



**MOTION PICTURE ASSOCIATION EMEA**

Brussels, 7 July 2026

Dear Sir/Madam,

We are grateful for the opportunity to provide further comments on the draft Act Amending the Media Services Act, more specifically on the proposal for a 5% financial obligation. These comments build on the initial submission filed by MPA on 28 June 2024. We also sincerely appreciate the Ministry's detailed feedback on our earlier submission.

The Motion Picture Association (MPA) serves as the global voice and advocate of the international film, television, and streaming industry. Our members are Amazon Studios LLC, Netflix Studios, LLC, Paramount Pictures Corporation, Sony Pictures Entertainment Inc., Universal City Studios LLC, Walt Disney Studios Motion Pictures, and Warner Bros. Entertainment Inc.

MPA member companies have been an important part of Europe and Estonia's cultural ecosystem for years, investing in, contributing towards and amplifying Estonian culture within and beyond the borders of the European Union.

MPA would like to make the following comments on the draft:

Under EU law, any financial obligation must respect the principles of proportionality and non-discrimination. In line with the proportionality principle, measures should be limited to what is strictly necessary to achieve the legitimate objectives of the relevant legislation. When several appropriate options are available, the legislators must choose the option with the least restrictive impact.

In this regard, and for the reasons outlined in detail below, MPA respectfully recommends that Estonia:

1. Refrain from introducing a financial obligation;
2. In the alternative, substantially reduce the proposed 5% rate;
3. Remove or substantially revise the foreseen linguistic and localisation criteria;
4. Provide a genuine menu of compliance options;

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5. Reduce audit and reporting burdens; and
6. Defer entry into force until January 2028 at the earliest.

### Unintended Effects of Financial Obligations

- Financial obligations often lead to inflationary effects<sup>1</sup>, as the requirement to contribute to local productions drives up the price of all resources involved in production<sup>2</sup>. Increasing costs would affect all players in the market, including public service media, domestic and international providers. In its recently published public consultation report, the Ministry of Culture submits that *“the funds received will supplement audiovisual production resources proportionally and will not lead to an overload of the production environment”*. However, we note with concern that this claim does not seem to have been substantiated and the potential adverse effects of the additional investment not properly addressed.
- Financial obligations also raise questions from a competition perspective. In June 2025, the Swedish Competition Authority established that financial obligations constitute a form of *“cross-subsidisation”* and that it would be *“inappropriate for companies to be forced to co-finance”* competitors. The Swedish Authority further warned that an increase in costs for streamers could lead to less overall investment<sup>3</sup>, thus leading to the opposite effect than the one pursued.
- To safeguard editorial and programming independence of media services, it is key that decisions about what type of content should be produced or acquired rest with the media service provider alone. It should be a starting point in any regulatory intervention that it is the provider who is best suited to determine what content to invest in, including in which genres. A *“tick the box”* approach to investment can also lead to content not being met with a corresponding demand from viewers.

For the reasons set out above, MPA strongly recommends not imposing any financial obligation on VOD service providers.

### The Proposed Bill Disregards Market Dynamics and the AV Industry Reality

#### **Baseline Obligation**

- A 5% obligation would represent a particularly high percentage relative to other similarly sized European countries. We recommend revising the suggested 5% rate downward to minimise the potential negative impact of the measure, including the market’s ability to absorb the additional investment. The higher the rate, the more accentuated the

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<sup>1</sup> In France, the average hourly cost of fiction rose by 28.7% in 2023. CNC & Arcom (November 2024). *“Étude relative à la mise en œuvre du décret SMAD”*. [Link](#).

<sup>2</sup> CNC (September 2024). *“La fiction audiovisuelle française – bilan à 360”*. [Link](#).

<sup>3</sup> Konkursverket (2025). *Betänkandet Publiken i fokus – reformer för ett starkare filmland*.

unintended consequences of the obligation will be. Despite the inclusion of a proportionality test in the consultation materials, MPA is concerned that the assessment has not been thorough, with the 5% rate not being substantiated or supported by local market data.

- Additionally, we would recommend allowing investments from subsidiaries under the same parent company as the provider subject to the obligation to count towards the fulfilment of the obligation. This is necessary to reflect the way international audiovisual groups structure commissioning, financing, production, rights acquisition and distribution activities in practice.

