



INTERNATIONAL ASSOCIATION  
OF YOUNG LAWYERS



# Film Production and distribution

## A recap with some focus points

Alexandru Radu

Olivier Sasserath

[www.aija.org](http://www.aija.org)

# The process of film production

## Most of the time, it starts with:

- A director with an idea (but no money)
- A producer with adaptation rights (but no money and no talent)

(New model for TV: commission by TV broadcaster / SVOD (Netflix – Amazon))

- Who then looks for a...
  - producer with money or guts;
  - a promising/talented director and/or some well-known actors.
- Director's agreement
- Acquisition of rights on
  - Book adaptation (option)
  - Bible/treatment/script

# The process of film production

## Preproduction

At which time, the quest for funds will usually start:

- Agreement with screenwriter/scriptwriter
- Securing subsidies for development/screenwriting/scriptwriting
- Secure some funding in own country (MOU, letters of intention from broadcasters, etc.)
- Then look for co-producers :
  - In other countries
  - TV broadcasters
  - MOU or deal memo followed by Coproduction agreement.



# The process of film production

## Coproduction agreement

- Provisional budget
- Commitment to budget for each of the co-producers
  - Contribution in kind and presales (rights already secured ?)
  - Private equity (tax shelter)
  - Public funding
  - Own funds
  - Presales (TV broadcasters)
- Co-ownership of tangible elements (film copies)
- Shares in copyright/income
- Reserved territories
  - exploitation
  - incomes



# The process of film production

## Coproduction agreement (backbone of the production process)

- Role of each co-producer
- Recognition as European film
- Choice of main crew members
- Accountancy / bank accounts
- Exploitation outside reserved territory
  - Appointment of distributor in agreement
  - By majority producer
- Completion guarantee
- Exit clauses
- Insurance
- Credits
- Liability/default

Etc.



# The process of film production

## Coproduction agreement (backbone of the production process)

- Producteur délégué / executive Producer
  - Delegated by the other producers to make budget and ensure completion of the movie
  - contracts with talents
- Producteur exécutif / Line producer
  - Not necessarily a producer (no share in the copyright)
  - In charge of making the movie
  - Contracts with technical crew and other parties involved
  - Management of budget and planning
  - Paid on the budget

# The process of film production

## The quest for funding



# Film Funding: public funding

- **Figures**
  - +/- 270 funds in Europe (Council of Europe countries)
  - Subnational (60,8 %), National (29,7 %), Supranational (9 %)
  - In amounts: 75 % national funds (1,9 bil. EUR) – total 2,53 Bil. EUR.
- **Income of public funds**
  - Own incomes:
    - Participation to proceeds from exploitation;
    - Reimbursement of money paid by funds;
  - Budgets allowed by state
  - Taxes to be paid by broadcasters, theatres, video services operators, etc.
- **Type of activities supported**
  - Development (writing and scenario)
  - Production and post-production (SFX)
  - Distribution
  - Exploitation (representation – digitalization)
- **Type of audiovisual works supported**
  - Feature films
  - Documentaries
  - Short movies





# Film Funding: tax incentives

## Tax shelters

- tax deductions for investments in audiovisual productions
- part in equity (co-producers)
- part as interest bearing loan
- structured products for investors
- monies paid in the course of the production
- cumbersome administration:
  - agreement between producer and investor
  - administrative obligations
  - guarantees to be given by producers (film will be produced, on time, eligible spent will amount the minimum required)
- Countries: Belgium, Lithuania, France (SOFICA), Hungary, Italy



# Film Funding: tax incentives

- Tax rebates
  - Some production costs are partially reimbursed by public authorities
  - More transparent and less cumbersome
  - After production is completed and documents have been audited
  - Countries: Austria, Croatia, Czech Republic, Germany, Iceland, the Netherlands, etc.
- Tax credits
  - Deductions on income taxes for producers.
  - Countries: France, Italy, Spain, UK.



