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AUDIOVISUAL MARKET AND REGULATION AN INDUSTRY AT A CROSSROADS

Session 2

PUBLIC SUPPORT AND REGULATION FRAMEWORK

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Outline

- The Production and the Remuneration of Audiovisual Content
- The Financing of Audiovisual Content
- Regulatory Needs and Possible Perspective



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Cultural Values and Economic Goals

- Cultural exception and International treaties
- Fostering cultural diversity via new rules (e.g., Regulation no. 1295/2013, establishing the Creative Europe Programme (2014 to 2020))
- PBSs and European citizenship
- Remuneration of authors and incentive to creation
- Convergence and level playing field
- Fighting piracy with both education and deterrence



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Production and Funding

- Production companies rely on public support, co-production, pre-sales (TVs & distributors) & private investors
- Reduction of public film funding due to decrease of EU population and the increase of social welfare expenses
- Key role of cultural exception in EU and international legal framework
- Success of series produced by PBSs: driving forces are both funding and editorial input
- Many OTT players do not invest in production of content





Authors' Remuneration

- According to the authors' view, specific challenges in connection with their remuneration are the following:
 - Complexity and long contractual chain prevent their remuneration flowing back to them
 - Need to develop new mechanisms to allow AV authors to be rewarded for the success of their works
 - Collect the remuneration for the use of their works at the final distributor level to lighten the burden on producers





Fiscal Incentive Schemes Supporting Film and Audiovisual Production

- Three main instruments:
 - **Tax shelters:** investments as a means to reduce tax liabilities for high tax-paying companies (Belgium, France, Ireland)
 - **Rebates:** an amount of the qualifying production costs is refunded by a State budget (Germany)
 - **Tax credits:** similar to rebates, but can result either in a reduction of tax liabilities or in a cash payment (if no tax liability is due) (France, Italy, UK)





Fiscal Incentives

- Lack of comparable data is a significant challenge, making the benefits of the incentive difficult to prove
- Exam of available data shows a significantly higher production activity in those countries which have incentives
- Incentives have positive effects in the short term, but in the long term they need to be coupled with other measures such as investments in infrastructures, skills, etc.
- Tax Shelter has the advantage to provide cash flow during production, however there has been some movement away from a tax shelter model, because it is less transparent and has historically seen abuse





Level Playing Field and OTT Services

- AVMS providers and OTT internet services: similar services but different regulation?

AVMS

- Editorial responsibility
- Advertising limits
- European content quotas
- Etc.
- VoD: should liability rest on “gatekeepers” (i.e., operators providing access to content)?

OTT*

- Ex post liability
- No advertising limits
- No European content quotas
- Etc.

***Note:** the rapporteurs understand that reference is made not to all OTT players, but only to those who do not fall within the scope of the AVMS Directive





New Rules for a New Landscape?

- Country of origin principle: according to the Commission, the aim of the Directive to create a single market was achieved
- EU content quotas
 - More relaxed rules for linear services?
 - Full harmonization or flexibility?
 - More stringent rules for VoD?
- Release windows: still valid?
- Avoid unnecessary burden of regulation
- Questions on territorial and material scope of the Directive (ERGA)





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New Challenges

- Management of data as the key of success
- Differences in implementation of the AVMSD among the Member States
- If and how to regulate players currently not encompassed by the notion of AVMS provider?
- Enhancing forms of cooperation among operators based in different member States
- Favoring production of works with strong chance of international distribution



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Thanks!

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