Promoting growth, pluralism and choice

The Country of Origin principle and Europe's audiovisual sector

CoBA

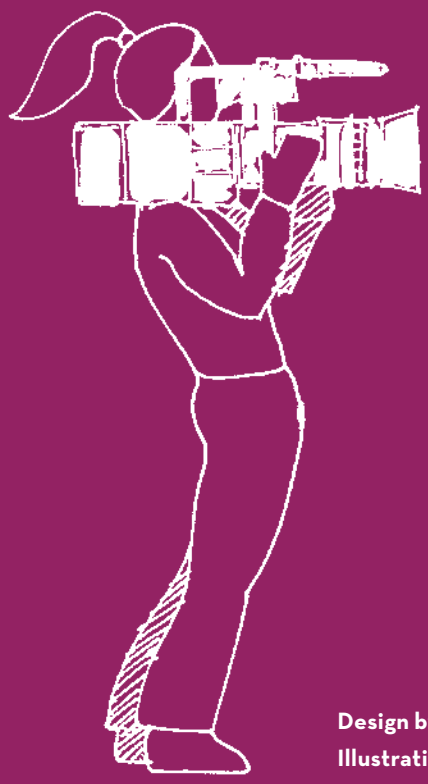
A report for COBA by OLSBERG · SPI

COBA www.coba.org.uk

The Commercial Broadcasters Association (COBA) is the UK industry body for digital, cable and satellite broadcasters and on-demand services. COBA members include major multinational broadcasters and smaller, niche services. They are one of the fastest growing parts of the television industry, and increase choice and diversity for audiences across a range of pay and free-to-air platforms.

OLSBERG•SPI www.o-spi.co.uk

This report was written by Olsberg•SPI, a London-based creative industries strategy consultancy that provides high-level advice to public and private sector clients, specialising in the worlds of film, television and digital media. Formed in 1992, it has become one of the leading international consultancies in these fields.



Design by FeelGoodAgency www.feelgood.agency
Illustrations by Don Grant www.dongrant.co.uk

Contents

Executive summary

The Country of Origin principle supports the growth of Europe's creative industries by allowing broadcasters and VoD services to maximise economies of scale, while providing consumers with significantly increased choice and safeguarding freedom of expression and media pluralism.

KEY FACTS

- ***The Country of Origin principle has underpinned the successful growth of the European audiovisual sector since 1989.***
- ***Across Europe, 41% of linear services and 34% of on-demand services are available to audiences via the principle, increasing choice and price competition, and safeguarding media pluralism.***
- ***In smaller markets, 75% of channels are available via the principle, reflecting the greater need to maximise economies of scale.***
- ***The principle's role in supporting the growth of VoD is now crucial, notably for Catch-Up VoD and smaller services.***
- ***Under current proposals for changing the principle, many VoD services would almost certainly cease to be viable.***

Current proposals to change the Country of Origin principle would mean that many smaller and niche channels and VoD services would struggle to survive, particularly in smaller markets.

The Country of Origin principle is at the core of the Audiovisual Media Services Directive ("AVMSD"), enabling broadcasters to be licensed in one market and provide channels in other Member States. Olsberg•SPI's research underlines that it is central to the present model for European broadcasting, and the continuation of the principle in its present form is key for securing the future of this industry, both in linear and non-linear markets.

UNDERPINNING GROWTH

Non-linear services, 34% of which are already supported by the Country of Origin rule, will be a key element of this future, and are presently on a strong growth track. By 2020, it is expected that one in five European citizens will have an SVoD subscription, while a large percentage of the continent's residents already enjoy access to a range of heavily-used Catch-Up services. These generate significant audience and cultural benefits, but non-linear broadcasting remains a nascent sector, requiring the ongoing support provided by the AVMSD's Country of Origin principle if its contribution to Europe is to be maximised.

Such potential is demonstrated by the fact that the AVMSD's Country of Origin principle has been a key component in the growth of the linear broadcast market in Europe. Since the launch of Television Without Frontiers – the predecessor to the AVMSD – in 1989, the market has expanded at a rate of 18.5% annually. The Country of Origin principle has been a major driver of this growth, with 41% of linear services presently using it to tailor channels for broadcast into non-domestic markets. In smaller markets, this rises to 75% of linear channels, reflecting the greater need to maximise economies of scale.

PLURALISM AND FREEDOM OF EXPRESSION

Services using the Country of Origin principle under the AVMSD deliver a wide range of benefits to European citizens in the markets in which they operate. Where, for example, costs and content can be shared amongst channels tailored to multiple Member States – because they are allowed to comply with a single set of rules – such services are viable for a more niche audience in each market.

Such channels provide diversity in sources of news and entertainment, ensuring a plurality of information is available to the consumer. They also compete on price, ensuring the maintenance of an effective market, and offer services which smaller markets cannot generate on their own. For example, in a number of European countries all children's TV channels are available via non-domestic licences supported by the principle.

THE THREAT TO FUTURE SUCCESS

Despite this success, proposals have been made for changes which would undermine the model. These include the use of a 'Country of Destination' approach for non-linear services, or a carve-out for local content rules, allowing destination markets to override the Country of Origin principle. Such changes would, we believe, wholly undermine the success that the AVMSD's Country of Origin principle has helped to facilitate, resulting in much less audience choice in smaller Member States.

Even if these rules were only applied to non-linear services, they would undermine an existing, popular range of Catch-Up VoD services. Almost all of these are based in the same country as their linear parent, and provided to audiences at no additional cost. In any situation where broadcasters were required to follow Country of Origin rules for linear television, and 'Country of Destination' rules for non-linear, they would almost certainly cease to be viable.

INDUSTRY GROWTH AND AUDIENCE CHOICE

The Country of Origin principle is one of the AVMSD's major success stories. It enhances audience choice, supports industry growth and the free movement of content, and provides additional value to consumers in linear television. These benefits are already present in the expanding non-linear space, but it has the potential to do even more as the opportunities in this sector are even greater for services that are niche, but which have a high cultural value. Maintaining the principle in its current format will maximise the opportunities for European creative companies, as well as cultural value for the citizens of the EU.

A NOTE ON METHODOLOGY

Data in this report have been generated through a mixture of consultations with industry stakeholders across Europe, desk research relating to the issues at hand, and evaluation of data sources, particularly the EAO's MAVISE database. This was analysed in depth to generate the mapping data for linear and non-linear services cited in this report.

All non-linear services operate under a notification system in Europe, with a single notification potentially representing a range of separate services. Some broadcasters notify each of their services separately, while others provide all non-linear services under a single umbrella notification. Consequently, the number of notifications described in this report is not identical to the actual numbers of non-linear services.

For the avoidance of doubt, all references to the Country of Origin principle in this report relate to the Audiovisual Media Services Directive only, and no conclusions should be drawn in regards to other Directives. References to "licensing" are intended to refer to regulatory permissions, clearances and the like under national laws, and are not intended to refer to licensing of copyright or related rights.

