



Kultūras ministrija

Implementation of the revised Audiovisual Media Services Directive

**BREXIT: Will European licences for broadcasting
channels issued by OFCOM be revoked?**

Andris Mellakauls
Telco Trends 2019

AVMSD – (EU) 2018/1808

What's new?

- Strengthened country of origin principle
- Video sharing platforms, social media services
- Increased protection of minors from harmful content
- Reinforced protection against incitement to violence or hatred and public provocation to commit terrorist offences
- 30% European works quota in on-demand catalogues
- More flexibility in TV advertising
- Greater access for people with disabilities
- Independence of audiovisual regulators reinforced in EU law

Don't miss the deadline!

19 September 2020

Draft Regulations laid before Parliament under paragraph 1(1) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2019 No. 0000

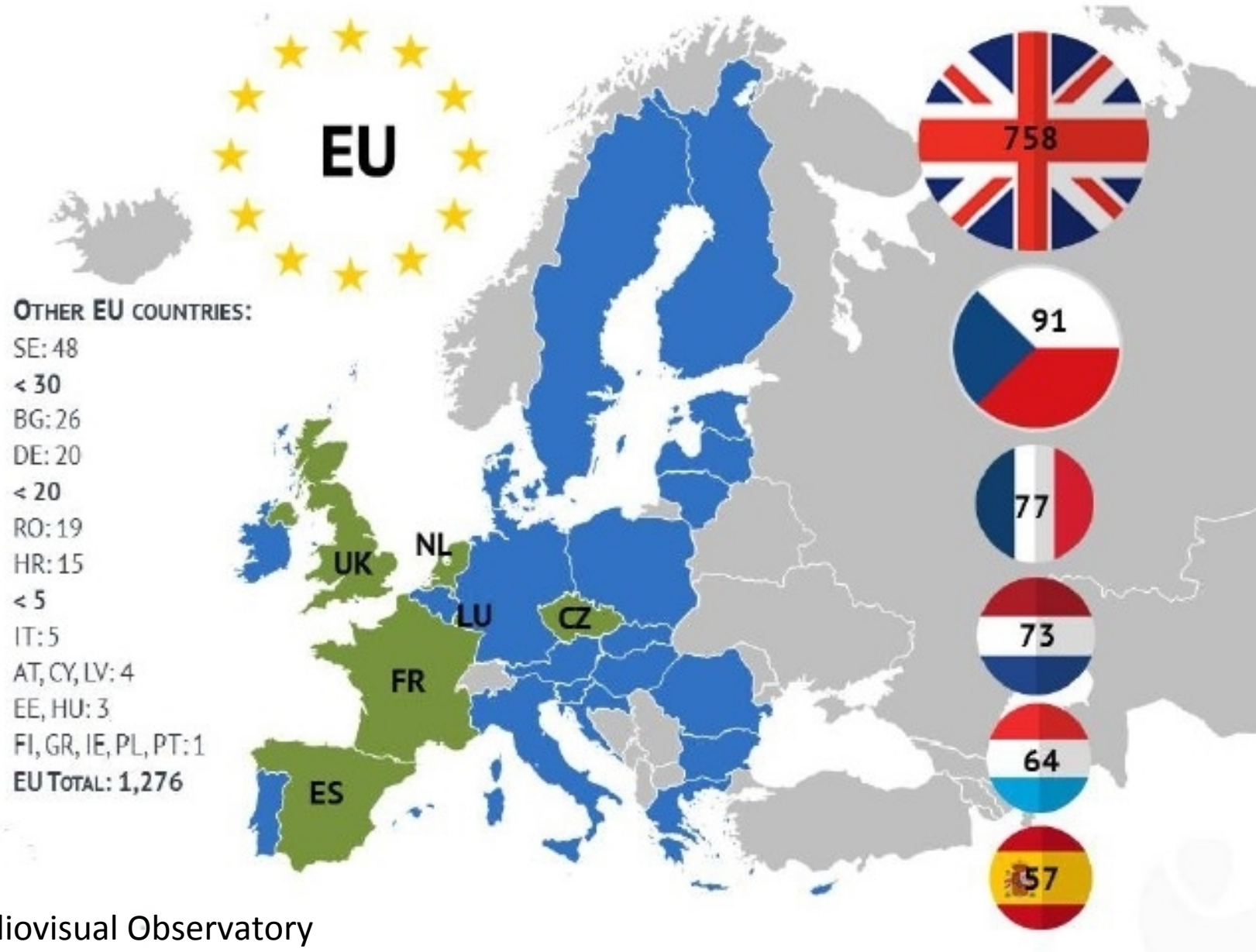
**EXITING THE EUROPEAN UNION
BROADCASTING**

