

SVoD in Europe and the Americas: A Comparative Approach to Regulatory Regimes

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This article aims to shed light on the regulation of subscription video-on-demand (SVoD) services from a comparative perspective, taking existing regulatory regimes as a point of departure. This comparison focuses specifically on how measures related to content quotas and financial obligations are interpreted and operationalized in relation to SVoD services in European and American audiovisual markets. It is argued that even though regulation of SVoD services is still in its infancy in Europe and the Americas, the portrayal presented already reveals fragmented and dissimilar regulatory responses with few commonalities, although there is significant alignment with existing audiovisual regimes. The principal finding is that a new jurisdictional scope is on the table with the possibility of imposing obligations on players legally based in other territories.

Keywords: European Union, USA, Canada, Latin America, audiovisual services, financial obligations, quotas

This article aims to shed light on the regulation of subscription video-on-demand (SVoD) services from a comparative perspective, taking existing regulatory regimes as a point of departure. This comparison focuses specifically on measures related to content quotas and financial obligations for SVoD services in major European and American audiovisual markets, that is, Germany, the United Kingdom, France, Italy, and Spain, on one hand, and the United States, Canada, Mexico, Brazil, and Argentina, on the other. The main research questions are as follows:

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R1: How are SVoD services being regulated in selected countries on both sides of the Atlantic, in general, and in relation to content quotas and financial obligations, in particular?

R2: Are decisions in line with existing regulatory regimes comprising audiovisual services or not, and why?

The relevance of this enquiry is underscored by the fact that, although video-on-demand (VoD) services, particularly SVoD options,² still represent a small segment of the audiovisual market in Europe and the Americas, their growth in recent years has been significant (Grece, 2022). This situation has provoked myriad reactions at the political and business levels, some of which have prompted regulatory changes across the world (Lobato, 2019).

For instance, the inclusion of domestic works in catalogs and the presence or absence of a level playing field related to investment obligations have been central to most critical debates. These debates have translated into regulatory issues, such as the implementation (or not) of content quotas and financial obligations for SVoD providers. While not new, these mechanisms have long been used globally to address audiovisual market failures (Doyle, 2002).

Although subject to limitations, quotas and financial obligations have been praised for their advantages, such as providing more visibility and protection for domestic works, while being criticized, for example, for impacting operating costs and quality. Evidence about the efficiency of these types of measures is inconclusive, scant, scattered, "mixed," and, therefore, debatable (see, e.g., Broughton Micova, 2013).

Discussions about prominence and discoverability measures as mechanisms to promote diversity also exist and have grown in importance (Lobato & Scarlata, 2022), but regulation has been advanced solely in Europe since this issue has only been addressed superficially in the other territories within the scope of this article. In Latin America, few projects included prominence provisions, and in Canada, existing regulation broadly refers to the matter, but implementation has yet to be defined. For this reason, without denying the importance of prominence and discoverability issues in the audiovisual regulatory domain, the analysis focuses only on content quotas and investment obligations.

In line with studies that have examined the regulation of SVoD services in different territories (e.g., Baladron & Rivero, 2019; Cunningham & Eklund, 2022; García Leiva & Albornoz, 2021), the analysis presented here seeks to contribute to research on this matter and to complement investigations focused on

² VoD refers to any industrial offering of audiovisual works made available for consumption on demand on request. Distributed by different means, streaming has emerged as an increasingly popular way of providing such service which can, in turn, be financed using different formulas. These are notably advertising and direct payment either for individual contents or for unlimited access to catalogs. Since the provision of VoD has evolved into complex revenue models, with multiple revenue streams, the following terms are used to describe different types of VoD services: SVoD (subscription video-on-demand), AVoD (advertising video-on-demand), BVoD (broadcaster video-on-demand) and TVoD (transaction video-on-demand).

other segments of audiovisual industries in Europe and the Americas (e.g., Matei, Rebillard, & Rochelandet, 2021) thanks to the comparative approach selected.

The countries chosen are valuable not only because they constitute major audiovisual markets in Europe and the Americas (for market data, see, e.g., Entidad de Gestión de Derechos de los Productores Audiovisuales [EGEDA], 2023; Schneeberger, 2024) but also because they represent a range of diverse regulatory approaches to the audiovisual sector, as will be explained.³ The European vs. American comparison is also relevant because some of these markets are often mutually viewed as exemplary. Furthermore, European and North American developments are of interest to Latin American countries because of the past proven influence on media policy and regulation (see, e.g., Rossato, 2023).

After a brief explanation of the conceptual and analytical framework used, detailing sources and methods, the article describes existing audiovisual regulatory regimes on both continents to spotlight how SVoD services are regulated (or not). In this context, content quotas and financial obligation measures are compared by examining selected case studies. Reflection is made on how these align with regulatory regimes before concluding that alignment certainly takes place, albeit with fragmented and dissimilar responses. Finally, we wrap up the article with insights for further discussion.

