

ACT RESPONSE TO THE CREATIVE EUROPE CONSULTATION

The Creative Europe programme complements the Audiovisual Media Services Directive (AVMSD) by supporting the creation, promotion, access to and dissemination of European audiovisual works within the EU and beyond. The programme has a great track record at supporting European production.

However, we believe that the programme suffers from overly rigorous definitions that are not aligned with both national rules and the AVMSD, in particular with regards to the definition of independent production; and in particular with regards to 25 and 50% direct/indirect ownership/equity links.

Numerous affiliated producers are not able to meet the eligibility criteria because of their links with AVMS providers. This definition, focused on ownership/equity links with AVMS providers, does not necessarily promote pluralism within audiovisual media services offerings, and may reinforce the negotiating power of certain categories of independent producers.

Any approach should be wary of competitive effects on the market via measures that may be construed as both unjustified and discriminatory. According to the Council of Europe's European Audiovisual Observatory, commercial AVMS producers affiliated to broadcasters directly produce 36% of titles or 45% of hours produced¹. The current approach can arbitrarily exclude a large part of the audiovisual market. Actors that contribute to freedom of expression, diversity, creativity and democracy whilst complying with strict AVMS obligations without necessarily being able to access funding similar players are able to tap into.

We thus caution against overly narrow approaches which can conflict with both the open concept of independent production in the AVMSD and the variety of national approaches that result from it. We would therefore advise a more open approach which is aligned with existing market realities and legal frameworks (AVMSD) and thereby avoids potential competitive distortions.

¹ EAO, Audiovisual fiction production in Europe 2021 figures