the small production capacity of the audiovisual sector, the programmes of independent producers for the broadcasters still represents higher cost than other programmes. Slovenia only in March 2003 entered in community programme Media Plus. We do believe that the results of the objective of this programme – TV broadcasting – could be seen very soon in the TV programmes.

***B) Measures taken or envisaged by the Member State***



There are two public tenders within the Ministry which are aimed for the broadcasters to fulfil the programme quotas. The widest one is a public tender for media content and technical infrastructure. The second public tender, who is also prepared annually from 2002, is the public tender for European audiovisual works with the artistic value. The applicants at this tender are independent producers and television broadcasters. The eligible programmes are TV drama, drama series, documentaries etc.

***C) Further comments***

Despite a fact that there are 52 broadcasters registered (mass media register) in Slovenia only 11 out of this play an important role on the media field. These channels reach 82,6 % of audience share. The rest of the broadcasters target local audience and all together reach 12, 9 %. 4, 5 % goes to Croatian TV stations. So as the report shows only two of the important broadcasters failed to fulfil the programme quotas as defined in Articles 4 and 5 of TWF Directive.

## SLOVAKIA

<i>Total number of reported channels</i>	<i>Reference period</i>	<i>Monitoring method</i>
4 in 2004	01.05.2004 – 31.12. 2004	collection of data from broadcasters

SK	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Broadcaster	channel	2003	2004	2003	2004	2003	2004
Markiza s.r.o.	TV Markíza		58%		34%		100%
Slovak Television	STV		71%		23%		100%
MAC-TV s.r.o.	TV JOJ		61%		22%		100%
COM-MÉDIA s.r.o.	Mestká televízia Komárno <sup>67</sup>		67%		24%		100%

### ***A) Reasons given by Member State for failure to reach proportions***

#### **1. European works**

In the reference period 01/05/2004 until 31/12/2004 all broadcasters concerned exceeded the majority proportion of transmission time laid down in Article 4 of the Directive.

#### **2. Independent productions**

The broadcasters signalled difficulties with investigation which programmes were created by independent european producers.

In the period 01/05/2004 to 31/12/2004 all private broadcasters managed to stable the proportion of works created by independent producers above 10% requested by law.

In the same period the public broadcaster STV managed to stable the proportion of independent works above 20 % requested for publish channels.

### ***B) Measures taken or envisaged by the Member State***

#### ***C) Further comments***

The act Nr. 308/2000 of Coll. orders to all broadcasters, exept of local ones not broadcasting in the net, duty to reserve in their broadcasting major share to European works. Every broadcaster is obbligated to keep statistics on the broadcast programme of a television

<sup>67</sup> TV Komarno stopped broadcasting in programme net with TV JOJ in November 2004.

programme service. The statistics contains an analysis of the share of the programme types, the share of European productions and the share of the European independent production programmes. The statistics on the programme service for a calendar month are to be delivered by the broadcaster to the Council within 15 days of the end of the appropriate month. A broadcaster with a licence for broadcast operating through satellites, cable networks, a broadcaster of coded and digital broadcasting shall deliver the statistics within 15 days of delivery of the Council's request for this statistics. One of the competences of Council is elaborating statistics on broadcasting programmes with emphasis on the statistic of broadcasting of European works and independent productions on the basis of broadcasters' documentation. The Office evaluates the data quarterly.

## FINLAND

<i>Total number of reported channels</i>	<i>Reference period</i>	<i>Monitoring method</i>
9	2003 / 2004	Questionnaire

FI	MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Broadcaster	channel	2003	2004	2003	2004	2003	2004
Yleisradio	TV1	89%	88%	25%	24%	50%	50%
	TV2	83%	80%	30%	31%	50%	50%
	TV1+TV2	87%	85%	27%	27%	50%	50%
	Teema	87%	88%	43%	47%	50%	50%
	FST-D	90%	91%	25%	27%	50%	50%
MTV	MTV3	51%	49%	29%	28%	99%	98%
Ruutunelonen	Nelonen	56%	51%	35%	35%	100%	100%
Subtv	Subtv	EXC	32%	EXC	21%	EXC	85%
Yleisradio	YLE24	EXC	EXC	EXC	EXC	EXC	EXC
SportUp Finland	Urheilukanava	EXC	EXC	EXC	EXC	EXC	EXC

### *A) Reasons given by Member State for failure to reach proportions*

#### 1. Majority proportion of European works (Article 4)

Finland has not failed to reach this target. Only one of the channels, Subtv, has a proportion lower than what is stated in the directive.

Subtv gives the following reasons for its lower proportion of European works:

“One of the reasons for the low proportion of European works on Subtv, is the remote supply of European works on the market for Subtv’s core target group. Nonetheless, Subtv has successfully launched a so called British Friday (1,5hs of British programmes). Also the Swedish reality show “The farmers” was broadcasted every single workday during autumn 2004.

A second important reason is that almost all reality-tv series are “competitive entertainment programmes”, and if these were to be included in the European works categorie, then these would make up the largest proportion of broadcasting time also on Subtv.”

## 2. Minimum proportion of European works by independent producers (Article 5)

### ***B) Measures taken or envisaged by the Member State***

Relating to answer A1, Subtv has given the following statement on its behalf:

“The proportion of domestic TV programmes will rise in the following years, as the programme budget increases. In the purchasing of foreign programmes, more attention will be given to buying European programmes. More European programmes will be bought, for example, for the Love & Anarchy film series.”

### ***C) Further comments***

Channels that have been exceptionally exempted are 1) the sports channel “Urheilukanava” and 2) the news channel “Yle24”. In 2003 also Subtv has been exempted due to its locality at that time (art. 9 of the directive).

## UNITED KINGDOM

<i>Number of channels</i>	<i>Reference period</i>	<i>Method(s) of monitoring</i>
233	2003 / 2004	Survey

UK	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Broadcaster	Channel	2003	2004	2003	2004	2003	2004
African Caribbean TV	ACTV	90	90	90	90	100	100
All And All Entertainment Ltd	Toniq	NC	NC	NC	NC	NC	NC
Amore TV Ltd	The Horror Channel	NO	28	NO	0	NO	0
Amplefuture Ltd	Soundtrack Channel	NO	15	NO	15	NO	100
Amplefuture Ltd	Txtme TV	100	100	100	100	100	100
AXN Europe Ltd	AXN Germany	NO	0	NO	0	NO	0
BBC	BBC 1	74	75	21	22	99	99
BBC	BBC 2	80	82	16	21	91	88
BBC	BBC 3	92	92	31	34	100	99
BBC	BBC 4	94	94	22	27	99	98
BBC	BBC Food	91	75	69	4	52	82
BBC	BBC News 24	100	100	37	26	100	100
BBC	BBC Prime	100	100	28	6	46	73
BBC	BBC World	95	100	11	19	100	99
BBC	CBBC	82	84	13	15	96	97
BBC	Cbeebies	95	98	46	50	73	88
BSkyB	18 Plus Movies	6	11	6	11	27	29
BSkyB	Artsworld	77	94	63	45	48	43
BSkyB	Biography Channel	22	18	18	7	83	38

UK	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
BSkyB	Flaunt	95	100	3	3	100	100
BSkyB	Scuzz	95	100	3	3	100	100
BSkyB	Sky Box Office	15	9	7	9	100	99
BSkyB	Sky Cinema 1 & 2	12	22	10	13	3	12
BSkyB	Sky Mix	37	39	18	22	100	96
BSkyB	Sky Movies 1,3,5,7,9	11	12	10	6	76	61
BSkyB	Sky Movies 2,4,6,8	4	4	3	2	82	48
BSkyB	Sky One	27	27	14	19	94	98
BSkyB	Sky Sports 1	85	90	22	23	100	100
BSkyB	Sky Sports 2	80	84	64	69	100	100
BSkyB	Sky Sports 3	88	88	75	77	100	100
BSkyB	Sky Sports Xtra	82	86	78	83	100	100
BSkyB	Sky Venue	100	100	0	0	0	0
BSkyB	Sky Travel	67	72	5	37	100	72
BSkyB	The Amp	95	100	3	3	100	100
BSkyB	History Channel	36	31	19	11	95	50
Celestial Network Ltd	TV Celestial Action Movies	NC	NC	NC	NC	NC	NC
Cellcast TV	Live XXX TV	NO	100	NO	100	NO	100
Channel Television Corporation	4 Channel 4	77	71	50	65	83	86
Channel Television Corporation	4 E4	75	65	19	59	100	99
Channel Television Corporation	4 FilmFour	31	39	9	10	42	30
Channel Television	4 FilmFour Extreme	58	NO	22	NO	45	NO

UK		←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Corporation								
Channel Television Corporation	4	FilmFour Weekly	42	31	22	15	60	53
Channel Television Corporation	4	FilmFour World	62	NO	9	NO	35	NO
Channel Broadcasting	5	Five	51	54	90	92	72	72
Chart Show Channels Ltd		B4	NO	88	NO	12	NO	0
CCN Europe Ltd		Christian Communications Network	NO	31	NO	25	NO	100
Chart Show Channels Ltd		The Vault	87	87	13	13	0	0
Chartshow Channels Ltd		Chartshow TV	87	87	14	13	0	0
Chartshow TV		POP	89	89	11	11	0	0
Chartshow TV		Tiny POP	89	89	11	11	0	0
CNI UK Ltd		Reality TV	28	25	0	25	0	0
CNBC Europe Ltd		CNBC Europe	44	72	44	29	100	100
Discovery Networks Europe		Animal Planet	58	52	53	17	67	59
Discovery Networks Europe		Discovery Channel Europe	56	60	46	22	78	92
Discovery Networks Europe		Discovery Channel France	NO	49	NO	4	NO	83
Discovery Networks Europe		Discovery Civilisation	64	50	59	26	48	61
Discovery Networks Europe		Discovery Civilisation (Italy)	NO	43	NO	18	NO	58
Discovery Networks Europe		Discovery Health	42	53	34	22	94	99
Discovery Networks Europe		Discovery Home & Leisure	67	83	55	40	89	91