This text is indebted to the tradition of studies dedicated to media regulation and policy within the critical political economy of communication research paradigm, focusing on the audiovisual sector and the configuration of regulatory regimes in this domain. At the same time, it connects with debates on the regulation of convergence and platforms in the field of digital media (Poell, Nieborg, & Duffy, 2022; Puppis, Mansell, & Van den Bulk, 2024), arguing that the reflections advanced here might contribute to the study of patterns of continuity and change in audiovisual regulation (Hesmondhalgh, 2019).

Conceptual and Analytical Framework

The key concept of this article is the “regulatory regime.” Unlike the notion of “media regime,” which can be defined as a relatively stable set of institutions, norms, processes, and actors that shape the expectations and practices of information producers and consumers (Delli Carpini & Williams, 2020, p. 408), a regulatory regime is a means for achieving regulatory goals (Hood, Rothstein, & Baldwin, 2001). According to May (2007), it is composed of “an institutional structure and assignment of responsibilities for carrying out regulatory actions” (p. 9). This structure is organized around four elements: rules that prescribe behaviors, standards that function as benchmarks against which compliance is measured, mechanisms for determining regulatory compliance, and sanctions. The author notes that “given the variety of ways that rules and standards can be crafted and responsibilities for actions can be assigned, there is no definitive categorization of regulatory regimes” (May, 2007, p. 9; for an introductory literature discussion, see

³ Despite no longer being an EU Member State, the United Kingdom is included in the analysis not only because it had to implement EU legislation during the Brexit transition period, such as the AVMSD, but also because in the case of this very specific norm, quota obligations for European works include those produced by countries like the United Kingdom that participate in the European Convention on Transfrontier Television.

Maggetti & Ewert, 2018). In fact, the term “regulation” is a metaphor to describe an assumption of authority over the media (Schejter, 2018).

Having said that, and considering that regulation occurs within a specific framework of values and principles (Matei et al., 2021), this article argues—albeit in a simplified manner—that two opposing audiovisual regulatory regimes can be identified on the two sides of the Atlantic examined here: market-led versus socially responsible. They are grounded in two distinct normative views: *laissez-faire* and interventionism. These views are not new in the history of media regulation (Schejter, 2018) and must also be understood in connection to different conceptions of technology and economics. In other words, they intersect with other views, ranging from technological optimism to pessimism and from economic protectionism to free competition.

Market-led regimes emphasize individual freedom of choice, arguing that people are better served by companies operating under no regulatory constraints to leverage the opportunities that digital technologies present, which is why the state should not intervene in crafting specific rules. The main principle behind this type of regime is *laissez-faire*, *laissez-passer*, and it tends to connect with technologically neutral or optimistic perspectives. Although scholarship underlines that in the first 15 years of this century, most Latin American governments prompted media reforms aligned with the socially responsible approach (see Gómez, 2022), the outcome is that Latin American and U.S. audiovisual regimes can be framed as predominantly market-led (e.g., Kitzberger & Schuliaquer, 2022; Lotz, Potter, & Johnson, 2022).

On the contrary, socially responsible regimes put the public interest at the center, holding that service providers have obligations to society and should leverage technological development as long as citizens’ rights are not undermined. State direct intervention is not excluded if this aim is not achieved by light or co-regulation and if certain types of services/contents need safeguarding (e.g., public service offerings). Socially responsible regimes tend to connect with technologically pessimistic perspectives. The Canadian and European approaches fall into the socially responsible categorization (e.g., Cunningham & Eklund, 2022; Ranaivoson, Broughton, & Raats, 2023).

This framework is employed in the following sections to portray audiovisual regulatory regimes in relation to SVoD services in Europe and the Americas. Empirically, a qualitative regulatory analysis is carried out, which relies primarily on a critical bibliographic and document review that examines a wide range of texts. Apart from legal documents, these texts include studies, white papers, official and specialized media reports, and academic publications. To provide an interpretation of particular issues and cases, a legal analysis approach is especially important (Milosavljević & Poler, 2019). Document analysis, in turn, offers an efficient and cost-effective means of accessing debates, although it poses limitations (Karppinen & Moe, 2019). This article attempts to overcome these limitations by placing research within the context of broader legal aspects and their historical evolution.

Legal Background and Audiovisual Regimes

Europe

Audiovisual markets across Europe differ in the way they are regulated. Nevertheless, of those that are part of the European Union (EU), the so-called Audiovisual Media Services Directive (AVMSD; Directive 2018/1808) is of great importance as a cornerstone of media regulation in the EU, coordinating national legislation on goals such as the preservation of cultural diversity. The AVMSD characterizes audiovisual services on demand as “non-linear audiovisual media services,” which offer programs to the general public under the editorial responsibility of a media service provider. These services aim to inform, entertain, or educate users, allowing them to view content at their chosen time based on a catalog selected by the provider. For the latter provider, the Directive contains obligations and recommendations on the promotion of European works in the form of quotas and financial contributions.

