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Who is in the driver's seat of European audiovisual policy?
A case study of the influence of multiple European stakeholders
in imposing a European works quota on on-demand services
during the revision of the Audiovisual Media Services Directive
(AVMSD).

Masters' Thesis

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Abstract

This thesis seeks to assess the theories that are relevant in assessing the impact of various actors in European audiovisual regulation, taking the example of the recent and most important piece of legislation in this field, the revised AVMSD. As the Directive covers multiple aspects of audiovisual regulation, some more controversial than others, I decided to focus on one measure of the Directive: the promotion of European works on on-demand services through quotas. Such feature was chosen as it was very controversial at the time the Directive was negotiated and adopted, and the discussions around it also reflect more extensive debates about European audiovisual policy and more generally European integration. In order to do so, I have chosen to explore the literature of audiovisual regulation at the supranational level, and later assess theoretical explanations of the behaviour of key European actors: the member states, the European Commission, the European Parliament, and interest groups. This thesis concludes that most actors studied could have, according to the theory, included their preferences in the policy outcome, and that intergovernmental and supranational mid-range theories are complementary in studying this policy outcome. Nevertheless, the lack of literature specifically targeting matters of supranational audiovisual regulation prevents the lecturer of more conclusive statements.

Key Words: European audiovisual regulation; AVMSD; promotion of European works; intergovernmentalism; supranationalism.

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Abbreviations

ALDE	Alliance of Liberals and Democrats for Europe
AVMSD	Audiovisual Media Services Directive
CCIA	Computer and Communications Industry Association
CNC	Centre national du cinéma et de l’image animée (National Centre for Cinema and the Moving Image)
CULT	European Parliament Committee on Culture and Education
DG CONNECT	Directorate-General Communications Networks, Content and Technology
DG EAC	Directorate-General Education, Youth, Sport and Culture
DSM	Digital Single Market
EACEA	Education, Audiovisual and Culture Executive Agency
EAO	European Audiovisual Observatory
ECR	European Conservatives and Reformists
ECTT	European Convention on Transfrontier Television
EP	European Parliament
EPP	European People’s Party
EU	European Union
FERA	Federation of European Film Directors
FTE	Full-time equivalent
GUE-NGL	European United Left–Nordic Green Left
Greens/EFA	The Greens/European Free Alliance
MEDIA	Measures to Encourage the Development of the Industry of Audiovisual Production
NI	Non-Inscrits
OLP	Ordinary Legislative Procedure
QMV	Qualified majority voting
SAA	Society of Audiovisual Authors
S&D	Progressive Alliance of Socialists and Democrats
TEU	Treaty on the European Union
TFEU	Treaty on the Functioning of the European Union

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Chapter 1. Introduction

In November 2018, the revision of the AVMSD, the Union's most significant attempt at regulating audiovisual media services, was enshrined in EU law. The main purpose of this legislation was to create a 'level-playing field' between traditional media and online services. One measure particularly attracted a great deal of attention from policymakers, stakeholders of the industry and the media alike: the quota provisions for European works on on-demand services, which implies that the catalogues of on-demand services must comprise of 30% of European works (DG CONNECT, 2018). In imposing a quota of European works on on-demand services on all member states, the EU attempted at solving a problem identified for many years yet never fully tackled: that the EU's audiovisual industry could not compete with foreign ones, and especially the US', as it was too fragmented between its different member states and their national markets. As in other policy areas, the EU sought to introduce supranational regulation pertaining to audiovisual policy, with the aim of harmonising national standards (Banks, 2016).

1. 1. Stakeholders

Throughout the legislative process that culminated in the revised AVMSD, multiple national and supranational stakeholders attempted to influence the contents of the directives and the aforementioned provisions on European works, such as: individual member states, especially France, the United Kingdom, Netherlands and Spain; European institutions, such as the Commission, the European Parliament (EP) and its Members (MEPs); and European-level interest groups. All the aforementioned stakeholders influenced the outcome of the AVMSD with varying degrees of success. The effectiveness of their efforts to influence the policy have not yet been explored by the literature in the field of audiovisual policy.

1. 2. Research question and sub-question

The revision of the AVMSD provides an opportunity to study the influence of various stakeholders in supranational audiovisual policy-making. Since this particular topic has not yet been discussed in the current literature, the research question of this thesis is as follows:

To what extent have different stakeholders influenced the increase of the promotion of European works on on-demand platforms within the revision of the EU's Audiovisual Media Services Directive (AVMSD)?

In spite of the absence of research into attempts to influence supranational audiovisual policy-making, the behaviour of various stakeholders both in general and in other policy fields (such as EU institutions and associated actors) is explained by various mid-range theories. The following sub-question therefore emerges: *Which theory better explains the influence of different stakeholders in audiovisual regulation?* Within the sub-question, theories regarding the various national and supranational stakeholders that participated in the revision of the AVMSD, will be applied to the case study following a congruence analysis research design. Congruence analysis shall be used as a tool to apply specific theories within both the intergovernmental and the supranational grand theories of European integration to quantify influence in audiovisual regulation.

1. 3. Scientific relevance

The choice of research question and subsequent design is mainly due to the lack of literature in the supranational audiovisual policy area. This can be partially accounted for by the fact that the most significant breakthroughs in this policy field, such as the AVMSD, are very recent. Simpson (2014) assessed that academic work in general on the role and significance of the EU in audiovisual policy was at its infancy. Whereas policy areas such as economic and environmental policy are extensively covered in stakeholder analyses at the EU level, no comprehensive study of the stakeholders involved in audiovisual regulation has been performed recently. Importantly, no such study had been conducted since the emergence of online services (Simpson, 2014). Therefore, this thesis seeks to assess whether theories within liberal or supranational EU integration literature are relevant when evaluating the influence of stakeholders in audiovisual supranational regulation. Thus, the research shall focus primarily on the breadth of stakeholders involved in audiovisual policy and the according theories, which will be depicted in the case study section of this thesis, rather than the more conventional in-depth assessment of the involvement of one policy actor. While a detailed case study focused on a single stakeholder, such as a member state (France, for instance), or an EP group, such as ALDE, would have been relevant, the absence of literature on European audiovisual policy overall makes a more general analysis of the influence of the various stakeholders more valuable at this stage. This approach is a first step to closing some gaps in our knowledge of this policy field and can lay the foundation for further in-depth research into the

stakeholders involved. Beyond improving our understanding of the field of European audiovisual policy, it can also help improve our understanding of the EU as a whole and the competing visions regarding its development.

1. 4. Societal relevance

The regulation of audiovisual on-demand services affects a great deal of European citizens on a daily basis. In 2016, 100 million of hours of video online were consumed in Europe every day (EFE, 2017). Numerous studies show a constant and dramatic increase in the consumption of on-demand services in various countries. A 2016 study showed that around half of the Spanish population consumes on-demand audiovisual services (Marcos, 2016), and according to a 2015 study, online viewing has become the most consumed audiovisual service among British viewers under 24 years-old (Spence, 2015). Therefore, regulating what consumers are viewing online, and the political will to set a 30% European works quota on on-demand services targets a great deal of citizens with the rationale of ‘promoting Europe’s cultural diversity’. Indeed, besides consumer concerns, European content industries, which are overwhelmingly in favour of the quota (SAA, 2016; SACD, 2018; FERA, 2018), are seen as having a great importance in safeguarding the EU’s cultural diversity. The audiovisual industry is also of significant importance to the EU economy; it is estimated that the audiovisual sector directly employs over one million people across the EU (European Commission, 2018).

1. 5. Structure of the thesis

The structure will be as follows: firstly, the case study will be presented, with the main concepts in the field of audiovisual policy at the European level and the regulation of European works outlined. Secondly, a literature review with insights into European regulation shall follow. Thirdly, a theoretical framework analysing the literature’s stance on stakeholders’ behaviour at the EU level will be outlined, alongside the corresponding hypotheses. Chapter 5 will be a rundown of this thesis’ research design. The next chapter, Chapter 6, will comprise the analysis and discussion of this research’s case study, testing the hypotheses set out in the theoretical framework. Chapter 7 will complete this study with a few concluding thoughts and recommendations for further research.

Chapter 2. Case study relevance – The AVMSD and the promotion of European works on on-demand services

In this chapter, I will outline the context of my research's case study, the revision of the AVMSD and the promotion of European works. I shall look into the rationale behind the AVMSD and define the key concepts around this piece of legislation. I will further look into the changes that were implemented in the AVMSD revision on the promotion of European works, and the rationale behind them. I will later outline more characteristics and the social relevance of promoting European works across the EU.

Broadcasting services, also called audiovisual media services, are defined as “any audiovisual media service transmitted to the public as a free-to-air programme or a Pay-TV programme, encrypted or unencrypted, [...] or on individual demand (provided for remuneration, at a distance, by electronic means and at the individual request by a recipient of services)” (DG CONNECT, 2019). The AVMSD is the EU's main tool to regulate such services. It was first enshrined into EU law in 2010 (Official Journal of the European Union, 2010). The AVMSD's main aim was to have a set of rules that would establish an EU-wide coordination of various aspects of audiovisual media. Before that, EU regulation solely covered traditional television broadcasting, also called ‘linear’ broadcasting, as it follows a schedule arranged by the broadcaster and watched simultaneously by viewers. With the emergence of new technologies, the Commission considered that new broadcasting services had to be regulated at the EU level: on-demand audiovisual services, also called ‘non-linear’ broadcasting, defined as “services provided by a media service provider for the viewing of programmes at the moment chosen by the user and at his/her individual request on the basis of a catalogue of programmes selected by the media service provider” (DG CONNECT, 2019, pp. heading: On-demand audio-visual media services). More specifically, the literature refers to those non-linear services as video on demand (VOD) services which “can be offered through streaming of the content through a set-top box, a computer or other device, allowing viewing in real time, or by download to a device such as a computer, for viewing at any time, and traditionally means that the viewer paid per programme” (DG CONNECT, 2019).

The AVMSD was designed with a set of rules that sought to uphold core European values such as the protection of children and consumers, with for instance: the introduction of new standards for

commercial communications, the combat against racial and religious hatred, and the safeguard of media pluralism. Policymakers also tried to shape a more competitive yet protective environment in which technological developments that connected with the expansion of on-demand services would be on a level-playing field with other broadcasting services, all while preserving Europe's cultural diversity (DG CONNECT, 2018). Such focus is at the core of this thesis, as new measures concerning on-demand services include Article 13 of the revised AVMSD: the general promotion and distribution of European works (DG CONNECT, 2018). 'European Works' is defined in Article 1(n) of the AVMSD as audiovisual works originating in: "Member States; [...] European third States party to the European Convention on Transfrontier Television (ECTT) of the Council of Europe¹ [...]; and works co-produced within the framework of agreements related to the audiovisual sector concluded between the Union and third countries" (Official Journal of the European Union, 2010).

The AVMSD's revision process began in 2014, with the release of an EP resolution calling for more convergence at the EU level on Audiovisual policy (European Parliament, 2014), and of Council conclusions inviting the Commission to "urgently complete the exercise of review of the AVMSD in light of the rapid technological and market changes resulting from the digital shift" (Council of the European Union, 2014, p. 2). In 2015, the Commission announced the launch of the EU's Digital Single Market (DSM) strategy to render the EU "an area where individuals and businesses can seamlessly access and exercise online activities under conditions of fair competition, irrespective of their nationality or place of residence" (DG CONNECT, 2019). As the DSM attempted at matching the new developments of the digital age (such as the rise of VOD platforms) with the goals of the Single Market (in this case, the protection of European works), the AVMSD had to be amended. Within the original AVMSD, the promotion of European works on non-linear services was not mandatory for member states, as stipulated by Article 13(1):

Member States shall ensure that on-demand audiovisual media services provided by media service providers under their jurisdiction promote, where practicable and by appropriate means, the production of and access to European works. Such promotion could relate, inter alia, to the financial contribution made by such

¹ The ECTT is "the first international treaty creating a legal framework for the free circulation of transfrontier television programmes in Europe, through minimum common rules, in fields such as programming, advertising, sponsorship and the protection of certain individual rights" (Council of Europe, 2019).

services to the production and rights acquisition of European works or to the share and/or prominence of European works in the catalogue of programmes offered by the on-demand audiovisual media service.

Source: Official Journal of the EU (2010)

Various stakeholders (which will be analysed at a later stage of this research) deemed inappropriate the lack of harmonised EU-level standards when observing the predominance of on-demand services in the new media economy. For instance, in a 2018 study, the French CNC (National Centre for Cinema and the Moving Image) outlined that in France, the VOD market has expanded of an estimated 278.75% between 2013 and 2018 (Direction des études, des statistiques et de la prospective du CNC, 2018, p. 3). Thus spurred the idea of creating a ‘level-playing field’ at the European level between linear and non-linear services, and between European and foreign providers. In order to create such level-playing field, both the EP and the Council voted the revised AVMSD in autumn 2018. Within the revised AVMSD, the provisions on European works under Article 13(1) became the following:

Member States shall ensure that media service providers of on-demand audiovisual media services under their jurisdiction secure at least a 30 % share of European works in their catalogues and ensure prominence of those works.

Source: Official Journal of the European Union (2018)

The scope of Article 13 greatly changed as now the promotion of European works on on-demand services has to be achieved for all member states through at least the introduction of a strict 30% quota. The Commission outlined the rationale behind the establishment of such quota when it released in 2016 its proposal for the revision of the AVMSD. From a social perspective, policymakers sought at harmonising the access citizens have to European works. The promotion of European works through quotas already existed in more than half of the member states in various forms before the revised AVMSD was adopted. It was required as a simple obligation in Cyprus, Hungary, Lithuania, Malta and Slovakia, or combined with various joint or alternative constraints in Croatia, Czech Republic, France, Italy, Poland, Romania, Slovenia and Spain. The shares of European works in on-demand services catalogues differed greatly between the aforementioned countries (between 10 and 60%), with for instance a 20% standalone quota in Slovakia (European Audiovisual Observatory, 2013, p. 23), and the obligation to have 60% of European works on French VOD platforms combined with a financial obligation from 15 to 26% on a VOD service’s

annual turnover to invest in European works (European Audiovisual Observatory, 2013, p. 27). The Commission and later the EP and member states were encouraged to push for a harmonised quota to counter the disparities between member states, and the resulting asymmetry of European works available to citizens across the Union (European Commission, 2016).

