



AUTORITÀ PER LE
GARANZIE NELLE
COMUNICAZIONI

Promoting European works - Challenges and Experiences

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The Italian AVMS Code

**Article 44:
measures that
AGCOM's regulation
might mention**

Financial contribution to

- the production of European works or
- the acquisition of rights on European works

Proportion of European
works in the catalogue
of programmes

Prominence of
European works in
the catalogue of
programmes

Regulation no. 188/11/CONS

September 2010: AGCOM launched a **technical table** in order to implement a co-regulatory procedure for the adoption of a Regulation and discussed the possible measures with stakeholders representing both AVMS providers and producers

April 2011: AGCOM adopted the final text of the **Regulation**, as agreed by most of the participating stakeholders, which amended the general Regulation on European works no. 66/09/CONS by introducing a new article 4-*bis* devoted to the new provisions concerning European works provided on demand

Two possible measures

AGCOM's Regulation introduced two of the three possible measures foreseen by the AVMS Code:

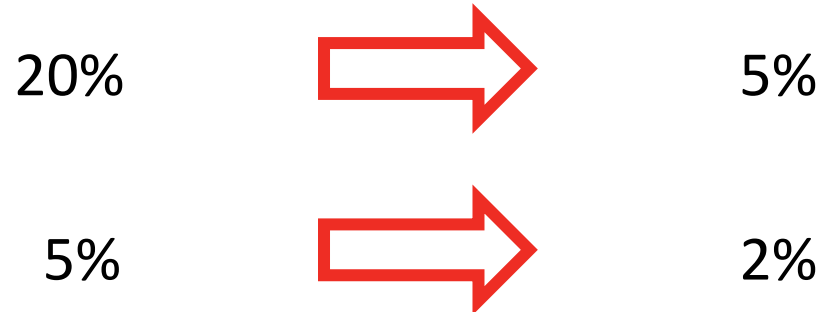
- *the financial contribution to the production of European works and to the acquisition of rights;*
- *the share in the catalogue devoted to European works.*

According to the Regulation, the concrete measure – whether a share in the catalogue or a financial contribution – is left to the choice of the ODS providers.

The transition period

In order to ensure a gradual implementation of the new obligations, the Regulation provides for a transition period within the first **four years** after the entry into force of the regulation, taking into account market conditions and offers of rights.

During the transitory period the quotas are reduced.



The rules concerning the share in the catalogues

- ODS providers who opt for a share in the catalogue have to reserve at least **20%** of their catalogue to European works.
- The share in the catalogue has to be calculated in terms of the **total number of hours** of programming made available each year in the same catalogue.
- In order to calculate the **number of hours** two aspects are considered: the duration of a single work and the days of its availability in the catalogue between 1st of January and 31st of December.
- If more than one catalogue is delivered by the same provider, the quota is calculated as **a percentage of the global amount of hours** made available on all concerned catalogues.

Monitoring

Monitoring is usually based on **information provided yearly** by providers themselves, which can at any time be integrated by **specific requests of information and inspections**.

AGCOM is currently collecting data for 2011-2012, due to some delay in the exercise of the option by ODS providers.

As the thresholds applicable to the transitory period are quite low, it is reasonable to assume that **most operators have complied with the obligations**.

Sanctions

According to the AVMS Code, **violations of the provisions** concerning European and independent works are punished with sanctions from ca. 10.000 to ca. 260.000 Euros.

Lack of communication may be sanctioned under a general provision laid down in the law setting up AGCOM and range from ca. 500 to ca. 100.000 Euros.

These sanctions are in practice applied **very rarely** and are limited to cases of deliberate lack of cooperation of the concerned operators.

Improve the system

Search tools through which the programs can be searched with reference to their Country of origin

Displaying of years or the country of origin of the work in addition to its title, content and right holder.