DEFINITIONS

- Catch-Up: VoD service through which broadcasters make available their content on-demand for a period – generally up to 28 days – after broadcast. This is normally provided at no additional cost to the subscriber.
- Linear: 'traditional' television which is broadcast to a TV, either over-the-air, or via a cable or satellite system.
- Non-linear: non-traditional forms of broadcast for video content, including Catch-Up and Subscription VoD – this term can be used interchangeably with VoD in the context of the European broadcast sector.
- SVoD: Subscription Video on Demand – VoD which requires a specific, paid subscription to access the catalogue of content of such a service.
- VoD: Video on Demand.

Supporting linear growth

IN THIS SECTION:

VIOLETTA DISNEY

The cast of Disney's children's drama Violetta on promotional duty in Milan, Italy. The Spanish-Argentina co-production was showcased in multiple EU markets using Disney's mix of local and non-domestic licences.

Underpinning the growth of the EU audiovisual sector

The AVMSD's Country of Origin principle is at the heart of the European audiovisual sector, supporting no less than 41% of channels across the EU.

KEY FACTS

- ***The EU audiovisual sector has grown 18.5% a year since 1989.***
- ***The number of channels has grown from 450 to more than 9,300.***
- ***The AVMS Country of Origin principle has been at the heart of this, with 41% of channels using it.***

Since the launch of the Television Without Frontiers Directive in 1989, the European linear TV sector has seen enormous growth. Only 6.2% of the channels currently available in the EU were launched before Television Without Frontiers was signed – the vast majority of services have become available to European consumers since 1989.

Demonstrating this growth, Member States who were part of the EU when the Directive was introduced have seen an 18.5% annual growth rate in available services since 1989.

The Country of Origin principle contained in the AVMSD has been a major driver of this growth.

At present, 41% of services tailored towards specific EU Member States access these via non-domestic licences supported by the principle.

Such services are broadcast from a range of different markets, including the Czech Republic, from which 224 channels – 75% of all those licensed in the country – are broadcast into other Member States.

It is also worth highlighting the related emergence of other hubs, notably for ancillary services such as transitioning and versioning. Warsaw is a particular centre for these, providing language services to broadcasters across Europe, whose need is supported by the market access Country of Origin facilitates.

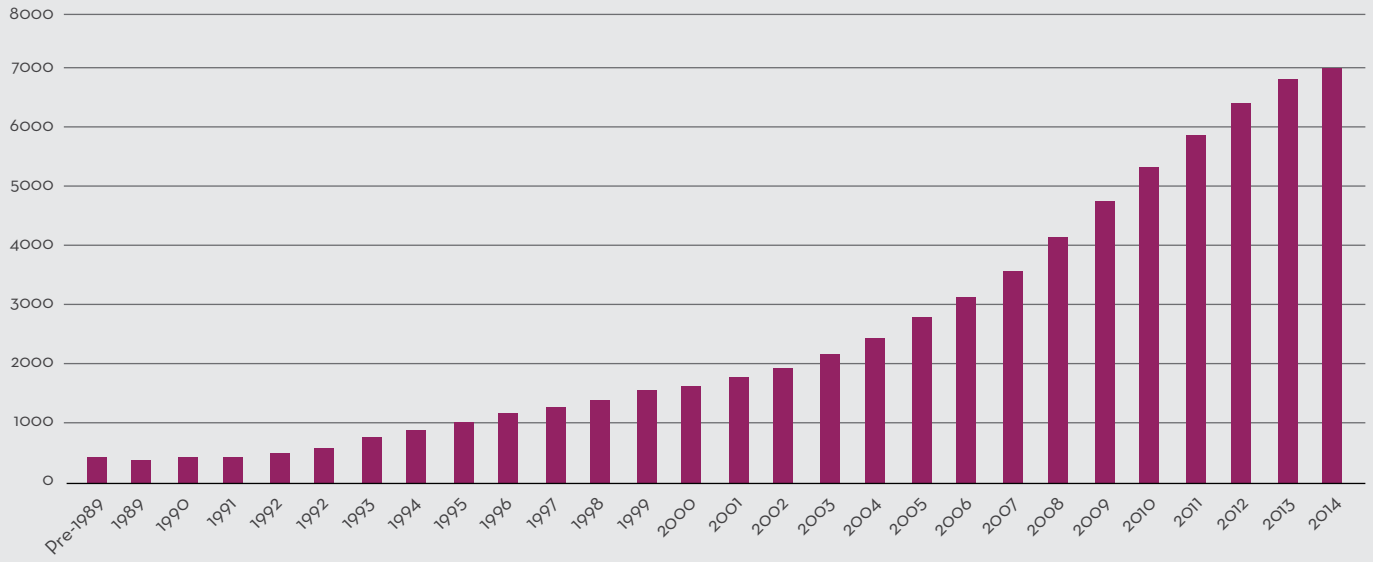
WHAT IS THE COUNTRY OF ORIGIN PRINCIPLE?

The AVMSD requires that Member States "shall ensure freedom of reception and shall not restrict retransmissions on their territory of audiovisual media services from other Member States." In practice, this enables a broadcaster or on-demand service provider – licensed in one EU Member State – to be made available in any other without having to separately obtain another broadcast licence or on-demand notification at the service's destination. The originating Member State is required to verify that the service complies with its national laws, which in turn are subject to the minimum requirements, standards and consumer protections set out the AVMSD.

As the AVMSD states, Member States are to apply the Country of Origin principle to all audiovisual media services in order to ensure legal certainty for media service providers, and the free flow of information and audiovisual programmes in the internal market.

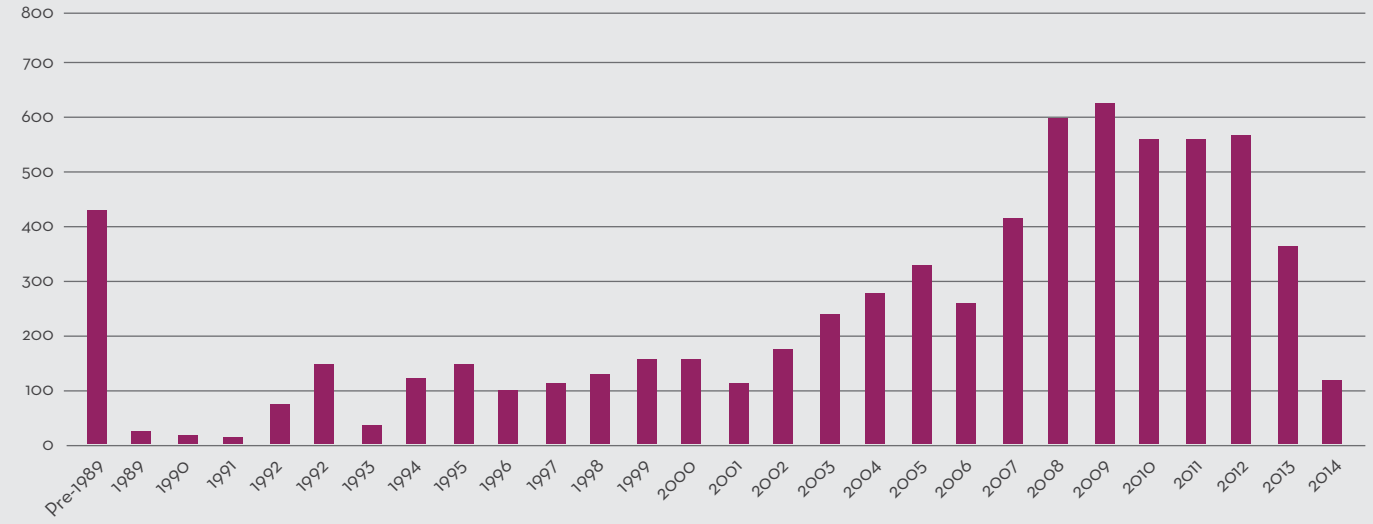
The Country of Origin principle, the AVMSD states, is the "core of this Directive, as it is essential for the creation of an internal market."

