

ACT No 615 of 11 June 2024 (in force)

Act on the contribution by certain media service providers to the promotion of Danish culture (Culture Contribution Act))

Ministry: Ministry of Culture

Reference number: Ministry of Culture, ref. No 2024589

Act on the contribution by certain media service providers to the promotion of Danish culture (Culture Contribution Act)¹⁾

We FREDERIK THE TENTH, by God's Grace King of Denmark, hereby decree:

Parliament has adopted, and We by Our consent, ratify the following Act:

Chapter 1

Purpose, scope, and definitions

Section 1. The purpose of this Act is to promote Danish audiovisual content, including the production of new Danish films, series and documentaries.

Section 2. This Act shall apply to media service providers that are established in Denmark and which provide on-demand audiovisual media services, without prejudice to (3-5).

(2) This Act shall also apply to media service providers established in another EU Member State and which provide on-demand audiovisual media services targeting audiences in Denmark, without prejudice to (3-5).

(3) The Act does not apply to media service providers that have an annual turnover of less than DKK 15 million or whose audience represents less than 1 % of the total number of users of on-demand audiovisual media services on the Danish market.

(4) The Act shall not apply to media services provided as part of public service activities, cf. Section 11 of the Radio and Television Broadcasting Act, etc., or by virtue of the regulation in the EU Member State where the provider of the on-demand audiovisual media service is established.

(5) The Act does not apply to media service providers that provide media services solely for library or educational purposes.

Section 3. For the purposes of this Act, the terms below shall have the following meanings:

- 1) Audiovisual media service: A service, where the principal purpose of the service or a dissociable part of it is devoted to providing the general public with visual programmes that inform, entertain, or educate, by means of electronic communications networks as defined in the Act on electronic communications networks and services.
- 2) On-demand audiovisual media service: An audiovisual media service provided by a media service provider so that programmes can be received at a time chosen by the user and at their individual request, on the basis of a catalogue of programmes selected by the media service provider.
- 3) Media service provider: The natural or legal person who has editorial responsibility for the selection of audiovisual content in an audiovisual media service and determines how the audiovisual content is presented.
- 4) Contributory turnover: Net revenues of a media service provider in Denmark resulting from the making available of audiovisual content by the on-demand audiovisual media service. Revenues related to the making available of sports or news programmes, revenues from linear programming services made available through the on-demand audiovisual media service, and revenues from the redistribution of other media service providers' on-demand audiovisual media services do not form part of the contributory turnover.

Chapter 2

Culture contribution

Section 4. A media service provider must pay an annual contribution of 2 % of its contributory turnover

in Denmark, without prejudice to Section 5(3).

(2) A media service provider who invests less than 5 % of its contributory turnover in Denmark in new Danish content shall, in addition to the contribution referred to in (1), pay an annual contribution of 3 % of its contributory turnover in Denmark, without prejudice to Section 5(3). A media service provider can distribute investments in new Danish content over a three-year period as an average.

(3) All investments in the production and co-production of new films, series and documentaries can be included as investments in new Danish content, cf. (4).

(4) Investments are considered to be made in new Danish content when 75 % of the production material for European produced films, series or documentaries is in Danish.

Section 5. The Agency for Culture and Palaces shall collect contributions under Section 4(1) and (2) annually in retrospect on the basis of media service providers' statements of the most recent calendar year's contributory turnover in Denmark.

(2) The Agency for Culture and Palaces shall collect contributions under Section 4(2) in retrospect when the 3-year period ends.

(3) Financial contributions within the meaning of Article 13(2) of Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) paid by media service providers established in Denmark from the contributory turnover to another EU Member State shall be deducted from contributions under Section 4(1) and (2). However, the amount of the deduction may not exceed the amount of the contribution payable by the media service provider under Section 4(1) and (2).

(4) If contributions are not paid by the media service provider, they shall be handed over for recovery to the Public Debt Collection Agency.

(5) The Minister for Culture may, in consultation with the Minister of Taxation, lay down detailed regulations on the recovery of the contribution, including regulations on a payment reminder procedure, interest and payment deadlines.

Section 6. The proceeds of the culture contribution are distributed after deduction of the costs associated with the administration of the scheme between the public service pool and aid for Danish films.

(2) The Minister for Culture may lay down detailed regulations on the distribution between the public service pool and aid for Danish films.

Chapter 3

Registering, reporting and supervision

Section 7. A media service provider must register with the Agency for Culture and Palaces.

(2) The Minister for Culture may lay down detailed regulations on the registration of a media service provider, including on requirements regarding the form, procedure and content of the registration, as well as deadlines for the registration.

Section 8. A media service provider shall report once a year a statement of the most recent calendar year's contributory turnover in Denmark to the Agency for Culture and Palaces. The statement shall clearly indicate which on-demand audiovisual media service the contributory turnover derives from.

(2) A media service provider's statement shall follow the accounting policies used in the enterprise's most recently approved accounts. If the media service provider has not previously prepared an approved account, the statement of turnover must be carried out in accordance with the Danish Financial Statements Act or an approved accounting standard authorised by an approved accounting body in another EU Member State where the media service provider is registered

(3) The reported statement shall be accompanied by a report made with a high degree of assurance by

an independent approved auditor.