If we take a more economic outlook on the relevance of legislating on European works, a few figures are necessary. First of all, unlike TV broadcasters that invest 20% of their revenues in producing original content, VOD providers across the EU only allocated 1% of their revenue to such activity (European Commission, 2016). Policymakers hoped that increasing the quota of European works would enhance the production of original European content in order to strengthen European culture and bring more opportunities for European creators, while broadening the supply of audiovisual services (European Commission, 2016). Moreover, in the EU in 2015, the European Audiovisual Observatory (EAO) accounted for 27% of all films available in VOD catalogues as having a European origin. In a 2019 study, and before the full application of the revised AVMSD and its 30% quota, the same figure was of 34% (European Audiovisual Observatory, 2019, p. 5). According to quota defenders, this 7% increase was due to national quota systems and the pending possibility of the establishment of a European quota system.

This chapter, its non-exhaustive depiction of the issues at stake within the revision of the AVMSD that relate to the promotion of European works on on-demand services, and its outline of the social and economic relevance of legislating on the latter, lays the groundwork for our study in this thesis of the various influences stakeholders had on the revision process.

Chapter 3. Literature review

In order to later analyse the process of the revision of the AVMSD, it is important to understand how audiovisual media coordination at the EU level came about based on existing studies. In this chapter, I will provide insight into such process, and especially through the consensus amongst the few scholars that have studied this policy area: EU-wide audiovisual policy came about as a result of the growth of the Single Market, and the divergences in this policy area mirror rather well the more general challenges the EU has faced since its creation. When it comes to analysing the literature revolving around the EU's interest in audiovisual policy, one is drawn to look into Richard Collins' work (Wheeler, 2004). From the end of the 1980s until the 2000s, he was one of the few scholars looking into the implications of audiovisual and broadcasting regulation at the European level. Consequently, a great deal of the content of this chapter will include his work, both from his 1994 book *Broadcasting and Audio-Visual Policy in the European Single Market* and his 2002 book *Media and Identity in Contemporary Europe*². Other scholars will also be shortly mentioned, such Wheeler (2004), or Ibrus and Rohn (2016), taking into account that their analyses are based on Collins' work. Collins explained that the idea of regulating what was then called 'broadcasting and audiovisual policy' -which became simply 'audiovisual policy' with the integration of the television as the main broadcasting mode- began in the 1980s, and only grew in the decades after (Collins, 1994). Another feature of this chapter originates from the lack of wealth in the literature on this topic, especially on recent figures, legislation and programmes, such as the AVMSD. Therefore, when looking into more contemporary phenomena, such as the features of on-demand audiovisual services, not only academic literature will be assessed, because there is too few, but also the empirical research done by supranational bodies.

As the Treaty on the European Union (TEU) proclaims in its first Article, a key objective of the EU is to create "an ever closer union among the peoples of Europe" (Official Journal of the European Union, 2012, p. 4). Cultural policy and, within the context of this study, audiovisual policy, was to some extent one of the tools used to attain the Treaty's goal. In the literature, such

² Considering the date at which Collins wrote his work, most EU jargon will be quoted as it was prior to the Maastricht Treaty: the European Union is referred to as the 'European Community'; the European Commission is the 'Commission of the European Communities', and the Council of Ministers or Council of the EU as the 'Council of the European Communities'.

importance of cultural policy was allegedly further outlined by one of the ‘founding fathers’ of the EU, Jean Monnet, who stated that “‘If we [the founding fathers] were beginning the European Community all over again’ [...] ‘we should begin with culture’” (Collins, 1994, p. 80). Yet, supporters of the ‘ever closer union’ in the field of culture and especially audiovisual regulation have encountered obstacles characterised in the literature on audiovisual policy by two main opposing dynamics: firstly, the opposition between policies that promote an ideal of cultural unity versus those which advocate for more cultural diversity within the Community. Secondly, the opposition between two competing ideological beliefs on the administration of the Community, either advocating for a liberal governance (that would leave greater room for the ‘forces of the market’ to prosper, and a lesser role to Community institutions besides ensuring the well-being of the Single Market) or a more interventionist role of the Community (also called *dirigiste*, insisting on a strengthened role of Community institutions and rules in the greatest number possible of policy areas). Audiovisual policy was seen as an excellent feature to outline the opposition between those two visions of European integration, with respectively the UK and France as the ‘ideal types’, the former classified as more liberal and the latter on the forefront of interventionist tendencies (Collins, 1994). After studying those two oppositions, I will thirdly look into the argument that institutions, and especially the EP and the Commission, have successfully used the debate on audiovisual regulation to strengthen their own scope of authority in both audiovisual policy and more generally in European policymaking (Collins, 1994, p. 3). I shall conclude this chapter with further challenges outlined in the literature on the topic of audiovisual regulation.

3. 1. Cultural unity versus cultural diversity within the Community/Union

In the end of the 1970s and the beginning of the 1980s, audiovisual services became more available to wider audiences. Policymakers thus began to understand the burgeoning significance such services will have in constructing Europeans’ culture and cultural identity and were prompted to act in this policy area. Although the EU adopted ‘Unity in Diversity’ as its official motto solely in 2000, this notion has been a very important feature of European culture well before. The motto indicates that Europeans have become united seeking peace and prosperity, all the while benefitting from each other’s cultural characteristics (European Union, 2019). The EU’s audiovisual landscape since the 1980s has been certainly quite diverse, as various countries have been producing their own content and in their own language (Collins, 1994). Nevertheless, Collins’

figures are rather ancient and for the purpose of showing the current state of cultural diversity in the EU, I shall give out some figures that are not present in the academic literature but within research papers of the EAO. The EAO analysed that between 2015 and 2017, EU countries have on average produced 937 titles of TV production (all formats). For instance in 2017, the UK, France, the Netherlands and Spain had produced respectively 147, 133, 46 and 41 titles (European Audiovisual Observatory, 2019).

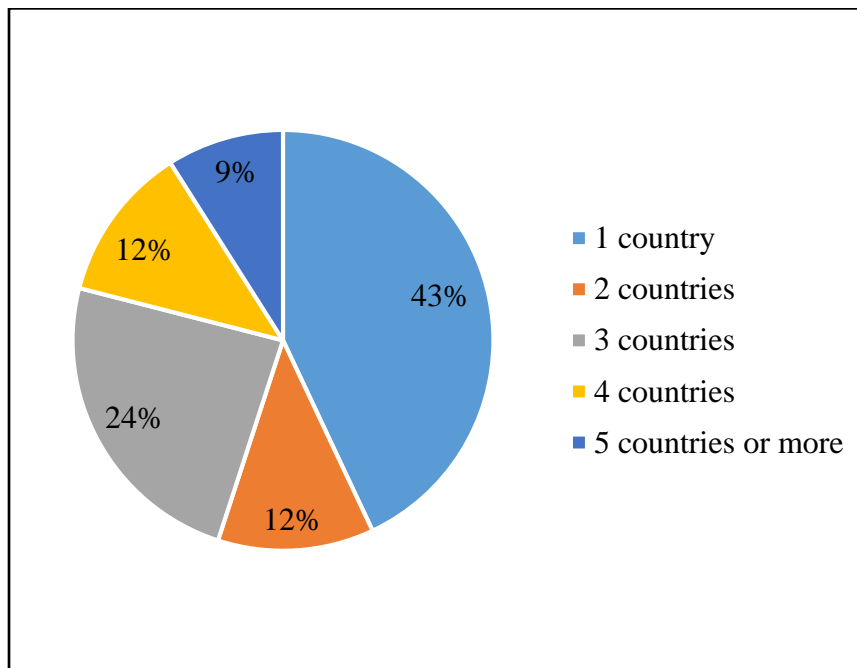


Figure 1. EU-28 titles by number of countries of availability (excluding the country of origin of the work) on VOD platforms in 2018 (European Audiovisual Observatory, 2019, p. 68).

It can be further argued that through their audiovisual habits, member states and their citizens are united in the common feeling that they are aware of and accept each other's differences. For instance, as shown by Figure 1., a diagram showcasing the amount of countries in which a European title is on average available, titles produced in one member state are on average available in at least one other member state. Furthermore, 45% of European works can be accessed in three or more member states. Such statistics emphasise the current diversity of content that circulates within the EU (European Audiovisual Observatory, 2019, p. 68).

Besides the preferences of European producers and viewers, research shows that the Community enacted in the end 1980s policies in this area that outlined its commitment to safeguarding Europe's cultural diversity, as the spread of American TV in Europe was just beginning. Collins (1994) pointed out that the cultural targets of the Community were not clearly defined at the time, yet one unifying characteristic of it was that it was not American. The argument outlining the fear of a U.S. hegemony in the face of smaller EU states, although not expressed in the literature, was still valid in 2016 according to journalist Martin Banks (2016). Indeed, recent statistics from the EAO depicted that American works represented 59% of content available on VOD services in 2015 (European Audiovisual Observatory, 2015, p. 160). To meet the objective of protecting Europe's cultural diversity, the pilot phase of the Measures to Encourage the Development of the Industry of Audiovisual Production (MEDIA) programme began in 1992. As shown by the literature, policymakers through this programme sought to remove national barriers to allow more exchanges in audiovisual works, support actors from the creative industry, whilst safeguarding Europe's cultural identity and refraining cultural harmonisation. It thus became clear that Community leaders would bear no interest in transforming Europe into a melting pot of culture (Collins, 1994). Almost thirty years later, the MEDIA programme still exists and holds very similar purposes (although it is now a sub-programme of Creative Europe), and is now defined as a financial tool to assist "EU film and audiovisual industries in the development, distribution and promotion of their work" (EACEA, 2019).

The MEDIA programme was seen as a remarkable example of the Community's (and now the Union's) wish to unite culturally European citizens, through supranational incentives and rules harmonisation, and to promote Europe's cultural diversity, through exchanges in audiovisual works. This programme also demonstrated the tension outlined beforehand between cultural diversity and unity, which has been a feature of European audiovisual policy since its beginning (Collins, 1994; Erickson & Dewey, 2011; EACEA, 2019). Nevertheless, it cannot be assessed what the MEDIA programme or other incentives brought to European citizens as a profound assessment of audiovisual policies is very dire in the literature, which some academics qualified as even 'inexplicable' (Soto-Sanfiel, Villegas-Simón, & Angulo-Brunet, 2018).

3. 2. Liberal versus interventionist governance of the Community/Union

Although enshrined in the Treaties and signed by all EU member states in the early 1990s, making culture a Community policy field was not wished by a few member states, mainly the UK. This chapter is not about the UK and its conflictual relationship with EU membership. It is nevertheless important to bear in mind that the vision the UK has of the EU as a free trade area more than a political community matters when it comes to analysing the development of audiovisual policy in the EU. Research further shows that audiovisual policy might be in the early 1990s –and probably still is today-, the policy field where the UK’s position has consistently differed and even opposed those of the Commission and of its European partners, and especially France. Furthermore, besides having a diverging vision on audiovisual policy, the UK has also questioned the more consensual idea shared by fellow member states and the European creative industry that the Community should have common policies on the matter at all (Collins, 1994).

The liberal vision of the EU, and especially of the UK, has a strong focus on individual liberty, with less (supranational) norms, and economic liberalism, wishing for free market and free competition. The more interventionist vision of the Union, as defended by France, vouches for more power at the European level, aiming at countering the inequalities produced by the Single Market (The Economist, 2019). When it comes to audiovisual policies, the literature assesses that those two competing visions of European integration come into play: liberals, or also called ‘minimalists’, wish for Europe to be a collection of states that enact together pragmatic arrangements seeking shared (economic) advantages, ignoring measures seeking at legislating on cultural matters. However, interventionists, further referred to as ‘maximalists’, hope for the Community to become a pan-European state having a common culture and according sets of legislation that would unite institutions and citizens together. The minimalist versus maximalist debate at the European level further indicate an idea of the function audiovisual works ought to have in a polity, the former having a more lucrative outcome the latter focusing on social benefits (Collins, 1994).

On one hand, research shows that the UK believes in the EU’s value of cultural diversity, yet solely domestically, which justifies that this country does not need supranational cultural rules. The UK is a diverse country in its population and cultural makeup and already embodies the idea of a

society united in diversity, which is not the case for other member states that have more homogenous features on the matter. Furthermore, due to the worldwide dominance of its language in audiovisual works, and that London is a member of the top three hubs of media production, the UK does not necessarily need further help from the Community / Union to expand its cultural reach. This is unlike other member states which lack resources and have a more moderate cultural reach due to the lesser amount of population speaking their language (such as Greece and Italy) (Collins, 1994; Collins, 2002). The literature thus describes how, since its accession to EU membership, the UK has repeatedly opposed measures that would proactively increase the competences of the Community on cultural policies, and especially in audiovisual policy. It was followed by other more ‘northern’ states, the Netherlands and Germany, and later when they joined the EU, Finland and Sweden. The dominant explanation in research of this behaviour despite the UK’s belief in cultural diversity comes from the UK’s more liberal political ‘minimalist’ culture, reluctantly embracing European integration. This behaviour was especially exacerbated under Prime Minister Thatcher in the 1980s, and often makes the UK seem as ‘anti-European’ or an ‘awkward partner’ to other member states (Collins, 1994; Menon, Minto, & Wincott, 2016).

On the other hand, both the literature and empirical studies demonstrate that a group of countries led by France and followed by other southern states (such as Greece, Spain and Italy) has vouched for a more interventionist vision of European audiovisual regulation. The success of France in imposing this vision in cultural and audiovisual policymaking was quite frank, as over the course of the last thirty years, this policy area went from inexistent in the Treaties to being legislated upon through the ordinary legislative procedure (OLP), on the same level as 91%³ of other policy fields in the Union (Collins, 1994). France and the other dirigiste states were convinced that European diversity ought to be protected from private and commercial media concentrations that resulted from the unwanted consequences of the Single Market. Research by Collins (1994) further outlined that the dirigiste member states also saw ‘Americanisation’ of the European audiovisual market as an external threat, and other Anglophone audiovisual works (in majority produced in the UK) as an internal threat. This rationale prompted the interventionist clique to compensate the dominance of Anglophone works (and the lack of diversity thereof perceived) by financially helping European

³ This figure covers the period 2014-2016 (European Parliament, 2019).

film and TV production. This outlook resulted in even more antagonisation of the UK in this policymaking field, which in return reinforced the UK's opposition to more European audiovisual supervision (Collins, 1994; Lewis, 2013).

Despite the fact that the interventionist doctrine seemed more successful than the liberal one, researchers have pointed out that in the 1980s and 1990s, the UK and its allies have managed to implement liberal measures at the European level. Some provisions within the Television without Frontiers (TWF) Directive, which sought at easing the free movement of television programmes within the internal market, are examples of liberal measures. Such programme also created a lot of imbalances across the Community / Union, as the UK mainly benefitted from the market gains and smaller member states were not able to compete (Official Journal of the European Union, 1989; Wheeler, 2004). Those imbalances across the Community / Union reinforced the determination of interventionist member states to call for more regulation throughout the 2000s, as the TWF Directive was repealed in 2010 to be replaced by the first version of the AVMSD (Wheeler, 2004; Official Journal of the European Union, 2010). The most recent set of literature written by Ibrus and Rohn (2016) on the subject asserted the regulatory convergence that the AVMSD sought to bring both across member states and across the types of media services as a success of this legislation.