# Film Funding: investment obligations

## Legal obligation of investment in film productions

- Legal obligation for broadcasters to invest in local film production
  - pre-sales or/and co-production (direct system)
  - taxes to be paid to national audiovisual fund (indirect system)
- Also for new types of services providers : cable operators, SVOD
- System in 18 countries of the COE
- Sometimes only for private broadcasters, sometimes for both public and private broadcasters (FR, DE, POL)
- Indirect system:
  - Contribution mostly based on turnover (or % of broadcasting rights)
- Direct system:
  - Framework agreements with State containing level of commitment (generally for public broadcasters)
  - Obligations defined in legal text (% of income or publicity income to be invested in audiovisual productions)

# Film Funding: two “European” funds

- EURIMAGES
  - Council of Europe
- MEDIA PROGRAM
  - European Union

# Film Funding: EURIMAGES

- Council of Europe (EU + additional countries; Turkey, Russia, etc.)
- Envelope of EUR 25 Mio / year
- 4 calls / year
- Five support schemes:
  - film co-production
  - theatrical distribution
  - exhibition
  - promotion and
  - gender equality



# Film Funding: EURIMAGES

- Council of Europe (EU + additional countries; Turkey, Russia, etc.)
- Envelope of EUR 25 Mio / year
- 4 calls / year
- Five support schemes:
  - film co-production
  - theatrical distribution
  - exhibition
  - promotion and
  - gender equality
- for fiction, animation and documentary feature films (minimum length of 70 minutes).
- Co-production fund: loan – repaid on first EUR of income
- 17 % of budget (25 % for documentary) – max 500.000 EUR



# Film Funding: EURIMAGES

## Co-production funding

### Eligibility conditions:

- Independent companies
  - Not owned by broadcasters
- International coproductions
  - At least 2 producers of different member states
  - Co-ownership of copyright
  - Share in budget:
    - Bilateral coproductions
      - » Majority producer 80 % max.
      - » Above 5 MIO, up to 90 %
    - Multilateral coproductions
      - » Majority producer 70 % max
      - » Minority: 10 % min



# Film Funding: EURIMAGES

## Eligibility conditions:

Point system : staff members from member state of CoE:

Fiction: 15 points

• Director	3
• Scriptwriter	3
• Composer	1
• First role	3
• Second role	2
• Third role	1
• Cameraman	1
• Sound recordist and mixer	1
• Editor	1
• Art director and costumes	1
• Studio or shooting location	1
• Post-production location	1





# Film Funding: EURIMAGES

## Eligibility conditions:

Animation 14 points:

• Conception	1
• Script	2
• Character design	2
• Music composition	1
• Directing	2
• Storyboard	2
• Chief Decorator	1
• Computer backgrounds	1
• Layout	2
• 50% of the expenses for animation	2
• 50% of the colouring	2
• Compositing	1
• Editing	1
• Sound	1



# Film Funding: EURIMAGES

## Eligibility conditions:

- Date of principal shooting not started yet when examination and scheduled not later than 6 months after examination.
- Financial conditions
  - other funding in each of co-producing countries,
  - At least 50% of the financing in each of the co-producing countries confirmed

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# Film Funding: EURIMAGES

## Selection criteria

- quality and originality of the script;
- vision and style of the director;
- contribution of the team involved and level of artistic and technical co-operation;
- consistency and level of confirmed financing;
- circulation potential (festivals, distribution, audience)

## Documentation to be provided before signature of loan agreement

- definitive co-production contract(s);
- financing plan;
- confirmation of artistic and/or technical co-operation;
- confirmation of the attribution of provisional national accreditation;
- contracts or firm undertakings confirming the financing of the project;
- chain of title documents;

# Film Funding: EURIMAGES

## Payment in 3 instalments

- 60%: first day of principal photography;
- 20%: completion of work by the laboratory;
- 20%: after cinema release in the co-producing countries or selection in at least one significant film festival;

## Repayment

- from the first euro,
- from each producer's net receipts at a rate equal to the percentage of the Eurimages share in the financing
- Before recoupement by "Sofica" and/or other financial institutions.
- On Producer's net receipts
  - Distribution expenses, including commission to distributor (up to 25 %)

## Collection account

for more than 3 Mio budget project



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# Film Funding: the MEDIA-Program