FIGURE 1
TOTAL NUMBER OF CHANNELS SINCE 1989



Note: Launch dates are not available for all channels in the sample.

FIGURE 2
CURRENT EU CHANNELS BY YEAR OF LAUNCH



Increasing audience choice in smaller markets

Smaller Member States have been the main beneficiaries of the increased choice in channels that is created by the Country of Origin principle – and stand to lose the most from potential changes to it.

KEY FACTS

- ***In the ten smallest Member States by population, 75% of channels are provided via the Country of Origin principle, compared to an EU average of 41%.***
- ***This reflects the increased need for economies of scale in smaller markets that might not otherwise be able to support such a range of channels.***
- ***News, documentary and children's channels are key beneficiaries of the Country of Origin principle.***

The EU's smallest and newest Member States have been the biggest beneficiaries of the greater freedom of choice which the AVMSD's Country of Origin principle allows for. In the 10 smallest markets (by population), 75% or more of services are available via non-domestic licences supported by the principle, compared to 41% across the EU.

These channels provide increased audience choice: many address specialised interests, placing niche services in the market to augment domestic channels, which tend to be generalist in nature. Such services address a range of different needs and interests, providing content for diverse interests and populations, and bolstering freedom of speech.

As such, smallest Member States, where services have the lowest profit margins, or in some cases none at all, stand to lose most from potential changes to the Country of Origin principle in the AVMSD. Here, the market is unlikely to have the capacity to generate national replacements for these services, leaving the remaining channels to face much less competition, and providing consumers with much less choice and reducing media pluralism.

News and documentary services are two of the largest users of the market access which Country of Origin offers, representing 7% and 8% of the channels entering the 10 smallest Member States respectively. In allowing news and documentary channels to enter the market, meanwhile, the AVMSD's Country of Origin supports the European principles of free speech and democracy, allowing the populations of these states a choice of multiple viewpoints and serving minority interests where the domestic market is not large enough to sustain these.

Children's television is also a significant user of the principle – more than 10% of services in these smallest states are children's channels, including all of the specialised services in such markets as Croatia and Malta.

FIGURE 3
AUSTRIAN MARKET SHARE

Austria illustrates how non domestic channels can greatly increase range and choice for audiences, with locally-licensed channels accounting for nearly half of total audience viewing, and a significantly higher number of non domestic channels (licensed in Germany and other markets) representing the other half.

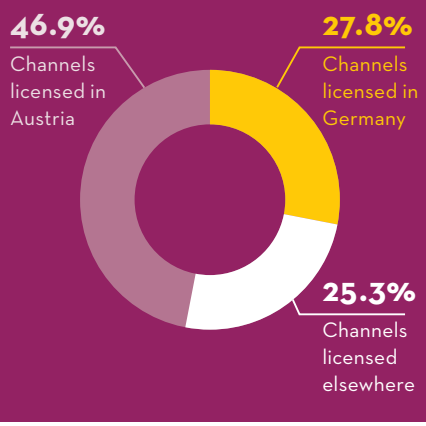
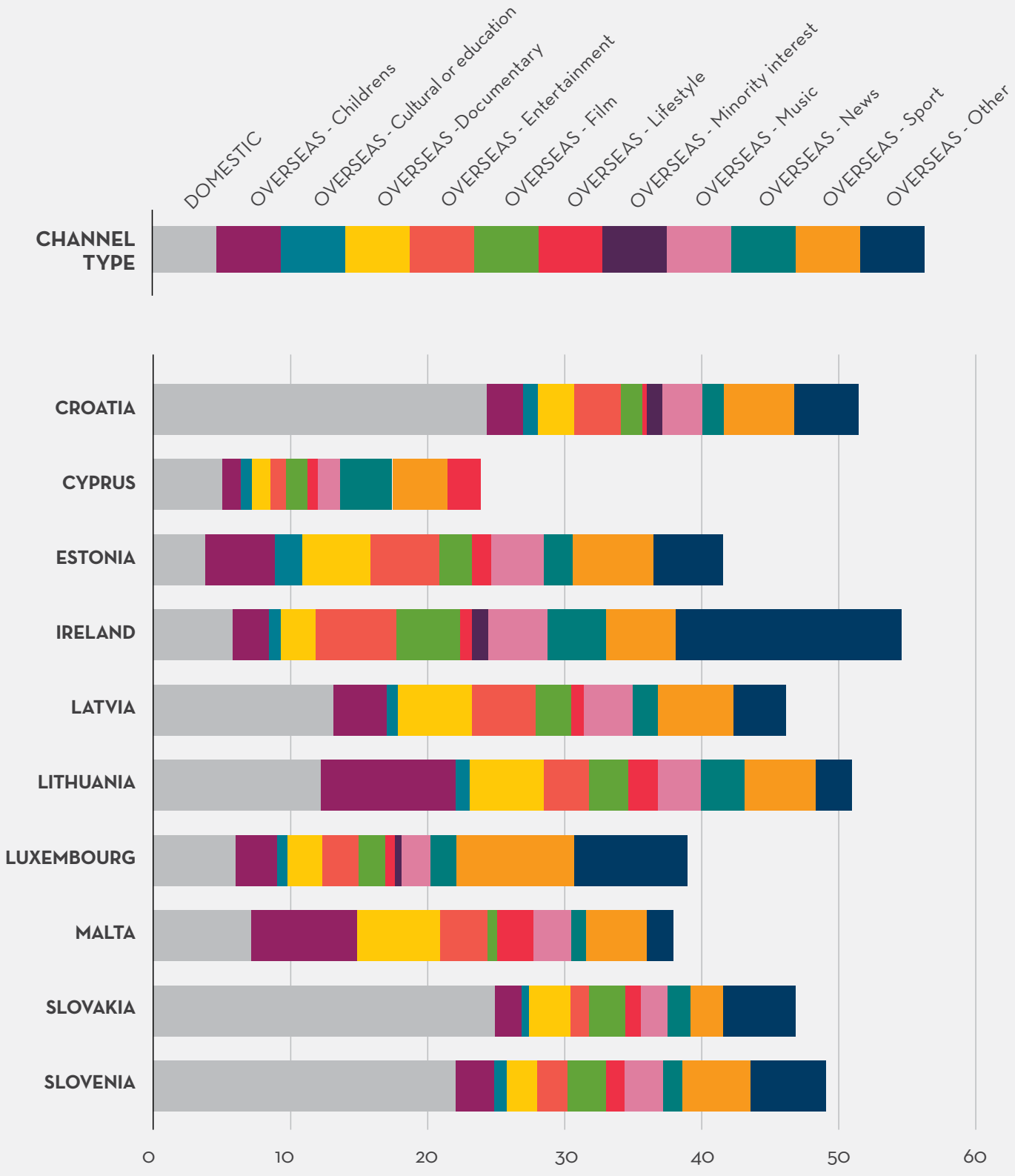


FIGURE 4
CHANNELS AVAILABLE IN SMALLEST MARKETS BY ORIGIN OF LICENCE (DOMESTIC OR OVERSEAS) AND TYPE OF CHANNEL



Supporting access to European content across borders

In helping channels to launch across borders, the Country of Origin principle has facilitated the spread of European content across the continent.

