

# Enforcement of investment obligations for streamers in Europe

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## Investment obligations for VOD providers to contribute to the production of European works: A 2022 update

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- Models of investment obligations for VOD providers (17 case-studies).
- Merits of different regulatory interventions.
- Lessons learnt from the practice of implementing investment obligations from the perspective of different stakeholders, that could inform future policymaking.

# Investment obligations

● Levy

● Direct

● Levy and direct

● Choice between direct and levy

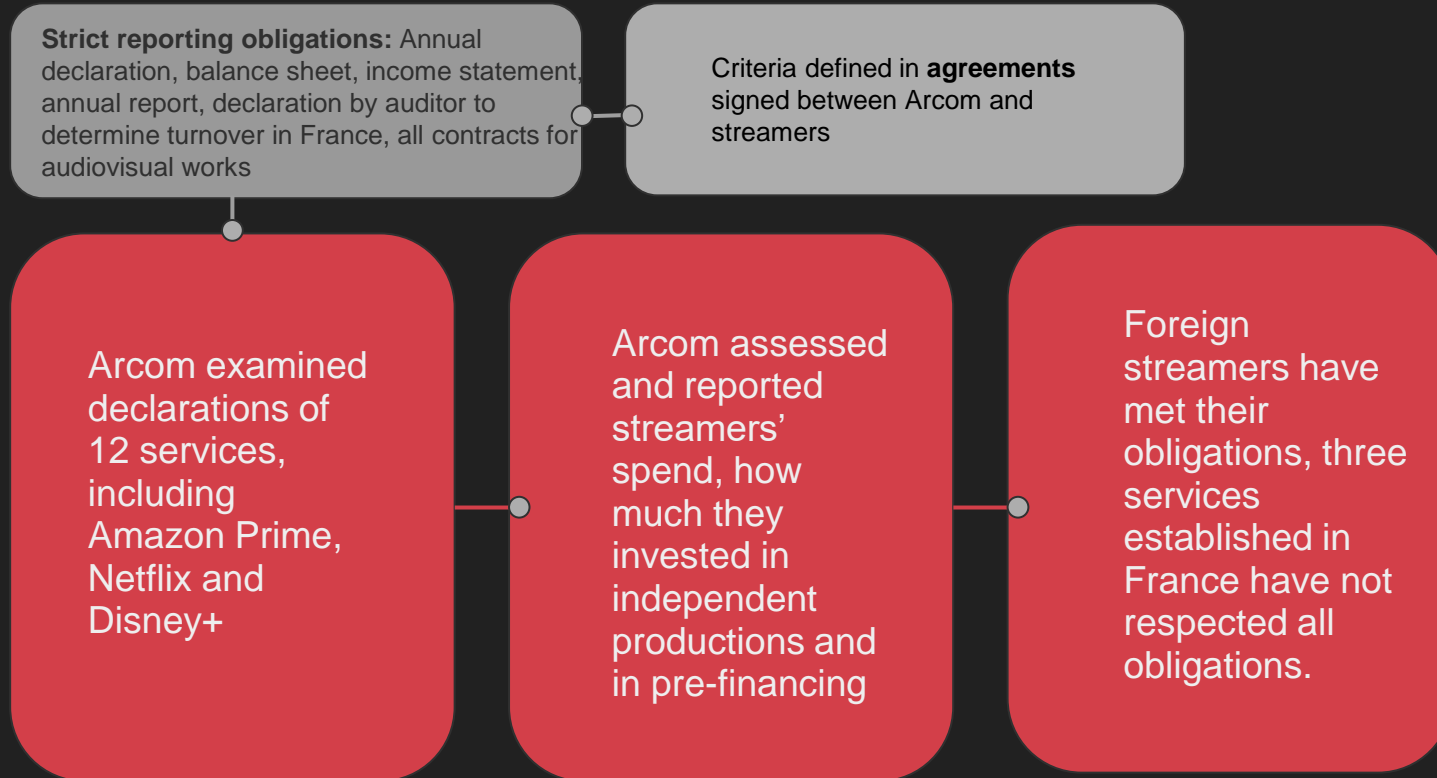


## MS criteria to determine what streamers are captured

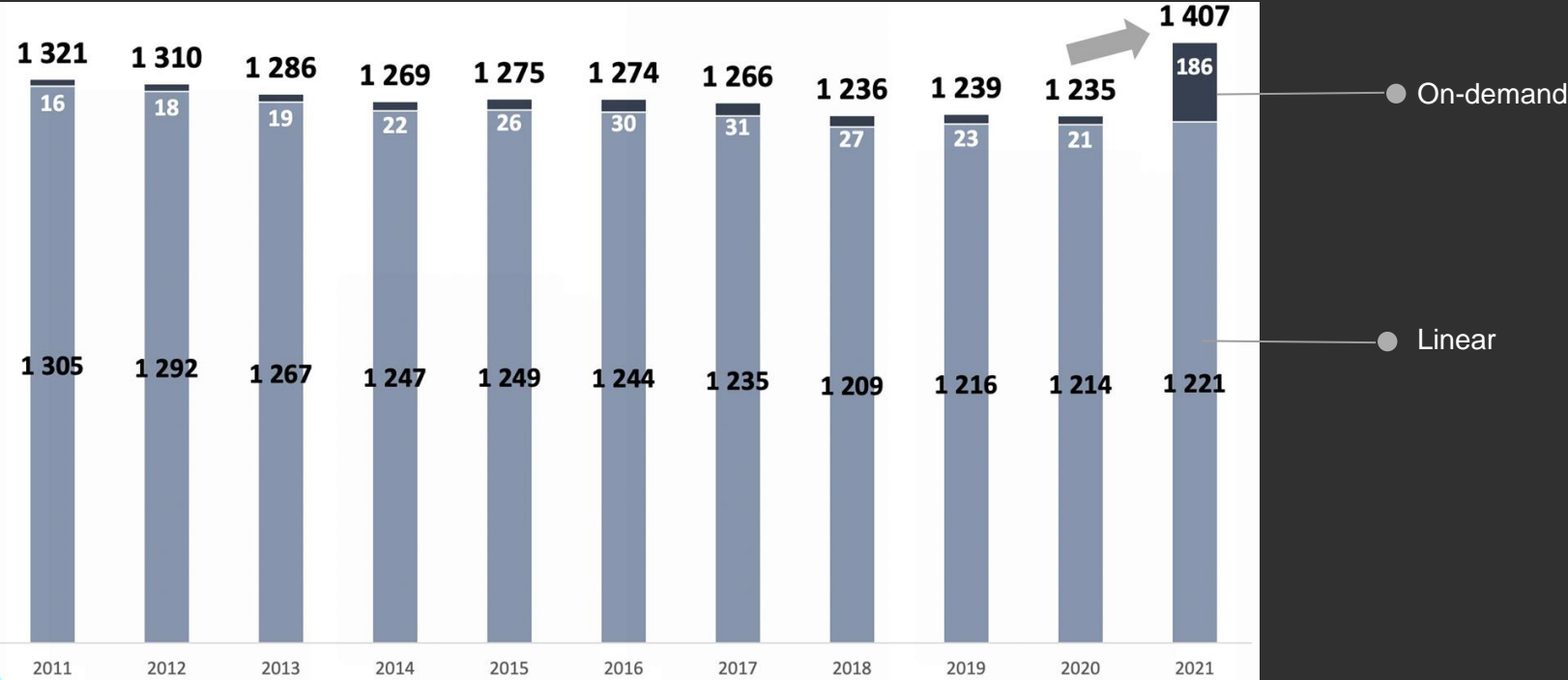
Basis for exemption or reduction	Country/region
Turnover, audience	BE(DE), DK, FR, PT, RO, HR, PL
Revenue, sales, income	BE(FL), DE, ES, HR
Thematic nature of services	ES
Number of offered audiovisual works	FR
When the service started operating	FR
Whether the service is already contributing	BE (FL)

Source, Kostovska et al., 2022

# Results from the first assessment of compliance in France



# Reporting by Arcom in France: A total contribution of 1.4 billion eur in 2021



Source, ARCOM, 2023

## What questions does the annual monitoring/evaluation answers?

The logo for Arcom, featuring the word "Arcom" in a white, bold, sans-serif font on a dark blue rectangular background. The letter 'A' is stylized with a white semi-circle at its base.