UK	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Discovery Networks Europe	Discovery Kids	48	49	45	29	69	89
Discovery Networks Europe	Discovery Science Channel (Italy)	NO	65	NO	35	NO	72
Discovery Networks Europe	Discovery Sci-Trek	66	52	59	26	48	59
Discovery Networks Europe	Discovery Travel & Living	71	66	66	38	81	94
Discovery Networks Europe	Discovery Travel & Living (Italy)	NO	64	NO	32	NO	46
Discovery Networks Europe	Discovery Wings	46	51	40	20	66	84
Disney	abc1	NO	14	NO	0	NO	0
Disney Channel UK	Disney Channel	37	37	4	2	94	97
Disney Channel UK	Disney Channel Scandinavia	13	90	0	1	0	11
Disney Channel UK	Playhouse Disney	56	47	8	8	91	94
Disney Channel UK	Toon Disney	9	9	1	1	100	100
Dovewell Communications Ltd	KT TV	NC	NC	NC	NC	NC	NC
Eckoh Technologies (UK) Ltd	L!VE TV	0	0	0	0	0	0
Emap Performance Ltd	Smash Hits	70	47	57	42	98	100
Emap TV	The Box	65	60	52	45	99	100
Emap TV	Kerrang	36	44	20	36	79	92
Emap TV	Kiss	46	47	33	37	89	95
Emap TV	Magic	78	65	66	55	62	35
Emap TV	Q	47	54	33	50	94	73
Emap TV	The Hits	68	47	55	41	99	80
E Entertainment	E!	3	13	3	13	92	53
Eternal World	EWTN	NO	19	NO	6	NO	75

UK	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Television Network Inc.							
Euro Digital Corporation Ltd	TX1	100	NO	0	NO	0	NO
Europe Movieco Partners Ltd	CineNova	13	9	8	6	84	73
Europe Movieco Partners Ltd	CineNova 2	14	9	10	6	77	74
Flextech Television	Bravo	46	57	38	49	51	54
Flextech Television	Ftn	67	50	56	29	44	99
Fox International Channel (UK) Ltd	f/x Channel	NO	10	NO	10	NO	0
Friendly TV Ltd	FriendlyTV	NO	88	NO	24	NO	100
GMTV	GMTV	80	76	35	36	100	100
Granada Sky Broadcasting	Granada Plus	58	NO	12	NO	4	NO
Granada Sky Broadcasting	Men & Motors/Breeze	69	NC	45	NC	99	NC
Hallmark Channel Ltd	Hallmark Channel (Spain)	10	6	0	0	0	0
Hallmark Channel Ltd	Hallmark Channel (Scandi)	8	11	1	2	0	0
Hallmark Channel Ltd	Hallmark Channel (UK)	7	5	2	2	0	0
Hallmark Channel Ltd	Hallmark Channel (Russia)	0	4	0	2	0	0
Hallmark Channel Ltd	Hallmark Channel (Italy)	0	6	0	0	0	0
Hallmark Channel Ltd	Hallmark Channel (Eastern Europe)	0	14	0	4	0	0
Hallmark Channel Ltd	Hallmark Channel (Czech)	0	12	0	3	0	0
Hallmark Channel Ltd	Hallmark Channel Central Europe)	0	14	0	4	0	0
Hellenic TV	Hellenic Television	100	100	83	83	100	100
Hi2 Ltd	HollywoodTV	NO	88	NO	14	NO	100

UK	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Hollywood Classic Movies Ltd	Classic TV	NC	NC	NC	NC	NC	NC
Ideal Home Channel Ltd	Ideal Vitality (formerly House & Garden TV)	NO	100	NO	0	NO	0
ITV	ITV2	65	58	18	16	100	99
ITV	ITV3	NO	55	NO	13	NO	89
ITV	ITV1	81	85	40	42	50	53
Jetix Europe Ltd	Jetix Play	55	65	34	22	0	0
Jetix Europe Ltd	Jetix Scandinavia (formerly Fox Kids Scandinavia.)	38	37	31	25	45	31
Jetix Europe Ltd	Jetix UK (formerly Fox Kids UK)	22	16	13	14	100	57
Kanal 5 Ltd	Kanal 5	20	24	19	24	96	85
Kanal 5 Ltd	Kanal 5 Denmark (formerly TV Danmark 1)	4	3	4	0	100	0
Kanal 5 Ltd	The Voice (Denmark)	NO	41	NO	41	NO	100
Kanal 5 Ltd	The Voice (Sweden)	NO	40	NO	40	NO	100
Kanal 5 Ltd	The Voice (Norway)	NO	40	NO	40	NO	100
Landscape Studios	Landscape Channel	74	NO	74	NO	27	NO
Life TV Media Ltd	Life TV	46	48	46	48	50	60
Majestic TV	Majestic TV	NO	1	NO	0	NO	0
MTV Networks Europe	MTV2	64	56	51	48	100	100
MTV Networks Europe	MTV Base	50	39	44	35	100	100
MTV Networks Europe	MTV Dance	87	74	73	70	100	100
MTV Networks Europe	MTV Espana	73	65	25	51	100	100

UK		←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
MTV Europe	Networks	MTV Europe	57	50	45	44	100	100
MTV Europe	Networks	MTV France	58	49	38	43	100	100
MTV Europe	Networks	MTV Hits	71	55	68	51	100	100
MTV Europe	Networks	MTV Nordic	64	NO	53	NO	100	NO
MTV Europe	Networks	MTV Nordic (Finland)	NO	50	NO	45	NO	100
MTV Europe	Networks	MTV Nordic (Sweden)	NO	49	NO	44	NO	100
MTV Europe	Networks	MTV Portugal	72	47	69	42	100	100
MTV Europe	Networks	MTV UK	83	43	75	21	100	100
MTV Europe	Networks	TMF	76	53	74	53	100	100
MTV Europe	Networks	VH1 Classic	86	38	86	37	100	100
MTV Europe	Networks	VH1 Euro Classic	NO	67	NO	67	NO	100
MTV Europe	Networks	VH1 European (formerly VH1 Export)	64	38	63	38	100	100
MTV Europe	Networks	VH1 UK	83	44	78	11	100	100
MTV Europe	Networks	VH2	87	66	87	65	100	100
Music Europe Plc	Choice	Music Choice	100	100	0	0	0	0
National Geographic		National Geographic Benelux –	36	38	27	28	81	86

UK	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
National Geographic	National Geographic -UK and Ireland	34	36	26	27	80	83
NCG-UK Partnership	Adventure One	26	27	17	20	82	72
Nickelodeon UK	Nick Junior	53	48	33	29	81	58
Nickelodeon UK	Nick Toons	16	15	13	15	27	59
Nickelodeon UK	Nickelodeon	22	17	17	14	97	84
Nickelodeon UK	Nickelodeon Europe	NO	6	NO	6	NO	67
OBE TV	OBE TV LTD	55	55	48	48	25	25
Open Access Group Ltd	Classic FM TV	100	100	89	89	100	100
Open Access Group Ltd	Open Access 2	88	75	13	7	100	100
Open Access Group Ltd	Unlimited TV	NO	92	NO	92	NO	100
Paramount Comedy	Paramount Comedy Channel	10	15	8	10	36	28
Paramount Comedy	Paramount Comedy 2	11	41	5	36	50	30
Performance TV	Performance-The Arts Channel	84	na	41	na	95	na
Playboy TV	The Adult Channel	58	56	54	44	100	100
Playboy TV	Spice Extreme	22	49	22	49	100	88
Playboy TV	Playboy D	NO	8	NO	8	NO	0
Playboy TV	Playboy TV	32	40	24	36	100	100
Playboy TV	Climax 1	NO	98	NO	77	NO	100
Playboy TV	Climax 2	NO	98	NO	77	NO	100
Playboy TV	Climax 3	NO	98	NO	77	NO	100

UK	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Portland Enterprises Ltd	Television X	52	NO	22	NO	90	NO
Rapture TV	Rapture TV	25	26	0	0	0	0
Real Estate TV Ltd	Real estate TV	NO	50	NO	0	NO	0
RTV Ltd	Revelation	NC	NC	NC	NC	NC	NC
RHF Productions Ltd	Red Hot	41	44	41	44	100	100
RHF Productions Ltd	Gay TV	NO	98	NO	98	NO	100
RHF Productions Ltd	Television X	41	44	41	44	100	100
R-Music Ltd	R-Music	NC	NC	NC	NC	NC	NC
Russian Hour TV Ltd	Russian Hour	NO	50	NO	0	NO	0
S4C	S4C Analogue	99	97	71	72	97	95
S4C	S4C Digital	99	97	87	86	93	87
S4C	S4C Digital including simulcast	99	97	81	80	94	90
Sci_fi Channel	Sci Fi Channnel	6	5	2	1	86	74
SET Satellite (Singapore) PTE Ltd	Sony Entertainment TV Asia	0	0	0	0	0	0
Solarnet Media Ltd	Sport XXX 40+ Wives	NC	NC	NC	NC	NC	NC
Solarnet Media Ltd	Sport XXX Amateur	NC	NC	NC	NC	NC	NC
Solarnet Media Ltd	Sport XXX Babes	NC	NC	NC	NC	NC	NC
Solarnet Media Ltd	Sport XXX clusive	NC	NC	NC	NC	NC	NC
Starstream Ltd	Trouble (formerly TCC)	26	24	14	5	63	100
The Media Trust	Community Channel	100	100	63	73	100	100