KEY FACTS

- ***The AVMSD Country of Origin principle reduces marginal costs for channels launching in different markets.***
- ***In so doing, it has facilitated the flow of European content across borders.***
- ***Amongst the genres to benefit are European drama, factual and children's services.***

The AVMSD's Country of Origin principle has been successful in generating audience value because it allows broadcasters to maximise their economies of scale. Channels which successfully launch in one EU market can be transitioned into others at minimal marginal cost, increasing audience choice without requiring large up-front investments.

This facilitates the flow of European content from one market to another, as well as enabling channels to build investments slowly, but steadily in the countries to which they tailor services. The Country of Origin principle has allowed this to be achieved in an audience-driven fashion, with successful programmes spreading across the continent, enabled by the AVMSD.

CASE STUDY
EUROPEAN DRAMA

The AVMSD's Country of Origin principle has played a valuable role in transmitting European content across borders, facilitating the promotion of European content which is part of the AVMSD's remit. For example, Sony Entertainment Television broadcasts in Germany with a licence from the UK.

It has a roster of European drama from across the EU, with recent programmes including such series as **Gran Hotel** (Spain), **Un Village Français** (France), **Les Hommes de L'Ombre** (France), **Anna Pihl** (Denmark), **Clan** (Belgium), and **The Tunnel** (UK/France). Most are broadcast as premieres, and many are also made available on-demand via third-party services and platforms.

CASE STUDY
EUROPEAN CHILDREN'S CONTENT

Disney channels benefit from a mix of local and Country of Origin licences to showcase European content to audiences in different markets. For example, Disney commissioned children's live action drama **Violetta** as a Spanish-Argentina co-production. The show has gone on to become a success across a number of markets, broadcast by Disney channels under both local licences and the Country of Origin principle. It has aired in Denmark, Sweden, Finland and Norway on channels licensed from the UK, and Spain, Italy, France and the UK under local licences, topping the ratings on the Disney channel in Spain and Italy, and performing strongly in France.

CASE STUDY
EUROPEAN FACTUAL CONTENT

Highlighting how the AVMSD's Country of Origin principle has encouraged the establishment of genuinely pan-European broadcasting and production sectors, Discovery broadcasts a host of non-domestic European programmes across borders via its portfolio of European channels. Produced for Discovery's TLC channel in the Netherlands, **Louisa & Rosanna, Our Transgender Wedding**, was shown in the UK, Norway, Denmark, Poland, Germany and Romania.

Idris Elba: No Limits, produced for Discovery Channel in the UK, travelled to a wide range of Member States, including the Netherlands, Norway, Sweden, Denmark, Belgium (Flanders), Italy, Spain, Germany, Romania and Hungary.

Looking at Spanish productions, Discovery has taken **Secret Amazon** to the UK, Netherlands and Belgium, and **Wild Frank In Mexico** to Italy. Meanwhile, from Germany, **Asphalt Cowboys**, produced for DMAX, was shown in Poland and Romania.

In terms of UK productions, **Salvage Hunters,** produced for Quest, was shown in the Netherlands, Belgium and Spain, while **Tina Malone: Pregnant At 50**, produced for TLC, was shown in the Netherlands, Norway, Sweden, Denmark, Poland and Romania. **Jodie Marsh On Mail Order Brides** was also produced for TLC and travelled to the Netherlands, Norway, Sweden, Denmark, Italy and Poland.

The development of the European VoD sector

IN THIS SECTION:

IDRIS ELBA: NO LIMITS DISCOVERY

Commissioned in the UK, Discovery's Idris Elba: No Limits broadcast in a host of European countries. It was also made available on Catch-Up VoD services in the UK, Netherlands, Norway, Sweden, Denmark, Belgium (Flanders), Italy, Germany and Romania.

The growth of the European VoD sector

The European VoD sector is growing strongly, with over 2,800 notified services. But it is still very much a sector in development, and growth remains fragile, with many services operating as "loss leaders".

KEY FACTS

- ***VoD is growing strongly, with over 2,800 notified VoD services across the EU and turnover forecast to hit €6 billion in 2020.***
- ***But the sector is still very much in development, with the majority of VoD services only being notified since 2013.***
- ***Many services remain loss leaders, offering a value-added service to linear subscribers without providing additional revenues.***

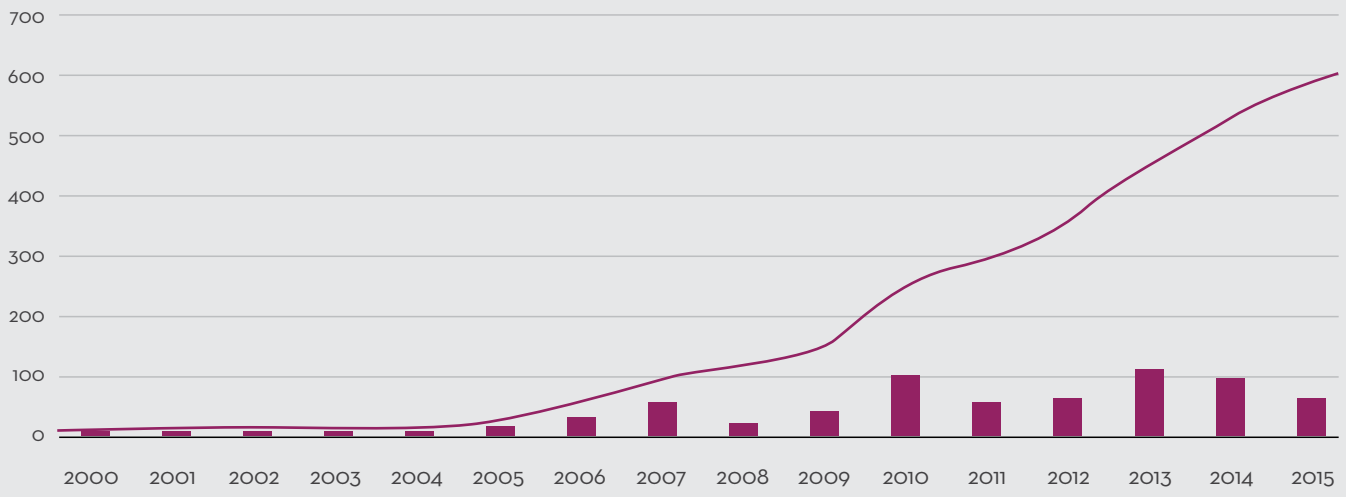
Across Europe, the Video on Demand ("VoD") sector is less developed than linear TV, but there has been a notable expansion in the number of services available. This reflects the availability and leveraging of new technology by broadcasters, and the response of the audience to the availability of services. Such expansion is reflected in the fact that more than 50% of currently-available VoD services were notified since 2013, with many of these entering smaller Member States.