This regulation, affecting VoD services in general and SVoDs in particular, can be attributed not only to supranational debates at the European level but also to the positioning taken by countries such as Germany and France, which, in the mid-2010s, were pioneers in imposing financial obligations on VoD service providers—whether they were established in the country or not (García Leiva & Albornoz, 2021). Before and beyond the amendment of the AVMSD in 2018, the so-called “Netflix tax,” as well as the investments in and inclusion of original domestic/European content in SVoD service providers’ catalogs, raised concerns and fed interventionism within a context where European industry players faced increasing pressure (Donders et al., 2018) and the AVMSD was praised as a tool for better protecting users while supporting cultural diversity.

Latin America

The regulation of SVoDs in Latin America must be understood using pay TV services as a legal precedent. While in Mexico and Brazil pay TV is framed as a telecommunications service, in Argentina it used to be considered an audiovisual service until 2015 when it was reclassified as an ICT. This is why in Argentina, VoD has been exempted from complying with most of the content promotion obligations and concentration rules in the current audiovisual law.

In Brazil, the 12.485 Conditional Access Services Law (SeAC), passed in 2011, includes a series of obligations for pay TV providers (must-carry rules, content quotas, investment obligations, and cross-ownership rules, among others; Bizberge, 2020). Although the SeAC Law does not directly regulate SVoDs, ANCINE—the National Film Agency, the body in charge of enforcing its provisions in the areas of programming and bundling—defined VoD as a service offering audiovisual works in the form of a catalog for consumption at a time determined by the end user.

This definition has been at the heart of discussions about whether VoD providers should contribute funding for audiovisual production. In fact, specific debates on the regulation of SVoD providers in Brazil originated in 2015 with a broad set of recommendations by ANCINE, which, after various public consultation processes, narrowed its scope to ensure that these actors contributed to the national audiovisual fund

(Bizberge, 2020). Currently, ANCINE's focus is on four areas: taxation to sustain audiovisual funds, rules to ensure the circulation and availability of Brazilian works in the catalogs, provision of information about their composition, and approval of the obligation to register with the agency (Agencia Nacional de Cine [ANCINE], 2022). These discussions have coincided with attempts to update the SeAC Law on ownership, must-carry, taxation, and quota rules.

In Mexico, the enactment of the Federal Telecommunications and Broadcasting Law (FTRL) in 2014 did not include provisions on digital audiovisual services. In fact, neither before nor after the 2013 constitutional reform that led to this norm has there been a decision to regulate content on existing pay TV services (cable or satellite TV). Rather, a hands-off approach has prevailed, to date. The Federal Telecommunications Institute (IFT), the convergent regulator created in 2013, has considered it unnecessary to regulate online audiovisual services, citing low broadband penetration and browsing quality in the country, as well as the insufficient competitive pressure that SVoDs exert on the audiovisual sector (Bizberge, 2020).

In sum, the three Latin American countries considered implemented important regulatory reforms in the early 2010s that addressed traditional players by allowing telecom companies to offer audiovisual services while deliberately excluding SVoD providers whose services were in a take-off phase (Bizberge, 2020). Audiovisual regimes were thus inclined toward a market-led approach.

This explains why, so far, the only regulation in place for VoD providers in the region refers to taxation. Between 2017 and 2020, there was the first wave of legislative tax reforms in Latin America. The three countries considered here amended their Tax Acts to extend VAT to all digital services (see Table 1). A second stream of decisions took place when legislative projects emerged in Latin America after the EU's AVMSD was passed in 2018. Inspired by the European Commission, they pursued implementation of targeted obligations, including quotas, financial contributions to national audiovisual funds, registration and information obligations, and, to a lesser extent, discoverability measures. However, none of these became a reality. A third "middle-road" wave of reactions has been observed since 2020, enshrined in heterogeneous national and local initiatives, such as plans, programs, and regulations of a financial nature. Both Argentina and Mexico have put in place national tax incentive measures through tax credits and tax refunds.

At the national level, Argentinian Law 27.570/2020 promotes tax incentives for the production of audiovisual content, which could be beneficial for VoD providers and domestic content producers. In Mexico, the incentives designed for the national audiovisual industry range from those granted by the "Pro Audiovisual Fund"—created to stimulate large-scale international productions with a tax credit incentive of up to 7.5% of total eligible expenses incurred and billed in Mexico—to the VAT refund for all audiovisual productions made in Mexico whose primary commercial exploitation is outside the country (Saura, 2021, p. 38).

Canada and the United States

In Canada, discussions to reform the 1991 Broadcasting Act and regulate video streaming service providers had their starting point in the Broadcasting and Telecommunications Legislative Review convened in 2018, as well as in a report submitted by a panel of experts in 2020. Among other aspects, the report

stated the need for SVoD providers and platforms to contribute to the production of Canadian content (Cunningham & Eklund, 2022).