- Sub-program of Creative Europe
- Support for:
  - development,
  - distribution
  - promotion (including festival)
- Specific calls for projects for which funds are made available.
- List available on website Media-program  
[https://eacea.ec.europa.eu/creative-europe/actions/media\\_en](https://eacea.ec.europa.eu/creative-europe/actions/media_en)
- Requirements and conditions depends on calls but
- Similarities



# Film Funding: the MEDIA-Program

## Examples of calls currently open

- Call EACEA 21/2017 – support for TV Programming 2018 (deadline for submission: today by 12.00 CET – too bad second round 24 May 2018)
- Call EACEA/12/2017 - Distribution Selective scheme: Support for the transnational distribution of European films 2018 (deadline: 05/12/2017 – second round 14/06/2018)
- Call EACEA/17/2017 - Support to Festivals 2018 (deadline : 23 november 2017 – second round: 26 April 2018)
- Call EACEA/22/2017 - Support for Development of Audiovisual Content - Single Project 2018 (deadline : 23 november 2017 – second round: 19 April 2018)





# Film Funding: the MEDIA-Program

Example : Call EACEA/22/2017 - Support for Development of Audiovisual Content - Single Project 2018

## Budget available

- Total: EUR 5.4 M.
- Per action (lump sum):
  - Animation: EUR 60.000
  - Documentary: EUR 25.000
  - Fiction :
    - Budget above 1,5 M: a lump sum of EUR 50.000
    - Budget below 1,5 M: a lump sum of EUR 30.000



# Film Funding: the MEDIA-Program

## Eligible applicants

*"independent European audiovisual production companies which have been legally constituted for at least 12 months prior to the submission date and that can demonstrate a recent success".*

+ other countries (EFTA, Swiss Confederation, partners of MEDIA-programme, etc.)

## European company:

- Company owned, whether directly or by majority participation (i.e. majority of shares), by nationals of Members States of the EU (or nationals of the other European countries participating in the MEDIA Sub-program and registered in one of these countries).

### **Brexit impact:**

*"Please be aware that eligibility criteria must be complied with for the entire duration of the grant. If the United Kingdom withdraws from the EU during the grant period without concluding an agreement with the EU ensuring in particular that British applicants continue to be eligible, you will cease to receive EU funding (while continuing, where possible, to participate) or be required to leave the project on the basis of Article II.16.2.1(a) of the grant agreement".*



# Film Funding: the MEDIA-Program

## Independent company

No control by a TV broadcaster (shareholding or commercial terms).

- control : more than 25% of the share capital of a production company held by a single broadcaster (50% if several broadcasters).

## Audiovisual production company

Main objective and activity is audiovisual production as indicated (official national registration documents).

## Company with a recent success

- previous eligible work in the five years preceding the submission
- work released or broadcast in at least one foreign country.
- (Sole production company; or major coproducer or delegate producer; or CEO or one of its shareholders has a personal onscreen credit on the work as producer or delegate producer).

**Own the majority of rights** : concept, subject, treatment, script or bible. Evidence: contract signed by the author(s).



# Film Funding: the MEDIA-Program

## Exclusion criteria

- bankruptcy, insolvency, etc.
  - condemned for :
    - non-payment of taxes or social security;
    - grave professional misconduct (including IP infringement)
    - corruption or fraud, money laundering, terrorist-related offences, child labour
- etc.

# Film Funding: the MEDIA-Program

## Eligible activities

- Development activities

## For

- Feature films, animations and creative documentaries of a minimum length of 60 minutes intended primarily for *theatrical release*;
- Fiction projects (one-off or series) of a total duration of minimum 90 minutes, animation (one-off or series) of a total duration of minimum 24 minutes and creative documentaries (one-off or series) of a total duration of minimum 50 minutes intended primarily for the purposes of *television*;
- Fiction projects of a total duration or user experience of minimum 90 minutes, animation of a total duration or user experience of minimum 24 minutes and creative documentaries of a total duration or user experience of minimum 50 minutes intended primarily for the purposes of *digital platform exploitation*. For projects presenting a user experience in a non-linear format (e.g. Virtual Reality), these minimums do not apply.