3. 3. Cultural and audiovisual policy as a tool for the Commission and Parliament to extend their power reach in the Community/Union

As analysed by Hix and Høyland (2011), the degree of policy integration in supranational decision-making at the European level has tremendously increased since the Treaty of Rome was signed. This indicates that there is a considerable and growing range of policy areas in the EU, including since 1993 culture, *de facto* audiovisual policy, where the Commission has the right of initiative and the Council shares with the EP the legislative authority under co-decision (Hix & Høyland, 2011). In the previous two sections of this chapter, I have concluded that academics and current statistics seem to assess that dirigistes member states have been more successful at imposing their vision of European audiovisual policymaking. Yet, the literature also outlines that the dirigiste agenda was carried by other stakeholders belonging to two important European institutions: the Commission and the Parliament, which we will consider in this section.

The existing literature identifies the Commission as holding a dominant role in the increased supranational intervention in audiovisual policy through its interventionist agenda, which was emphasised by the leadership of its then-President Jacques Delors. He saw the EU's audiovisual market as failing, expressly against the US and Japan, and considered consequently that this market required intervention (Collins, 1994). President Delors enacted supranational cultural policies, with the MEDIA programme as the flagship Commission programme on this matter. Moreover, he endorsed early on the economic significance of Europe's cultural sector, as exemplified in a 1989 speech, during which he emphasised that using the strength the Community already held in economic policy to reinforce its cultural industry would only be beneficial to the Community as a whole (Collins, 1994; Council of Europe, 2015). This policy entrepreneurship from the Commission, although at the time the Community was not formally able to legislate on cultural matters, is a recurring feature of Community/EU literature. A similar strategy was set up in the area of Energy, amongst others, which prompted Maltby (2013) to further theorise this feature of supranational politics. As the Commission takes on a series of policy initiatives (such as the MEDIA programme), it also develops expertise on the topic (such as audiovisual policy) and later has more legitimacy to vouch for the integration of a policy in its area of policymaking (such as culture during the Maastricht revision). The informal expertise the Commission has gathered through its entrepreneurship subsequently becomes a formal policy competence for this EU institution (Maltby, 2013).

Moreover, when Collins (1994) wrote his book, the EP was relatively weak: it did not have co-decision powers, could only release opinions on cultural policy matters, and its Committee on Culture and Education (CULT) was considered as the least powerful of all. Nonetheless, some MEPs shared the belief that interventionist states had on audiovisual policy. A former president of the CULT EP committee even stated that shall the Community does not legislate to compensate the deficiencies of the Single Market, this could be 'fatal' to the audiovisual sector in Europe (Collins, 1994, p. 92). The EP thus began to advocate the harmonisation of audiovisual policies and worked closely with the now DG EAC (Education, Youth, Sport and Culture) to such ends. This entrepreneurship also paid off, as observed with the expansion of the EP's powers in this policy area during the Maastricht Treaty revisions. Indeed, the introduction of the co-decision

procedure in the Maastricht Treaty is described by most researchers as critical in granting that the EP and the Council would operate on an equal footing in a great deal of policy fields, such as culture (Hix & Høyland, 2011).

3. 4. Further challenges of European audiovisual regulation

Collins argued that if a “common mass public culture and common myths are required for a collective national identity” therefore we should apply the same requirements to the EU and all its member states if we wish for “a collective European identity [...] to be realised” (Collins, 2005, p. 7). When discussing the goals of the AVMSD, the idea of fostering a European identity through cultural policies still holds: the AVMSD seeks to coordinate the development of a European Single Market for diverse audiovisual content. Taking the example of their home country, Estonia, which has managed to overcome the dominance of American content and incorporate more European works in its TV schedules, Ibrus and Rohn (2016) argued that the EU could build its common identity through initiatives such as the AVMSD. Indeed, the provisions of the original AVMSD on linear services (50% of European works) favoured the import in Estonia of Scandinavian and UK TV series, which are now highly popular in the Baltic state. They further outlined that following technological developments, the incorporation of provisions related to video-sharing platforms was vital for the AVMSD to remain relevant in continuing the promotion of diverse European works (Ibrus & Rohn, 2016; Ibrus, 2016).

Chapter 4. Theoretical framework

The research design of this thesis will be using congruence analysis, which is a design where from appropriate theories, predictions are extracted and later tested employing empirical evidence, and in comparison to alternative theoretical perspectives (Blatter & Haverland, 2014). This chapter will outline the main theories in this field of literature, and for each theory a hypothesis will be suggested. As one of the aims of this research is to find explanations to real-world events in the sphere of European politics, the theories used in this research shall be ‘middle-range’, mostly operating within the two ‘grand theories’ of European integration: intergovernmentalism and supranationalism (Bryman, 2012). I hope that the forthcoming theories will enhance the interpretation of findings so influence of national and supranational stakeholders at the EU level on audiovisual regulation can be better understood. Consequently, in this chapter, I shall first outline the rationale behind the chosen theories, based on ‘the fundamental equation of politics’. Secondly, theories assessing the behaviour of member states at the supranational level will be used. The final part will focus on theories determining the behaviour of European-level actors in the legislative process, namely the Commission, the Parliament, and interest groups. Finally, Blatter and Haverland (2014, p. 160) defined hypotheses as propositions which designate the predicted causal connections between the essential ideas of a theory. From the middle-range theories that relate to various stakeholders, hypotheses will be extracted to later in Chapter 6 be tested empirically.

4. 1. Justification for choosing the theories

The wider theoretical approach of this thesis will examine various actors under one institution that was used in our case study, the OLP –also referred to as co-decision procedure-, and is now used in 85 policy areas, covering a great majority of the EU’s areas of competences (Council of the EU, 2018). The basis of this thesis’ theoretical assumptions is referred to as rational choice theory. Rational choice theory presumes the preferences of actors in relation to the institutions, which are the structure in which those actors interact, will produce a set of outcomes, which is the result of the interplay between preferences and institutions (Hix, 2005). This was referred to by Hinich and Munger (1997, p.17, in Hix, 2005, p. 13) as “the fundamental equation of politics [...]: preferences + institutions = outcomes”. This theory is based on a few assumptions.

First of all, actors are rational and have preferences, select a strategy that will be consistent with said preferences, and that shall eventually bring out their preferred outcome. For instance, a minister of a member state government might be policy-seeking, and will form alliances in the Council with ministers that share its policy goal, and / or will bargain opposing ministers to secure their vote. Alternatively, the representative of an interest group will seek to defend policies that will expand the satisfaction of its members, and in order to do so will set up a strategy to lobby the most relevant officeholders in the policy process to secure their position on that legislation. However, actors do not develop their preferences and strategies alone, and the perfect information on the behaviour actors will adopt does not seem to exist. Considering this fact, actors must be strategic, and anticipate unexpected events from their competing actors, to achieve not their 'best' but their 'optimal' outcome (Pollack, 2001; Hix, 2005).

The second assumption is that institutions, as they shape the interactions of actors, also restrain their rational features. Such institutions can be formal, such as written rules (in the case of the EU, it is the Treaties and their attached rules such as voting with QMV in the Council, which could prompt a policy-seeking national minister to ally with bigger member states to reach the quota of population representation), or informal, such as common beliefs and ideologies and behavioural norms (at the EU-level, we could state the habit of consensus-seeking between competing member states or political groups) (Pollack, 2001; Hix, 2005). Therefore, institutions shall dictate an outcome which would certainly be different if they did not exist or had different formal or informal rules. In a study researching the powers of the Council, the Commission and the EP, Thomson and Hosli (2006) had concluded that formal institutions at the EU level have a tremendous impact. Indeed, the balance of power between these bodies greatly varies between one another and is contingent on the legislative procedure used. For example, in comparison to the use of unanimity in the Council, the use of the OLP enhances the power of all actors, as the Commission is the agenda setter and the Parliament votes on an equal footing with the Council. Informal institutions matter too, as it was argued the 2004 enlargement might have rendered the Council bigger and more heterogeneous, making it tougher to present a united front in negotiations with other stakeholders (Thomson & Hosli, 2006). Nonetheless, actors have institutional preferences as much as they have policy preferences and have the power to modify the arrangements of those institutions to their liking (for instance, member states can decide to change the EU Treaties if they

are not satisfied with QMV voting in the Council anymore). Choosing an institutional process over another is a strategy akin to pursuing a policy goal (Hix, 2005).

Going back to the fundamental equation of politics, two rules are outlined: (1) if preferences are altered, outcomes will be altered too, even if institutions are constant; (2) if institutions are modified, outcomes will be modified too, even if preferences are constant. The aforementioned reminds us students of political phenomenon that politics is not a fixed process, and that actors, in the spirit of maximising their preferences, will adopt strategies that can lead to various policy or even a new institutional equilibria (Hix, 2005). This depiction of rational choice theory is useful when describing how the EU and specific policies within it, such as the revised AVMSD, work. All of the above can be applied to the interactions observed at the EU level, which will be further specified by the theories in the rest of this chapter.

4. 2. Intergovernmentalism

Intergovernmentalism, as explained by Moravcsik (1991), came from a core liberal assumption that individuals, in the context of this study states, engage in organisations, such as the EU, to foster their national preferences and interests. Indeed, EU member states as rational actors have apparent preferences of what they seek to accomplish in the major policy fields at the EU level, which drives their behaviour when interacting with other European actors. Similar to the aforementioned explanations, member states' preferences can vary over time and across policy fields, so will their alliances together at the most important European decision-making body, the Council of Ministers. Furthermore, member states are also usually informed about the positions adopted by other actors as a result of their important domestic bureaucracies. Another crucial assumption of intergovernmentalists is that EU governments carefully delegate their power to European bodies, such as the Commission and the EP, and do so mainly to foster governments' interests, whether they are individual or collective (Moravcsik, 1991). For example, the legislative power allocated to the EP enhances EU decisions' legitimacy and makes the Commission more accountable. Due to this cautious process of delegating power from EU governments, the 'principal', intergovernmentalism sees EU institutions as their 'agents', rather than autonomous actors (Moravcsik, 1993)

The intergovernmentalist model further states that on average, every EU country which has formulated its preferences gets positive outcomes from the policies at the supranational level, otherwise they would not participate in the EU as member states are risk-averse. However this does not signify that in practice every member state benefits equally from EU politics (Pollack, 2001). Member states have different bargaining powers that correspond to various characteristics, such as exogenous resources of power, for instance the votes and economic strength of a member state. For instance, such resources of power can be the population size of a member state, with respectively Germany, France and the United Kingdom, being supposedly the most powerful countries accordingly to their demography and the votes they had at the time the article was written in the Council. This system therefore favours the big and nearly big member states (Bailer, 2006). Yet, the literature does not only define size as the only power resource member states hold when negotiating at the EU level. The other crucial feature is the economic importance of a member state in the internal market, with a set of countries such as the Netherlands and Sweden enjoying relatively to their size a greater economic weight (Bailer, 2006). There is evidence from Bailer's (2004) research that member states having exogenous resources of power are not necessarily those that will also be successful in policy outcomes. Nevertheless, Bailer's research was performed 5 years before the reform of the voting weights in QMV in the Lisbon Treaty, which has shifted the balance of power. The concentration of power and influence rests even more within the member states that are big, such as France, Germany, the UK, and Spain. Countries to the East of Europe and the North, less populated, are less likely to obtain their preferences in supranational politics as they have considerably less votes in the Council, despite their economic weight (Barr & Passarelli, 2009). With member states holding different forms and importance of power, they are also dissimilar in their successes at achieving their preferred policy outcome.

Another form of power analysed by Bailer that is still relevant to this day is endogenous power, which are the advantages a member state position can bring in comparison to other actors' position (such as the Commission). She commented that in general, a EU government that has a high level of salience on a specific matter often secures its preferred outcome at the EU level (Bailer, 2004). Taking the example of regulatory policies, shall a member state wishes to protect its own national industry in a policy field, it will attempt to have a critical role in the outcome of said process. This notion has been applied to the case of environmental policy, as the urgency of the situation and the

competitiveness between players of related industries have made this policy area borderless, and the consequential growth of European regulatory frameworks in this field mostly emanate from member states individually (the same features can also be applied to the audiovisual policy, as even the climate urgency could be compared to an extent to the stance of some players of the European creative industry as they fear American competition). Indeed, member states may promote at the European level their domestic tried-and-tested policies, which might clash with other member states' own policy solutions, such as Germany and the UK on environmental policy (equally comparable to audiovisual policy as outlined in Chapter 3 between the French and the UK division) (Haverland & Lieffink, 2012; Börzel, 2002). Yet, the usage of endogenous resources depends on the institution used: an extreme stance from a member state under unanimity will have much more impact in getting a more satisfactory policy outcome than under QMV (Bailer, 2004, p. 5). Therefore, under QMV, the literature assesses that the member state needs to meet the requirements of Putnam's (1988, in Haverland and Lieffink, 2012) 'two-level game': a member state needs to put forward a policy that is deemed satisfactory and acceptable at the supranational level, while meeting its own preferences and domestic constraints. Indeed, according to the intergovernmentalist literature, member states ought to get concessions at the EU level from their partners by credibly showing that (if unchanged), the EU policy will face opposition domestically, because of factors such as veto players (or nowadays Euroscepticism) (Moravcsik, 1993). To illustrate the importance of the two-level game, Haverland and Lieffink (2012) further built on this idea in their article by analysing the involvement of the Dutch government in the Regulation on the Registration, Evaluation, Authorisation and Restriction of Chemical Substance (REACH) case. Based on their findings, the domestic components of the Netherlands, and especially its "institutionalized pattern of consensus seeking" (p. 192), had all the potential to dramatically impact the outcome of REACH. However, the impact was only limited as in the 'two-level game', the Netherlands did not manage to meet the requirements of the second level, stipulating that a policy has to be acceptable at the supranational level to be accepted during negotiations as multiple member states opposed its position (Haverland & Lieffink, 2012).

The following hypotheses are accordingly brought forward:

Hypothesis 1 (H1): Bigger member states are more likely to obtain their preferred policy outcome at the supranational level.

Hypothesis 2 (H2): Member states with a higher stake in a regulatory policy proposal are more likely to obtain their preferred policy outcome at the supranational level provided that they meet the requirements of the ‘two-level game’.