The consequence of this is that, by 2020, projections suggest that more than 20% of European households will have a specific, paid account with an SVoD provider. This could include a specific provider such as France's UniversCiné, or a separately-paid offshoot of a mainstream broadcaster, exemplified by SkyGo. As a result of this, we project the turnover of all VoD services in Europe will increase by 15% annually to 2020, reaching €6 billion.

Despite this spectacular growth rate, the VoD sector in Europe remains fragile. Many services are provided as loss leaders, offering a value-added service to viewers of linear services, without providing additional revenues to support such provision. Whilst they are therefore responding to audience demand, these services are acutely sensitive to any change in regulation or pricing.

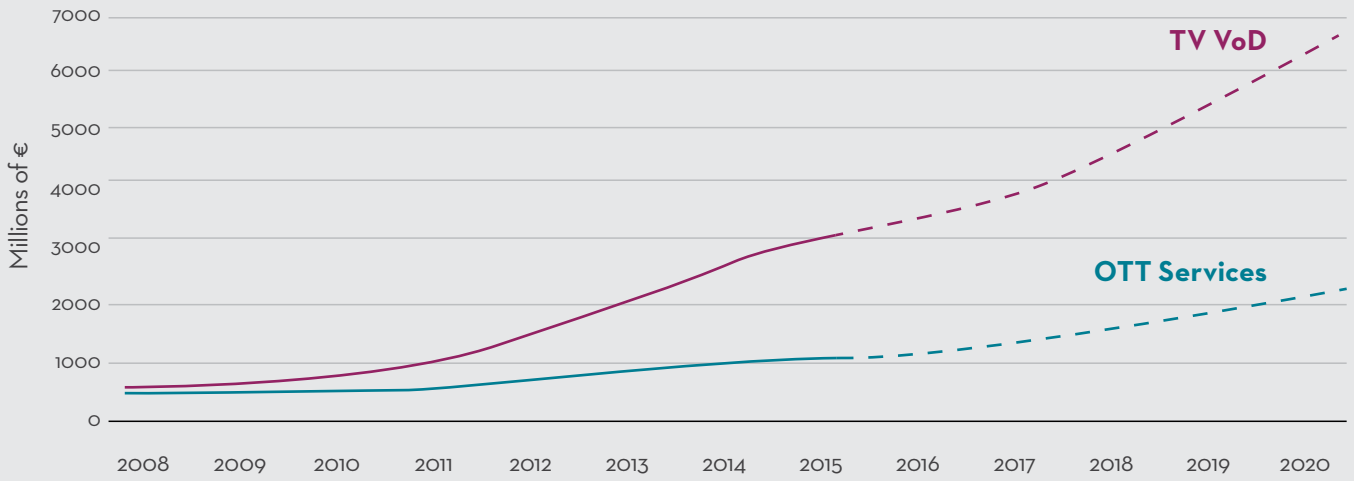
The AVMSD's Country of Origin principle is therefore a vital element in being able to maximise the potential of these industries in Europe. It has played a major role in the development of the industry so far, and its maintenance is important if the sector's contribution to the European creative industries is to reach its full potential.

FIGURE 5
CURRENT VoD NOTIFICATIONS BY YEAR OF LAUNCH AND CUMULATIVE TOTAL



Note: The number of actual notified services is much higher (over 2,800) as data on launch date is not available for all notifications.

FIGURE 6
VoD REVENUES IN EUROPE – 2008 TO 2020



Note: 2015 to 2020 are estimates.

VoD services by country and type

While different types of VoD service have developed in different countries to varying degrees, all the different VoD models are supported by the Country of Origin principle. Changes to the Country of Origin principle would put the viability of many VoD services at risk.

KEY FACTS

- ***The main forms of VoD service are subscription VoD (44% of all notifications) and Catch-Up VoD (29%).***
- ***Around 34% of all VoD services are supported by non-domestic notifications under the Country of Origin principle.***
- ***Changes to the Country of Origin principle would raise serious questions over the viability of many VoD services.***

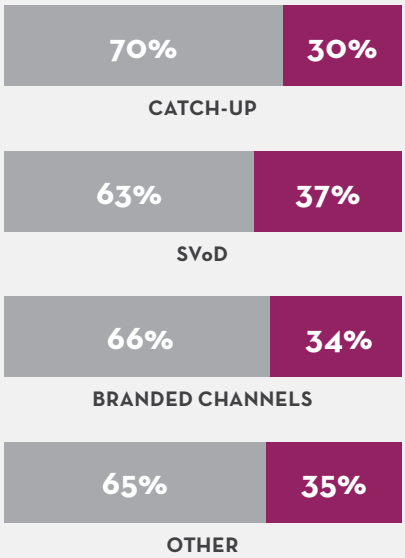
Despite the almost universal expansion in the availability of VoD services across the EU, the pattern of growth experienced in specific Member States has been highly uneven. Different Member States have generated very different kinds of services, with some – such as Hungary – focused on Catch-Up VoD, and others – including Spain – having more stand-alone VoD services.

Such variability highlights the responsiveness of the sector to audience demand, and also demonstrates the significant growth potential which VoD continues to offer.

It is clear from the data that, in spite of the strong recent growth in the number of services, there remain a wide range of market gaps in many Member States which broadcasters will look to service over the next few years.

The AVMSD's Country of Origin principle already supports around 34% of VoD services across the EU, and underpins the entire range of different types of VoD service. By reducing the incremental costs of launching new services, and minimising red-tape, it is expected to be key to facilitating the launch of further VoD services of all types.