UK	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
The TV Group	Pout/Explicit	100	100	100	100	100	100
Travel Channel International Ltd	Travel Channel	64	62	64	62	91	87
Travel Channel International Ltd	Travel Channel 2	64	62	64	62	91	87
Turner	Cartoon Network UK	38	34	20	18	100	87
Turner	Cartoon Network's Boomerang UK	20	26	18	17	21	0
Turner	Cartoon Network (EMEA)	22	23	19	6	5	0
Turner	Cartoon Network (French Lang)	27	22	12	7	50	0
Turner	Cartoon Network (Boomerang French Lang)	14	23	13	20	0	0
Turner	Cartoon Network (Italian Lang)	27	7	19	0	32	0
Turner	Cartoon Network (Spanish Lang)	22	21	16	21	100	0
Turner	Cartoon Network (Nordic)	25	18	22	16	15	0
Turner Broadcasting	TCM France	40	38	30	38	0	0
Turner Broadcasting	TCM Spain	40	47	30	47	0	0
Turner Broadcasting	TCM UK	40	38	30	38	0	0
Turner Broadcasting	Toonami UK	7	7	7	7	0	0
UK Living Ltd	Living TV	37	36	6	27	100	18
UK Living Ltd	LivingTV2	NO	58	NO	46	NO	7

UK	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
UKTV	UKTV Bright Ideas	100	99	85	89	98	94
UKTV	UKTV Documentary	NO	97	NO	20	NO	46
UKTV	UKTV Drama (formerly UK Arena)	79	93	13	16	73	86
UKTV	UKTV Food	99	97	90	80	85	88
UKTV	UKTV G2	NO	100	NO	47	NO	86
UKTV	UKTV Gold	66	87	12	19	62	42
UKTV	UKTV History	92	93	22	24	61	61
UKTV	UKTV Horizons	83	74	22	21	76	84
UKTV	UKTV People	NO	81	NO	9	NO	76
UKTV	UKTV Style	96	98	34	33	87	83
UKTV	Play UK (formerly UK Play)	91	NO	35	NO	89	NO
United Christian Broadcasters Ltd	UCBTV	NO	27	NO	27	NO	0
Viasat Broadcasting	TV3 Denmark	18	15	11	8	100	100
Viasat Broadcasting	TV3 N/Oprway	14	17	6	9	100	100
Viasat Broadcasting	TV3 Sweden	23	70	15	21	100	100
Viasat Broadcasting	TV8	NO	19	NO	6	NO	100
Viasat Broadcasting	Viasat Sport 1	NO	81	NO	7	NO	0
Viasat Broadcasting	Viasat Sport 2	NO	33	NO	4	NO	2
Viasat Broadcasting	Viasat Sport 3	NO	80	NO	0	NO	0



UK	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Viasat Broadcasting	Viasat Sport Denmark	80	84	22	18	5	0
Viasat Broadcasting	Viasat Explorer	NO	53	NO	4	NO	100
Viasat Broadcasting	Viasat Explorer (East)	NO	62	NO	0	NO	0
Viasat Broadcasting	Viasat History	NO	94	NO	0	NO	0
Viasat Broadcasting	ZTV Norway	53	48	12	4	100	100
Viasat Broadcasting	ZTV Sweden	64	57	17	12	100	100
Viasat Broadcasting UK Ltd	3+ Denmark	14	14	9	9	100	100
Viasat Broadcasting UK Ltd	3+ Baltics	NO	40	NO	0	NO	0
Video Interactive Television Ltd	Channel U	60	64	60	64	100	100
Visit London Ltd	London Television	NO	100	NO	100	NO	100
Yoo Media	18 Plus XXX	35	35	27	27	100	100
Yoo Media	XXX Housewives	35	35	27	27	100	100
Yoo Media	Live XXX TV	NO	100	NO	100	NO	100
Zone Broadcasting (EMC) LTd	Europa Europa	100	100	100	100	23	23
Zone Broadcasting (EMC) LTd	Maximum Reality	7	8	7	8	0	0
Zone Broadcasting UK Ltd	Private Blue (formerly Midnight Blue)	67	62	25	26	100	100
Zone Broadcasting	Private Girls	61	53	20	53	100	88

UK	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
UK Ltd							
Zone Broadcasting UK Ltd	Reality TV USA	0	1	0	1	0	0
Zone Broadcasting UK Ltd	Amateur Babes	100	100	100	100	100	99
Zone Broadcasting UK Ltd	Romantica	0	2	0	1	0	10

***A) Reasons given by Member State for failure to reach proportions***

**1. Majority proportion of European works (Article 4)**

**a) subject matter of the channel:-**

Biography Channel, Cinenova, Cinenova 2, Film Four, Front Row, History Channel, Kerrang, Kiss, Paramount Comedy Channel, Smash Hits, The Horror Channel, Maximum Reality, National Geographic, Reality TV USA, Sci Fi Channel, Sky Movies 1 &2, Sky Cinema, Sky Box Office, 18+ Movies, XXX TV.

**b) when the channel commenced broadcasting :-**

abc1, f/x Channel, Toonami, Toon Disney, Sky Mix.

**d) difficulty in finding European programmes or finding European programmes at competitive prices:-**

3+ Denmark, Cartoon Network, Disney Channels, Front Row, Jetix CEE, Kanal 5 Living TV, Paramount Comedy Channel, Sci Fi Channel, History Channel, The Horror Channel, Maximum Reality, National Geographic, Nick Toons, Nickelodeon and Nickelodeon Europe, Playboy TV, Playhouse Disney, Sky One, Sky Mix, The Wrestling Channel, Trouble, TV3 Denmark, TV3 Norway, TV3 Sweden, XXX TV.

**e) subsidiaries of companies based in non-member countries broadcasting programmes mostly from their own stock:-**

abc1, Disney, Toon Disney, History Channel, Jetix, Paramount Comedy Channel, Turner Classic Movies.

**f) Programmes suitable for a niche channel are not available for licence or are already held by other broadcasters:**

Trouble

**g) Some Individual channels fail to reach proportion but average percentages for the group exceed the minima:-**

MTVNE

**h) Other Reasons:-**

Jetix is working closely with a number of major EU animation houses to increase the number of EU-produced episodes airing in prime time by between 150 and 200 per year for the next three to four years. In addition the channel is looking to produce and acquire more EU-produced live action programming for its evening hours. This will ensure that the channel achieves the 50% or more target in the medium rather than the long term.

Sky Cinema has acquired a range of foreign language films for broadcast during a 2 hour mid-week prime time slot, dedicated to foreign language films including European films.

abc1 will endeavour to look at ways of increasing both European and Independent programming for the future especially given a possible increase in hours.

History Channel Africa is not receivable within the EU.

## 2. Minimum proportion of European works by independent producers (Article 5)

### a) when the channel commenced broadcasting:-

abc1, f/x Channel, Flaunt, Toonami, Toon Disney, Sky Mix, Scuzz, The Amp.

### b) other reasons:

Disney Channel –the broadcaster is taking steps to increase the proportion of independent productions. For example, in January 2005 it launched its biggest piece of original production, the "Raoul Show." All 14 shows (consisting of a number of links) were written and produced by people originating from the EU who are independent producers. In addition, Disney Channel is planning to launch a new morning block in April 2005. The presentation and promotional material for this new block is currently being produced by an independent European production company. New local productions and new programme formats are also being developed.

Disney Channel Scandinavia - has yet to find a suitable programme format which can successfully translate to four different distinct markets (Sweden, Norway, Denmark and Finland) in four different languages whilst remaining within the budget that has been granted at this stage in the development of Disney Channel Scandinavia. Disney continues to consider independent production wherever possible but often finds that the cost of commissioning a third party to produce a programme in four different languages can be prohibitive given the other programming options available to a multi language channel such as Disney Channel Scandinavia.

F/x Channel – will be co-producing and commissioning product in 2005 for transmission in 2006.

Sky Venue – it is not practicable for at least 10% of time to be European independent programming because it is a special interest channel broadcast only in pubs. Suitable programming is available only at prices that could not be justified by a channel of this nature. The channel commenced broadcasting in 2002 and is therefore within the 5 year transitional period.

Scuzz, Flaunt, The Amp – consist of short music video clips scheduled into branded blocks around types of music. It is impracticable for at least 10% of time to be European independent programming because music clips are not a source of independent production but are

produced by bands to promote their music and encourage consumers to purchase products featuring their music. It would be impractical and uneconomic for the programming blocks within which the video clips are featured to be produced independently as Sky already has the relevant resources to produce this programming. These channels began transmissions in April 2003 and are therefore within the 5 year transitional period.

Toon Disney – further series of Toon News and more independent commissions are planned.

### ***B) Measures taken or envisaged by the Member State***

Ofcom is taking license compliance action against the few channels that have failed to submit a return in respect of 2004; it has NO powers to do so in respect of 2003. It is likely that some of the channels will prove to be non-operational.