Under this premise, the government introduced a bill that was withdrawn after strong criticism and, after some modifications, was reintroduced as Bill-C11 in February 2022. The bill, also known as the Online Streaming Act, became law on April 27, 2023, extending the obligations on traditional media content providers to the so-called "online undertakings" for the transmission or retransmission of programs over the Internet. The bill also increased the powers of the regulator, the Canadian Radio-television and Telecommunications Commission (CRTC). Among other responsibilities, the CRTC was to set the content quotas and the percentage of investment obligations for audiovisual providers. In June 2024, after detailed consultations and public hearings, the CRTC ruled on investment obligations for foreign streaming services. This interventionism, on the grounds of diversity and protectionism, contrasts with U.S. hands-off audiovisual regulation.

In the United States, there are no national laws specifically regulating VoD services. The most important precedents date back to the Telecommunications Act of 1996—which deregulated markets, created a new regulatory environment that lifted cross-media ownership, and fostered the convergence of broadcasters, telecom companies, and cable TV providers (Picard, Davies, Papandrea, & Park, 2016)—and the Cable Television Consumer Protection and Competition Act of 1992, which established *ex ante* regulatory obligations on multichannel video programming distributors. Both of the aforementioned could be considered predecessors of SVoD providers.

Although there have been many ups and downs in the regulation of VoD services, with a major court battle between the Federal Communications Commission (FCC) and various market players, the only rules partially addressing audiovisual on demand are the Federal Communications Open Internet Order (2015), the FCC Restoring Internet Freedom (2018), and the Promoting Competition in the American Economy decree (2021). In other words, the main regulations for VoD services have been linked to the principles of net neutrality and nondiscrimination as applied to forms of expression, types of content, and conditions of access to services.

In line with a tradition that relies on competition law and a privileged market position that has made protectionist measures unnecessary (Lotz et al., 2022), it is possible to affirm, following Bullich and Guignard (2016), that the United States has built a regulatory regime based not on the nature of the content or resulting practices but on the technical specifications of broadcasting/distribution conditions. As a consequence, it is the only country among those studied here that has not enacted or even discussed specific legislation for SVoD (see Table 1).

**Table 1. SVoD Regulation in Europe and the Americas
Key Regulatory Aspects in Selected Countries (2024–State Level).**

Country	Main regulator	Main legislation
<i>United States</i>	FCC	-
<i>Canada</i>	CRTC	Bill C-11 (2023).
<i>Mexico</i>	IFT	VAT Law: extended to online audiovisual services (16%). Pro Audiovisual Fund, VAT refund. Local cash rebate programs.
<i>Brazil</i>	ANCINE	Federal Complementary Law No. 157/2016 set a 2%–5% range for service tax (% applicable according to each municipality). Suspended by the Supreme Court in 2018. Local cash rebate programs.
<i>Argentina</i>	Enacom	Tax Reform Law 27.430/2017 extended VAT to digital services (21%); modified by Law 27.541/2019 to create an additional tax called PAIS (Tax for an Inclusive and Supportive Argentina, 8%). AFIP Resolution 5232/2022: 45% tax for expenditures with foreign currency. Promotion of the Knowledge Economy Law 27.570/2020
<i>United Kingdom</i>	Ofcom	Audiovisual Media Services Regulations (2020) Media Act (2024)
<i>Germany</i>	Die Medienanstalten	Interstate Media Treaty (2020); Cinema Promotion Act (2016, 2021)
<i>France</i>	Arcom	Ordinance n° 1642 (2020); Decree n° 793 (2021)
<i>Italy</i>	AGCOM	IOE Decree n° 47 (2021); Legislative Decree n° 208 (2021)
<i>Spain</i>	CNMC	General Law on Audiovisual Communication 13/2022

Source: own elaboration.

Emerging Regulation for SVoD: Content Quotas and Financial Obligations

As can be deduced from the previous section, many decisions made within socially responsible regimes and discussed within market-led frameworks have been oriented toward promoting domestic

content, either through restricting markets to foreign capital or by promoting local producers who are at a competitive disadvantage. Of the set of protection measures for domestic markets, two are taken as references because of their relevance to SVoD: content quotas and financial obligations.

As explained, the European countries reviewed here regulate SVoD services under the umbrella of the AVMSD. What does this norm, updated in 2018, say about content quotas and financial obligations for VoDs? For this type of service, obligations may take the form of direct investments in producing and/or acquiring rights to European works, or they may involve levies payable to a fund. This is a voluntary measure that leaves open the possibility of countries imposing contributions on providers, even if they are established in a different EU member state (as long as they target those countries' national audiences)—something ruled out until 2018.

In addition, the Directive obliges providers to secure at least a 30% share of European works in their catalogs and to ensure the prominence of these works. The latter is a key specification that aims to ease the discovery of works in a scenario of services offering thousands of titles. Nevertheless, because "prominence" remains a rather loosely defined term in the AVMSD, little progress has been made at the national level.

In other words, the AVMSD aims to harmonize principles, but it leaves a good deal of leeway for its transposition and implementation. This is why we can observe significantly divergent outcomes in selected countries (Ranaivoson et al., 2023). The latest report on the implementation of the rules for the promotion of European works reveals a scenario that is quite fragmented and widely varied (European Commission, 2024).