4. 3. Supranational Politics

The main assumption of theories of supranational politics in the EU that member states are not all powerful and do not necessarily always obtain their preferred policy outcome in EU politics. Within supranational politics, the neofunctionalist literature is often opposed to claims from intergovernmentalists, as it sees supranational institutions as the key drivers of European integration (Pollack, 1998). One of its most prominent scholars is Ernst B. Haas, who helped theorising the spillover effects that the integration between member states of economic sectors will have for integration in other policy areas, such as monetary policies or civil liberties. This view of the EU also requires a bigger regulatory framework to monitor the greater scope of action of the supranational bodies (Haas, 1961). Furthermore, thinkers of this vision of European politics advocate that supranational organisations and groups also have their own preferences, dismissing the assumption from intergovernmentalists that EU institutions and supranational groups are merely member states’ agents that solely behave in accordance with their principals’ wishes. Such assessment is partly justified by neofunctionalists that see supranational organisations as ‘competence-maximisers’. Supranational organisations will seek to expand their own competences and those of the Community / Union to further their own preferences in the greatest number of policy areas. For example, the EP has used its budgetary powers since the 1970s as a tool to obtain further influence in other policy areas. Such expansion of the scope of competence of supranational bodies was outlined in the previous chapter in 3. 3. (Hix & Høyland, 2011). This second section of Chapter 4 will explore theories that focus on the behaviour of three supranational institutions and groups, namely the Commission, the European Parliament and interest groups.

a) The Commission’s power as an agenda-setter

The Commission’s formal power is seen as one of the only legislative features that has lasted since the creation of the European Economic Community (EEC). Indeed, it has been since the 1950s the Community / EU’s sole formal agenda-setter, detaining almost the exclusive right of initiate proposals. This right is enshrined in the Treaties, as Article 17(1) of the TEU affirms that the

Commission “shall promote the general interest of the Union and take appropriate initiatives to that end” (Official Journal of the European Union, 2008). Besides, the Commission also frames proposals. Its right of initiative in accordance with the OLP allows it to pick and choose which issues will be part of a certain legislation. This framing process remains crucial: it is argued that it is simpler to accept rather than to amend a Commission proposal. Lastly, the Commission’s power does not stop after the proposal is released, as it participates in trilogue sessions, it has the ability to be present physically and influence negotiations throughout the rest of the legislative process, and can provide expertise over a considerable array of policy areas (Thomson & Hosli, 2006; Nugent & Rhinard, 2016; Kreppel & Oztas, 2017).

In exploring the Commission’s power in European politics, this thesis will focus on its agenda-setting abilities targeting its ‘political’ agenda-setting (the more informal function allowing the Commission to dictate policy outcomes) and ‘technical’ agenda-setting (the more formal capability to initiate legislation). The focus on political agenda setting is due to the fact that the Commission’s technical agenda-setting power is undisputed in the literature as a result of current Treaty provisions, whereas it remains debatable the extent to which the Commission manages to implement its own preferences within EU legislation, considering that it lacks decision-making powers. The following stance in the literature thus came out, stating that the Commission, when consulting the various parties in drafting a proposal, is able to collect crucial information that it shall strategically use to shape policies in accordance with its own preference, which will later be tougher to amend in the rest of the policy process. There is according to the literature great evidence that the Commission launched initiatives in important policy fields, such as but not limited to industrial, monetary and economic policy which included the Commission’s own preferences (Nugent & Rhinard, 2016; Kreppel & Oztas, 2017).

Having considered the aforementioned statements on the role of the Commission as an agenda setter:

Hypothesis 3 (H3) will be: The Commission uses its role as an agenda setter to strategically shape policies in accordance with its preferred outcome.

b) The role of the European Parliament and actors within

Another supranational actor is considered powerful when legislating on EU issues: the European Parliament. Thomson and Hosli (2006) argued that generally the EP sustains a great deal of negotiating power due to several factors, with firstly its long time-horizon as MEPs are elected every 5 years. This is unlike the Council where heads of state have different national election schedules and the Presidency rotates every 6 months. Secondly, the EP has an advantage in the resources it possesses, whereas the Committee of Permanent Representatives that has a general focus, the EP has a myriad of parliamentary committees, all fixating their expertise on a targeted policy field (Thomson & Hosli, 2006). Finally, there is great evidence in the literature that due to the dominance of co-decision as a procedure to legislate in the EU, the EP and its members have amply furthered their influence in EU politics, as they formally have a power comparable to the Council's in shaping policy in almost all policy areas the EU oversees (Thomson & Hosli, 2006). Selck and Steunenbergh (2004) supported this view, as they assessed in their article using empirical evidence of the outcome of legislations under co-decisions is often in line with the Parliament's preference. Burns (2005) outlined that the aforementioned was especially true when considering regulatory policies, the type of policy where member states had been keener at delegating power to their supranational European-level agents. Within regulatory policy, Burns further hypothesised that the EP's influence was to be greatest when amendments brought forward by the EP dictates costs that shall impact industrial actors rather than the member states themselves (Burns, 2005).

Another feature that relates to the role of the EP is the voting behaviour of its members, as there is not a single pattern to how MEPs vote. MEPs come from all 28 member states, are divided in various political groups, and themselves in the great majority of cases belong to a national party. The most common ways to analyse their vote is, in average level of loyalty, firstly in accordance to their national party, secondly to their political group, and thirdly to their member state's position. In the literature, loyalty to the aforementioned is higher when the rapporteur of a legislation belongs to a MEP's national and/or European party or when a MEPs' national party participates in the government at the time the legislation is voted in the Council (Koop, Reh, & Bressanelli, 2017). One of the main findings from an empirical research on the roll-call votes cast in the EP under codecision by delegations between July 1999 and July 2014 that will be useful for this thesis' hypotheses outlined that shall a MEP's national party belonged to a national government,

disloyalty to this government's position decreased. For example, disloyalty of French socialist MEPs decreased towards its then-Socialist government that was opposing certain provisions of the free trade agreement with Canada in 2017, although their European group was in favour of the agreement (Koop, Reh, & Bressanelli, 2017).

Based on the legislative process and the explanations of MEPs' voting behaviour in the Parliament, the following hypotheses are brought forward:

Hypothesis 4 (H4): The European Parliament is more successful at including its preferences in policy outcomes when legislating on regulatory policies under co-decision procedure.

Hypothesis 5 (H5): MEPs are more likely to influence a legislation in favour of their country's position in the Council if their national party participates in their country's government.

A final feature of the role of the EP in influencing a legislation will focus on a specific set of its MEPs: the ones that are awarded rapporteurship when passing a legislation. A rapporteur is defined as a MEP that is put in charge of managing a legislative proposal initiated by the Commission. Rapporteurs are considered key actors in the OLP, as they set the agenda in the EP, have considerably more time to speak in the Plenary on the matter, have the ability to influence debates in their own institution but also during the trilogue negotiations in which they participate with the Council and Commission (Kurzer & Cooper, 2013). Taking the example of the ENVI committee and *Regulation 1169/2011*, Kurzer and Cooper (2013) argued that the preferences of the rapporteur under the OLP were key to the outcome of the legislation. The rapporteur's (Ms. Sommer, EPP) concerns were perfectly in line with the industry's concerns, that she openly shared the ideology of in various remarks. The most consumer-friendly aspects of the Commission proposal were effectively erased as a result of the rapporteur's handling of the proposal in the EP in accordance with her preferences (Kurzer & Cooper, 2013). Yet, Hoff, Lelieveldt and van der Does (2016) answered to such claims assessing that Ms. Sommer's role was not as vital, and that akin to other rapporteurs for handling other legislations she was constrained to support positions, that were less industry-friendly, and did not necessarily align with her preference. Such constraints to the rapporteur's powers were mostly due to the structural organisation of the legislative process in the Parliament, and especially in its committees. Indeed, consumer interests were included in

Regulation 1169/2011 as a result of fellow MEPs submitting amendments to the Commission's proposal. Furthermore, it was also assessed that it was not necessarily Ms. Sommer's preferences but those of her political group that helped her report to be adopted in the committee and later the plenary. It was recalled in Hoff, Lelieveldt and van der Does (2016) that there is a 'median hypothesis' assuming that if a rapporteur's stance is closer to the committee's median position on a left-right spectrum of positions, the higher the success of that MEP's proposal in the committee and later the EP will be. As Ms. Sommer's stance, according to the authors forced by the EPP, shifted to the median position of her committee, her influence was very likely to more prominent, including but not limited to some of her own preferences (Hoff, Lelieveldt, & van der Does, 2016).

Considering the aforementioned:

Hypothesis 6 (H6): The preferences of the rapporteur(s) in a piece of legislation are included in the outcome of a policy if his/her/their position is closer to the median position of its committee and the EP on the issue.

c) Interest Groups

Interest groups play a critical function in democratic political systems, where the civil society's voice in policy-making is allegedly represented by various private organisations. Various interest groups, representing an array of interests, are at the heart of regulatory policy in the EU and more specifically audiovisual policy. Although the literature does not discuss the impact of interest groups in audiovisual policy, it assesses interest groups in EU policy overall, and some of the concepts and theories on the influence of large and small business interests will be outlined to answer this thesis' research question (Dür, 2008). In EU policy-making, business interests are very present, and large firms or group of firms act largely as political actors (Dür, 2008). As EU competences grew, and especially the Single Market was getting deeper over the years and Treaty revisions, as was the presence of businesses in Brussels. Furthermore, as much as there is a demand from interest groups to have access to EU actors, there is a demand from EU actors to have lobby groups on their side. Interest groups provide access to information, render some decisions more legitimate and inclusive of all stakeholders concerned, and support to the implementation of some policies (Beyers, Dür, & Wonka, 2018). It was also further argued that despite the fact that politics, in terms of parties, are less strong at the supranational than the national level, the interest groups

are more present and influential in Brussels than in any other EU capital city (Hix & Høyland, 2011).

Although the fact that interest groups are present on the EU scene is consensual amongst scholars, the extent to which interest groups impact and influence EU policymaking is debatable. Klüver et al. (2015) argued that this is due to the intricate nature of the EU multi-institutional and multi-level setting. This unstable context is the primary reason behind the argument that assessing the influence of interest groups is dependent on their individual characteristics, but also on the policy field and the context around which a proposal for said policy field is proposed (Klüver, Braun, & Beyers, 2015). According to Bouwen (2002), the size of a player mattered when attempting at influencing legislation, as larger companies will dispose of more financial resources to engage in their actions. This is especially the case when it comes to lobbying the EU, as its multi-level structure requires covering a great deal of stakeholders, from national representatives, to MEPs and Commission agents (Bouwen, 2002). Nevertheless, it was argued from Mahoney's empirical research that financial resources of an advocate did not explicitly correlate with the successes it might encounter when engaging in lobbying activities in the EU. Furthermore, although it is true that unelected public officials do not compete to be re-election, they might also be more immune to lobbyists' monetary incentives as they would not need their financial contribution to get said re-election (Mahoney, 2007; Dür, 2008). Indeed, smaller (groups of) businesses are not necessarily overpowered by the large firms. First of all, smaller groups can gather their resources to achieve political representation accordingly with what is called 'collective action', hence a great deal of smaller companies join European-level organisations. Such success was confirmed by Bouwen's own research (2002, p.383), as he established a framework in which he stipulated how much influence certain types of interest groups had in lobbying European actors. This framework is reproduced in Table 1. Overall, the Table shows that European associations, and their logic of collective action, create a better access to the all EU legislators. This is unlike large individual firms which struggle to gain access to the EP and the Council, despite their prominence in lobbying the Commission. Nevertheless, as collective action has proven to be an appealing form of lobbying, it is also undertaken by large firms pulling their greater resources together and falling ultimately into the category of 'European associations' of Table 1 (Bouwen, 2002).

Institution	Highest degree of access	Lower degree of access	Lowest degree of access
European Commission	Large individual firms	European associations	National associations
European Parliament	European associations	National associations	Large individual firms
Council of Ministers	National associations (national champions)	European associations	Large individual firms

Table 1. Degree of access to European institutions by interest groups (Bouwen, 2002, p. 383).

Furthermore, the influence of ‘non-large’ business interests, typically seeking at harmonising EU standards and countering the negative effects of the Single Market, was found prominent at the EU level by research. Yet, such influence was felt according to Dür et al. (2015) provided that interest groups set up strategies that challenge the unregulated status quo defended by larger firms. Indeed, the research outlined that the interests of smaller business interests are akin to those of some EU institutions, such as the EP and the Commission, wishing for policy change that usually do not correlate with the preferred policies of large firms (Dür, Bernhagen, & Marshall, 2015).

Having considered that the category of EU lobbying targeted is business interests, that such business interests may influence EU actors in various ways according to how they choose to be represented (ie. using collective action), and that such features also differ according to the preferences interest groups have (ie. promoting harmonisation), the aforementioned hypotheses are outlined:

Hypothesis 7 (H7): Business interest groups, gathered in a European-level group are more successful at lobbying EU legislation.

Hypothesis 8 (H8): Business interest groups favouring a change towards more harmonisation of a policy at the EU level are more successful at lobbying EU legislation.

This chapter has explored various theories and aspects of stakeholder involvement in EU legislation. Eight hypotheses were derived from these, and they shall be answered at a later stage. It shall be noted that the research brought forward solely represents a minuscule part of the overall

literature available on such stakeholders, as this paper will not cover in depth the stakeholders of this research's case study and audiovisual policy overall but attempt at encompassing their breadth.

Chapter 5. Research Design and Methodology

In this chapter, I shall outline the rationale behind choosing a research design method, congruence analysis, as the most suitable method to answer the research and sub-research questions of this thesis. This chapter will determine the dependent and independent variables. Afterwards, I will provide an explanation of which empirical data will be collected and how I will proceed in analysing it.

5. 1. Qualitative Research

According to Bryman (2012), a research using a quantitative strategy entails, amongst other characteristics, a deductive approach, seeks at testing theories, has a positivist outlook on epistemology and aspires at explaining objectively a social phenomenon. As studying EU phenomena is based on multi-level and multi-institutional factors, an analysis of European audiovisual policy and decision-making cannot only concentrate on one-size-fits-all theories but also consider the mid-range theories outlined in the previous chapter. The use of such theories is important as they fit better the analysis of EU policy within a policy field (Klüver, Braun, & Beyers, 2015). As this research question explicitly states that this thesis seeks to determine which theory better explains stakeholders' behaviour on European audiovisual regulation, it seems fitting that unlike quantitative models that ought to generate theories, qualitative research is the chosen strategy for this thesis. Furthermore, Bryman (2012) argued that when using quantitative analysis, it is frequently arduous to assess how the independent variable(s) influence the dependent variable. This thesis seeks at analysing causality between a dependent variable, the influence of different stakeholders in EU audiovisual regulation, and independent variables, being the influence of various national and supranational stakeholders, which were depicted in Chapter 4 and will be further outlined in Chapter 6. As a result, it does appear that using qualitative research will enhance the development of an analysis of causality. Finally, the feasibility of a quantitative analysis on this topic has to be taken into consideration, and ultimately dismissed for the time-frame and resources allocated to this research. To investigate in depth the dynamics and the salience of the various stakeholders in EU (audiovisual) policy and potentially elaborate a new theory on the matter, the amount of data required would be very difficult to obtain and process (Beyers, Dür, & Wonka, 2018), which leans us towards a qualitative framework.