### ***C) Further comments***

Exempt channels = 79

### ***Channels Broadcast in a language other than that of a Member State***

Al Mustakillah Television, Asia World TV, Bangla Channel, BEN, ComedyMax, Filipino Channel, Iran TV Network, Iranian Christian Television, Iranian Christian Channel, Islam Channel, Lig TV, MBC, MTA International, Phoenix Chinese News & Entertainment Primemax, Primemax 2, Prime Plus, Rouge TV, SAB TV, Sinematurk, South For You, Star News, Star Plus, Sun TV, TVBS-Europe.

### ***Teleshopping Channels***

Authentic TV; Create & Craft with Ideal World, Exchange & Mart TV, Gems.tv, Gems.tv Gold, Home TV, Ideal World Home Shopping, JML Direct, Mobile Crazy, The Move Channel.tv/IDMT/We Deliver TV, Myphone.tv, One TV, QVC, Screenshop, Shop On TV, Sky Travel Shop, TV Warehouse, Totally Cruise.com, Thomson TV, Thomas Cook TV, TV Warehouse Select, Yes 661.

### ***News Channels***

BBC Parliament, Bloomberg TV France, Bloomberg TV Germany, Bloomberg TV Italy, Bloomberg TV Spain, Bloomberg TV UK/Pan-Euro English, CCTV-9, ITV News Channel, Sky News, Sky Sports News, S4C2.

### ***Channels consisting entirely of sports events***

Boating Channel, Celtic TV, ESPN Classic Sport (France), ESPN Classic Sport (Italy) ESPN Classic Sport Europe, ESPN Classic Sport (UK), Golf Channel, Horse Racing Channel, MUTV, NASN, Racing International, Rangers TV, Setanta Soccer, Setanta Sport Commercial, Setanta Sport, Setanta Sport (NI), Setanta Sport (ROI), Setanta Xtra, Wrestling Channel.

### ***Gaming Channels***

Avago, Bid-up TV, Challenge TV, Gamein TV2, Get Lucky TV, Playjam, Poker TV, Price-drop TV, Quiz TV, Sky Vegas Live, TX1.

## **BACKGROUND DOCUMENT 5 - Summary of the reports from the Member States of the European Free Trade Association participating in the European Economic Area**

Part 1 presents a brief analysis on the application in the Articles 4 and 5 in the Member States of the European Free Trade Association (EFTA) participating in the European Economic Area (EEA) over the reference period (2001-2002). Part 2 includes the reports of Iceland and Norway. Liechtenstein submitted a statement, that no channel under its jurisdiction would be covered by Articles 4 and 5. Annex X of the EEA Agreement regulates the application of the Directive –with some adaptations – to the EFTA Member States participating in the EEA.

### **1. APPLICATION BY THE MEMBER STATES OF THE EUROPEAN FREE TRADE ASSOCIATION PARTICIPATING IN THE EUROPEAN ECONOMIC AREA**

#### **1.1 Iceland**

The channels increased their average proportion in the broadcast of European works from 30.33% in 2001 to 35% in 2002 thus achieving. Though the average proportion rose slightly, it stayed well below the majority proportion and over four years it fell by 8.6 percentage points (2001-2004). Only one (Popp TV) out of 5 covered channels was in both years on or slightly above the 50% threshold. All covered channels were below the minimum proportion of 10% laid down by Article 5 with averages of 1.48% and 1.2% in 2001 and 2002 respectively. This is a particularly negative development with regards to the promotion of independent producers. The share of recent European works was on average 12% and 16.45% over the entire reference period.

#### **1.2 Liechtenstein**

Liechtenstein did not submit a statistical statement as none of the three licenses, which were given away, has been actually made use of. The only operating television broadcaster under its jurisdiction, X-Media was withdrawn its licence in 2004 because of non-fulfilment of certain requirements.

#### **1.3 Norway**

The channels broadcast an average of 68% and 77.33% (57.75%) of European works in 2001 and 2002 respectively, representing an average 9.33 point increase over the reference period.

In comparison to the previous reference period there has been a considerable increase of 19.58 percentage points over a period of four years (2001-2004). Three satellite channels have been exempted.

The channels under Norwegian jurisdiction broadcast an average of 36% and 42.83% of European works by independent producers in 2001 and 2002 respectively, representing a 6.83 point increase over the reference period and a considerable 19.17 point increase compared to the previous period (2001-2004). The situation in this respect appears very satisfactory.

Also in respect of the proportion represented by recent works, the situation was particularly positive. For the channels mentioned in the report, this proportion averaged 89.80% in 2001 and 93.67% in 2002, representing a 4.87 point increase over the reference period.

2. **SUMMARY OF THE REPORTS FROM THE MEMBER STATES OF THE EUROPEAN FREE TRADE ASSOCIATION PARTICIPATING IN THE EUROPEAN ECONOMIC AREA**

**ICELAND**

<i>Total number of reported channels</i>	<i>Reference period</i>	<i>Monitoring method</i>
5	2003 / 2004	Sampling

IS	←MS	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Broadcaster	channel	2003	2004	2003	2004	2003	2004
NLC	Stöð 2	33%	32%	2%	1%	4%	3%
	Syn	50%	49%	5%	4%	10%	11%
	Stöð 3	7%	6%	0%	0%	2%	0%
	Popp TV	50%	74%	0%	0%	44%	68%
	MovieChannel	12%	14%	0%	1%	0%	0%

**A) Reasons given by Member State for failure to reach proportions**

No observations.

**B) Measures taken or envisaged by the Member State**

None reported.

**C) Further comments**

No observations.

**LIECHTENSTEIN**

During the reference period 2003-2004 **no** broadcasters have permanently established under Liechtenstein's jurisdiction.

**NORWAY**

<i>Total number of reported channels</i>	<i>Reference period</i>	<i>Monitoring method</i>
9	2003 / 2004	Annual schedule

NO	TM	EW (% of TQT)		IP (%TQT)		RW (%IP)	
Broadcaster	channel	2003	2004	2003	2004	2003	2004
NRK AS	NRK1	82%	84%	29%	26%	89%	92%
	NRK2	76%	95%	16%	5%	85%	87%
TV2 AS	TV2	53%	53%	23%	23%	85%	93%
	TV2 Xtra	NO	EXC	NO	EXC	NO	EXC
TV2 Interaktiv	Sonen	NO	100%	NO	100%	NO	100%
TVNorge	TVNorge	54%	54%	53%	53%	100%	100%
Norsk Radio og TV AS	Miracle Channel	EXC 36%	EXC 36%	EXC 64%	EXC 64 5	EXC 15%	EXC 15%
Norsk Rikstoto	Rikstoto direkte	EXC 100%	EXC 100%	EXC 100%	EXC 100%	EXC 100%	EXC 100%
Vision Bibel Center	TV Visjon Norge	75%	78%	59%	50%	90%	90%

***A) Reasons given by Member State for failure to reach proportions***

One broadcaster did not reach the minimum proportion. No reasons submitted.

***B) Measures taken or envisaged by the Member State:***

None.

***C) Further comments***

The channels “Rikstoto direkte”, “TV2 Xtra” and “Miracle Channel” can be exempted according to the Commission’s guidelines section 2.2: “Rikstoto direkte” and “TV2 Xtra” are sports-only channels, while “Miracle Channel” is broadcasting entirely in languages other than those of the EEA Member States.

**BACKGROUND DOCUMENT 6 - List of television channels in the European Union Member States which failed to achieve the majority proportion according to Article 4**

Type		Transmission Mode		Conformity	
<b>PS</b>	Public service	<b>TE</b>	terrestrial	√	Target met
<b>PR</b>	commercial	<b>SA</b>	Satellite	<b>X</b>	Target not met
<b>PY</b>	pay-TV	<b>CA</b>	Cable	<b>NC</b>	Data not communicated
<b>IA</b>	Interactive	<b>IP</b>	Internet	<b>NO</b>	Channel not in operation
<b>NI</b>	Niche/special interest	<b>D</b>	Digital	<b>EXC</b>	Channel excluded
<b>Other</b>	sports/news/teleshopping/near-video-on-demand	<b>A</b>	Analog		

Member State	Channel	AS 2003	AS 2004	Type	TM	2003	2004
<b>BE</b>							
<b>FL</b>	Canal+ 16/9			PY		x	NC
	Canal+16/9 Nederland			PY		NO	x
	Canal+blauw			PY		x	x
	Canal+blauw Nederland			PY		NO	x
	Canal+geel			PY		NO	x
	Canal+rood			PY		x	x
	Canal+rood Nederland			PY		NO	x
	Fezztival			PY		NO	x
	Kanaal Twee	6,2	5,2	NI	CA	x	x
	Vijf Tv		0,3	NI	CA	NO	x
	VT4	6,8	6,7	NI	CA	x	x