The Broadcasting (Amendment) (EU Exit) Regulations 2019

BREXIT

**Will European licences for broadcasting channels
issued by OFCOM be revoked?**

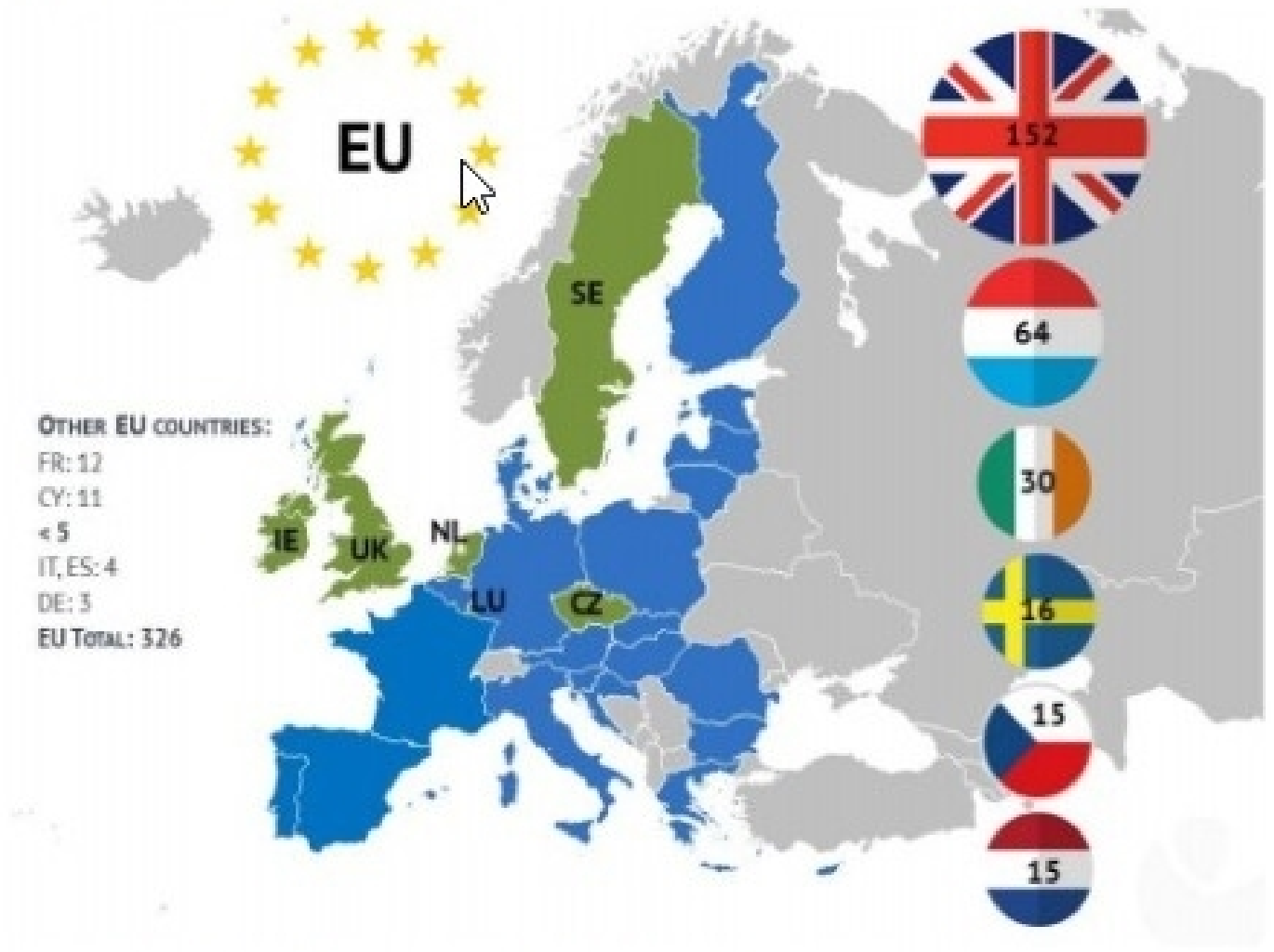
Figure 9. TV channels established in the EU primarily targeting other markets – In absolute numbers (2016)