(4) A media service provider providing more than one on-demand audiovisual media service may report one single report, cf. (3), for these.

(5) The Minister for Culture may lay down detailed regulations on the reporting of statements of the contributory turnover, including on the form, procedure and content of the reporting, deadlines for the reporting and requirements for audit reports.

Section 9. A media service provider shall report once a year a statement of investments in new Danish content, cf. Section 4(2), in the most recent calendar year to the Agency for Culture and Palaces.

(2) A media service provider that distributes investments over three-year periods, cf. Section 4(2), second sentence, must submit a declaration of intent on the expected level of investment for the three-year investment period. Likewise, statements of investments in new Danish content for the up to three most recent calendar years must be reported to the Agency for Culture and Palaces.

(3) A reported statement, cf. (1) and (2), second sentence, shall be accompanied by a report made with a high degree of assurance by an independent approved auditor.

(4) The Minister for Culture may lay down detailed regulations on the reporting of statements of investments in new Danish content, including on the form of the reporting, the determination of the three-year investment period, procedure and content, deadlines for the reporting and requirements for the declaration and the report in accordance with (2), first sentence, and (3).

Section 10. The Agency for Culture and Palaces supervises and makes decisions in accordance with this Act and regulations issued pursuant to it.

(2) A media service provider shall, within a deadline set by the Agency for Culture and Palaces, provide the Agency for Culture and Palaces with the information, disclose the documents, etc. and submit the written opinions requested by the Agency in connection with the exercise of the supervisory obligation.

(3) Decisions taken by the Agency for Culture and Palaces pursuant to this Act or regulations issued pursuant thereto may be brought before the Radio and Television Board no later than 4 weeks after the Agency's decision is notified to the media service provider. The Radio and Television Board may give appeals brought before the Board suspensive effect. Decisions of the Board under this Act may not be brought before any other administrative authority.

(4) The Minister for Culture may lay down detailed regulations on media service providers' submission of information, disclosure of documents, etc. and the submission of written opinions, including the declaration of the auditor on working practices and independence, statement of turnover, calculation of contributory turnover and statement and calculation of investment in Danish content.

Section 11. The Minister for Culture may lay down regulations which stipulate that written communications to and from the Agency for Culture and Palaces concerning matters covered by this Act or regulations issued pursuant to this Act must be made digitally.

(2) The Minister for Culture may lay down detailed regulations on digital communications, including the use of specific IT systems, special digital formats, and digital signatures or the like.

(3) A digital message is considered to have arrived when it is available for the addressee of the message.

(4) The Minister for Culture may lay down regulations stipulating that authorities may issue decisions and other documents under this Act or under regulations issued pursuant to this Act without a personal signature, rather with an automated signature or similarly reproduced signature or using a technique that ensures the unique identification of the person who issued the decision or document.

Chapter 4

Penal provisions

Section 12. Anyone who intentionally or through gross negligence infringes Sections 4(1) and (2), 7(1),

8(1), 9(1) or 10(2) shall be punished by a fine.

(2) In regulations issued in accordance with this Act, a fine may be imposed on anyone who intentionally or grossly negligently violates the provisions of the regulations.

(3) Companies, etc., (legal persons) may be held criminally liable in accordance with the regulations set out in Chapter 5 of the Penal Code.

Chapter 5

Entry into force and transitional provisions

Section 13. This Act shall enter into force on 1 July 2024.

(2) The first payment for the culture contribution, cf. Section 4(1) and (2), is collected in 2025 and is based on the media service provider's statements of the contributory turnover in Denmark for the calendar year 2024.

Chapter 6

Changes in other legislation

Section 14. The Radio and Television Broadcasting Act, etc., cf. Consolidated Act No 1350 of 4 September 2020, as amended by Act No 2212 of 29 December 2020 and Act No 1595 of 28 December 2022, is amended as follows:

1. In *Section 9 a(1)*, the following is inserted after '(2)': 'and (4)'.

2. In *Section 9 a*, the following is inserted as (4):

'(4) By way of derogation from (1), media service providers under the authority of another country within the European Union or the European Economic Area providing an audiovisual media service may be required to contribute financially to the production of European works in accordance with Directive of the European Parliament and of the Council on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services.'

3. The following is inserted after Section 42 a:

'**Section 42 b.** The Radio and Television Board may handle appeals against the Agency for Culture and Palaces' decisions taken under the Culture Contribution Act or regulations laid down pursuant thereto.'

Chapter 7

Territorial validity

Section 15. This Act does not apply to the Faroe Islands or Greenland.

Issued at Christiansborg Palace, 11 June 2024

Under Our Royal Hand and Seal

FREDERIK R.

/ Jakob Engel-Schmidt

¹ This Act transposes parts of Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities, OJ 2018, L 303, p. 69. A draft of this Act has been notified in accordance with Directive (EU) 2015/1535 of the European Parliament and of the Council laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (codification).