FIGURE 7
VoD SERVICES BY COUNTRY OF LICENCE (DOMESTIC VS NON-DOMESTIC)



DIFFERENT TYPES OF VoD SERVICE

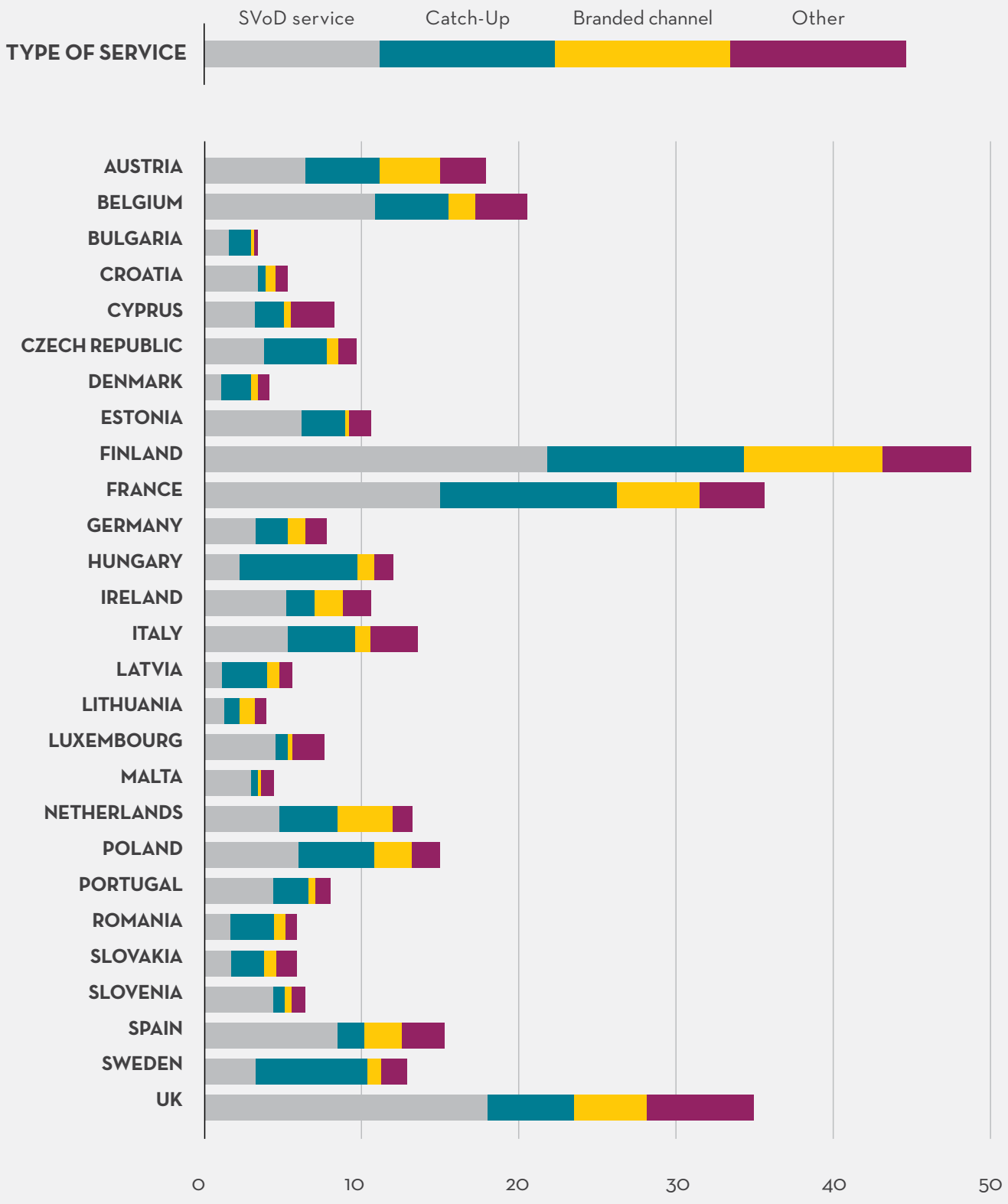
VoD services comprise a range of different components, of which the main types referred to in this report are Subscription VoD ("SVoD"), Catch-Up VoD, and Branded channels.

At present, the overall European market shows that 44% of non-linear services are SVoD providers, 29% are Catch-Up, 13% are Branded channels, and 15% other.

- **SVoD** represents a specifically paid-for service, which offers a mix of existing film and TV content, with an increasing number also offering new programming;
- **Catch-up VoD** is an offshoot of linear television, and provides the subscriber with an opportunity to re-watch on-demand programmes they missed or wish to see again. Normally, this opportunity is only available for a limited time of up to 28 days, depending on the rules of the service. In general, these services are provided at no extra cost;
- **Branded channels** are often found on YouTube or other online video platforms, and offer content made by a specific brand for the purposes of promotion or advertising. Such services include those run by Red Bull and the NHL, and tend to offer small amounts of content to the consumer for free.

In addition to these, a range of other kinds of VoD service exist, such as Archive or News services, though in smaller numbers.

FIGURE 8
VoD SERVICES IN EU MEMBERS STATES BY TYPE OF SERVICE



VoD and audience choice

Supported by the Country of Origin principle, VoD services greatly expand audience choice and media pluralism. They serve niche audiences and smaller markets with content that might otherwise not be available.

KEY FACTS

- ***As in the linear market, VoD services provided under non-domestic licences greatly expand audience choice.***
- ***In smaller Member States, non-domestic providers represent over half (57%) of total VoD services, and are expected to grow strongly.***
- ***VoD is already demonstrating its potential to service niche audiences with European content across borders.***

In the smaller Member States of the EU, the pattern for non-linear services is very similar to the linear space – a large number of services are available, many of which are tailored to these markets using the Country of Origin principle under the AVMSD. This sector is in a much earlier stage of development, so the absolute number of services is lower. This is also reflected in the lower percentage of services using Country of Origin in smaller markets; whereas 75% of linear services do this, for non-linear, the number is 57%. This is expected to grow strongly in the future though, facilitated by the AVMSD.

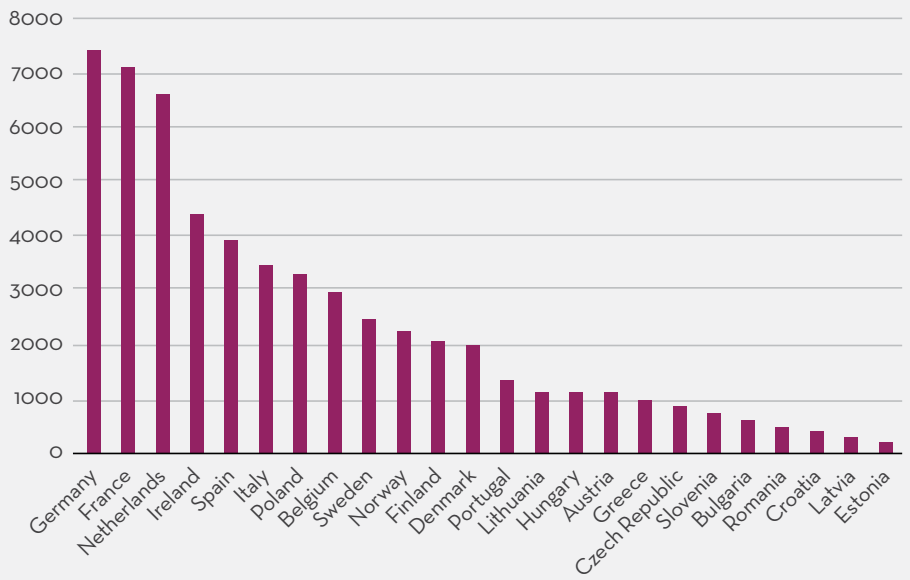
The broad pattern, however, is similar to the linear space, as domestic non-linear services tend to focus on the mid-market audience. This is unsurprising, as the largest percentage of these are Catch-Up services, which reflect the programming shown on their linear parent channels. Non-domestic services consequently undertake a similar role to that seen in the linear space – augmenting domestic offerings, and providing for niche interests to maximise audience choice.