5. 2. Case Study - Congruence Analysis

The use of case studies in a research is appropriate if the goal of said research is to demonstrate the ‘in-depth’ workings of a complex contemporary social phenomenon. Indeed, such method would permit the researcher to extract from an in-depth analysis of the case study the features of real-life events that would enhance our understanding of the policy field (Yin, 2009). Case studies have further been widely and successfully used in EU studies (Pahre, 2005). With the goal of this thesis being to scrutinise stakeholder involvement in the making of EU legislation in the lesser-explored field of audiovisual policy, it seems that using a case study research design fits this thesis’ objective. It is important to bear in mind that the use of a case study research design to test hypotheses will not allow my findings to be generalisable to populations, and might have rather biased outcomes (Blatter & Haverland, 2014).

In a case study research design, two models can be used. The first one is a co-variational research design, requiring the researcher to compare a minimum of two cases. This research design will not be used in this thesis as I am not interested in one independent variable, but in analysing the influence of multiple stakeholders. Furthermore, as the field of supranational audiovisual policy has less literature and overall policies, there are not many measures that can be compared in a co-variational study design. This leaves me with congruence analysis, as I will draw congruence between the observations within the single case study and theories (Blatter & Haverland, 2014). According to Blatter and Haverland (2014), congruence analysis is a small-N research design where “the researcher uses case studies to provide empirical evidence for the explanatory relevance or relative strength of one theoretical approach in comparison to other theoretical approaches” (p. 144). Within this design, one can either develop an approach where theories compete each other, or one where theories would complement each other. This research chooses a complementary theories approach, which considers the use of theories more as a basis for a more wholesome comprehension of the world. Besides, it seems more fitting based on the conclusion drawn by my literature review, which can be summarised in the fact that there is not enough research done already on supranational audiovisual regulation. Therefore, studying the competing theories on this matter is irrelevant, as the literature is just not wide enough to have theories competing. Seeking at evaluating the extent to which mid-range theories would explain the behaviour of stakeholders in EU audiovisual policy would already be satisfying enough and a solid foundation

upon which further theories could be elaborated in the literature field of audiovisual policy. Such research design also implicates that I have to, from mid-range theories, to draw specific hypotheses to be tested with empirical observations (Blatter & Haverland, 2014).

5. 3. Case Selection

Within a qualitative analysis, scholars have pointed out that the use of case studies would be specifically interesting to analyse the dynamics at play between stakeholders during a policymaking process (Beyers, Dür, & Wonka, 2018). This research's case study is the increase in the promotion of European works on on-demand services within the revised AVMSD, which has been extensively defined within the first two chapters of this thesis. Choosing this case study, which is on a new legislation, is challenging, as I have not found a single piece of literature on the matter since the revised AVMSD was adopted in November 2018, yet this is also understandable as it is a recent legislation. The literature during the revision process is also extremely weak, with less than ten articles found on the AVMSD, and almost none on the promotion of European works at the supranational level itself. Most sources I obtained are based on reports especially from public bodies, such as the EAO. Therefore, the fact that I am choosing the promotion of European works within the revised AVMSD, a widely under-studied field, provides my research with internal validity, since I will be creating knowledge in this field. Internal validity is further strengthened with the use of a single case study with a small sample, making my findings more focused and hopefully more certain. When creating the hypotheses, the most relevant theories to assess the behaviour of stakeholders were chosen from some of the most-recognised academics in their field of study, such as Bouwen and Dür in the study of interest groups. With those processes, I hope to achieve a high-level result, answering the sub-question of this thesis with the use of congruence between the theories and the data (Blatter & Haverland, 2014).

I believe that choosing the revision of the AVMSD, which operated over the course of around 5 years, between the first formal wishes of stakeholders to reform it in 2013 to the final vote and adoption into EU law in 2018, is a rather short timeframe. Yet, I do not seek to analyse the opinions of national and EU stakeholders of audiovisual policy over time, unlike Sabatier's (1987) vision of political research as used first and foremost to have an outlook on social phenomena over time. The research seeks at assessing how, for what is seen as the most important legislation in this

policy area, power dynamics were at play between the various stakeholders. Therefore, having such timespan makes sense for the purpose of this research.

Considering the potential external validity of this thesis, it appears that this paper has both strengths and weaknesses to be generalised beyond explaining theoretical dominance (Blatter & Haverland, 2014). On one hand, the application of these theories on stakeholder involvement could be useful to analyse other EU regulatory policy fields that emerged with the creation of the Single Market as explained in the literature review and the fact that audiovisual policy is a glaring example of the interventionist versus liberal conception of European integration on regulatory matters. For instance, the findings of this research could be applied to other regulatory policy fields (such as consumer protection policy), and shall similar stakeholders have the same influence on the policy outcome the external validity of this research could be strengthened. On the other hand, one could consider European audiovisual policy being a very specific policy field, that displays dominance of a set of stakeholders (such as interventionist member states in audiovisual policy) whom otherwise would not adopt such a position on other regulatory matters, and therefore the results of this research may not be applicable to other regulatory EU policy areas.

5. 4. Independent and Dependent Variables: Data Collection

As the hypotheses have been formulated in Chapter 4 of this thesis, empirical data will be used to test them. Within case study research, multiple methods and sources are used to collect data for each subject of study, in our case, the stakeholders involved in the revision of the AVMSD. Amongst those methods, the observation of archival records is one of the most common ones (Yin, 2009). As outlined in the previous chapters of this thesis, one of the central tenants of this research is the EU, its institutions, member states, and related stakeholders. Therefore, the first group of data that will be used to answer the hypotheses are EU documents, especially the answers to the consultation in 2015 on the revision of the AVMSD. This public consultation was part of the Commission's Better Regulation Framework, a programme aimed at making sure EU laws are fit for a certain purpose and meet the needs of the most stakeholders. It also included a great variety of stakeholders coming from all corners of Europe, such as public bodies, companies and European-level representative platforms or associations. The various versions of the revised AVMSD throughout the legislative process, from the Commission's proposal to the final text, will

also be considered. In order to analyse further member states' position on the matter, I shall look into various news articles, from reliable and relatively neutral sources on EU events such as POLITICO.eu, the Financial Times or EurActiv, in the revision period of the AVMSD, between 2014 and 2018. Such sources will also be useful to depict the position of interest groups, as well as observing the statements pan-European unions have all published on their views on the revision of the AVMSD. A great deal of the data will also be sourced from the EAO, one of the only organisations collecting data in the different member states on the promotion of European works online. Moreover, compared to other EU studies, my research is overall qualitative yet comprises some quantitative evidence, therefore will not exactly fit the labels employed in methodological analysis (Pahre, 2005). Indeed, in testing hypotheses, such as H5, some quantitative features will be used, including the division of votes within political groups in the EP, mostly coming from the databases Votewatch.eu and LobbyFacts.eu. Finally, it would have been ideal to get further insight on the negotiations that unfolded between the various stakeholders, such as the discussions in the Council or in Committee negotiations. Unfortunately, no minutes and very few individual statements are publicly released, which signifies that sometimes I shall suggest the preference of a stakeholder rather than assess it with certainty.

It is important to justify some of the choices that have been operated when choosing the stakeholders and according data that will be used to test the hypotheses. On the topic of member states, the Netherlands and Spain have been chosen to test the first hypothesis. The choice of the Netherlands is due to its smaller size yet tough opposition to the European works quota on on-demand services. Finland, the Czech Republic and Ireland, which exhibit similar features and altogether voted against the text could have also been chosen, yet the fact that I reside in the Netherlands, also the country where the world's biggest VOD service Netflix has its European headquarters seemed fitting. Spain was chosen for its size and support for the text. The alternative with such characteristics would have been Italy, yet I speak Spanish and deemed it as an advantage when diving into the academic and media coverage of the case study. Although having participated in the relevant Council meetings and answered to the Consultation, the Netherlands and Spain did not exhibit, whether it is with official statements or media articles, much more interest in the revised AVMSD than the other member states. On the contrary, the positions of France and the UK have taken the spotlight throughout the revision process, as both member states have always

exhibited a high interest in influencing regulation of the audiovisual sector at the European level, as outlined in Chapters 3 and 4. The aforementioned explains why they have been chosen to test the second hypothesis, as their historical opposition on audiovisual matters also reflects the two main theories of European integration described in previous chapters. They also exhibit similar features in voting weight in the Council, which makes their comparison more relevant. When it comes to supranational actors, the Commission, European Parliament, and rapporteurs were necessary picks due to their formal role in the legislation process under the OLP. Moreover, within the subsection depicting the various votes within the EP's groups, it was clear to choose the ECR as the political group with the biggest defection amongst those who decided to support the text. The analysis of ALDE as the main group with defection in voting against the proposal was chosen over GUE-NGL due to their higher rate of defection despite a higher amount of voting MEPs. Besides, the results of the Non-Attached Members will not be studied as their number is rather small (18 of them voted on the revision of the AVMSD), and they cannot hold political group preferences. In order to fully answer the research question, and taking into account time and resource constraints, the last set of stakeholders analysed all belong to the audiovisual business. The focus on this type of interest group was operated as the literature does not describe other types of interest groups, such as NGOs, as being influent in this policy field. The interest groups chosen all hold relevance to H7 and H8. Finally, I decided not to include and discuss features that relate to the current political situation in the EU around the UK's process to exit the Union, also called 'Brexit'. Some assessed that this event might have simply pushed European stakeholders to act more promptly on this legislative matter due to the uncertainty Brexit cast upon the Union (Stupp, 2016). Yet the main reason why it was not as impactful is summed up by a publication from the UK Parliament, stating that in the event of Brexit the rules of the AVMSD on the promotion of European works would still be applicable to them as signatories of the ECTT (www.parliament.uk, 2018).

Having justified my choices for this research, it is also admissible that shall it would have been operated by someone else, the results might have been different, as for instance the member states chosen could have been ones on which the hypothesis can be tested and that I do not speak the language of. As a researcher, I attempted at making rational decisions within the timeframe and

resources that were allocated so the most relevant contribution to the European audiovisual policy field would be operated in this research.

Chapter 6. Analysis and discussion of the case study - the promotion of European works on on-demand services within the revised AVMSD

In this chapter, an analysis of the influence of various types of stakeholders on the promotion of European works on non-linear audiovisual media services within the AVMSD will be performed. This will be done firstly by assessing the influence of key member states and the balance of power in the Council of the EU. Secondly, the influence of various supranational actors will be depicted: the Commission, the European Parliament and interest groups belonging to the audiovisual industry lobbying at the EU level. Due to the secrecy of negotiations at this level, influence will be measured by comparing the position of a stakeholder on a legislation with its outcome. Within each sub-part of the stakeholder analysis, the according hypotheses will be tested in relation to the data found in the case study.

	Quotas	Amount
<i>Member States</i>		
France	Yes	40%
United Kingdom	No	0%
Netherlands	No	0%
Spain	Yes	30%
<i>Supranational actors</i>		
European Commission	Yes	20%
European Parliament	Yes	30%
Lobbies (foreign) digital Industry	No	0%
Lobbies (European) cinema Industry	Yes	30% up to 40% after 3 years of AVMSD application

Table 2. Position of the relevant stakeholders discussed in Chapter 6 on the European works quota on on-demand services within the revised-AVMSD

6. 1. Key member states

In this section of the Chapter, we will look at the national legal framework of significant member states in the promotion of European works on on-demand services. For each member state, their

position on the promotion of European works within the AVMSD before the Commission proposal was released will be outlined through their answers in the Consultation on the AVMSD in 2015, and various statements released by governments and / or the media. As outlined in the previous chapter, the member states that will be studied have been chosen due to their relevance and data in testing the hypotheses that relate to national stakeholders' involvement. Table 3. is a summary of the position of the chosen member states at the national and European level on quotas on VOD services within the AVMSD, which shall be detailed in the respective sub-sections allocated to these four member states.

Member state	National Policy	Position quotas within revised AVMSD
Netherlands	VOD services shall promote the production and access to European Works	Against
Spain	VOD catalogues must have at least 30% of their catalogues allocated to European Works	In favour of quotas, supporting the measure of 30% of European works
United Kingdom	No	Against
France	VOD catalogues must have 60% of their catalogue allocated to European works (50% in the first three years of application)	In favour of quotas that would match as much as possible their national policy

Table 3. National policy on the promotion of European Works on non-linear services and position on the creation of quotas of European works for non-linear services within the revised AVMSD. (source: (European Audiovisual Observatory, 2019; Gouvernement Français, 2015; UK Government, Department for Culture, Media and Sports, 2015; Ministry of Education, Culture and Science of the Netherlands, 2016; Gobierno de España, Ministerio de Educación, Cultura y Deporte, Ministerio de Industria, Energía y Turismo, 2016)).

a) The Netherlands

The Dutch specify in Article 3.29c of the Media Act that “VOD services shall promote the production of and access to European works” (European Audiovisual Observatory, 2019, p. 380). Yet, this provision does not bear any specific level of quota or enforcement mechanisms. In its response to the Consultation, the Government of the Netherlands strongly advocated against the

establishment of quotas for non-linear services, and even vouched for abolishing the present quotas on linear services, reflecting their national policy. Akin to the UK, the Netherlands believed that policies to promote the supply side should be the focus of policymakers (Ministry of Education, Culture and Science of the Netherlands, 2016, p. 3). The Netherlands further opposed the preliminary position of the Council in May 2017, including the 30% quota on European works (Council of the European Union, 2017), and held such position until the end of the legislative process. In a statement, the Netherlands justified their opposition to the text by declaring that the revised Directive was inappropriate when it comes to regulating video-sharing platforms and could result in negative effects of what they saw as “disproportionate administrative burden” (Council of the European Union, 2018).