- **Number of streamers** (domestic vs foreign; type of business model);
- **Assessment of compliance:** What streamers presented deficit relating to its obligations;
- **The amount of investment** (total amount/% and total amount% per streamer) and average investment per title;
- **The type of productions that received investments** (name of titles; how much in features (%), series (%), documentaries (%));
- **How the investment was made** (production, coproduction, acquisition) and how much/% was invested in independent productions + new productions;

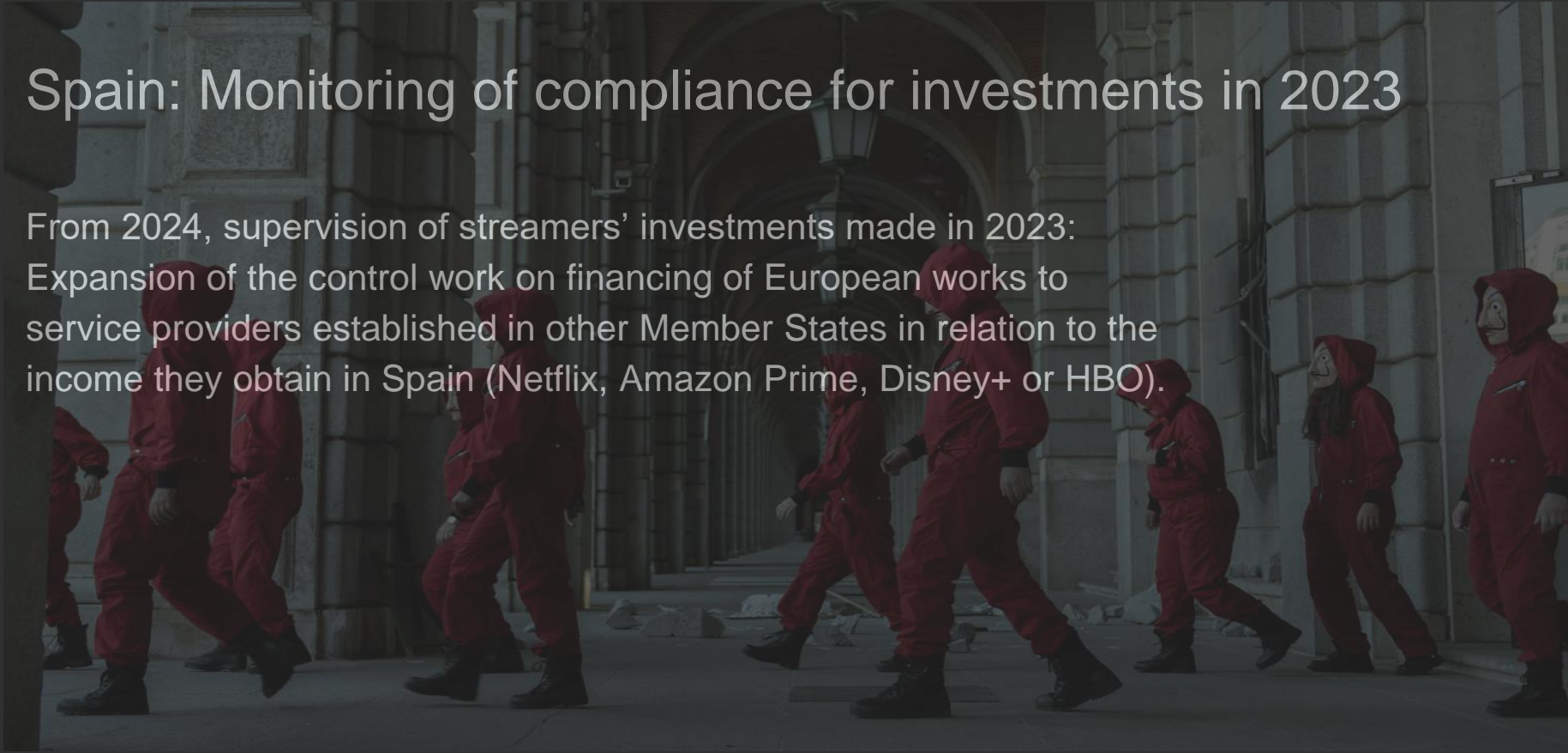
# Italy: Supervision and verification

- Non-linear providers are required to report annual net revenues in Italy and investments made in audiovisual works in compliance with the obligations.
- AGCOM reserves the right to request the transmission of further documents, communications or documents deemed useful.
- For the purposes of the checks, AGCOM uses and processes the data relating to the monitoring activity of catalogs at a national level.
- The Authority provides, also pursuant to resolution 220/08/CONS, regular inspections, including systematic inspections.
- Procedure for recovering shortfalls relating to investment obligations.