Source: European Audiovisual Observatory

Figure 10. On-demand audiovisual services established in the EU primarily targeting other markets – In absolute numbers (2016)

EU VoD services targeting other states



Source: European Audiovisual Observatory / MAVISE database; © Copyright Showet.com

Freedom of transmission

AVMSD

Article 3

1. Member States shall ensure freedom of reception and shall not restrict retransmissions on their territory of audiovisual media services from other Member States for reasons which fall within the fields coordinated by this Directive.

Convention

Article 4

The Parties shall ensure freedom of expression and information in accordance with Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms and they shall guarantee freedom of reception and shall not restrict the retransmission on their territories of programme services which comply with the terms of this Convention.

EU membership of the European Convention on Transfrontier Television

21 Member States

Austria, Bulgaria, Croatia,
Cyprus, Czech Republic,
Estonia, Finland, France,
Germany, Hungary, Italy,
Latvia, Lithuania, Malta,
Poland, Portugal, Romania,
Slovakia, Slovenia, Spain, UK

7 Non-Member States

Belgium, Germany, Greece,
Ireland, Luxembourg,
Netherlands, Sweden

AVMSD v. ECTT

- ECTT does not cover VoD services, video sharing platforms or social media
- Different advertising rules
- Different jurisdiction criteria
- Different derogation from country of origin rules
- ECTT has no effective dispute resolution mechanism

Jurisdiction criteria

AVMSD	ECTT
<p data-bbox="84 371 1169 428">Article 2</p> <p data-bbox="84 431 1169 813">4. Media service providers to whom the provisions of paragraph 3 are not applicable shall be deemed to be under the jurisdiction of a Member State in the following cases:</p> <ul data-bbox="84 816 1169 1270" style="list-style-type: none"><li data-bbox="84 816 1169 971">(a) they use a satellite up-link situated in that Member State;<li data-bbox="84 973 1169 1270">(b) although they do not use a satellite up-link situated in that Member State, they use satellite capacity appertaining to that Member State.	<p data-bbox="1174 371 2466 428">Article 5</p> <p data-bbox="1174 431 2466 742">4. A broadcaster to whom the provisions of paragraph 3 are not applicable is deemed to be within the jurisdiction of a Party, so-called transmitting Party, in the following cases:</p> <ul data-bbox="1174 745 2466 1345" style="list-style-type: none"><li data-bbox="1174 745 2466 813">a) it uses a frequency granted by that Party;<li data-bbox="1174 816 2466 1042">b) although it does not use a frequency granted by a Party it does use a satellite capacity appertaining to that Party;<li data-bbox="1174 1045 2466 1345">c) although it uses neither a frequency granted by a Party nor a satellite capacity appertaining to a Party it does use a satellite up-link situated in that Party.

Brexit – useful information

- **UK law:** The Broadcasting (Amendment) (EU Exit) Regulations 2019 (<http://www.legislation.gov.uk/ukdsi/2019/9780111176733/data.pdf>)
- **Ofcom:** FAQ's on broadcasting and on demand services after the UK leaves the EU (https://www.ofcom.org.uk/_data/assets/pdf_file/0015/132531/FAQs-broadcasting-in-UK-after-UK-leaves-EU.pdf)
- **EU Commission:**
 - Withdrawal of the UK and EU legislation in the field of e-commerce and net neutrality (https://ec.europa.eu/newsroom/dae/document.cfm?doc_id=50227)
 - Withdrawal of the UK and EU rules in the field of audiovisual media services (https://ec.europa.eu/newsroom/dae/document.cfm?doc_id=50490)
- **European Audiovisual Observatory:**
 - Brexit: The impact on the audiovisual sector (<https://rm.coe.int/brexit-the-impact-on-the-audiovisual-sector/16808f064f>)
 - Brexit in context: The UK in the EU28 audiovisual market (<https://rm.coe.int/brexit-in-context/16808b868c>)