In the Americas, three different scenarios have emerged. While the United States presents no specific regulation on obligations for SVoDs, Canada has embraced measures that approximate those in Europe, aiming to protect its market through both quota establishment and the promotion of the Canadian audiovisual industry and extending—with the inherent differences—the regulatory logic for broadcasting to SVoD services. In Latin America, decisions have been kept at the tax level because of the difficulties in reaching a consensus to approve norms and build policies. Audiovisual producers, who historically opposed state intervention, now lukewarmly demand protection and incentives. Nevertheless, no reforms involving quotas or fees for the promotion of production have crystallized to date, and taxes imposed (basically VAT) have been passed on to consumers.

Further details follow below and are summarized in Table 2.

Content Quotas

Because of the obligation in Article 13 of the AVMSD, all European countries considered here require a minimum of 30% share of European works in the catalogs of VoD services under their

jurisdiction, together with a general prominence obligation⁴. France is the only one imposing a higher quota of 60%. Unlike the United Kingdom and Germany, France, Italy, and Spain also have established specific sub quotas for independent productions and domestic works, with the latter defined by language in France and Spain.

Apart from imposing a higher quota for European works, France mandates a sub-quota of 40% for original French-language works. Both obligations apply to feature films. Spain also mandates a share of original language works: At least half of the general quota (15%) must be reserved for works in Spanish or any of the official languages of Autonomous Communities. In any case, within this sub-quota, at least 40% must be reserved for works in some of the official languages of the Autonomous Communities, considering their population weight and reserving, with a minimum of 10% allocated to each.

The peculiarity of the Italian case is that a 50% sub-quota is required for works of "Italian original expression" produced anywhere by independent producers. This sub-quota allows a wide range of options for defining these works, not strictly based on language, but potentially including references to places, history, culture, and identity. In addition, one-fifth of the 30% general quota (3%) must be fulfilled with cinematographic works.

This heterogeneity of national rules, which adds to the complexity of the AVMSD when transposed and implemented, is key to understanding regulation in Europe.⁵ As of July 2024, there has been no comprehensive study available assessing the impact of these provisions on national markets.

As explained above, no content quotas exist in the United States, and even though the Canadian Bill C-11 includes provisions applied to catalogs, percentages have yet been defined. This task has been left to the CRTC, and the details of the obligation will be determined based on public audiences and the regulator's views, all of which remain to be seen. In the Latin American countries considered here, there have only been projects under discussion, and although a project is not the same as a law, it is argued that reviewing the former helps highlight the configuration of regulatory regimes and regulatory influences.

Between 2018 and 2019, at least two legal initiatives were unsuccessfully discussed in Argentina, aiming for a share of Argentinian works in catalogs ranging from 10% to 25%. The most recently submitted bills, in August and December 2022, originated, respectively, from a minoritarian fraction of the governing party (congressmen from the Frente de Todos) and the civil society (the Espacio Nacional Audiovisual platform that entails the professional bodies of directors, scriptwriters and producers). The former foresees a minimum share of 20% for domestic works, with at least half produced or co-produced by independent producers and at least half consisting of content whose commercial release is no more than two years old. The latter aims at a 35% quota of Argentinian works on different screens (theaters, pay TV, and online VoD services, among others). Such works must be produced by Argentinian producers who are not associated

⁴ The calculation of the share of European works in catalogs and the definition of exemptions are outlined in the Communication from the Commission 2020/C 223/03, C/2020/4291.

⁵ For legal detail, visit the European Audiovisual Observatory's tracking table dedicated to the implementation of the AVMSD.

with the corresponding exhibitor or any company in the exhibitor's economic interest group. It is also established that 75% of this quota must be for commercial release, with a minimum age of two years. Another provision is that VoDs (as well as traditional providers) must produce at least 20 hours of domestic audiovisual production to premiere.

In Brazil, initial discussions contemplated implementing a 20% share of Brazilian works in catalogs—with half being from independent producers—and mandating investments in independent Brazilian productions directly or via commissioning (Bizberge, 2020). Nevertheless, the debates moved toward discussing contributions to be collected by an audiovisual fund. In parallel, in the framework of public consultations conducted for the reform of the SeAC Law, references to the need for extending existing production quota obligations for pay TV to VoD players emerged (Ministerio das Comunicações, 2021). In April 2024, the initiative 2331/2022 that set tiered content quotas for video streaming providers was partially enacted in Congress, passing the Senate. However, the issue was dropped from the parliamentary agenda.