# Film Funding: the MEDIA-Program

## Exclusions

- live recordings, TV games, talk shows, reality shows or educational, teaching and 'how-to' programmes;
- documentaries promoting tourism, "making-of", reports, animal reportages, news programmes and "docu-soaps";
- projects including pornographic or racist material or advocating violence;
- works of a promotional nature;
- institutional productions to promote a specific organisation or its activities;
- video games, e-books and interactive books.

# Film Funding: the MEDIA-Program

## Stage of development

- The day of principal photography (or equivalent) of the submitted project must not be scheduled to occur within 8 months from the date of submission of the application.

## Completion of activities

- At the latest 30 months after date of submission.



# Film Funding: the MEDIA-Program

## Award criteria

	Criteria	Definitions	Max. Weighting
1	Relevance and European added-value	Quality of the project and the potential for European distribution	50
2	Quality of the content and activities	Quality of the development strategy	10
3	Dissemination of project results	The European and international distribution and marketing strategy	20
4	Organisation of the project team	Distribution of the roles and responsibilities of the creative team vis-à-vis the specific objectives of the proposed action	10
5	Impact and sustainability	Quality of the financing strategy and feasibility potential of the project	10



# Film Funding: the MEDIA-Program

## Automatic award criteria

Description	Extra points
A project specifically targeted at young audience (up to 16 years)	5

# Film Funding: the MEDIA-Program

## Financial conditions

- An action : one grant only from the EU budget.
- Not for actions already completed.
- Co-financing : resources necessary for the action not entirely provided by the EU grant.

## Payment

- A pre-financing (70% of the grant) within 30 days signature or notification of the grant decision
- 30 % (or less) after completion of the action

## Publicity

- Logo of the Creative Europe - MEDIA Sub-programme on all material
- On-screen credits



# Film Funding: the MEDIA-Program

## Timetable

	Stages	Date and time or indicative period	
a)	Publication of the call	September 2017	
b)	Deadline for submitting applications	1 <sup>st</sup> deadline	2 <sup>nd</sup> deadline
		23 November 2017 12:00 (noon, Brussels time)	19 April 2018 - 12:00 (noon, Brussels time)
c)	Evaluation period	December 2017 - February 2018	May - August 2018
d)	Information to applicants	March 2018	September 2018
e)	Signature of grant decision/agreement	April 2018	October 2018
f)	Starting date of the action	Date of submission	Date of submission
g)	Duration of the action	Maximum 30 months from the date of submission	Maximum 30 months from the date of submission

# The process of film production

## Production activities

- Shooting (production)
- director
- actors
- cinematographer
- Grip
- Gaffer with an electrical team
- costumes design
- make-up and hair
- production design
- sound recording
- music

# The process of film production

## PostProduction activities

- film editing
- sound editing
- music
- sound mixing
- visual effects
- color grading

# The process of film production

## Distribution – dissemination - festivals

- Film festivals
  - Main:
    - » Berlinale
    - » Cannes
    - » Venice
  - Other
    - » San Sebastian,
    - » London BFI,
    - » Locarno
- Want to have the films as international premieres
- Local premieres



# The process of film production

**Distribution – dissemination : in theatres, on TV, DVD and VOD**

# A few figures about film distribution

## Theatrical distribution in the Council of Europe member states

- 64 % of total films showed are EU films, but represents only 27,4 % of total admissions
- EU films: distribution in 2.6 countries
- US films: distribution in 9.7 countries
- 79 % of EU films in one or two countries (same for international films – i.e. non EU and non US films)
- 63 % of EU films in 1 country
- 80 % of US films in 20 countries or less.
- Theatrical release still main source of income
- Theatrical release generally influence DVD+VOD releases (not for US films)

*(source : How do films circulate on VOD services and in cinemas in the EU ? A comparative analysis, European Audiovisual Observatory, 2016)*





# A few figures about film distribution

## Types of productions:

### – Fiction:

- 84 % share
- Wider theatrical distribution than VOD (US / EU – contrary for international fiction)

### – Documentaries:

- EU: same distribution in theatre and VOD
- US + international: wider VOD distribution

### – Animation:

- Widest distribution in theatres and VOD than all other genres – everybody loves animation... but still wider theatrical release than VOD

# Two main principles in the film distribution

## Release windows

- Contractual (industry agreement) or legal (France, Bulgaria, Portugal)
- Windows
  - Theatrical release (3 – 4 months)
  - TV release
  - TVOD and DVD release
  - SVOD release
  - AVOD release
  - (to be combined with different theatrical release dates in various countries)

# Two main principles in the film distribution

## Territoriality

### – Why ?

- Film financing based on funding against territorial exclusivity :
- Investors active in specific territory
  - Co producers
  - Distributors
  - TV broadcasters
- Different value in different territories :
  - Language
  - Cultural differences

Under attack ?