Member State		Channel	AS 2003	AS 2004	Type	TM	2003	2004
		VTM	23,5	22,9	NI	CA	X	√
	FR	AB4	1,1	2	PR	CA	NO	x
		Canal+	0,8	0,7	PY	CA	x	√
		Canal+bleu			PY	CA	x	√
		Canal+Jaune			PY	CA	x	√
		Club RTL	6,1	6,5	PR	CA	x	x
		Plug Tv		1,4	NI	CA	NO	x
		RTL-TVİ	22,6	23,1	PR	CA	x	√
CY		CyBC-2			PS	TE		x
		Sigma			PR	TE		x
CZ		HBO (broadcaster: HBO ČR)		< 3	PY	CA/SA		x
		HBO2 (broadcaster: HBO ČR)		< 3	PY	CA/SA		x
		HBO (Croatia, Slovenia)			PY	SA		x
		HBO (broadcaster: PP)						x
		HBO2 (broadcaster: PP)						x
DK		TV2 Zulu	2	2	PR/NI	SA	x	x
		TV Danmark	5	4	PR	SA	x	x
DE		Animal Planet			NI	CA/SA	NO	x
		Discovery Channel			NI	CA/SA	x	x
		Disney Channel			NI	CA/SA	x	x
		Kabel 1	4,2	4	PR	CA/SA	x	x
		MTV	0,5	0,4	NI	CA/SA	x	x
		N24	0,4	0,4	Other	CA/SA/D	x	x
		Premiere	2,6	2,4	PY	CA/SA	x	x

Member State	Channel	AS 2003	AS 2004	Type	TM	2003	2004
	RTL 2	4,7	4,9	PR	CA/SA/D	x	x
	Super RTL	2,7	2,7	NI	CA/SA	x	x
	Tele 5		0,3	PR	CA/SA	x	√
	VIVA		0,4	NI	CA/SA	x	x
	VIVA Plus		0,3	NI	CA/SA	x	√
	VOX	3,5	3,7	PR	CA/SA/D	x	x
GR	Filmnet-Supersport-Foxkids			PR	CA	x	x
	Nova			PR	SA	x	√
ES	AXN	0,109	0,227	NI	SA/CA/IP	x	√
	Boomerang		0,008	NI	SA/CA	NO	x
	Calle 13	0,111	0,282	PR	SA/CA/IP	x	x
	Cartoon Network	0,071	0,316	NI	SA/CA	x	x
	Canal Cinemania	0,029	0,040	PR	SA	x	x
	Clasic	0,030	0,113	NI	SA/CA	x	x
	Disney	0,036	0,033	NI	SA/CA/IP	x	x
	Disney Channel	0,07	0,064	NI	SA/CA/IP	x	x
	Disney Channel+1	0,032	0,044	NI	SA/CA/IP	x	x
	Fox	0,070	0,193	PR	SA/CA	x	x
	Jetix	0,070	0,102	PR/NI	TE/SA/C A/IP	x	√
	National Geographic	0,021	0,026	PR	SA/CA	NO	x
	Playhouse Disney	0,052	0,050	NI	SA/CA/IP	x	x
	Telemadrid	2,70	2,30	PS	A	x	√
	Television de Canarias	0,50	0,40	PS	A	x	√

Member State	Channel	AS 2003	AS 2004	Type	TM	2003	2004
<b>FR</b>	C.C Auteur	<1	<1	NI	CA/SA	x	√
	C.C Classic	<1	<1	NI	CA/SA	x	√
	C.C Emotion	<1	<1	NI	CA/SA	x	√
	C.C Famiz	<1	<1	NI	CA/SA	x	x
	C.C Frisson	<1	<1	NI	CA/SA	x	√
	C.C Premiere	<1	<1	NI	CA/SA	x	x
	JIMMY	<1	<1	NI	CA/SA	x	√
<b>IE</b>	RTÉ Two	12,4	12,5	PS	TE	x	x
	TV 3	14	13	PR	TE	x	x
<b>IT</b>	A1			PR	SA	√	x
	Canale Viaggi			PR	SA	x	NO
	Cineclassics			PR	SA	x	NO
	Conto TV			PR	SA	NO	x
	Denaro TV			PR	SA	NO	x
	Duel			PR	SA	x	x
	Europa TV – Telepiù 30			PR	SA	x	NO
	Europa TV – Telepiù Bianco			PR	SA	x	NO
	E' TV			PR	SA	x	x
	Fox			PR	SA	x	x
	Fox Kids			PR	SA	√	x
	Foxlife			PR	SA	NO	x

Member State	Channel	AS 2003	AS 2004	Type	TM	2003	2004
	The History Channel			PR	SA	x	√
	INN			PR	SA	x	x
	Italia 1	11,9		PR	TE	x	x
	Italian Teen Television			PR	SA	x	x
	Jimmy			PR	SA	x	x
	La7	2,2		PR	TE	√	x
	MATCH MUSIC SATELLITE			PR	SA	NO	x
	Napoli Nova			PR	SA	x	x
	National Geographic Channel			PR	SA	x	√
	National Geographic Channel (2nd version)			PR	SA	NO	x
	National Geographic Channel (3rd version)			PR	SA	NO	x
	OASI TV			PR	SA	x	x
	Palco (broadcaster: Sky Italia Srl.)			PR	SA	x	NO
	Palco (broadcaster: Omega TV Spa)			PR	SA	x	NO
	Polonia 1			PR	SA	x	√
	Prima TV - Telepiù 16:9			PR	SA	x	NO
	Prima TV - Telepiù grigio			PR	SA	x	NO
	Retecapri			PR	TE	x	x
	Rock tv			PR	SA	x	x
	Romasat			PR	SA	x	x
	Sicilia Channel			PR	SA	NO	x

Member State	Channel	AS 2003	AS 2004	Type	TM	2003	2004
	Sky Cinema 2 (già Stream Primafila 2)			PR	SA	x	√
	Sky Cinema 3 (già Stream Cinema Stream)			PR	SA	x	x
	Sky Cinema 16:9 (già Stream Prima Fila 5)			PR	SA	x	x
	Sky Cinema Max (già Stream Prima Fila 4)			PR	SA	x	x
	Stream 1 (già Stream Strem 1)			PR	SA	x	NO
	Sky Cinema 1 (già Stream Prima Fila 1)			PR	SA	x	√
	Primafila Sky (già Stream Prima Fila 6)			PR	SA	x	x
	Superpippa			PR	SA	x	NO
	Telegenova			PR	SA	x	x
	Tele+ 30			PR	SA	x	NO
	Tele+ 16:9			PR	SA	x	NO
	Tele+ bianco			PR	SA	x	NO
	Tele+ grigio			PR	SA	x	NO
	TELELAZIO RETE BLU			PR	SA	x	x
	Studio Universal			PR	SA	x	x
<b>LT</b>	LNK		26,2	PR	TE		x
	TV3		27,5	PR	TE		x
<b>LU</b>	Club RTL	7,7	7,9	PR	TE/CA	√	x
	RTL 5	6,10	5,60	PR	TE/SA	√	x

Member State	Channel	AS 2003	AS 2004	Type	TM	2003	2004
	RTL 9	3,3	3	PR	CA/SA	x	√
	RTL TVi	24,50	24,70	PR	TE/CA	x	√
<b>HU</b>	HBO		0,6	Other	SA		x
	Viasat3		3,2	PR	SA		x
	VIVA TV		0,7	PR	SA		x
<b>NL</b>	Arrivo	<3,5	<3,5	Other	CA	x	x
	Arrivo (Austria)	<3,5	<3,5	Other		NC	x
	Arrivo (Germany)	<3,5	<3,5	Other		NC	x
	Arrivo (Norway)	<3,5	<3,5	Other		NC	x
	Arrivo (Sweden)	<3,5	<3,5	Other		NC	x
	A Ti Vi	<3,5	<3,5	PR	CA	x	x
	The Box	0,20	0,30	PR	CA	x	x
	Clear TV	<3,5	<3,5	PR	CA	NO	x
	Exotica	<3,5	<3,5	PR	CA	NO	x
	Livesex tv	<3,5	<3,5	PR	CA	NC	x
	MTV The Netherlands	0,50	0,60	PR	CA	x	x
	Net5	4,30	4,30	PR	SA/CA	x	x
	Nickelodeon	1,40	2,40	PR	SA/CA	x	x
	SBS6	9,60	9,60	PR	SA/CA	x	x
	Sexview	<3,5	<3,5	PR	CA	√	x
	Te Ve Sur	<3,5	<3,5	PR	CA	NO	x
	Tilburg-TV	<3,5	<3,5	PR	CA	x	x
	UPC Club	<3,5	<3,5	PR	CA	x	x
	UPC Club (CE)	<3,5	<3,5	PR		NO	x
	UPC Club (EE)	<3,5	<3,5	PR		x	x
	Veronica/Jetix	4,20	4,90	PR	SA/CA	x	√

Member State	Channel	AS 2003	AS 2004	Type	TM	2003	2004
	Yorin	5	4	PR	SA/CA	x	√
AT	ATV+	1,2	1,9	PR	TE/CA/S A	√	x
	ORF 1	21,9	21,6	PS	TE/CA/S A	x	x
	Premiere Österreich			Other	SA/CA	x	x
PL	Ale Kino!		0,30	NI	SA		x
	Canal+ Polska		0,10	NI	SA		x
	Canal+ Zolty		0,10	NI	SA		x
	Minimax		0,40	NI	SA		x
	TVN Siedem		2,10	NI	SA		x
PT	SIC			PR	TE/SA/C A	x	x
	SIC Comédia			NI	SA/CA	NO	x
	SIC Gold			PR	SA/CA	x	x
	SIC Mulher			PR	SA/CA	√	x
	SIC Radical			PR	SA/CA	x	x
SI	Čarli TV				CA		x
	NET TV				CA		x
	TV Pika				TE/CA		x
FI	MTV3	38	35	PR	TE/SA/C A	√	x
	Subtv	EXC	3	PR	TE/CA	EXC	x
SE	C More Film	NO		NI	SA	NO	x
	Canal+	1,50	1,40	PR	SA	x	x
	Canal+ Film	1	0,90	NI	SA	x	x
	Canal+ Film	0,80	0,60	NI	SA	x	x
	Cinema	0,70	0,70	NI	SA	x	x
	TV 1000	1	0,80	PR	SA	x	x