### **Conditions for Investments**

The underlying conditions for investments described in § 24<sup>3</sup> are overly prescriptive:

- Crucially, pursuant to paragraph 4 of § 24<sup>3</sup>, MPA submits that the narrow definition of “Estonian audiovisual works” through the introduction of (1) a cultural test, (2) linguistic sub-criteria and (3) various localisation requirements, are not reconcilable with EU law.
- It must be noted that Article 13(2) AVMSD relates to European (not national) works. This distinction is material. Article 13(2) AVMSD does not provide Member States with an unlimited basis to require investment in nationally defined works. It permits financial contributions to the production of European works, subject to proportionality and non-discrimination. A regime that makes fulfilment dependent on a narrow national cultural test, national language criterion, filming/location criterion and Estonian-registered production-company criterion risks converting an EU law mechanism for the promotion of European works into a national industrial-policy instrument.
- In this regard, the European Commission has noted in various TRIS comments that introducing financial obligations in the form of a direct financing or a financial contribution to a film fund that relate solely to national language works would need to be justified, proportionate and require additional reasoning<sup>4</sup>.
- In the context of the proposed text, the introduction of a national language requirement would leave companies not established in Estonia (but also Estonian companies that produce European works other than Estonian language works) at a disadvantage, given the greater efforts they would need to make to meet the criteria<sup>5</sup>. This is particularly true in a market of the size and linguistic characteristics of Estonia and may therefore amount to indirect discrimination or, at minimum, an unjustified restriction on the freedom to provide services under EU law. In a small linguistic market, a 60% original-language criterion may materially narrow the pool of eligible projects and make compliance dependent on a limited number of productions – likely leading to significant price increases of those productions and on the broader AV market.

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<sup>4</sup> Flagged by the European Commission in its comments on the Norwegian draft law available [here](#), on the Danish draft law submitted in 2022 available [here](#) and on the Danish draft law of 2023 available [here](#).

<sup>5</sup> See also the European Commission’s TRIS Comments on the Danish Draft Law of 2023. [Link](#).

- Attention should be paid to the European Commission’s comments to the draft Danish bill, in which the Commission expressed that *“such percentage is difficult to measure and, consequently, to monitor. In that context it should also be borne in mind that not every work seems to be suited to be produced in more than one language, which might elevate the percentage in practice”*.
- Additionally, the Estonian-registered production company criterion is discriminatory and raises internal market concerns under Articles 49 and 56 TFEU, as it privileges establishment in Estonia.
- Taken together, these restrictions raise concerns under Article 13(2) AVMSD and Articles 49 and 56 TFEU. While cultural policy objectives may constitute legitimate objectives under EU law, restrictions on cross-border services and establishment must be suitable, necessary and proportionate, and must not go beyond what is required to support the production and circulation of European works.

#### **Carry-Over Mechanism (§ 24<sup>4</sup> 1)**

- The carry-over mechanism allowing providers to spread the obligation over a three-year period would greatly benefit from a longer window. MPA suggests five years as a more realistic representation of content financing cycles and the AV industry reality.

#### **Certified Accounting Statements**

- The requirement for audited statements of direct investment and revenue under § 24<sup>6</sup> is disproportionate. Audited statements are extremely costly and unnecessary, as it has been established that less restrictive measures can achieve the same level of revenue and claimed investments verification. In some European countries, such as Italy and Portugal, providers are required to submit a signed declaration from a legal representative, paired with proof of payment of the claimed investments.
- In its May 2026 comments<sup>6</sup> on Norway’s implementing amendments for an investment obligation, the European Commission underlined the *“importance of reducing administrative burden for companies”* and further stressed *“the importance of proportionality of any measure introduced”*. MPA cautions against introducing unnecessary administrative and financial burdens on media service providers. Should such measures be considered necessary, we would suggest that the associated costs be borne by the party requiring them.

#### **Clarity on the Proposed Model**

- MPA notes that many of the specific conditions still need to be laid down in subsequent regulations (i.e. calculation of the relevant revenues, calculation of the proportion of the Estonian creative team, allocation of the investment, list of data to be included in the report, notice on the allocation of investment, overview of the implementation of the investment plan and the specific procedures for submitting the report, notice and overview).

- This therefore hinders stakeholders' ability to submit all the concerns raised by the Draft Act, also potentially arising from subsequent regulations. In this context, MPA would welcome greater clarity on the overall model to fully and thoroughly assess the impact of the proposal, identify potential challenges, and provide further feedback accordingly.

#### **Timeline**

- We respectfully recommend that, should you ultimately conclude that no alternative measure is preferable to an investment obligation, such an obligation does not enter into force before January 2028. If introduced, the first year of its application should be limited to collecting revenue information only, with any potential investment requirement applying, at the earliest, to the subsequent year. This would give predictability to media service providers over the required levels of investment in practice and allow them to adjust their programming strategies.

#### *Improving the Production Incentive for Domestic Productions As a Way to Grow the Industry*

We commend the Estonian Government for their stable incentive program. Well-functioning incentive schemes can reinforce local know-how and help develop the necessary facilities for investment to flourish.

In our view, the key to strengthening the competitiveness of Estonia's audiovisual industry is achieving an optimal balance of attractive incentives for domestic and international production while avoiding burdensome regulatory constraints that may impair inward investment.

We would very much welcome the opportunity to meet with you to discuss our submission in more detail.

Yours sincerely,



Emilie Anthonis  
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MPA EMEA