# Two main principles in the film distribution

## Territoriality

- Under attack ?

- Pay-TV case

Case AT.40023 - C(2016) 4740 final, JO, C-437, 25.11.2016, p. 5–7.

Clauses contained in broadcasting licenses agreement and granting protection to exclusive licensees are contrary to European Competition law.

- Regulation (EU) 2017/1128 of the European Parliament and of the Council of 14 June 2017 on cross-border portability of online content services in the internal market
  - Portability of content for limited period of time
- Proposal for a regulation laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes (COM/2016/0594 final - 2016/0284 (COD))
  - Country of origin principle extended

# US – EU films : different models

- US studios (majors)

Chain of distribution in their hands

- Direct to theatres
- Direct to broadcasters
- Direct to VOD platforms

- Non major studios

Distributors for Europe

- European film producers

- Local distributors
- Sales agents



# Sales agents

- If you don't find distributors by yourself
- Or don't want to search for distributors in foreign countries
- Common features of contracts with sale agents
  - Power of attorney to find distributors/exploitations
  - But no power to sign agreement on behalf of producer
  - Worldwide or part of the world (European Union)
  - Usually: representation in Festivals
  - Duration shorter than for distributors
  - No commitment on result / no payment of MG
  - Delivery of film copies + promotional material
  - Budget in agreement
  - Compensation : +/- 20 % of the income for Sale Agent
  - MFN-clause: not use film to obtain better conditions for other film.
  - License duration to be limited in time (remake)

# Distributors

- Length of agreements
  - French style: 10 pages
  - US style : 40 pages in small characters
- Territory
  - Per country
  - Group of countries : Benelux (BE – NL – Lux)
  - French speaking countries
  - Spill over / overspill clauses

*"LICENSOR and DISTRIBUTOR acknowledge that where the Program(s) are transmitted by means of satellite for reception in a given territory, such transmission may be capable of reception outside of that territory (the "Overspill"). Provided always that such Overspill is incidental and not intended, such occurrence shall not constitute a breach of this Distribution Agreement"*

- Duration
  - 10 - 12 – 15 years  
(25 years but target within 5 years)
  - Automatic renewal for additional periods of 3 years if MG or distribution expenses not recouped



# Distributors (ii)

- **Holdbacks**

- Window period system
- exclusivity in presale  
(until 24 months after first theatrical release)

- **Channels of distribution:**

- Theatrical
- Non theatrical
- Public Video
- Commercial Video
- Home video rental
- Home video sell through
- Airline
- Ship
- Hotel
- Pay TV (terrestrial)
- Pay TV (cable)
- Pay TV (satellite)
- Free TV (terrestrial)
- Free TV (cable)
- Free TV (satellite)
- Pay-per-view
- Video on demand/streaming
- SVOT
- TVOT
- ...
- EST (Electronic Sell Through) (downloads)





# Distributors (iii)

- Versions / dubbed / subtitled
- Number of runs for TV
- Obligation of marketing (minimum spent budget can be in agreement)
- Credits for distributor
- Obligations of theatrical release/other releases
  - Dvd:
    - » price and number decided by distributor
    - » post agreement sale period
- In charge of:
  - Film classification/visa if necessary – automatic termination if visa is not obtained.