Member State	Channel	AS 2003	AS 2004	Type	TM	2003	2004
	TV4 Film	NO		NI	TE	NO	x
<b>UK</b>	3+ Baltics	NO	<1	PR/NI	SA/CA	NO	x
	3+ Denmark	<1	<1	PR/NI	SA/CA	x	x
	18 Plus Movies	<1	<1	PR/NI	SA/CA	x	x
	18 Plus XXX	<1	<1	PR/NI	SA/CA	x	x
	abc1	NO	<1	PR/NI	SA/CA/D	NO	x
	Adventure One	<1	<1	PR/NI	SA/CA	x	x
	AXN Germany	NO	<1	PR/NI	SA/CA	NO	x
	Biography Channel	0,1	0,1	PR/NI	SA/CA	x	x
	Bravo	0,4	0,3	PR/NI	SA/CA	x	√
	Cartoon Network (Boomerang French Lang)	<1	<1	PR/NI	SA/CA	x	x
	Cartoon Network (EMEA)	<1	<1	PR/NI	SA/CA	x	x
	Cartoon Network (French Lang)	<1	<1	PR/NI	SA/CA	x	x
	Cartoon Network (Italian Lang)	<1	<1	PR/NI	SA/CA	x	x
	Cartoon Network (Nordic)	<1	<1	PR/NI	SA/CA	x	x
	Cartoon Network (Spanish Lang)	<1	<1	PR/NI	SA/CA	x	x
	Cartoon Network UK	0,6	0,5	PR/NI	SA/CA	x	x
	Cartoon Network's Boomerang UK	<1	<1	PR/NI	SA/CA	x	x
	Christian Communications Network	NO	<1	PR/NI	SA/CA	NO	x
	Cinenova	<1	<1	PR/NI	SA/CA	x	x
	Cinenova 2	<1	<1	PR/NI	SA/CA	x	x



Member State	Channel	AS 2003	AS 2004	Type	TM	2003	2004
	CNBC Europe	0,1	0,1	PR/NI	SA/CA	x	√
	Discovery Channel France	NO	<1	PR/NI	SA/CA	NO	x
	Disney Civilisation (Italy)	NO	<1	PR/NI	SA/CA	NO	x
	Discovery Health	<1	<1	PR/NI	SA/CA	x	√
	Discovery Kids	0,1	0,1	PR/NI	SA/CA	x	x
	Discovery Wings	0,1	0,1	PR/NI	SA/CA	x	√
	Disney Channel	0,4	0,3	PR/NI	SA/CA	x	x
	Disney Channel Scandinavia	<1	<1	PR/NI	SA/CA	x	√
	E!	<1	<1	PR/NI	SA/CA	x	x
	EWTN	NO	<1	PR/NI	SA/CA	NO	x
	Film Four	0,1	0,1	PR/NI	SA/CA	x	x
	Film Four Weekly	<1	<1	PR/NI	SA/CA	x	x
	f/x Channel	NO	0,1	PR/NI	SA/CA	NO	x
	Hallmark Channel (Central Europe)	<1	<1	PR/NI	SA/CA	x	x
	Hallmark Channel (Czech)	<1	<1	PR/NI	SA/CA	x	x
	Hallmark Channel (Eastern Europe)	<1	<1	PR/NI	SA/CA	x	x
	Hallmark Channel (Italy)	<1	<1	PR/NI	SA/CA	x	x
	Hallmark Channel (Russia)	<1	<1	PR/NI	SA/CA	x	x
	Hallmark Channel (Scandi)	<1	<1	PR/NI	SA/CA	x	x
	Hallmark Channel (Spain)	<1	<1	PR/NI	SA/CA	x	x
	Hallmark Channel (UK)	0,8	0,9	PR/NI	SA/CA	x	x

Member State	Channel	AS 2003	AS 2004	Type	TM	2003	2004
	The Horror Channel	NO	<1	PR/NI	SA/CA	NO	x
	History Channel	<1	<1	PR/NI	SA/CA	x	x
	The Hits	<1	<1	PR/NI	SA/CA	√	x
	Jetix Scandinavia	<1	<1	PR/NI	SA/CA	x	x
	Jetix UK (formerly Fox Kids UK)	0,3	0,2	PR/NI	SA/CA	x	x
	Kanal 5	<1	<1	PR/NI	SA/CA	x	x
	Kanal 5 Denmark (formerly TV Danmark 1)	<1	<1	PR/NI	SA/CA	x	x
	Kerrang	0,1	0,1	PR/NI	SA/CA	x	x
	Kiss	0,1	0,1	PR/NI	SA/CA	x	x
	L! VE TV	<1	<1	PR/NI	SA/CA	x	x
	Life TV	<1	<1	PR/NI	SA/CA	x	x
	Living TV	0,7	0,9	PR/NI	SA/CA	x	x
	Majestic TV	NO	<1	PR/NI	SA/CA	NO	x
	Maximum Reality	<1	<1	PR/NI	SA/CA	x	x
	MTV Base	0,1	0,1	PR/NI	SA/CA	√	x
	MTV France	<1	<1	PR/NI	SA/CA	√	x
	MTV Nordic (Sweden)	NO	<1	PR/NI	SA/CA	NO	x
	MTV Portugal	<1	<1	PR/NI	SA/CA	√	x
	MTV UK	0,4	0,3	PR/NI	SA/CA	√	x
	National Geographic-Benelux	<1	<1	PR/NI	SA/CA	x	x
	National Geographic-UK and Ireland	0,1	0,1	PR/NI	SA/CA	x	x
	Nickelodeon	0,5	0,4	PR/NI	SA/CA	x	x
	Nickelodeon Europe	NO	<1	PR/NI	SA/CA	NO	x

Member State	Channel	AS 2003	AS 2004	Type	TM	2003	2004
	Nick Junior	0,4	0,6	PR/NI	SA/CA	√	x
	Nick Toons	0,2	0,3	PR/NI	SA/CA	x	x
	Paramount Comedy Channel	0,5	0,3	PR/NI	SA/CA	x	x
	Paramount Comedy 2	0,1	0,1	PR/NI	SA/CA	x	x
	Playboy D	NO	<1	PR/NI	SA/CA	NO	x
	Playboy TV	<1	<1	PR/NI	SA/CA	x	x
	Playhouse Disney	0,2	0,1	PR/NI	SA/CA	√	x
	Q	0,1	0,1	PR/NI	SA/CA	x	√
	Rapture TV	<1	<1	PR/NI	SA/CA	x	x
	Reality TV	0,2	0,1	PR/NI	SA/CA	x	x
	Reality TV USA	<1	<1	PR/NI	SA/CA	x	x
	Red Hot	<1	<1	PR/NI	SA/CA	x	x
	Romantica	<1	<1	PR/NI	SA/CA	x	x
	Sci-Fi Channel	0,5	0,5	PR/NI	SA/CA	x	x
	Sky Box Office	<1	<1	PR/NI	SA/CA	x	x
	Sky Cinema 1&2	0,2	0,1	PR/NI	SA/CA	x	x
	Sky Mix	0,5	0,5	PR/NI	SA/CA	x	x
	Sky Movies 1,3,5,7,9	0,4	0,3	PR/NI	SA/CA	x	x
	Sky Movies 2,4,6,8	0,3	0,3	PR/NI	SA/CA	x	x
	Sky One	2,9	2,4	PR/NI	SA/CA	x	x
	Smash Hits	0,2	0,1	PR/NI	SA/CA	√	x
	Sony Entertainment TV Asia	<1	<1	PR/NI	SA/CA	x	x
	Soundtrack Channel	NO	<1	PR/NI	SA/CA	NO	x
	Spice Extreme	<1	<1	PR/NI	SA/CA	x	x
	TCM France	<1	<1	PR/NI	SA/CA	x	x

Member State	Channel	AS 2003	AS 2004	Type	TM	2003	2004
	TCM Spain	<1	<1	PR/NI	SA/CA	x	x
	TCM UK	0,4	0,3	PR/NI	SA/CA	x	x
	Television X	<1	<1	PR/NI	SA/CA	x	x
	Toonami UK	0,2	0,2	PR/NI	SA/CA	x	x
	Toon Disney	0,2	0,3	PR/NI	SA/CA	x	x
	Trouble (formerly TCC)	0,4	0,3	PR/NI	SA/CA	x	x
	TV8	NO	<1	PR/NI	SA/CA	NO	x
	TV3 Denmark	<1	<1	PR/NI	SA/CA	x	x
	TV3 N/ Oprway	<1	<1	PR/NI	SA/CA	x	x
	TV3 Sweden	<1	<1	PR/NI	SA/CA	x	√
	UCBTV	NO	<1	PR/NI	SA/CA	NO	x
	VH1 Classic	0,1	0,1	PR/NI	SA/CA	√	x
	VH1 European (formerly VH1 Export)	<1	<1	PR/NI	SA/CA	√	x
	VH1 UK	0,2	0,2	PR/NI	SA/CA	√	x
	Viasat Sport2	NO	<1	PR/NI	SA/CA	NO	x
	The Voice (Denmark)	NO	<1	PR/NI	SA/CA	NO	x
	The Voice (Sweden)	NO	<1	PR/NI	SA/CA	NO	x
	The Voice (Norway)	NO	<1	PR/NI	SA/CA	NO	x
	XXX Housewives	<1	<1	PR/NI	SA/CA	x	x
	ZTV Norway	<1	<1	PR/NI	SA/CA	√	x
<b>EFTA MSs</b>							
IS	Stöð 3			PR	TE/D	x	x
	MovieChannel			PR	TE/D	x	x