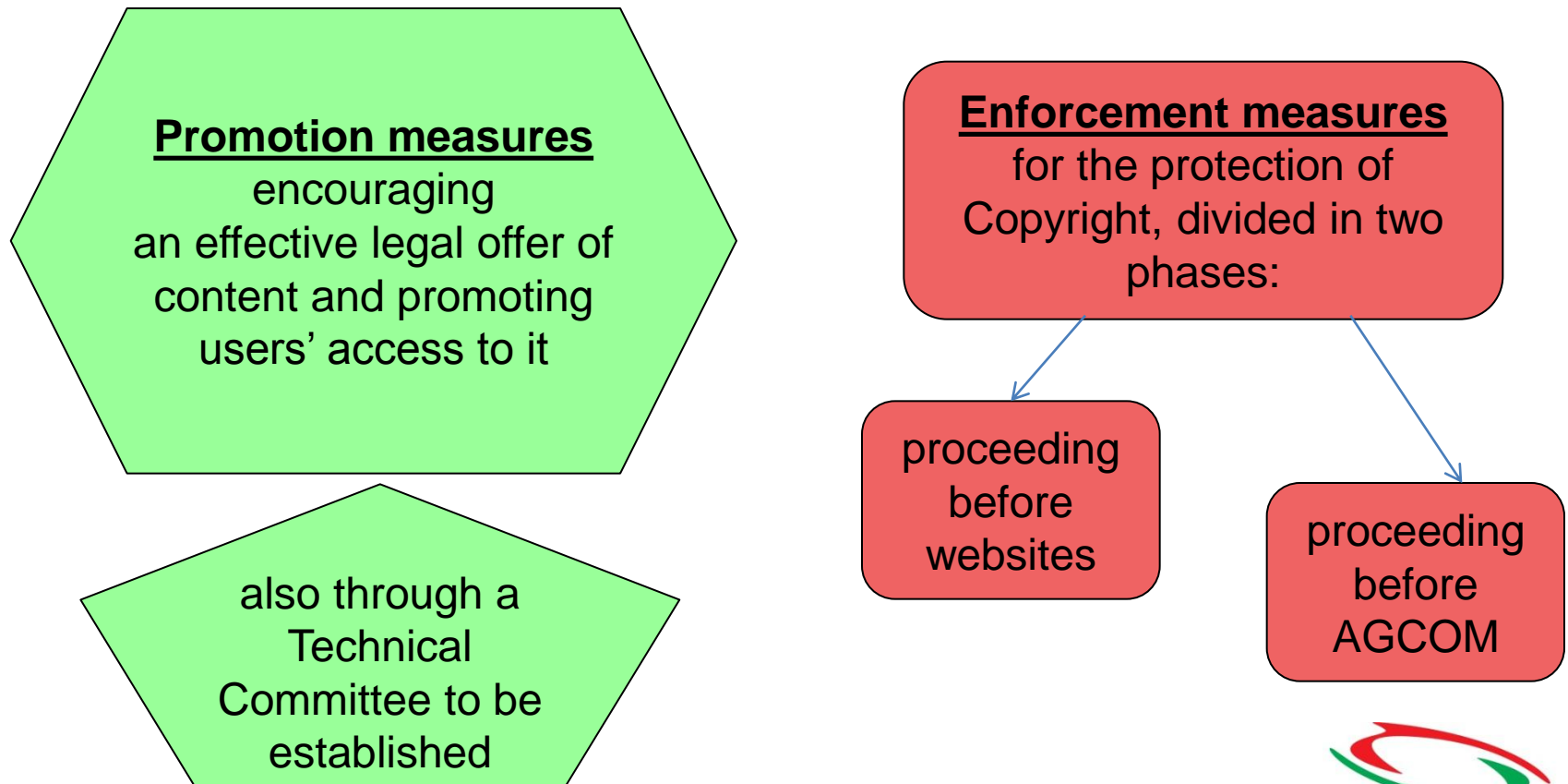
A draft regulation on copyright protection for the protection of intellectual property rights in the digital environment. Works made available for an on demand consumption are

largely affected by piracy

illegal distribution

AGCOM's draft regulation on copyright protection

July 2013: AGCOM adopted the draft Regulation no. 452/13/CONS



A good regulatory mix

A combination of different measures

- **share in the catalogue** to ensure that works circulate
- **prominence tools** to allow potential viewers to be aware of their existence
- **investment obligations** to give room for new productions that can feed the catalogues and thus start the circle again
- **enforcement tools** to fight piracy and ensure that the economic value of the productions is preserved.



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