b) Spain

Spain, through Article 5.2 of the Law on Audiovisual Communication, is one of the member states imposing one of the highest quotas in the promotion of European works for non-linear services. It sets to 30% the quota VOD providers must include in their catalogue (European Audiovisual Observatory, 2019, p. 221). In its answer to the public Consultation, Spain clearly stated that its position on European works within the revision of the AVMSD was similar to France’s – due to the high quotas the country imposes on VOD providers, they wished to have similar rules at the European level than the existing ones for linear services (which is the allocation of a majority of their transmission time to European works). This was to avoid, amongst other consequences, unfair competition from services established in other member states (Gobierno de España, Ministerio de Educación, Cultura y Deporte, Ministerio de Industria, Energía y Turismo, 2016). In the consultation, Spain did not explicitly outline the level of quota wished for, yet at a later stage of negotiations they expressed backing for a 30% quota in the promotion of European works within the revised AVMSD (Sánchez, 2017). Indeed, Spain’s then-Minister of Education, Culture and Sport Íñigo Méndez de Vigo praised such measure explaining that it was crucial to assure that contents with lower demand were also featured on non-linear audiovisual media services’ catalogues (euroefe.es, 2017).

c) The United Kingdom

The UK has no national policy, quotas or rules on the promotion of European works on non-linear services, and in comparison to France has not laid out many rules on audiovisual media policy in general (European Audiovisual Observatory, 2019, p. 258). This national policy was well-reflected in their vision of the revision of the AVMSD expressed during the consultation, as they voiced their disbelief in public intervention in the form of quotas. Unlike interventionist states that supported cultural quotas and potentially sanctions shall VOD providers failed to meet them, the UK Government further argued in the consultation that interventions on the supply side have proven to be more efficient, such as tax reliefs, and asserted that the EU should follow a similar path to promote European works (UK Government, Department for Culture, Media and Sports, 2015, pp. 23-27). This liberal vision of promoting European works through market forces clashed with the will of a dirigiste member state such as France to have the public force regulate the on-demand audiovisual sector. Moreover, the UK repeatedly sought alliances with other member states to avoid what they see as ‘cumbersome regulation’, as they addressed in 2016 with 9 fellow member states a letter to Vice-President Ansip calling for measures that would enhance digital platforms’ growth. Such mindset was well-reflected throughout their opposition to the AVMSD revision in setting quotas for on-demand services, which in their opinion did not ‘set free’ Europe’s entrepreneurship potential (UK Government, Department for Business, Innovation and Skills, 2016).

d) France

According to the EAO, France is the member state with the highest quota in the promotion of European works on non-linear media services. They stipulate, according to the Article 12 of Decree No. 2010-1379, that there must be at least 60% of European audiovisual works on VOD services’ catalogue (European Audiovisual Observatory, 2019, p. 246). According to the 2015 Consultation on the revision of the AVMSD, France called expressly for a harmonisation of rules on the promotion of European works across the EU. France saw the AVMSD as having two main purposes: promoting cultural diversity and safeguarding the economic competitiveness of the European audiovisual industry. France’s position at the European level on the issue aligned with its previous stances on other cultural and economic matters, especially in countering the hegemony of the US on the global film and TV industry. In 2014, France’s then-Minister of Economy Arnaud

Montebourg called for “European alliances [to compete with the] Anglo-Saxon offensive in culture and cinema” (Barbière, 2014). Going back to the AVMSD, the French outlined in their answer to the Consultation that they believed their quota system had greatly contributed to the development of the audiovisual industry in France, and wished to further such measures in Europe in imposing on-demand providers to allocate an ‘important’ (40%) part of their catalogues to European works. According to the French Government, besides answering the purpose of strengthening cultural diversity, a European quota on European works would prevent unfair competition from other member states that have more flexible legislation on the matter (Gouvernement Français, 2015, pp. 20-24). Such ambition from the French was the reason they assessed that the Commission’s original proposal, to set up a 20% quota, was a first step, yet did not go far enough (Barbière, 2016). Although such statement might have been released to take credit for the final outcome and avoiding the blame for not obtaining a higher quota that would match its national legislation, the French Minister of Culture at the time of the adoption of the text openly affirmed that the final outcome voted by the EP and the Council (30% quota) was the result of the French support to a higher quota than the one brought forward in the original Commission proposal (20%) (Représentation permanente de la France auprès de l’Union européenne, 2019).

e) General approach of the Council of the EU

In May 2017, member states through the Council issued their General approach on the Commission’s proposal. A majority of member states akin to the EP’s position agreed to raise European works quotas to 30% (Council of the European Union, 2017). Interinstitutional negotiations talks began afterwards and nine trilogue meetings occurred to reach an agreement on the revised AVMSD in June 2018 (European Parliament, 2019). Such meetings did not change the 30% quota on European works on non-linear services as it was included in the final legislative act, similar to what the EP and the Council individually adopted in April and May 2017 respectively. On November 6th 2018, ECOFIN voted on the text by qualified majority, which means that 15 countries and a total of 260 votes were required for the text to pass. In the first reading, the text, including the 30% quota on European works on on-demand services, was adopted with 21 member states voting in favour with a total of 78.5% votes (Council of the European Union, 2018).

This sub-section seeks at answering the first hypothesis of this research, H1, which stipulates that: *'bigger member states are more likely to obtain their preferred policy outcome at the supranational level'*. As explained in the research design, the Netherlands and Spain were chosen within the case study to assess this hypothesis by comparing their respective powers under QMV in the Council to the outcome of the AVMSD on European works quotas. The Netherlands is against the establishment of quotas on European works and represents 3.32% of the votes in the Council, and Spain, a country in favour of such quotas, accounts for 9.24% of the votes in the Council (European Parliament, 2014, p. 2). Spain factually has a stronger weight in the Council than the Netherlands. Considering the outcome of the AVMSD on the promotion of European works, it is much closer to Spain's original position than the Netherlands'. Indeed, Spain was in favour of a new supranational regulation for on-demand providers that would resemble the existing one for traditional broadcasters, and backed a 30% quota on European works. The new framework includes the same quota, and Spain voted in favour of such measure. As a result, the Netherlands did not get its preferred outcome (against the establishment of quotas), and constantly voted against the text. Considering this outcome, and also taking into account that the first two biggest member states of the Union, Germany and France, also voted in favour of the proposal, one would assess that the first hypothesis of this thesis is valid. Nevertheless, there is a considerable counter-example in this case that I have to consider, the UK, representing almost the same number of votes as France, and more than Spain, that did not obtain its preference in the Council. Such evidence prevents this research from confirming H1 as having consequential voting powers in the Council, such as the UK in the case of the AVMSD, does not indicate that a member state with such characteristics would certainly obtain its preferred policy outcome.

Hypothesis 2 of this research will be tested in this paragraph: *'member states with a higher stake in a regulatory policy proposal are more likely to obtain their preferred policy outcome at the supranational level provided that they meet the requirements of the 'two-level game''*. In order to test the hypothesis, the influence of both the UK and France to the final AVMSD outcome will be assessed based on their ability to meet the requirements of the 'two-level game' outlined in Chapter 4. From the previous chapters, it is clear that both the UK and France have had two competing visions on what the outcome of the promotion of European works on on-demand services within the revised AVMSD ought to be. Both can be seen as the member states having the highest

economic and cultural stake in this proposal: for instance, France's creative industry has for a long time feared American 'invasion' and 'unfair' practices from its neighbours. The UK's preference on the other side is to retain the status quo as they do not approve of the French 'fears' and welcome American firms and content as 'opportunities' for their economy. Therefore, the fiercest driver for change of the status quo towards more regulation and subsequent quotas was France. Considering the evidence, France seems to have played the game of the international level better than, for instance, the UK, in calling for measures that were already enforced domestically, and that are seemingly acceptable to its European partners (as the majority in the Council reached under QVM proves) and other relevant stakeholders. Eventually the outcome (30% quotas) was much closer to the ideal point of French position, being 50% quotas, rather than the UK that diametrically always opposed any form of quota. The UK did not manage to meet the requirements of the 'two-level' game as its proposals emerging from its domestic level against the use of quotas were not satisfactory to a proportion significant enough of its European partners at the international level. Evidence of the outcome of the AVMSD based on the case of the preferences France and the UK confirms H2.

6. 2. Supranational Actors

This section will outline the preferences of three European-level actors: the Commission, the European Parliament and interest groups. The first two were chosen due to their formal role in the legislative process, and within the EP workings of specific actors will be further outlined, such as the behaviour of MEPs and the preferences of rapporteurs. Finally, interest groups' preferences will be studied, all belonging to the audiovisual industry, making a division between the interest groups that opposed the European works quota, being mostly foreign digital businesses, and those that supported the measure, the European creative industries.

a) The Commission

One of the first mentions of the Commission's preferences in the revision of the AVMSD is from May 2015, when Gunther Oettinger, Commissioner for the Digital Economy, assessed that Europe needed its own digital supremacy to face markets such as the United States'. No clear measure in how to achieve this goal was advanced yet, but the Commissioner sent a clear message that the Digital Single Market would seek to protect European industries through regulation, not by

liberalising it even further as liberal member states such as the UK and the Netherlands might have hoped at this time (Barbière, 2015). The Commission also releases annual work plans assessing what its priorities are for the upcoming year (Kreppel & Oztas, 2017). The AVMSD revision was named for both 2016 and 2017 Work programmes, yet no specific mention on what the Commission believed the AVMSD should contain on the topic of European works was included (European Commission, 2015; European Commission, 2016).

Before the Commission released its proposal for the revision of the AVMSD, the Commission decided to launch a public consultation on the matter on which it later released its overall trends. In the report, the Commission assessed that most stakeholders backed the idea that the scope of application of the Directive should change in the face of the increase in non-linear services. Nevertheless, it further pointed out that there was “no clear consensus [...] on the promotion of European works” (European Commission, 2016, p. 2) among stakeholders. This dissensus, between interventionist and liberal states, and European creative industry and foreign digital services, is studied in the other sub-parts of this chapter. From the Consultation’s conclusions (European Commission, 2016), the Commission released in April 2016 a proposal for the revision of the AVMSD “in the view of changing market realities” (European Commission, 2016). Despite the lack of a common position from the stakeholders, the Commission decided in its proposal to include a 20% mandatory share of European works in on-demand services’ catalogues, as specified by Article 13(1) of the proposal for the revision of the AVMSD (European Commission, 2016).

In its proposal, it seems that the Commission backed the side of respondents to the Consultation that was in favour of setting quotas. Various Commissioners justified such measure in statements and interviews, such as Andrus Ansip, Vice-President for the Digital Single Market, declaring: “it [the need of a modern and fair audiovisual environment] means [...] extending certain obligations to platforms [...] to reach a level-playing field” (European Commission, 2016). Furthermore, Gunther Oettinger assessed that “the way we watch TV or videos may have changed, but our values don’t”, and highlighted that the vision of the Commission for this text sought to uphold the European value of cultural diversity while bringing opportunities for the European creative industry (European Commission, 2016). After the text was revised in interinstitutional talks and the quota substantially raised to 30%, the Commission seemed to welcome such measure, as

highlighted by the answers given in an interview by Mariya Gabriel, Commissioner for European digital economy and society. She acknowledged that cultural quotas were the answer to the content industry's digital challenges, by declaring that the 30% quota would "lead to a broader and more diverse offer for Europeans [...and...] have a positive impact on cultural diversity and bring more opportunities for European creators" (The Parliament Magazine, 2018). Looking at the Commission's position throughout the whole legislative process, from including a 20% quota in the legislative proposal to backing the 30% quota during interinstitutional talks, and how its representatives defended it, it seems that this supranational body had a preference for promoting European works on non-linear services through strict cultural quotas.

This first sub-section of the discussion of supranational actors will tackle the third hypothesis of this research outlining the following: *'the Commission uses its role as an agenda setter to strategically shape policies in accordance with its preferred outcome'*, by testing the preferences expressed by the Commission to the final outcome of the AVMSD on European works on VOD services. As outlined beforehand from Kreppel and Oztas (2017), despite being the EU's agenda setter, it remains uncertain to assess the pure paternity of Commission proposals. One of the best case scenarios in doing so is to look at the annual work plans of the Commission. In these, one of the first known preferences of the Commission was to have the DSM completed and the AVMSD voted before the end of its term. As the AVMSD is now enshrined in EU law, a first success on the Commission's achievement of its preferences is notable. Secondly, the Commission decided to launch the public consultation to get other stakeholders' positions on what the AVMSD ought to be. This gathering of crucial information allowed the Commission to determine what measures would be acceptable to the greatest number of decision-makers and other relevant stakeholders. The policy that was deemed most acceptable by the Commission incorporated quotas, which became *de facto* the Commission's preference. This measure was defended publicly by its members, such as Commissioners Ansip, Oettinger and Gabriel. From their statements and justifications for the quota measure, that seemed to them the best possible way to strengthen Europe's creative industry, it appears that by proposing a quota measure right at the beginning of the legislative process they ensured that later quotas would be incorporated in the AVMSD. Observing the data, it is clear the Commission strategically made use of its agenda setting powers through the use of the answers gathered during the Consultation -and possibly in informal talks,

which are not publicly available for me to assess- to release a proposal that would incorporate such answers accordingly with what became *de facto* the Commission's own preference. The third hypothesis is therefore confirmed. Nevertheless, it is important to bear in mind that shall the Commission would not have launched a public consultation, it would have probably had less information available to strategically shape a proposal that would be most acceptable by the stakeholders. Thus, the policy would have after the legislative process included less of the Commission's preferences and H3 would not have been valid.

b) The European Parliament

i. The European Parliament overall

In April 2017, the CULT committee released a report on the Commission's proposal which advanced a set of amendments on Article 13, the main of which being to increase the quota of promotion of European works on non-linear services' catalogues to 30% in Article 13(1). The report was adopted in April 2017 by the CULT committee with 17 votes in favour (mostly from the PPE, S&D, Greens), 9 against (ALDE, ECR, EFDD, GUE/NGL), and 4 abstaining (European Parliament, 2017). Unfortunately, only minutes recording the vote results are publicly available (European Parliament, 2017), and further insight on the content of the negotiations that brought such result on article 13(1) between CULT members could not be found. The adoption nonetheless opened the way for trilogues with the Council and Commission, which lasted for a year. Nine trilogue talks later, the text was agreed upon between co-deciders, still including the aforementioned 30% quota. It was firstly approved by the CULT committee in July 2018 with 19 votes in favour, 7 against and 2 abstentions, with MEPs retaining their original vote from April 2017, with the exception of now all S&D, EPP and Greens supporting the text (European Parliament, 2018). The revised Directive was later voted in first reading by the EP on October 2nd 2018, with 452 votes in favour, 132 against and 65 abstentions (Votewatch.eu, 2019).