This variety is exemplified in a country like Luxembourg, where domestic services provide a small number of SVoD, News, and Catch-Up services. Non-domestic options add variety, and provide niche content for a range of interests and in a range of languages, accounting for 76% of all services.

SUPPORTING NICHE VoD SERVICES

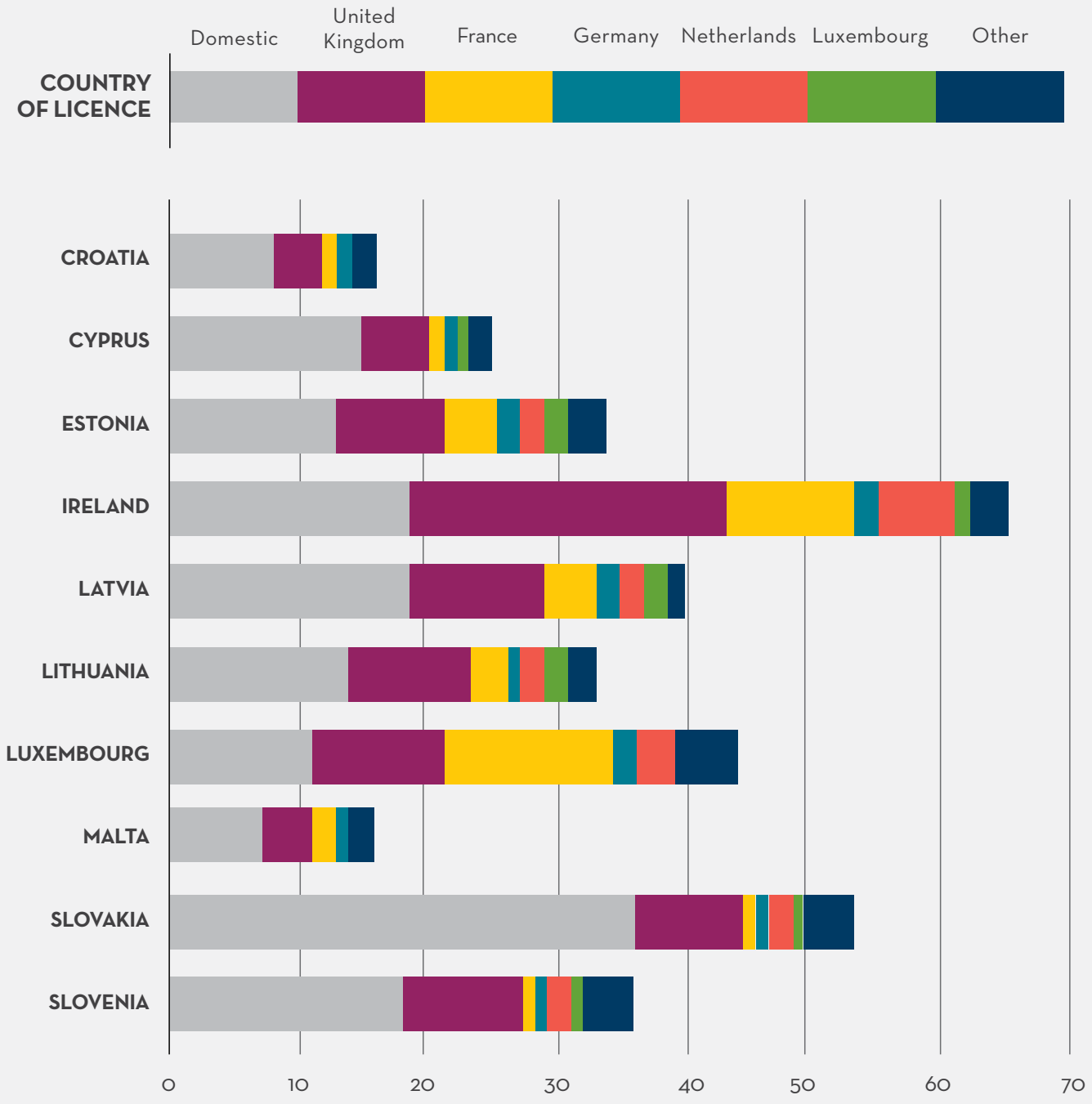
Services providing signed content for deaf communities already demonstrate the potential benefit of on-demand in serving niche audiences, as shown by data from the British Sign Language Broadcasting Trust's website, BSL Zone. Small communities across the EU access their signed programming, which is made available under a UK-based notification and in many cases is not available locally. Such data shows a relatively small community gaining access to a greater choice of specialist content, facilitated by the combination of non-linear broadcasting and the Country of Origin principle under the AVMSD.

FIGURE 9
UNIQUE VISITORS TO BSL ZONE, 2013-2015 (Source: Google Analytics, BSLBT)



Given the smaller number of the offerings in many of these markets, the growth potential for non-linear services is noteworthy. However, in many cases the capacity to support such services does not exist in the markets themselves, and audience value can only be maximised by non-national services. As a consequence, Country of Origin offers huge audience benefits in the non-linear space, and its maintenance will be critical to allow this to be realised.

FIGURE 10
VoD SERVICES IN SMALLER MEMBER STATES (BY COUNTRY OF LICENCE)



ANNA PIHL SONY ENTERTAINMENT TELEVISION

Sony Entertainment Television premiered Danish police drama Anna Pihl in Germany under a non-domestic broadcast licence, making it available on its linear channel and non-linear services via third-party platforms.

Conclusion

IN THIS SECTION:

The future development of VoD and the impact of proposed changes

The Country of Origin principle has underpinned the success of the European audiovisual sector and will be key to unlocking future growth in VoD. But proposals to change it could endanger a range of services, undermining the development of the non-linear sector.

KEY FACTS

- ***The Country of Origin principle has played a vital role in the development of the European audiovisual sector to date.***
- ***Its role in supporting the growth of VoD is now crucial.***
- ***There is a clear risk from proposed changes to many services, such as Catch-Up VoD and in smaller markets.***

The AVMSD's Country of Origin principle has supported the successful growth of the EU's broadcasting sector and is critical for achieving the growth potential of European non-linear services. As in the linear space, it unlocks the economies of scale which are necessary for on-demand services to operate at a cost which the audience feels to be reasonable in many European countries, particularly in smaller Member States. This is reflected in the limited profitability of many existing services, which are provided as a free service to viewers of linear offerings, and whose business model would be undermined if regulations changed.

HOW WOULD LINEAR CHANNELS RESPOND TO THE LOSS OF THE COUNTRY OF ORIGIN PRINCIPLE?

Where costs and content can be shared amongst multiple channels, because they comply with a single set of rules, the channel is viable for a more niche audience in each market. Where a channel is for just one country, it will need a larger audience. Were the AVMSD's Country of Origin principle not to exist, our analysis suggests that there are two possible options for the channels which presently use it.

