



THE AUTHORITY FOR TELEVISION **ON DEMAND**

Guidance on European Works in On-Demand Programme Services

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Note on this Edition: This Edition differs from Edition 1.0 in the following material respects only: all references to The Association for Television On-Demand have been replaced by references to The Authority for Television On Demand.

ATVOD's duties in respect of the promotion of 'European Works'

Under the terms of its designation as the appropriate regulatory authority for editorial content in On-Demand Programme Services ("ODPS"), one of ATVOD's designated functions is to ensure that Service Providers promote, where practicable and by appropriate means, production of and access to European works (within the meaning given in Article 1 (n) of the Audiovisual Media Services Directive ('the Directive') (section 368C(3) of the Act).

The definition of 'European works'

'European works' includes:

- a) works originating in European Union Member States;
- b) works originating from European third States party to the European Convention on Transfrontier Television of the Council of Europe; and
- c) works co-produced within the framework of agreements related to the audiovisual sector concluded between the Community and third countries and fulfilling the conditions defined in each of those agreements.

The works referred to in paragraphs (a) and (b) above are works mainly made with authors and workers residing in one or more States referred to in those paragraphs provided that they comply with one of the following three conditions:

- i) they are made by one or more producers established in one or more of those States; or
- ii) the production of the works is supervised and actually controlled by one or more producers established in one or more of those States; or
- iii) the contribution of co-producers of those States to the total co-production costs is preponderant and the co-production is not controlled by one or more producers established outside those States.

The works referred to in paragraph (c) are works made exclusively or in co-production with producers established in one or more Member States by producers established in one or more European third countries with which the Community has concluded agreements relating to the audiovisual sector, if those works are mainly made with authors and workers residing in one or more European States.

It should be noted that application of the provisions of (b) and (c) is conditional on works originating from Member States not being the subject of discriminatory measures in the third countries concerned.

Moreover, works that are not European works within the meaning of the above provisions but that are produced within the framework of bilateral co-production treaties concluded between Member States and third countries shall be deemed to be European works provided that the Community co-producers supply a majority share of the total cost of the production and that the production is not controlled by one or more producers established outside the territory of the Member States.

ATVOD, Sept 2010