Two bills were proposed in Mexico between 2020 and 2021, which aimed to establish content quotas in VoD catalogs. In March 2020, the Senate Commission on Finance and Public Credit, together with the Legislative Studies Commission, approved a project to oblige SVoD providers to guarantee a 30% share of Mexican works in their catalogs. The COVID-19 pandemic put the discussion on hold, and it has not been taken up again (TMG, 2021). In March 2021, the Morena party senator Ricardo Monreal presented an initiative—which he later withdrew—to reform the Federal Film and Audiovisual Law to require SVoD providers to include a 15% share of national works in their catalogs. The draft bill also stated that the works had to be made by national producers who were not controlled by a digital platform. The project generated resistance from different sectors and for diverse reasons, which pointed to the fact that quotas would further strengthen the dominant position of traditional TV operators, Televisa, and TV Azteca, and would reduce public support for the audiovisual sector. Furthermore, the initiative would violate the United States-Mexico-Canada Agreement (USMCA), also known as NAFTA 2.0.

Financial Obligations

Among the selected European countries, different obligations can be identified for VoD services (Kostovska et al., 2022), including direct investment in production (Italy), a levy payable to a fund (Germany), both of these (France), or a choice between them (Spain). In all four cases, both VoD providers established in the country or any other member state, but targeting the countries' audiences, must comply. In the United Kingdom, there are no obligations of this type for VoD services. Again, as with content quotas, there is an additional layer of national rules adding complexity to the matter, with no comprehensive assessment of the impact of these obligations on national markets as yet.

In Germany, VoD providers are subject to a film levy paid to the German Federal Film Board, an institution that collects contributions from other players (broadcasters, cinemas, etc.) to develop support measures. The levy ranges between 1.8% and 2.5%, and its calculation is based on the annual turnover from the net sales of cinema films in the country. Italy has one of the highest rates of direct investment obligations in Europe, requiring investment in the production and rights acquisition of European works or in

the share and/or prominence of such works in the catalogs of VoD services. All investments must be made in independent productions—via purchase, prepurchase, production, or co-production—and are calculated based on a percentage of the VoD service's annual net revenue in Italy: 20% from January 1, 2024, onward. At least 50% of this investment must be reserved for works of Italian original expression. A minimum of 20% of this sub-requirement, in turn, is reserved for cinematographic works of Italian origin (including works of fiction, animation, or documentaries).

In Spain, where a choice can be made between direct investment in European works—through mechanisms such as the (pre-) financing of works or the acquisition of exploitation rights of finished works, and/or a contribution to the fund for the Protection of Cinematography or to the Fund for the promotion of cinematography and audiovisual in co-official languages other than Spanish—specific sub-requirements have been deployed. Whereas VoD public service providers must allocate 6% of their annual income, commercial providers with an annual income of more than 50 million euros must earmark a 5% share to comply with the funding of European works, dedicating at least 70% of the investment to works by independent producers and at least 40% to cinematographic films by independent producers—in both cases in Spanish or any of the official languages of the Autonomous Communities. Within the mentioned 70%, at least 30% of the works must be directed or created exclusively by women, and at least 15% of the works must be in the official languages of the Autonomous Communities. VoD providers with an annual income between 10 and 50 million euros must earmark 5% of their income to comply with the obligation. The only requirement is that they dedicate at least 70% of the investment to works by independent producers in Spanish or in any of the official languages of the Autonomous Communities.

France has cumulative obligations, with different sub-requirements, rooted in a history of regulations “that aim to ensure support of independent production as well as to prevent concentration of the contribution on large-budget works and popular genres” (Kostovska et al., 2022, p. 62). Regulation refers to both contributions to a levy and direct investments. With respect to the former, 5.15% of the early net turnover (going up to 15% if the service includes work of a pornographic or violent nature), calculated on the sums collected by the exploitation of cinematographic or audiovisual works, must be paid to the National Center of Cinema and the Moving Image (CNC).⁶

About direct investment, VoD providers must dedicate 15% of their early net turnover to European works, with at least 12% devoted to original French-language productions. The obligation goes up to 20% if the provider offers SVoD services (and to 25% if at least one film per year within a period of less than 12 months after its release in France is offered). Investment can take the form of acquisition, production, or co-production. The proportion of cinematographic and audiovisual works that can fulfill this obligation—to be represented in no less than 20% of the total contribution—is established in an agreement between each provider and the regulator. In addition, part of this obligation must be spent on independent production (three-quarters for films and two-thirds for audiovisual productions).

⁶ This obligation to pay a levy exists for different audiovisual players and was extended to VoD providers, in fact, in 2004, whether or not they are established in France.

As with quotas, there are no financial obligations for VoD providers in the United States, and the implementation of such obligations lies within the CRTC in Canada, where the law allows for direct and indirect contributions to support Canadian audiovisual works. The CRTC has decided to impose requirements on online streaming services that generate \$25 million or more in annual revenues, requiring them to contribute 5% of their Canadian revenues to support the Canadian broadcasting system starting in the 2024–25 year. These contributions will be directed to areas such as local news on radio and television, French-language content, Indigenous content, and content created by and for equity-deserving groups, among others. Unlike Argentina and Brazil, in Mexico, debates on this front have not even been put forward.