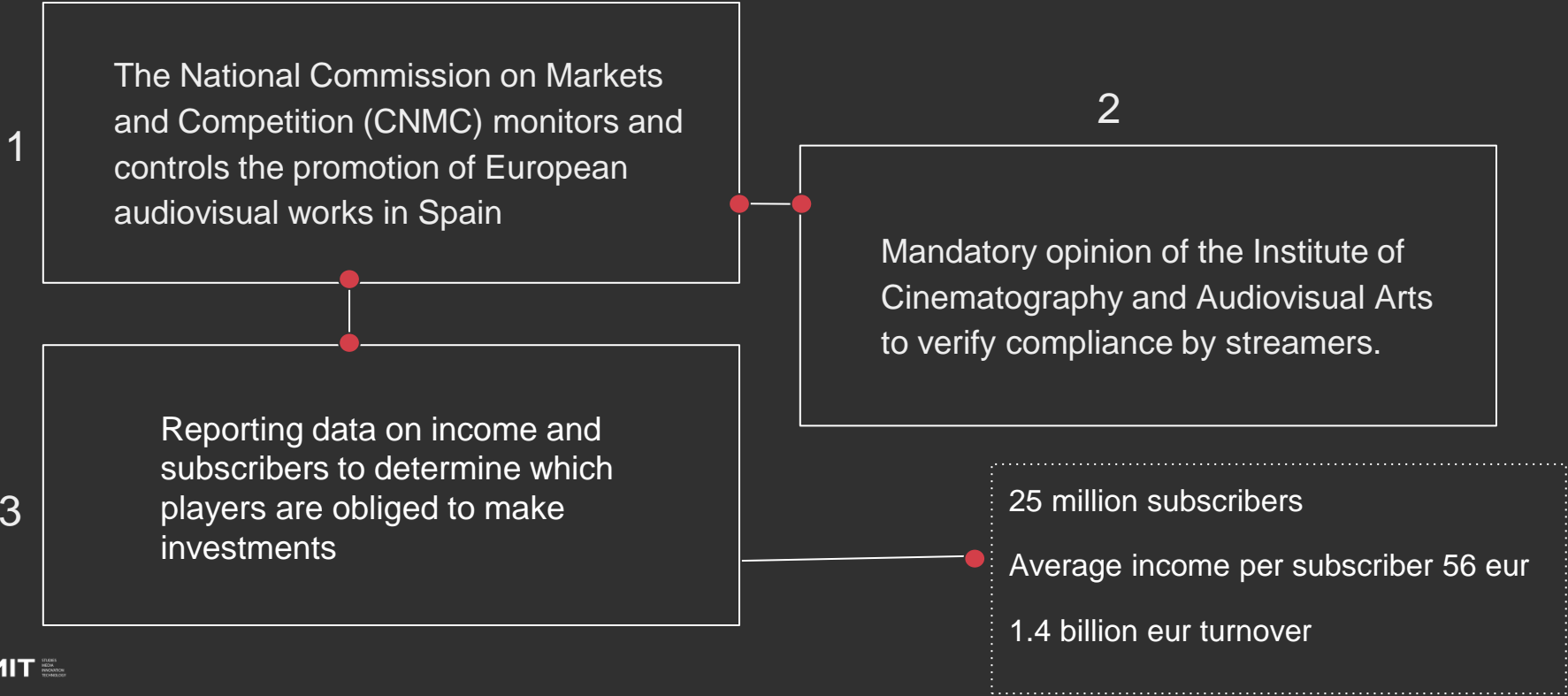


# Spain: Monitoring of compliance for investments in 2023

From 2024, supervision of streamers' investments made in 2023:  
Expansion of the control work on financing of European works to service providers established in other Member States in relation to the income they obtain in Spain (Netflix, Amazon Prime, Disney+ or HBO).