The more specific results do not seem to appear on the EP's website, yet research on votewatch.eu (2019) enable us to outline how the political groups voted on this legislation. The EPP and the S&D were the parties with the most MEPs following party instructions, with respectively 98.4% and 93% of MEPs voting in favour of the text. In those parties, loyalty to the political group is evident, yet it can also be interpreted as a vote in favour of the national policy keeping in mind

that a majority (21) of member states approved the text. The Greens/EFA are the third group with the most coherence in voting instructions, with almost 80% of MEPs supporting the text. Nevertheless, national preferences can be spotted more specifically than the former groups, as among the 9 MEPs that voted against the text, some of which originate from member states that opposed the revised AVMSD in the Council when it was put to a vote, such as Bas Eickhout and Judith Sargentini, from the Netherlands, and Margrete Auken, from Denmark (Votewatch.eu, 2019).

Two of the lowest scores in party coherence on the revised AVMSD vote will be analysed. Firstly, ALDE, which in its majority opposed the revision of the AVMSD, with around 70% of the 66 ALDE MEPs voting against the text. This is coherent with the view of its MEPs in the media, with for instance Estonian MEP Yana Toom claiming that the proposed legislation “has turned into an instrument for destroying the competitive advantage of the Internet over linear television” (Plucinska, 2017). However, voting records also outline that around a third of ALDE’s members decided not to obstruct the text. Results on Votewatch.eu (2019) demonstrate that amongst MEPs who did not oppose the revised AVMSD, they are in majority (17 out of 19) from member states defending the European works quota, such as France, Spain, and Belgium. Finally, 33 ALDE MEPs, half of the MEPs voting from this group, defected from their member state position (33), which is higher than any of the other groups analysed (Votewatch.eu, 2019).

The second political group analysed is the ECR, which called its members to vote in favour of the text, a position that 62% of them followed. This lack of support for the common party position is partly explained by the makeup of the group, as British MEPs account for a quarter of the ECR. Indeed, all British MEPs voting on the text chose to abstain (although only 6 of these decided to vote), which is not consistent with their European group but with the opinions they voiced on the European works quota during the revision process of the AVMSD (Votewatch.eu, 2019). Daniel Dalton, British ECR MEP blamed the Commission for what he called “digital protectionism” and further added that the wishes of the viewers in terms of content should direct what VOD services put on their platforms, not supranational quotas (Banks, 2016). Besides the British, other MEPs decided not to support the text, yet despite some MEPs coming from countries that opposed the revised Directive in the Council, such as 4 MEPs coming from Czech Republic, Denmark, and

Finland, the remaining 9 MEPs voting against the text and the party line originate from countries that supported the AVMSD revision. Overall, it seems that there was greater support for the national preference than the party line, with 77% of ECR MEPs (40 out of 52) voting akin to their respective member state in the Council although 62% of MEPs supported ECR's voting instruction (Votewatch.eu, 2019).

With a bigger picture and smaller details of the AVMSD revision process in the EP in mind, I shall now look into H4, *'the European Parliament is more successful at including its preferences in policy outcomes when legislating on regulatory policies under co-decision procedure'*. As outlined in previous chapters, the extension of firstly the EU's scope of action to cultural matters and later the granting of co-decision procedure in such policy area enabled the EP to be on an equal footing with the Council in a great deal of supranational regulations. This is also the case for the revision of the AVMSD, which was adopted through the OLP. The EP itself made a few changes to the Commission's original proposal through the CULT committee report adopted in April 2017, including the increase from 20 to 30% of the European works quota in VOD platforms' catalogues. Despite some support in the Council to such quota, there were also oppositions to see such quota being set up. Looking at this evidence, one could argue that besides the will of the interventionist side in the Council, the support of the other co-decision body was crucial for some member states not to oppose the 30% quota right from the beginning of the Council deliberations in 2017. Possibly, shall the EP had left the quota at the level of the Commission's proposal, 20%, it would have been the one enshrined in the final text. Nevertheless, it was not, we can assess that the preferred outcome of the EP, the 30% quota, which was supported by Council members and appears in the final text, validates the fourth hypothesis of this research.

The fifth Hypothesis shall now be tested *'MEPs are more likely to influence a legislation in favour of their country's position in the Council if their national party participates in their country's government'*. Some conclusions validating the hypothesis can be drawn, especially when looking at the breakdown of votes of the MEPs of some political groups. The results of the EPP and S&D are less revealing, since most member states that voted in favour of the text comprise of governments that have their national party belonging to either the EPP, S&D, or both (such as Germany). The results of the Greens are also less relevant for the hypothesis, since they only

participated as minority parties in the Swedish and Luxemburgish governments. Hence, looking at the breakdown of votes from ALDE seems more interesting as they have the lowest level of loyalty for the national position. ALDE as a party opposed the AVMSD: out of the 19 MEPs coming from the 4 of the countries that opposed the AVMSD in the Council (excluding Ireland), 17 MEPs also voted against the measure. Within those 4 countries, all of them originate a national party that participated in their national government as a majority or a minority party at the time the AVMSD was voted. Besides, amongst MEPs that did not show loyalty to the party line and voted akin to their national government, in favour of the text, 10 out of 19 (the Belgian and French ALDE MEPs) also have their national party in government. The results from ALDE almost fully validate H5. The breakdown of the votes of the ECR, the political group with the most defection, is also revealing, as the main force behind the pro votes are the MEPs coming from Poland, a country that also voted in favour of the text in the Council and governed by the same party as the one Polish MEPs originate from. Nevertheless, the breakdown of ECR votes also reveals some inconsistencies, with for instance half German MEPs not following their national party line, although it belonged to the incumbent government. Multiple similar examples could be retrieved from the data. Finally, the majority of MEPs that did support the text belonged to the EPP, S&D, and Greens, and amongst them 80 to 98% of MEPs voted in line with the party's instructions, showing a high level of party loyalty, yet not necessarily in line with their governments. For the purpose of word count, not all votes can be depicted, yet we assess the example of Spanish EPP members, supporting the text despite their government being socialist, or Irish EPP members supporting the text against their own government belonging to the same national party. Therefore, the hypothesis could have been validated, as we find in the breakdown of the votes examples that prove a MEP's loyalty to a government in voting in favour or against the legislation, making them 'more likely' to follow such position. Yet, we also find great counter-evidence that shows that party loyalty in a number of cases or individual preferences trump the assumptions of the hypothesis. H5 thus cannot be confirmed.

ii. The co-rapporteurs of the text

The co-rapporteurs of the text were German MEPs Sabine Verheyen (EPP) and Petra Kammerevert. As outlined beforehand, the EP's CULT committee adopted in May 2017 a revised version of the Commission's proposal with a quota increase from 20% to 30% of European works,

mostly with the votes of both co-rapporteurs' EP groups. Looking at this fact, one can assume that both Ms. Verheyen and Kammerevert were in favour of more regulation of European Works on VOD platforms in the form of quotas. Yet, their original statements do not seem to validate such assumption. Ms. Kammerevert is quoted in a 2016 Euractiv piece as she expressed scepticism over the Commission's 2016 proposal over the instalment of a quota, that she saw only as a safety net which will not impact significantly the increase in the creation of European works (Stupp, 2016). A quote from Ms. Verheyen also appeared in the previous article, as she expressed an even more negative opinion on setting a strict quota for European works on VOD platforms, vouching for a flexible one to the discretion of member states (Stupp, 2016). The draft report on the AVMSD revision was discussed within the EP from summer 2016 onwards, with the co-rapporteurs both pointing out that there was a large scope of opinions within the CULT committee on the quota issue. These went from no quota at all, as defended by ALDE, to quotas matching the requirements for linear services, as vouched by the EPP, S&D and Greens. Ms. Verheyen and Kammerevert outlined in November 2016 that their mission would be to find a midway between such opinions (Van Hecke, 2016). Later, in a February 2017 opinion piece, Kammerevert argued that she still did not believe that setting a quota would necessarily result in an increase in the production of European content. Nevertheless, she also pointed out that following discussions in the EP, she believed that the set-up of a safety net that is attainable and would not be a burden for producers through a quota was the best compromise to bridge the aforementioned opinions (Kammerevert, 2017). Her opinion was supported the following day by the rapporteur of the JURI Committee on the AVMSD revision, EPP MEP Daniel Buda, who assessed that having more uniformity between linear and non-linear services was of great importance (Buda, 2017). The draft report including the 30% quota on European works on on-demand platforms was adopted by the CULT committee in April 2017, a success for both rapporteurs that fellow CULT committee members criticised. Indeed, Italian GUE-NGL MEP Curzio Maltese argued that the adoption of the report was the result of the preferences of the co-rapporteurs and the "iron pact" between the EPP and the S&D (Plucinska, 2017).

The co-rapporteurs went on defending the 30% quota measure during trilogue talks in the following months. No public record of negotiations between institutions is available to assess how the co-rapporteurs argued their case to other institutions. Nevertheless, both Ms. Verheyen and

Kammerevert later seemed satisfied with the interinstitutional agreement they brokered in April 2018 with the Council, even praising that the revised AVMSD would bring a new level-playing field between traditional media and VOD services (European Parliament, 2018). The rest of the process was outlined in the earlier sub-section, also pointing out that the three quarters of MEPs (342 out of 452) that approved the text during the first reading are from the EPP and S&D political groups that the co-rapporteurs allegedly represented the views of (Votewatch.eu, 2019).

Having analysed the stance of the co-rapporteurs on the matter, Hypothesis 6, *'the preferences of the rapporteur(s) in a piece of legislation are included in the outcome of a policy if his/her/their position is closer to the median position of its committee and the EP on the issue'*, can be evaluated. First of all, evidence from the various votes in the CULT committee and EP shows that a majority of MEPs in both settings were in favour of the revision of the AVMSD including 30% European works quotas on on-demand services. Such position can thus be assessed as being the median position of both the CULT committee and the EP. Secondly, the evidence validates H6, as the preferences of the co-rapporteurs before the votes was not in line with the median position stated beforehand, as one was opposing quotas overall and the other one was sceptical of them, which prevented them to obtain their preferred position in Committee negotiations. It is only slightly later in the legislative process, when the EP's proposal was voted within the CULT committee that Ms. Verheyen and Kammerevert decided that the final quota should be the measure taken at the EU level to protect and promote European culture, of which they called themselves 'absolute supporters' (Stupp, 2016). When such stance was taken by the co-rapporteurs, in line with the median position, it seems that their preference was included in the final legislation. H6 is as a result considered valid.

c) Interest Groups

The two opposing sets of interest groups outlined in this chapter are not divided according to their nature, as all the interest groups are in-house lobbyists and trade/business/professional associations at the European-level, belonging to the second section of registration on the EU Transparency Register (European Commission, 2019). The two set of interest groups that will be analysed here are characterised by their conflicting stance on the promotion of European works within the AVMSD, despite their common understanding of the necessity to promote and protect European

culture, stances that reflect the theoretical dichotomy explained earlier in this paper between liberalism and interventionism. The former takes the form in this case study of interest groups that represent (often foreign) digital and Internet industries adverse to quotas measures, believing that quotas are distorting the audiovisual market -which can allegedly self-regulate itself- and lowering the quality of the content within. The latter are interest groups representing the more ‘traditional’ European creative industries, such as filmmakers, which similarly to dirigiste member states believe that regulation overall and quotas in this case are a useful tool to rectify the audiovisual market’s distortions, especially in the face of American hegemony. It is important to notify that the absolute numbers given, such as the money allocated to lobbying and the number of meetings held with Commission officials, are complicated to compare with other lobbying activities in the EU. The level to which lobbying activity can be compared is sector-specific, and there are sadly no comprehensive studies on the impact of lobbying in the supranational audiovisual sector. Therefore, the following empirical evidence shall be compared to one another to test the theories of influence for this specific case study, and not to lobbying activity overall in the EU. The characteristics of the two conflicting lot of interest groups that will be analysed in this section are outlined in Table 4. Table 4 exhibits characteristics of main in-house lobbyists and trade/professional associations that tried to advance their interest on the issue of European works on on-demand services: their date of registration to the EU Transparency Register; the meetings those stakeholders held with Commission members on the revision of the AVMSD and/or the DSM between 2014 and 2018; the FTE lobbyists declared; and the last annual lobbying costs they have declared (half in 2018 and the other half in 2017).

	Registration to the EU Transparency Register	Meetings with the Commission on AVMSD / DSM since 2014	Full-time equivalent (FTE) lobbyists declared	Last annual lobbying costs (year)
<i>Interest groups against European works quotas on non-linear services</i>				
CCIA	September 2011	15	4	450,000€ (2017)
Netflix	February 2015	10	2.5	950,000€ (2018)
Total	n/a	25	6.5	1 400,000€
<i>Interest groups in favour of European works quotas on non-linear services</i>				
SAA	January 2010	5	3.5	350,000€ (2018)
FERA	September 2009	1	1.5	150,000€ (2017)
Total	n/a	6	5	500,000€

Table 4. Characteristics of interest groups classified as in-house lobbyists and trade/professional associations involved with the revision of the AVMSD on the topic of European works (Lobbyfacts.eu, 2019).

i. Interest groups representing (foreign) digital and Internet industries

Interest groups representing (in majority foreign) companies within the digital and internet industry oppose a strict quota of European works on non-linear audiovisual media services and do not want to change the status quo or the original AVMSD on the matter. The sheer interest from the digital and internet industry in influencing such regulation is especially explained in the new prominence of digital lobbying in Brussels, as it is now the first lobbying issue at the EU level. Such activity especially comes from American corporate interests, as over the past four years their share in EU-level lobbying rose from 25% to 50%, which amongst them count companies that oppose quotas within the revised AVMSD (Kergueno, 2018).

Amongst these, the most powerful in terms of the economic weight of the companies it represents is the Computer and Communications Industry Association (CCIA), originating from the US, and active in Brussels since 2010. It has belonged to the EU Transparency Register since September

2011 and represents the interests of various ‘tech giants’, the majority of them being American, such as Google, Facebook, Amazon, or the most relevant for this research, the streaming service Netflix (CCIA, 2019). As shown by Table 4, the CCIA spent in 2017 around 450,000€ to conduct its activities, and counted amongst its staff 4 full-time equivalent (FTE) lobbyists. The CCIA regularly meets with Commissioners, their staff and directorates-general to lobby the positions of its members on an array of issues, with 15 meetings recorded since 2015 on matters related to the AVMSD and the DSM (LobbyFacts.eu, 2019). The CCIA answered to the 2015 Consultation and argued against quotas promoting European works on non-linear services, as in their opinion the market was already creating such conditions since the European audiovisual had been steadily growing since the beginning of the century (CCIA, 2015). When the Commission released its proposal for the revision of the AVMSD, CCIA Europe VP James Waterworth expressed its disagreement by calling cultural strict quotas as ‘outdated’ and ‘unnecessary’ (Greenfield, 2016). In order to support its statements, the CCIA commissioned a report to the Communications Chamber on the Commission’s legislative proposal for the revision of the AVMSD. Besides other issues, such report dismissed all the claims from the Commission arguing that there is a need to, in the Commission’s words, create a ‘level-playing field’ between linear and non-linear services in efforts to promote European works. The report assessed that linear services remained greatly dominant on the European market and putting both services at the same level would result in an unfair competitive advantage for the former. Furthermore, the report’s authors determined that setting quotas across the EU might harm the consumer, as a VOD service could refuse to establish itself within the Union to avoid what they see as constraining measures. The report finally concluded that the rationale behind revising the AVMSD was flawed, and the consequences of implementing such revisions would have several negative consequences for the European creative industry (Kenny & Suter, 2016). Following the release of the positions on the Commission’s proposal of the Parliament and the Council in 2017, the CCIA and similar organisations published an open letter calling to reconsider during trilogues the EP and Council’s position on the promotion of European works on non-linear services, with measures that the CCIA and its peers saw as “disproportionately burdensome for on-demand operators” and having the potential to “create a significant entry barrier to the EU internal market” (CCIA, DIGITALEUROPE, EDiMA, EMOTA, EuroISPA, 2017). Waterworth further expressed its disagreement with the Parliament and Council’s position, calling it “vague and unworkable” (Robinson, 2017).