**BACKGROUND DOCUMENT 7 average transmission time\* of European works by primary channels (“de-minimis-criterion”)**

Member State		Channel	% audience 2003	% audience 2004	% EW 2003	% EW 2004
BE						
	BE-FL	Canvas/Ketnet	10	9,4	68	NO
		Kanaal2	6,2	5,2	38	41
		VT4	6,8	6,7	24	25
		VTM	23,5	22,9	48	58
		Tv1	27,9	28,2	78	77
	BE-FR	Club RTL	6,1	6,5	49	32,30
		La Une	16,8	15,9	68,76	71,28
		La Deux	3	3,8	88,77	91,81
		RTL TVI	22,6	23,1	45.76	55,40
AVERAGE					57,82	56,47
CY		No information available				
CZ		No information available				
DK		DR 1	30	30	82	84
		DR 2	4	4	84	85
		TV2	32	32	55	54
		TV DANMARK	5	4	36	35
AVERAGE					64,25	64,50
DE		ARD	14	13,9	91	91
		KABEL 1	4,2	4	23	24
		ProSieben	7,1	7	57	65

Member State	Channel	% audience 2003	% audience 2004	% EW 2003	% EW 2004
	RTL	14,9	13,8	75	80
	RTL 2	4,7	4,9	34	43
	SAT 1	10,2	10,3	78	83
	VOX	3,5	3,7	46	44
	ZDF	13,2	13,6	87	85
AVERAGE				61,38	64,38
EE	Kanal 2		19,4		54
	TV3		24,9		51
	ETV		18		81
AVERAGE					62,00
GR	ALPHA	13,3	13	80	81
	ALTER CHANNEL	10,4	11,5	74	69
	ANTENNA TV	22,5	20,8	66	70
	ET 1	5,5	5,2	66	85
	MEGACHANNEL	17,3	16,9	82	95
	NET	6,9	8,8	74	76
	STAR CHANNEL	12,2	11,5	51	52
AVERAGE				70,43	75,43
ES	Antena 3 TV	19,5	20,8	58,9	63,2
	Canal Sur	3,5	3,7	80,6	52
	La2	7,2	6,8	62,83	60,95
	La Primera	23,4	21,4	69,36	64,01
	Telecinco	21,4	22,1	60,94	70,36
	TVE3	3,6	3,4	58,69	59,86

Member State	Channel	% audience 2003	% audience 2004	% EW 2003	% EW 2004
AVERAGE				65,22	61,73
FR	Canal+	3,7	3,8	60	60
	France 2	20,5	2,5	79	80
	France 3	16,1	15,2	78	82
	France 5	6,4	6,7	88	88
	M6	12,6	12,5	65	66
	TF1	31,5	31,8	65	66
AVERAGE				72,50	73,67
IE	RTE One	25,4	25,8	57	56
	RTE Two	12,4	12,5	41	42
	TG4	2,9	3,1	68	63
	TV3	14	13	45	48
AVERAGE				52,75	52,25
IT	Canale 5	22,9	NC	61,8	73,1
	Italia 1	11,9	NC	43,2	39,9
	Rai Due	23,5	NC	62,8	67,6
	Rai Tre	12,1	NC	70,6	68,6
	Rai Uno	9,3	NC	78,1	7,2
	Rete 4	9,1	NC	57,7	57,5
AVERAGE				62,37	52,32
LV	LNT		22		55
	LTV1		14		67,7
	LTV7		5		59,6
	Pirmais Baltijas kanāls		10		51,1
	TV3		17		50,5

Member State	Channel	% audience 2003	% audience 2004	% EW 2003	% EW 2004
	TV5		3		69
AVERAGE					58,82
LT	BTV		8,8		52
	LNK		26,2		33
	LTV		12,5		81,8
	TV3		27,5		47
AVERAGE					53,45
LU	Club RTL	7,7	7,9	59	23
	RTL4	19,1	18,2	53	59
	RTL5	6,1	5,6	54	48
	RTL9	3,3	3	48	51
	RTL9	3,1	2,8	52	54
	RTL Tele Lëtzebuerg	66	70	70	72
	RTL TVi	24,5	24,7	46	55
AVERAGE				54,57	51,71
HU	MTV1		15,5		78,4
	RTL KLUB		29,5		54,6
	TV2		27,3		50,4
AVERAGE					61,13
MT	Net TV		17,59		54
	Super One TV		28,78		72
	TVM		51,44		91
AVERAGE					72,33
NL	Nederland 1	11,2	11,1	94	94
	Nederland 2	15,7	18,4	83	91



Member State	Channel	% audience 2003	% audience 2004	% EW 2003	% EW 2004
	Nederland 3	7.5	6,6	92	93
	NET5	4.3	4,3	33	34
	SBS 6	9.6	9,6	45	49
	Veronica/Jetix	4,2	4,9	45	52
	Yorin	5	4	36	55
AVERAGE				61,14	66,86
AT	ORF 1	21,9	21,6	44	45,9
	ORF 2	29,8	29,7	82,1	83,2
	Sat 1 Österreich	5,4	5,8	100	100
AVERAGE				75,37	76,37
PL	Polsat		16,3		52,6
	Program 2		20,6		84,2
	TVN		14,5		70,5
AVERAGE					69,1
PT	No information on AS available				
SI	Kanal A		11 (in 2003)		55,8
	NET TV		5,7 (in 2003)		28,06
	POP TV		33,9 (in 2003)		73,1
	RTV Slovenija		35,7 (in 2003)		54,9
AVERAGE					52,97
SK	No information on AS available				
FI	MTV 3	38	35	51	49
	Nelonen	11	12	56	51
	TV 1	23	25	89	88

Member State	Channel	% audience 2003	% audience 2004	% EW 2003	% EW 2004
	TV 2	20	20	83	80
AVERAGE				69,75	67
SE	SVT 1	47	47	83	82
	SVT 2	36	36	87	86
	TV 4	43	43	53	58
AVERAGE				74,33	75,33
UK	BBC1	19,5	19,6	74	75
	BBC2	7	6,8	80	82
	Channel 4	6,9	7,3	77	71
	Five	4,7	5	51	54
	ITV1	19,2	18,8	81	85
AVERAGE				72,6	73,4
EU-AVERAGE				64,45	63,87
EFTA-MS					
IS	1	42,80	38,20	55	56
	1	21	19	25	35
AVERAGE				40	45,5
NOR	NRK1	40,2	40,7	82	84
	NRK2	3,4	3,4	76	95
	TV2	29,5	30	53	53
	TVNorge	10,4	9,5	54	54

<b>Member State</b>	<b>Channel</b>	<b>% audience 2003</b>	<b>% audience 2004</b>	<b>% EW 2003</b>	<b>% EW 2004</b>
AVERAGE				71,5	76,25

(\*) Source: Member States' national reports for reference period 2003-2004.

**BACKGROUND DOCUMENT 8 – List of television channels in the European Union Member States which failed to achieve the minimum proportion according to article 5**

Type		Transmission Mode		Conformity	
<b>PS</b>	Public service	<b>TE</b>	terrestrial	√	Target met
<b>PR</b>	commercial	<b>SA</b>	Satellite	<b>X</b>	Target not met
<b>PY</b>	pay-TV	<b>CA</b>	Cable	<b>NC</b>	Data not communicated
<b>IA</b>	Interactive	<b>IP</b>	Internet	<b>NO</b>	Channel not in operation
<b>NI</b>	Niche/special interest	<b>D</b>	Digital	<b>EXC</b>	Channel excluded
<b>Other</b>	Sports/news/teleshopping/near video on demand	<b>A</b>	Analog		

Member State	Channel	AS 2003	AS 2004	Type	TM	2003	2004
B							
FL	Canvas			PS	CA/TE	NO	x
FR	Liberty TV			NI	CA	x	√
CZ	CT1		0,2093	PS	TE		x
DK	TV2/Bornholm	3	3	PS	TE	x	x
	TV2 Lorry	3	3	PS	TE	x	x
	TV2 ØST	3	3	PS	TE	x	x
	TV2/ Østjylland	3	3	PS	TE	x	x
DE	Bloomberg TV			NI	CA/SA	x	x
	Disney Channel			NI	CA/SA	x	√
	Phoenix	0,5	0,5	PS	SA/CA/D	x	x
ES	AXN	0,109	0,227	PR	SA/CA/IP	x	√
	Cartoon Network	0,071	0,316	NI	SA/CA	√	x
	Disney	0,036	0,033	NI	SA/CA/IP	x	√
	Fox	0,070	0,193	PR	SA/CA	√	x
	Telemadrid	2,70	2,30	PS	A	√	x