# Spain: Monitoring and control of streamers' obligations



## CNMC: Use of sensitive information to be limited

DGTELECO, part of the Ministry of Economic Affairs and Digital Transformation asked for information from CNMC on revenues, advance financing obligations, investments accounted for providers, whether the investment obligation has been included as independent work.

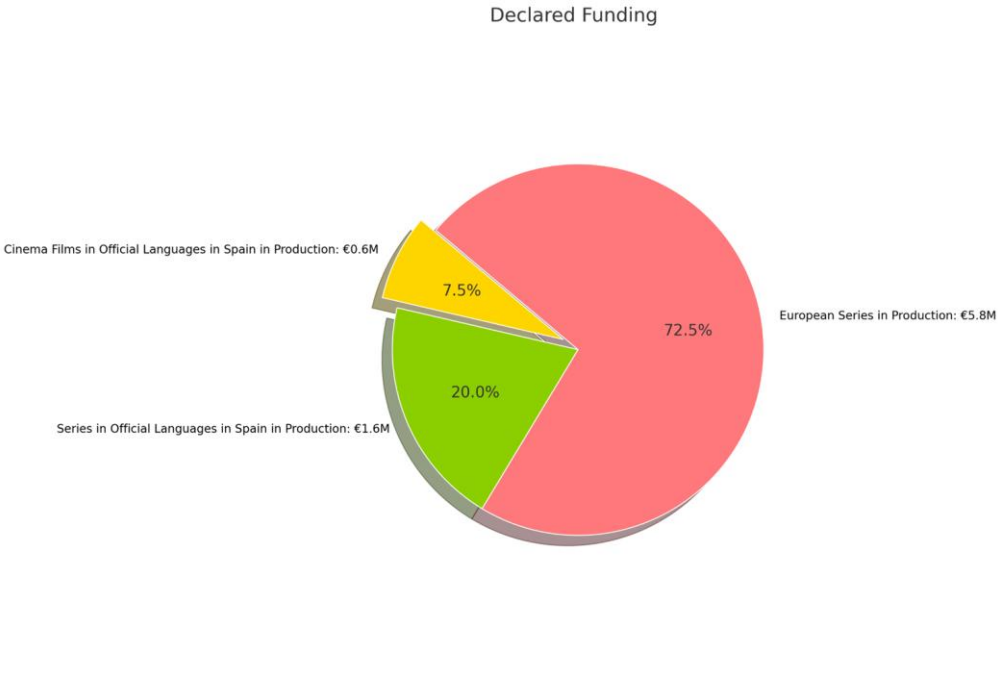
CNMC didn't have information on the language of production of the audiovisual work and the forms of direct participation, as providers are not obliged to report this.

## Monitoring in Spain: How CNMC determines thresholds

SVOD services: those with less than 250.891 subscribers will be exempt from obligations (market share of less than 1% subscribers).

AVOD and TVOD services: the threshold is defined as less than 1% of the sector's total income. With a total market income of EUR 1.4 billion, services generating less than EUR 14 million in revenue will be exempt from obligations in 2024.

# Monitoring compliance in Spain: Disney reported investment of EUR 8 million in 2021



Source: CNMC



No declaration was submitted to confirm that the audiovisual work has not been used for advance financing in Italy to fulfill a similar obligation.

CNMC provisionally rejected the audiovisual work and the amount declared was discounted.

# Enforcement of investment obligations: Key takeaways

- Investment obligations are tailored to markets and policy traditions. Comprehensive assessment methods have been adopted by only a small group of MS.
- Collaboration with regulators of other MS for the purposes of verifying compliance with the investment obligations, exchange data and estimate subscribers.
- The enforcement of investment obligations in MS demonstrates the influence of path-dependence (modelled based on policy instruments and monitoring/compliance already applied to other players).
- Screen agencies' opinions may be vital aspect of the process of assessment of criteria related to the audiovisual works.
- Best practice on monitoring/compliance: France



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Forthcoming report:

imec-SMIT-VUB: Investment Obligations for Streaming Services