# Distributors (iv)

- Delivery of material (technical Annex + approval clause)
  - Film in agreed version
  - Laboratory access letter
  - Credits
  - Music cue sheet
  - Synopsis, dialogue, generics
  - Press kit
  - Trailers
  - High resolution pictures
  - Prints and art material available
  - Additional material (making of)
  - Film extracts

# Distributors (v)

## Financial provisions

- Advance (MG) to be paid to producer
  - Payment in instalments (20 % signature – 80 % theatrical release)
  - Recoupable:
    - allocation to various exploitation channels or
    - cross collateralization (most of the time)
- Distribution fee until recoupment of distribution expenses :
  - Publicity (posters, pictures, press kits, organizations of premieres, etc.)
  - Trailer
  - Anti piracy measures
  - Costs for copies of movie, transportation and insurance
  - Dubbing and/or subtitling (to be approved)
  - Costs for participation to festivals
  - Cap on distribution expenses or prior approval

# Distributors (vi)

## Financial provisions

### — Recoupment of distribution expenses:

- On producers share only
- Or before all the rest

(a) Distributor fee

(b) Distribution expenses

(c) Recoupement MG

(d) Producer Share

Or (b) (a) (c) (d)



# Distributors (vii)

## Financial provisions: commission of distributor

- Theatrical distribution and commercial video :
  - 40 % distributor – 60 % producer / 50 % for each
  - First recoupement of advance
  - Then payment to producer
- Home video:
  - 70 % - 85 % distributor (on what basis – rebates paid to retailers, etc.)
  - In charge of payment copyrights if any (music)
- TV:
  - 70 % producer
- EST/VOD:
  - 50 % for each
- Public subsidies for distribution : included in incomes for recoupment of distribution costs.
- Quid of secondary rights : legal licenses paid through AGICOA ?

# Distributors (viii)

- Reporting:
  - Trimestrial or Semestrial for first period (2 years) – sometimes monthly
  - Annual after first period
  - Audit clause (5 %)
- Guarantees by producers:
  - Against any third claim
  - ARI agreements – also against collecting societies
- Sub-distribution
- Remuneration: calculation at source

# Collection agents

Collection agents

- For co-productions
- Third party in charge of collection of incomes from distributors/other parties
- Centralization of the monies
  - To avoid insolvency issues.

# Agreement with theatres

- Agreement with theatres (“Rental and license agreement”)
  - Rental of copies
  - Remuneration: percentage of net receipts (box office) + MG
  - Percentage calculated on the “admission price” – tendency to charge for extra services
    - » Not on income from commercials
  - Reporting clauses (ticketing system to be used – reporting sometimes even daily) and audit clauses
  - Technical obligations (digital equipment)
  - Delivery of film copies
  - Obligation to broadcast
    - » Duration of the agreement
    - » Number of screenings
  - Anti-piracy clauses
  - No cuts, etc.



# VOD and OTT landscape

*“Big expectations are pinned in VOD distribution since it is relatively inexpensive, both for distributors and right holders, as it does not involve some of the costs associated with theatrical distribution, like MGs and fixed release fees. Also, digital advertising is far cheaper than traditional P&A. For now, however, VOD is not the new DVD and revenues from VOD rights are still scarce”.*

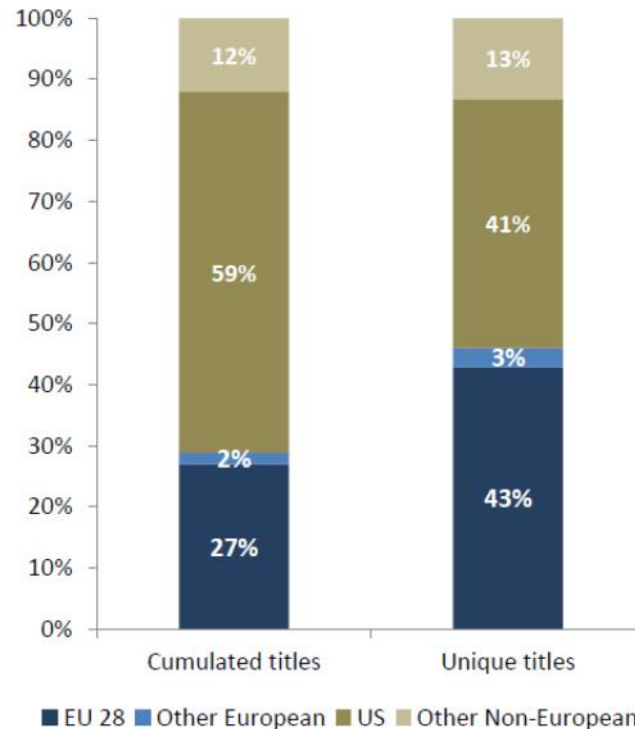
(European Audiovisual Observatory “VOD Distribution and the role of aggregators”, April 2017)