Member State	Channel	AS 2003	AS 2004	Type	TM	2003	2004
FR	GAME ONE	<1	<1	NI	CA/SA	x	√
	LIVE1	<1	<1	Other	CA/SA	x	x
	Tchatte TV (ex 123 SAT)	<1	<1	NI	CA/SA	NC	x
IT	Cinemovie			PR	SA	x	NO
	Duel			PR	SA	x	x
	Italian Teen Television			PR	SA	x	√
	Palco (omega)			PR	SA	x	NO
	Retecapri			PR	TE	x	EXC
	Sky Cinema 2 (già Stream Prima Fila 2)			PR	SA	√	x
	Sky Cinema 3 (già Stream Cinema Stream)			PR	SA	√	x
	Sky Cinema Max (già Stream Prima Fila 4)			PR	SA	√	x
	Sky Cinema 1 (già Stream Prima Fila 1)			PR	SA	√	x
	Primafile Sky (già Stream Prima Fila 6)			PR	SA	x	x
	TVL			PR	SA	x	NO
LU	Nordlicht TV			PR	CA/SA	x	x
HU	Fix Televízió			PS	SA		x
	HírTV			Other	SA		x
	MATV	1,6	0,6	PS	SA		x
	Viasat3	2,4	3,2	PR	SA		x
NL	A Ti Vi	<3,5	<3,5	PR	CA	x	x

Member State	Channel	AS 2003	AS 2004	Type	TM	2003	2004
	The Box	0,20	0,30	PR	CA	√	x
	DeltaTV	<3,5	<3,5	PR	CA	x	NO
	Exotica	<3,5	<3,5	PR	CA	NO	x
	MTV The Netherlands	0,50	0,60	PR	CA	x	√
	Private Gold	<3,5	<3,5	PR	CA	x	√
	RNN7	<3,5	<3,5	PR	CA	x	EXC
	ROB TV	<3,5	<3,5	PR	CA	x	√
	Te Ve Sur	<3,5	<3,5	PR	CA	NO	x
	Tilburg-TV	<3,5	<3,5	PR	CA	x	x
	UPC Club (CE)	<3,5	<3,5	PR	NC	NO	x
	VSM-TV	<3,5	<3,5	PR	CA	EXC	x
	Wereldomroep	<3,5	<3,5	PS	SA	x	x
PL	Edusat			NI	SA		x
	Hipika TV			Other	SA		x
	Pilot			NI	SA		x
	Tele5		0,50	PR	SA		x
	TVN24		1	Other	SA		x
	TVN Siedem		2,10	NI	SA		x
PT	RTP Africa			PS	SA/CA	x	√
	SIC Gold			PR	SA/CA	x	x
	SIC Mulher			PR	SA/CA	x	x
	SIC Radical			PR	SA/CA	x	√
	SIC Noticias			Other	SA/CA	x	√
SI	Kanal A		11 (2003)		TE	x	x
	POP TV		33,9 (2003)		TE	x	x

Member State	Channel	AS 2003	AS 2004	Type	TM	2003	2004
	Prva		1,7 (2003)		TE/CA	x	NC
	Vaš Kanal				TE	x	EXC
	vTv Vaš televizija				TE	x	EXC
SE	6			NI	SA	x	NO
	Suroyo TV			Other	SA	NO	x
	Viasat Action			NI	SA	NO	x
	Viasat Nature			NI	SA	NO	x
UK	3+ Denmark	<1	<1	PR/NI	SA/CA	x	x
	3+ Baltics	NO	<1	PR/NI	SA/CA	NO	x
	18 Plus Movies	<1	<1	PR/NI	SA/CA	x	√
	abc1	NO	<1	PR/NI	SA/CA/D	NO	x
	The Amp	0,2	0,2	PR/NI	SA/CA	x	x
	AXN Germany	NO	<1	PR/NI	SA/CA	NO	x
	BBC Food	<1	<1	PS/PR	SA/CA	√	x
	BBC Prime	<1	<1	PS/PR	SA/CA	√	x
	Biography Channel	0,1	0,1	PR/NI	SA/CA	√	x
	Cartoon Network (EMEA)	<1	<1	PR/NI	SA/CA	√	x
	Cartoon Network (French Lang)	<1	<1	PR/NI	SA/CA	√	x
	Cartoon Network (Italian Lang)	<1	<1	PR/NI	SA/CA	√	x
	Cinenova	<1	<1	PR/NI	SA/CA	x	x
	Cinenova 2	<1	<1	PR/NI	SA/CA	√	x
	Discovery Channel France	NO	<1	PR/NI	SA/CA	NO	x
	Disney Channel	0,4	0,3	PR/NI	SA/CA	x	x
	Disney Channel Scandinavia	<1	<1	PR/NI	SA/CA	x	x
	E!	<1	<1	PR/NI	SA/CA	x	√
	EWTN	NO	<1	PR/NI	SA/CA	NO	x

Member State	Channel	AS 2003	AS 2004	Type	TM	2003	2004
	Film Four	0,1	0,1	PR/NI	SA/CA	x	√
	Film Four World	NO	<1	PR/NI	SA/CA	x	NO
	Flaunt	0,1	0,1	PR/NI	SA/CA	x	x
	Hallmark Channel (Central Europe)	<1	<1	PR/NI	SA/CA	x	x
	Hallmark Channel (Czech)	<1	<1	PR/NI	SA/CA	x	x
	Hallmark Channel (Eastern Europe)	<1	<1	PR/NI	SA/CA	x	x
	Hallmark Channel (Italy)	<1	<1	PR/NI	SA/CA	x	x
	Hallmark Channel (Russia)	<1	<1	PR/NI	SA/CA	x	x
	Hallmark Channel (Scandi)	<1	<1	PR/NI	SA/CA	x	x
	Hallmark Channel (Spain)	<1	<1	PR/NI	SA/CA	x	x
	Hallmark Channel (UK)	0,8	0,9	PR/NI	SA/CA	x	x
	The Horror Channel	NO	<1	PR/NI	SA/CA	NO	x
	Ideal Vitality (formerly House & Garden TV)	NO	<1	PR/NI	SA/CA	NO	x
	Kanal 5 Denmark (formerly TV Denmark 1)	<1	<1	PR/NI	SA/CA	x	x
	L! VE TV	<1	<1	PR/NI	SA/CA	x	x
	Living TV	0,7	0,9	PR/NI	SA/CA	x	√
	Majestic TV	<1	<1	PR/NI	SA/CA	NO	x
	Maximum Reality	<1	<1	PR/NI	SA/CA	x	x
	Music Choice	<1	<1	PR/NI	SA/CA	x	x
	Nickelodeon Europe	NO	<1	PR/NI	SA/CA	NO	x
	Open Access 2	<1	<1	PR/NI	SA/CA	√	x
	Paramount Comedy Channel	0,5	0,3	PR/NI	SA/CA	x	√
	Paramount Comedy 2	0,1	0,1	PR/NI	SA/CA	x	√
	Playboy D	NO	<1	PR/NI	SA/CA	NO	x



Member State	Channel	AS 2003	AS 2004	Type	TM	2003	2004
	Playhouse Disney	0,2	0,1	PR/NI	SA/CA	x	x
	Rapture TV	<1	<1	PR/NI	SA/CA	x	x
	Real estate TV	NO	0,1	PR/NI	SA/CA	NO	x
	Reality TV	0,2	0,1	PR/NI	SA/CA	x	√
	Reality TV USA	<1	<1	PR/NI	SA/CA	x	x
	Romantica	<1	<1	PR/NI	SA/CA	x	x
	Russian Hour	NO	<1	PR/NI	SA/CA	NO	x
	Sci-Fi Channel	0,5	0,5	PR/NI	SA/CA	x	x
	Scuzz	0,1	0,2	PR/NI	SA/CA	x	x
	Sky Box Office	<1	<1	PR/NI	SA/CA	x	x
	Sky Movies 1,3,5,7,9	0,4	0,3	PR/NI	SA/CA	√	x
	Sky Movies 2,4,6,8	0,3	0,3	PR/NI	SA/CA	x	x
	Sky Travel	<1	<1	PR/NI	SA/CA	x	√
	Sky Venue	0,1	0,2	PR/NI	SA/CA	x	x
	Sony Entertainment TV Asia	<1	<1	PR/NI	SA/CA	x	x
	Toonami UK	0,2	0,2	PR/NI	SA/CA	x	x
	Toon Disney	0,2	0,3	PR/NI	SA/CA	x	x
	Trouble (formerly TCC)	0,4	0,3	PR/NI	SA/CA	√	x
	TV8	NO	<1	PR/NI	SA/CA	NO	x
	TV3 Denmark	<1	<1	PR/NI	SA/CA	√	x
	TV3 N/ Oprway	<1	<1	PR/NI	SA/CA	x	x
	TX1	NO	<1	PR/NI	SA/CA	x	NO
	UKTV People	NO	0,1	PR/NI	SA/CA	NO	x
	Viasat Explorer	NO	<1	PR/NI	SA/CA	NO	x
	Viasat Explorer (East)	NO	<1	PR/NI	SA/CA	NO	x
	Viasat History	NO	<1	PR/NI	SA/CA	NO	x

Member State	Channel	AS 2003	AS 2004	Type	TM	2003	2004
	Viasat Sport1	NO	<1	PR/NI	SA/CA	NO	x
	Viasat Sport2	NO	<1	PR/NI	SA/CA	NO	x
	Viasat Sport3	NO	<1	PR/NI	SA/CA	NO	x
	ZTV Norway	<1	<1	PR/NI	SA/CA	√	x
EFTA MSs							
IS	1	21	19	PR	TE/CA	x	x
NO	NRK2	3,4	3,4	PS	TE	√	x