1. Increasing compliance costs, reflecting the additional staff and broadcast licensing costs of programming and managing the channels in each separate Member State.
2. Closure in some or all Member States if such channels would not have enough viewers to be commercially viable as services for just one country.

Services could try to apply the tightest rules from a range of broadly-compatible licencing models required by individual Member States. This may be feasible if issues like watershed times, product placement rules, and advertising durations are sufficiently closely matched, but there is a substantial risk of irreconcilable rules and legal uncertainties.

A broadcaster could adopt a mix of these options, but each of them – in whatever balance – would impact negatively on audience choice, cultural diversity, media pluralism and freedom of speech. Such changes would impact most negatively on the smallest Member States.

These changes have previously been seen in Turkey, where licencing requirements were changed in 2012. Although not part of the EU, Turkey previously permitted a similar approach to the Country of Origin rule under the European Convention. Turkey's decision to require channels to take local licences was a key factor in some channels closing down in this market subsequently.

THE POTENTIAL OF VoD TO INCREASE AUDIENCE CHOICE

As non-linear channels can operate on much lower fixed costs than linear channels – as they do not require access to transmission equipment and spectrum space – they can provide much more niche content than their linear equivalents. They offer a range of cultural, minority language and educational opportunities which even the linear Country of Origin principle is unable to facilitate, opening up services to smaller or isolated communities within markets.

THE IMPACT OF A 'COUNTRY OF DESTINATION' FOR VoD

The two major changes which have been proposed to Country of Origin for non-linear services are either a carve-out for some rules – including national content requirements – to be made in the Member State, or a wholesale transition to a Country of Destination model. Either of these changes would be felt quickly by European consumers.

Catch-Up VoD services, for example, are presently notified in the same country as their linear parents. A situation where Country of Origin existed for linear, and Country of Destination for non-linear, would threaten their viability. This reflects the limited profitability which such popular services have, as they are typically provided for free as a "loss leader".

A Country of Destination-type model would add a significant layer of cost and bureaucracy to such services (see box, right). Such costs would have to be passed to the audience, with the result that services may become more expensive or else have to close. It would be expected that, whereas larger Member States have the scale to justify such separate establishments, many of the smaller ones do not. Consequently, it is the consumer in these smaller Member States who is likely to suffer from reduced choice, with the consequent impacts on freedom of speech and plurality of media.

THE IMPACT OF LOCAL CONTENT CARVE-OUTS FOR VOD

Carve-outs for local content would also undermine the current model, as they would represent a massive intervention in the market. Services would, effectively, have to be separately stocked with content for each different country, with additional costs in staff overhead and of course content acquisition.

As each nationally tailored service would be different under such circumstances, this model is incompatible with the current Catch-Up VoD system, and would be much more difficult to operate for other non-linear services. In particular, smaller services would struggle to survive in such a market, as the costs of fulfilling the needs of each separate Member State would be prohibitive.

IMPLICATIONS FOR THE DSM STRATEGY

Finally, the present proposals relating to the Digital Single Market – in particular those relating to copyright – envision the introduction of an element of portability. Though this report is focussed on the Country of Origin as it pertains to the AVMSD, it is difficult to see how these copyright proposals could be reconciled with any Country of Destination or carve-out model for cross-border non-linear services.

THE THREAT TO CATCH-UP VOD SERVICES

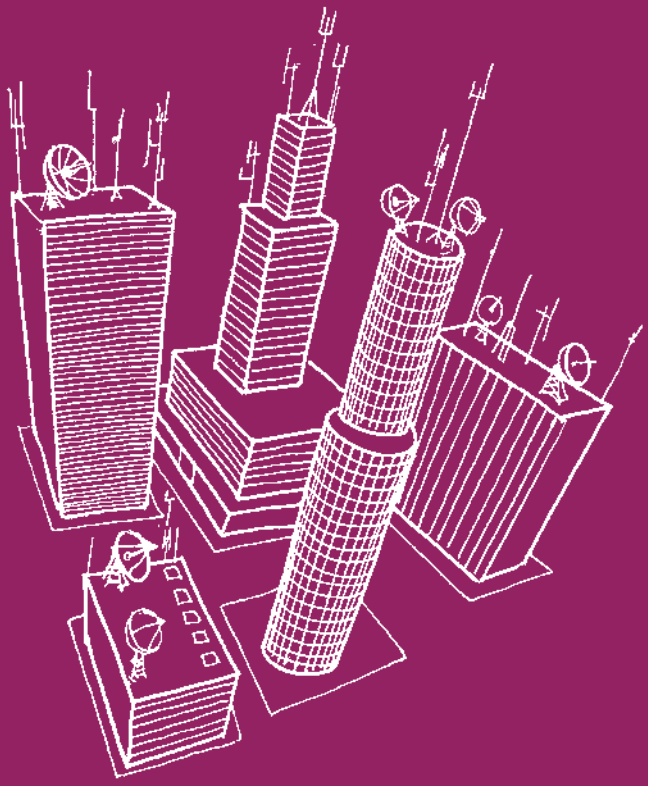
Some of the most popular VoD services in Europe, Catch-Up VoD services are provided by broadcasters to give audiences access to their programming on-demand for a given period after the original transmission. They are in general provided at no additional charge to consumers.

Crucially, the Country of Origin for the purpose of notifying these services heavily mirrors that of their parent linear services, with only two (less than 0.1% of the total) notified in a different country to their linear parent. As a consequence of this, such services apply the same rules as their linear parent, re-using content complied for the linear channel to supply it to the audience at no additional cost to the viewer.

In a situation where a carve-out from the AVMSD's Country of Origin rule existed for non-linear services, those Catch-Up services currently licensed under a non-domestic notification would be at risk – currently, 30% (or 299) of these Catch-Up services are provided under Country of Origin across the EU. Services would have to develop a local compliance presence or expertise, double check content already complied for the linear channel, and re-comply content where necessary, such as where the Member State applied a different interpretation on AVMS rules. In extreme cases, were VoD Catch-Up services subject to local content quotas or levies that were different to their linear parent, the VoD service would have to be radically changed.

These costs and uncertainties would raise serious questions over their viability, disrupting a model which presently delivers significant audience value.

GRAND HOTEL SONY ENTERTAINMENT TELEVISION
Sony Entertainment Television broadcasts Spanish period drama Grand Hotel in Germany under a non-domestic licence.



CoBA

www.coba.org.uk

The Commercial Broadcasters Association (COBA) is the UK industry body for digital, cable and satellite broadcasters and on-demand services. COBA members include major multinational broadcasters and smaller, niche services. They are one of the fastest growing parts of the television industry, and increase choice and diversity for audiences across a range of pay and free-to-air platforms.

OLSBERG • SPI

www.o-spi.co.uk

This report was written by Olsberg•SPI, a London-based creative industries strategy consultancy that provides high-level advice to public and private sector clients, specialising in the worlds of film, television and digital media. Formed in 1992, it has become one of the leading international consultancies in these fields.

Published March 2016