- Main actors: Telcos, cable operators, OTT service providers
- Two types of business models:
  - Ecommerce : interested in large catalogue – no promotional efforts: burden lies on producer
  - Curated: interested in specific genre – do promotional efforts themselves

# VOD and OTT landscape

## A few figures

What do we see on VOD in Europe



# VOD and OTT landscape

## A few figures

- How many movies make it to VOD (2015):
  - 47 % of EU movies make it to VOD
  - 87 of US movies
- Territorial coverage (average)
  - US films in 6.8 countries
  - EU films in 2.8 countries
  - EU coproduction: 3.6 countries
- Age of the films plays a role for EU films (older = less availability), less for US films

# VOD and OTT landscape

## A few figures

- In Europe:
- 49 % of films are released in theatres only
- 37 % of films are released in theatres and on VOD services in the same country
- 14 % of films are released on VOD services only

# VOD and OTT landscape

## A few facts

- VOD to replace DVD ?
  - Nordic countries: many right holders stopped DVD production
  - Benelux: seasonal product (Christmas present)
  - Italy: in 2015, increase of DVD sales by 5 % (infrastructure issue: no high speed internet in some parts of the country ?)
- only a small minority of the films in the catalogues actually benefit from promotion on the homepage;
- a large majority (86%) of promotional spots is allocated to recent films (= released in 2014 or after). The 10 most promoted films take 40% of the promotional spots.
- one-third of all films promoted are European productions.

# VOD and OTT landscape

## A few facts

- Direct to VOD strategy
  - For specific genres: thriller, horror, etc (former straight to home video)
  - Strategy of distributors to cut (higher) costs of theatrical distribution
  - In some countries to cope with linguistic fragmentation of the market (especially in Belgium)
  - European films : lack of distributors in some countries – sales agents selling to aggregators

# VOD and OTT landscape

## Different VOD services

### Pay on demand services

#### TVOD (Transactional Video On Demand)

- e.g. Itunes, Google Play
- EST or rental (streaming) – mostly rental  
*[rental right to be paid to authors and performers ?]*
- Prefer to build up large amounts of content – less interested in deals with small producers.
- Compensation of producers: revenue sharing
- Exclusive or Non-exclusive
  - big players may ask for limited exclusivity for differentiation



# VOD and OTT landscape

## Different VOD services

### Pay on demand services

### SVOD (Subscription Video On Demand)

- e.g.: Netflix, Hulu, Amazon Video, Flimmit (Austria)
- Access to large catalogue against monthly fee; streaming model
- “All you can watch”-model
- More interested in back catalogue/art content than TVOD
- Compensation of producers: mostly flat fee (except: Mubi and Hulu – revenue sharing) – non exclusive
- Invest in production for getting competitive advantage: premium content (own productions/coproduction/prefinancing)
- May be caught under national rules on financing local content.



# VOD and OTT landscape

## Different VOD services

### Pay on demand services

### AVOD (advertising-based video on-demand)

- e.g.: Youtube
- advertising based model
- Compensation: flat fee (or MG) + revenue sharing
- Last exploitation window

# VOD and OTT landscape

## New player: Aggregators for VOD services

- Needed to access big platforms (buy rights on large catalogue only)
- Services:
  - Technical services:
    - » Conversion to specific technical standards
  - Intelligence service:
    - » where and when to go for VOD, and at what price?
  - Content sourcing for third parties
  - Facilitating administrative steps/paperworks
  - Better negotiation basis towards platform (mainly abroad)
- Holdback of VOD rights by Producer/agent
  - No more distributor
  - Aggregator for VOD services
- In contrast to the traditional country-by country principle, may be active in several countries
- Do not participate (or marginally) in pre-financing: less interested in territorial exclusivity.
- Compensation:
  - generally around 20 % of income
  - No MG (income is too low)