Regulatory projects discussed in Argentina included different ways to promote and secure access to contents, as well as to oblige global and large national SVoD providers to contribute to a fund to promote the audiovisual sector (ranging from 3% to 6% of their turnover). In Brazil, the High Council of Cinema (Consejo Superior de Cine [CSC]) has been unsuccessfully working on several proposals since 2018 to regulate the collection of a tax called CONDECINE VoD to sustain an existing audiovisual fund (Fondo del Sector Audiovisual) dedicated to the promotion of the Brazilian audiovisual industry. More recently, an initiative obliging SVoD providers, content-sharing platforms, and broadcasters' streaming services to pay taxes (up to 3% of their revenues) to said audiovisual fund was approved in the Senate in April 2024 (initiative 2331/2022). However, this project has not moved forward in Congress.

Table 2. SVoD Regulation in Europe and the Americas: Content and Financial Obligations (Selected Countries–2024).

	Europe	Americas
<i>Content quotas</i>	Supranational shared obligation. Minimum 30% share for European works. Existence of sub-quotas (Spain, Italy) and/or higher shares (France).	Only in Canada (% up to CRTC). Discussed in Argentina, Mexico and Brazil (share ranging 15%–30%).
<i>Financial obligations</i>	Not at the supranational level (optional) At the national level in France, Spain, Italy, and Germany (some include sub-requirements).	Only in Canada (5% of revenue to support the broadcasting system). In Brazil and Argentina (2020 and 2022 proposals, respectively).

Source: own elaboration.

A Wide Range of Responses but Few Changes

Having reviewed SVoD regulations in selected countries on both sides of the Atlantic, specifically in relation to content quotas and financial obligations, this section discusses whether decisions align with existing audiovisual regulatory regimes, reflecting on the matter of regulatory influences.

In the United States, the long-standing guiding principle for regulating audiovisual services has been that of the distributing technology. At the same time, the United States supports the World Trade

Organization agenda, which attempts to assimilate audiovisual services with any other kind of service. Thus, in the absence of specific regulations, the market implemented the main responses to the challenges posed by SVoD services, presenting no changes whatsoever to the audiovisual regulatory regime in place, particularly in a context where large content-producing conglomerates have moved from cable TV to the creation of SVoD services since 2019 (Lotz et al., 2022).

However, it should be noted that there has been a growing legal dispute over the size and market power of these players, especially in the antitrust arena. Since President Biden took office, both the FCC and the Federal Trade Commission have become more active in seeking to limit anti-competitive positions. In any case, it should be kept in mind that the United States deployed intense diplomatic efforts to secure markets for U.S.-based SVoDs globally, negotiating in international fora digital trade rules and new standards for digital economic activity that do not hinder the global expansion of U.S. companies (Vlassis, 2021).

Against this backdrop, the Canadian defense of the principle of cultural exemption related to VoD services in general, and SVoDs in particular, must be highlighted. This connects with a strong tradition of cultural protection, reflected historically in international debates on news flows and nationally in the Broadcasting Act, which includes mechanisms for the protection and promotion of Canadian content. Bill C-11 extended the scope of these provisions to SVoD services, aligning decisions with the socially responsible audiovisual regulatory regime in place.

Concerning the Latin American countries studied, where discussions accelerated between 2015 and 2018, no single model can be defined (Baladron & Rivero, 2019). Even though international influences can be observed, few decisions have crystallized. On the one hand, there are tax measures in place based on existing legislation (Argentina and Mexico), while on the other hand, there are proposals that aim to raise contributions to be reinvested in the promotion of domestic audiovisual industries (with ongoing debates in Brazil and Argentina). While the latter would be close to the interventionist Canadian approach, which, in turn, has commonalities with that of some European countries, it moves away from the U.S. approach, which avoids state intervention. However, this position is clearly consolidated in Mexico, where there is a non-interventionist approach for SVoD services based on a supposedly leveled competitive situation between national and international players in the VoD market.

In Europe, the EU amendment of the AVMSD represents a step forward toward the harmonization of provisions to regulate VoD service providers and can only be understood in light of the long-standing EU audiovisual regulatory regime, prone to intervention under certain conditions. Nevertheless, because of the nonmandatory and even vague nature of its provisions (e.g., financial contributions and prominence guarantee, respectively), the actual potential of AVMSD is limited and primarily relies on the will of member states to truly build a socially responsible regime. The divergent implementation examples analyzed here point to very different national approaches that once again suggest the conflict between economic liberals and cultural policy-oriented *dirigistes* that has long shaped audiovisual policy in the region (Gibbons & Humphreys, 2012), among other existing frictions.

Even though regulation of SVoD services is still in its infancy in Europe and the Americas, the portrayal presented here already shows fragmented and dissimilar regulatory responses with few commonalities, though there is significant alignment with existing audiovisual regimes. With all due caution, a characterization of such responses is presented here and summarized in Table 3, aiming to contribute to further reflection on a much-needed taxonomy of regulatory regimes.

Table 3. SVoD Regulation in Europe and the Americas: Characterization in Selected Countries (2024).