Amongst CCIA members, the most vocal and mediatised opponent to the quota on the promotion of European works on on-demand providers is the VOD service Netflix, an American company with its European headquarter in Amsterdam. Netflix calls itself “the world’s leading internet entertainment service” (Netflix, 2019), and joined the EU Transparency Register in February 2015. Since then, it went from 1 lobbyist declared to 2.5 FTE in 2019 and from spending in its European lobbying activities around 450,000€ to a 950,000€ within the same time span (LobbyFacts.eu, 2019). Netflix representatives also reportedly met between 2015 and 2018 ten times with agents of the European Commission, such as Vice-President Andrus Ansip, their cabinet members or directors-general, on the topic of the revision of the AVMSD and or the DSM (European Union, 2019). Netflix was the only VOD provider to answer in 2015 to the public consultation. Its comments on the promotion of European works were about keeping the status quo, opposing any sort of legislation seeking at regulating on-demand platforms. It saw the instalment of quotas as a measure with the potential to disrupt its business model where the consumer is free to personalise its preferences of content, whether such preferences are European or international. Netflix also feared that such quota would only increase investment in lower-quality European works, as providers would want to reach the target at the lowest cost possible. It believed in measures that are oriented towards the supply side of the industry and would incentivise companies to invest in European works, such as tax cuts across Europe for producers (Netflix, 2015). Finally, Netflix summarized its position by assessing a preference towards an approach where its services “gain more freedom to decide how they contribute to the development of high-quality European content without being stifled by quota [...] rules” (Netflix, 2015, p. 18), which according to the firm went hand in hand with the increase of its own European content (Banks, 2016). Netflix further publicly defended its position in multiple media sources with for instance Netflix’s then-director of global public policy assessing that “Quotas are frustrating for us [Netflix] because there is no real evidence to show that they work [, as they] divert investment away from high-quality European films and series that can attract a global audience” (Robinson & Murgia, 2017).

ii. Interest groups representing ‘traditional’ European creative industries

In opposition to the aforementioned stakeholders, two of the most prominent interest groups vouching for the establishment of quotas of European works on on-demand services will be

outlined here. Those interest groups originate from what is called the ‘European content industry’, which refers to the stakeholders that own and produce audiovisual content in Europe. They often side together on matters such as the AVMSD revision, and advocate that they “represent the most important community of television and film professionals in Europe” (FERA, 2018).

The first and most important in terms of resources of this set of interest groups is the Society of Audiovisual Authors (SAA)⁴, an association founded in 2010 seeking at representing audiovisual authors which joined the EU Transparency Register in January 2010. Since 2014, the SAA has met 5 times with the Commission on matters relating to the revised AVMSD and spent in 2018 350,000€ to conduct its activities. It now has 3.5 FTE lobbyists (LobbyFacts.eu, 2019). In its answer to the 2015 consultation, the SAA expressed concern for ‘forum shopping’ practices⁵, resulting in an unfair competition between member states and the companies within, and a fear of domination from companies originating from the US. The SAA called for an EU harmonisation in measures promoting European works on non-linear services, by transposing the current provisions for linear services (50% quota) to on-demand platforms and making them mandatory in all EU member states (SAA, 2015). The SAA indeed wished the scope of the Directive to apply to the most services which display audiovisual works (Banks, 2016). After the Commission’s proposal was published, the SAA deemed the 20% minimum quota of the catalogue obligation in Art 13(1) as too low if the aim of the revised AVMSD was to create a level-playing field with traditional broadcasters, whose obligation was of 50%. The SAA called for the European works quota to be raised to a minimum of 30% to mirror the reality of a few member states’ national legislation. They further suggested such quota to “be raised to 40% after three years of implementation of the revised Directive” (SAA, 2016, p. 6). Before trilogues began, the SAA called upon the Council and the EP to be more ‘ambitious’, with the Chair of the SAA board of Directors Barbara Hayes advocating that the SAA’s recommended increase of quotas on on-demand services were vital to Europe’s audiovisual sector (SAA, 2016).

⁴ The SAA has 29 members in 22 countries and are in charge of the “rights for over 120,000 film, television and multimedia European screenwriters and directors” (SAA, 2016).

⁵ ‘Forum shopping’ is a colloquial term used in this case to outline a practice where a VOD provider would set its activity in a member state with a more favourable business environment (such as tax cuts) (Gouvernement Français, 2015).

The second important interest group defending the establishment of quotas was the Federation of European Film Directors (FERA)⁶, describing itself as “the only organisation representing film & TV directors at the European level” (FERA, 2019). FERA has been a part of the EU Transparency Register since September 2009. It has met since 2015 once with the Commission on matters touching upon the DSM and invested in 2017 around 150,000€ to pay for its European lobbying activities. FERA had as of 2019 1.5 FTE lobbyists (LobbyFacts.eu, 2019). FERA’s answer to the public consultation was in all points related to the promotion of European works similar to the opinion of the SAA, as it voiced concern over forum shopping practices and aspired to reinforce the current framework by making the current provision for linear services mandatory in all member states for non-linear ones, too (FERA, 2015).

With the stance of the stakeholders expressed, Hypothesis 7, *‘Business interest groups, gathered in a European-level group are more successful at lobbying EU legislation’*, can be tested by comparing the characteristic of being a European-level group, seen according to Bouwen’s framework in Table 1 as overall the most successful type of interest group in lobbying EU institutions, with the influence on the final outcome of the AVMSD. Unlike the SAA and FERA, both European-level associations, Netflix as a firm did not manage to obtain its preferred policy outcome, which leans me towards validating the hypothesis. Yet, Netflix was also represented through the CCIA, a European-level group. Looking at the preferences of the competing European-level groups, the CCIA versus the SAA and FERA, it seems that the former did not manage to include its preferences in the legislative outcome of the AVMSD. Indeed, it did not manage to successfully lobby for its preferred position, which was keeping the then-status quo. The SAA and FERA were however successful in achieving their preferred policy outcome, as shown by Table 2. Nevertheless, the lack of success of this hypothesis observing the preferences of the CCIA does not permit to fully validate H7. Furthermore, due to the lack of data on how those interest groups lobbied the relevant European actors (for instance, the content of the negotiations during meetings

⁶ FERA comprises of 43 directors associations originating from 33 countries promoting the interests of over 20,000 European filmmakers (FERA, 2019).

with the Commission), it would remain complicated to validate H7 due to the lack of evidence in causality.

Lastly, when testing Hypothesis 8 '*Business interest groups favouring a change towards more harmonisation of a policy at the EU level are more successful at lobbying EU legislation*', with the outcome of the AVMSD, I would assess that H8 is confirmed. The second set of interest groups, those in favour European works quota on non-linear services, were the most successful in lobbying EU legislation. Indeed, the SAA and FERA managed to achieve a policy outcome that was closer to their preferred position, which was achieving at least a 30% quota. H8 suggests that they were able to have such outcome as a result of their wish to change in the status quo, supporting other stakeholders (interventionist member states, the Commission and the EP), rather than their opponents such as Netflix and the CCIA, which were in favour of keeping the status quo. In this case, it seems that in line with the opinion of other stakeholders, the fact that European creative industries wished for a new European regulation seems to be the feature that mattered the most in influencing the final legislation, which further validates H8. It is however important to point out that shall less key decision-makers, such as the dirigiste member states and the EP, would have been against harmonisation in this policy field, the influence of interest groups such as the SAA and FERA would have probably been diminished.

Hypothesis	Confirmed	Not confirmed
H1: Bigger member states are more likely to obtain their preferred policy outcome at the supranational level.		X
H2: Member states with a higher stake in a regulatory policy proposal are more likely to obtain their preferred policy outcome at the supranational level provided that they meet the requirements of the ‘two-level game’.	X	
H3: The Commission uses its role as an agenda setter to strategically shape policies in accordance with its preferred outcome.	X	
H4: The European Parliament is more successful at including its preferences in policy outcomes when legislating on regulatory policies under co-decision procedure.	X	
H5: MEPs are more likely to influence a legislation in favour of their country’s position in the Council if their national party participates in their country’s government.		X
H6: The preferences of the rapporteur(s) in a piece of legislation are included in the outcome of a policy if his/her/their position is closer to the median position of its committee and the EP on the issue.	X	
H7: Business interest groups, gathered in a European-level group are more successful at lobbying EU legislation.		X
H8: Business interest groups favouring a change towards more harmonisation of a policy at the EU level are more successful at lobbying EU legislation.	X	

Table 5. Results of testing the hypotheses with the empirical observations.

Chapter 7. Conclusions

The final chapter of this thesis shall summarise the study by further looking into the findings of the thesis to answer the research question presented at the beginning of the thesis. Besides, this seventh chapter will contemplate the main limitations encountered during the research in collecting data and provide some recommendations that shall hopefully be useful to future researchers of supranational audiovisual policy.

7. 1. Answer to the research question and findings

The research question of this thesis was: *To what extent have different stakeholders influenced the increase of the promotion of European works on on-demand platforms within the revision of the EU's Audiovisual Media Services Directive (AVMSD)?*, followed by a sub-question that would allow me to use a congruence analysis research design: *Which theory better explains the influence of different stakeholders in audiovisual regulation?*

To answer the research question, the literature on audiovisual regulation at the EU level was assessed, as well as the theories around national and supranational stakeholder involvement at the EU level. From such theories, 8 hypotheses were formulated and tested against various forms of data, mainly qualitative, derived from this research's case study: the increase of the promotion of European works on on-demand platforms within the revised AVMSD. Five out of eight hypotheses were confirmed, assessing the importance of the following assessments in achieving outcomes at the European level that reflect a stakeholders' preference: being a member state that meets the requirements of the 'two-level game' (H2); as the Commission strategically shaping policies that reflect its own preference (H3); as the EP legislating under co-decision rules (H4); as a rapporteur on a legislative proposal at the EP having a position as close as possible to the median position of the committee and the EP (H6); and finally as a business interest group being in favour of a change from the status quo towards more harmonisation at the EU level (H8). Such features, applied to our case study, explain for most stakeholders the outcome in the measure promoting European works on on-demand platforms within the AVMSD. The implications for supranational audiovisual policy-making outline that when the Directive was revised, a form of protectionism driven by several stakeholders was at play in the EU, which prompted actors that were in favour of the strict quota to be more influential in the outcome of the legislation.

The implications for the sub-research question and the theories used are tougher to assess, as in a different case study probably the theories and hypotheses derived from them would have produced a different outcome. Considering the hypotheses, it seems that mid-range theories derived both from intergovernmentalist and supranational perspectives have the potential to explain the behaviour of stakeholders at the supranational level in audiovisual policy. I suppose then that the sub-research question, and consequently the overall research question, in order to be answered requires the complementarity between the two perspectives on European integration.

7. 2. Limitations and recommendations for further research

The main limitation of this thesis, already mentioned at various points in this thesis was the lack of available and recent literature on the topic of audiovisual regulation at the EU level. Indeed, the literature review relied heavily on a few academics, and the theories explored in the theoretical framework had not been applied to field of supranational audiovisual regulation. More than anything else, there needs to be more contemporary scholars studying the workings of this policy field within the greater context of EU integration, similar to the work of Collins (1994). Having observed this, I thus chose to continue on researching on this topic, especially as it had a great potential of scientific relevance considering the novelty of the legislation studied. As outlined earlier, the research focused on the breadth of stakeholders influencing the outcome of the AVMSD on a peculiar topic and not the depth of each stakeholder's involvement. Such focus explains why most theories studied are briefly outlined and not profoundly explained. Nevertheless, I hope that this thesis has managed to encompass a great variety of stakeholders and laid out a solid foundation on each of the stakeholders to later be analysed maybe individually and more specifically in further research. For instance, an upcoming research on the sole role of groups in the European Parliament in influencing audiovisual policy could be performed with a more in-depth account of the dynamics at play between all the political groups. Furthermore, strengthening of the according theories in the future would be useful to render the three unsuccessful hypotheses valid. For instance, more research on the strength of member states in the Council depending on their demography would validate H1 provided that member states with more voting weight shall manage to get their preferred outcome when they pose the threat of forming a blocking minority. Furthermore, hypothesis five might me more conclusive on a topic at a time where there is a

significant divergence between the ruling national parties in government in the Council and the MEPs elected to the EP. Overall, a greater academic focus on the stakeholders of this supranational policy field, audiovisual policymaking, as it was studied in the literature review, would potentially be useful for understanding in the future European integration as a whole.

As this thesis sought to assess whether or not stakeholders managed to get their preferences on the promotion of European works on on-demand services incorporated in the revised AVMSD, the next step for this study would be to assess how. Yet, the inner workings of all the stakeholders studied do not, for the time-being, permit us to assess with certainty the root of such policies. There is clearly not enough transparency at the national and supranational level into the negotiations that took place within and between the relevant bodies to achieve such outcome. It would have been interesting to know why Sweden, seemingly strongly opposing European works quotas in the first place, decided in the end to support the text when it was voted in the Council. Likewise, it would have been relevant for this study to know from the Commission's side why they decided to set the agenda on a quota measure despite a great deal of stakeholders in the Consultation wishing for quotas not to be settled in the revised AVMSD proposal. Such list could be longer, and shows how the lack of transparency from the relevant stakeholders harms our understanding of audiovisual supranational regulation. I suggest that more actions towards increased transparency at the EU level ought to be set in motion. When feasible, minutes of meetings between Council members must be public. A similar recommendation is made to meetings between members of a parliamentary committee, especially taking into account that the EP is the only directly elected body and therefore shall be more accountable to the European people.

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