Country	Characterization
<i>United States</i>	Laissez-faire approach, competition driven
<i>Canada</i>	Interventionism, cultural exemption oriented
<i>Mexico</i>	Laissez-faire approach, liberal orientation
<i>Brazil</i>	Unclear approach, polarized orientations
<i>Argentina</i>	Unclear approach, polarized orientations
<i>United Kingdom</i>	Light-touch approach, competition driven
<i>Germany</i>	Interventionism, competition driven
<i>France</i>	Interventionism, cultural exemption and protectionism oriented
<i>Italy</i>	Light-touch approach, between competition and protectionism
<i>Spain</i>	Light-touch approach, between competition and protectionism

Source: own elaboration

At first glance, it can be said that the Canadian approach aligns with that of Europe, as has been the case with traditional media regulation (Hallin & Mancini, 2016), whereas Latin America follows the U.S. free market crusade. At a closer look, the comparison is more nuanced and presents food for thought about how regulatory regimes evolve.

The EU approach represents a step forward in the road toward harmonized provisions, and it connects, to a certain extent, with the Canadian approach. Nevertheless, because of the absence or vagueness of some provisions and/or the lack of definition and enforcement mechanisms, their true potential is under discussion/yet to be seen, and it depends on countries with heterogeneous approaches to the matter. From the heavy-handed French position to the British light-touch approach, there is a wide range of responses, where intervention can also be deployed to support competition (Germany) or minimalist action can be the result of trying to cope with securing a level playing field and protecting domestic works (Spain and Italy). These different national approaches may connect some countries from both sides of the Atlantic more than is evident at first sight. For instance, if in the United Kingdom there are no financial

obligations for SVoD services, as in the United States, the concerns in Brazil and Argentina to secure support for domestic works will align with that of some of the European countries.

This is because some Latin American countries have witnessed many of the debates that have unfolded in Europe and Canada, although they have not managed to move legislation forward. Short-term decisions, based on tax collection (VAT), dominate the scenario, while agreed-upon long-term measures lack political support. Therefore, at the end of the day, the same free market approach that reigns in the United States, home of the most powerful and global SVoD providers that other jurisdictions seek to regulate, is the one succeeding in the Americas, with the sole exception of Canada, which holds on to the cultural exemption principle to justify regulatory intervention.

Insights for Further Reflection

Even though the emerging regulation of SVoD services in Europe and the Americas aligns with existing regimes, it can be argued that when it comes to measures being implemented as well as those discussed, the main finding is that a new jurisdictional scope has definitely been brought to the table. This new way of responding to legal challenges posed by transnational SVoD service players implies the possibility of imposing obligations on those legally based in other territories.

In any case, developments in Europe and Canada, as well as views behind non-born Latin American projects, offer some interesting insights. They are presented below.

First, there seems to be a growing consensus on the two sides of the Atlantic under study on the need to establish obligations for U.S.-based SVoD providers to protect and promote audiovisual production, especially via quotas and content investment obligations. This is a novelty because pay-audiovisual and foreign players have traditionally been less regulated. However, such obligations are not readily put into practice.

Second, although it is evident that the decisions made have been clearly influenced in each country by domestic politics, different regulatory traditions, and existing legal instruments, the analysis highlights that certain regulatory ideas can (and do) "travel." The traditional influence that the United States exerted on audiovisual regulatory regimes in the continent presents some level of continuity. This is apparent in the case of Mexico but not Canada, both partners of the United States in the USMCA agreement. The Canadian attempt to maintain and incorporate protections in line with its historical defense of cultural diversity and local content production echoes, on the contrary, European worries. In Brazil and Argentina, this concern also emerged, and projects advanced were inspired both by existing national regulatory obligations for legacy media and by European decisions, even though the "Brussels effect" has not yet managed to define substantive reforms.

Finally, in line with this idea, it is worth noting that Latin America emerges as a particularly interesting study territory. Despite the fact that audiovisual regulators in the region have experienced historical difficulties in enforcing existing regulations and that there is no common position to act jointly at

the regional level, the market-led regime is not free from resistance. The socially responsible one, on the other hand, can also have a very different normative view than those deployed in Europe or Canada.

Two theoretical implications of our findings for the study of audiovisual regulatory regimes can be outlined to conclude. First, no comparative, comprehensive study in this domain can be pursued without performing a descriptive/analytical and conceptual/normative analysis; that is to say, identifying and defining regimes but also focusing on issues such as their transparency or accountability. Without doing so, tensions related to the development of regulatory regimes cannot be fully grasped and explained (Maggetti & Ewert, 2018). Second, to advance in a taxonomy of audiovisual regulatory regimes, it can be worth exploring not only the true opposing nature of actual regimes here under the labels “market-led” and “socially responsible” but also reflecting on the possibility of identifying a third one that could better help understand Latin American realities like the ones described here. It is still too early to give a name to such a regime, but it can be characterized by alternating between being captured by political and economic elites (Guerrero & Ramírez, 2014) and the resistance of organized civil society (Segura & Waisbord, 2016) to modifying the structure of the audiovisual market.

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