

THINK TANK...
ON EUROPEAN FILM AND FILM POLICY

**CORE
THINK TANK
GROUP
ISTANBUL:
FILM
DISTRIBUTION –
NEW MARKET
OPPORTUNITIES
17–18 APRIL
2009
EXECUTIVE
SUMMARY**

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The Istanbul Core ThinkTank (17-18 April 2009) was structured across three main sessions designed to provide an overview of current market conditions, an appraisal of how the film market may develop (with special emphasis on Video on Demand), and finally to address potential policy suggestions.

At no point during the meeting was consensus a priority. This is reflected in this report where seemingly contradictory statements can be found side by side.

Key topics covered were:

- How big an opportunity is video-on-demand (VOD) for the European film industry?
- What is the scale of the digital distribution revolution?
- What are the main business models for VOD?
- What are the key drivers of new market opportunities in European film distribution?
- How is it possible to develop stronger European VOD services that foster greater cross-border circulation of European films?
- How to improve the marketing of European films
- What are the factors underlying content piracy?
- How will VOD alter the traditional windows for viewing films?
- How can film public policy maximize opportunities in the digital age?

Key conclusions included:

- VOD offers a greater opportunity than is currently available for the European film industry to access audiences throughout the world, especially in terms of fostering cross-border circulation.
 - VOD is already a market reality (including film streaming, downloads and catch-up TV), but well over 95% of the “market” is dominated by illegal services.
 - One of the main reasons for content piracy is the absence of an attractive legal offer.
 - Europe's system of public funding potentially offers advantages in channelling support to areas that the market has difficulties in developing in the short-term but which have major medium-term potential (e.g. VOD).
 - “VOD optimists” believe that digital distribution is a complete change of the economic paradigm, while “VOD pessimists” see VOD as merely a new window of exploitation with inherent cannibalisation of existing revenues.
 - The revenue model for VOD services is likely to be similar to mobile phone roaming services – with a revenue split between the various intervening parties
 - The VOD market is likely to be dominated by a small number of “big players”, with an in-built advantage for the main international players.
 - In Europe, the main VOD players are, and are likely to remain, the large television groups and telecommunications operators.
 - VOD rights in Europe are highly fragmented, which hinders the implementation of pan-European VOD services.
 - PayTV operators are key players in this context, since they are major rights-holders and will act to counter the threat that VOD may cannibalise their revenues.
 - The digital distribution revolution, complemented by the world recession, has created a major funding crisis for European productions, particularly in territories with fewer public subsidies.
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- It will be difficult to create pan-European B2C film brands in the near future, but there is major potential for B2B intermediaries that will operate at a pan-European level, serving national platforms.
 - Given that costs-of-entry in the VOD market are comparatively low, the quality of marketing and branding is decisive.
 - One of the main weaknesses of European films is marketing - almost to the point that the label 'European Film' has negative connotations to the general public. Better marketing, direct exposure and easier access should begin to remedy this.

The Core Group identified the following public policy propositions:

- I) defining the right regulatory framework
- II) improving rights management
- III) imposing non-exclusive VOD rights
- IV) building European VOD infrastructures

PROPOSITION I) – DEVELOPING THE RIGHT REGULATORY FRAMEWORK

- Regulatory structures can play a key role in building a market for European Films on VOD platforms. For instance, participants noted that in territories such as the UK and Germany, opportunities have been missed to create strong pay-TV platforms that showcase and finance national films.
- European competition law may hinder concentration especially at the national level – e.g. the VOD platform, “Kangaroo”, planned as a joint venture between BBC, ITV and Channel 4 was blocked by the Competition Commission in 2009.
- European competition law must be reviewed in order to ensure that European operators can compete with the US Majors.

PROPOSITION II) – HELPING PRODUCERS IMPROVE RIGHTS MANAGEMENT

- National funding agencies and public broadcasters can play a key role in building legal infrastructures for the new value chain.
- Funding requirements should continue to encourage market interest criteria but should ensure that independent producers retain control of Intellectual Property rights and maximise the potential thereof.
- Producers should be encouraged to view themselves as rights management bodies, in addition to their financing and production activities.
- Greater accountability should be developed amongst funding agencies and producers, with clearer definition of objectives and key performance indicators.
- National film agencies can guide producers to network together and create collective rights management bodies thus improving their negotiating position with network gatekeepers to extract the best licensing terms.

PROPOSITION III) – SIMPLIFIED RIGHTS MANAGEMENT AND NON-EXCLUSIVE VOD RIGHTS

- Participants recommended that film agencies introduce a funding requirement that VOD rights be held by producers and only sold to third parties on a non-exclusive basis – thus empowering Producers and providing a potential solution to the problem of VOD rights fragmentation in Europe.
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- Rights licensing should be facilitated. Different right holders (producers, film directors, talent) should be encouraged to work together on developing a single offer to would-be licensees;
 - Rights clearance needs to be simplified and harmonised across Europe. At present revenues are far lower than expenses for rights-holders.
 - VOD rights in Europe are highly fragmented, which hinders the implementation of pan-European VOD services for European films. This complexity has also created a barrier for Producers to successfully manage their rights and thereby access an opportunity for much needed revenue.
 - The delivery requirements for funded films should be standardised across Europe and include elements such as the Master, trailers, marketing materials, metadata, subtitles, electronic press kits etc. that can easily be channelled into film promotion platforms and VOD platforms.
 - Existing support mechanisms such as MEDIA distribution support and Eurimages foresee subtitling requirements. Clearer European guidelines should be provided for subtitling requirements in the context of digital distribution.
 - A broader dubbing policy for European children's programmes should be developed in order to encourage the circulation of European films targeted at children.
 - National film producers and distributors should be encouraged to develop a joint licensing offer.
 - Non-exclusive VOD rights may be an obstacle to building strong platforms. Operators such as Canal+, which has a film library of over 5,000 titles, see a potential danger in non-exclusivity for their existing rights since new players may take over the market.

PROPOSITION IV) – BUILDING EUROPEAN VOD INFRASTRUCTURES

- Participants were unanimous that support mechanisms and regulatory mechanisms should be used to create viable VOD market opportunities for European Films. Unless public policy, in tandem with private initiative, helps create a market in the new environment, the market won't generate it by itself.
 - Participants were doubtful that it will be possible in the near future to create a pan-European B2C film brand and participants placed greater emphasis on the potential for B2B intermediaries that will operate at a pan-European level, serving national platforms.
 - In general participants considered that public support is being provided to too many small B2C platforms that will be unable to achieve economic viability.
 - Reference was made to the Glitner Platform (a European Economic Interest Group involving 10 partners, currently provided in a Beta version) that is co-financed by the MEDIA programme, and enables rights holders to post their VoD rights availability per title/territory on a collaborative basis, matched by a B2B portal and a search engine.
 - Participants also emphasised the value of recent services such as the UK Film Council's "Find-any-Film" service and suggested that similar services could be supported at the European level and at the minimum exported to other European countries.
 - Some participants suggested that it's possible to move one step further than projects such as Glitner, through the launch of 1-3 public-private partnerships (PPPs) for pan-European VOD content aggregators that will feed national platforms and will concentrate expertise in terms of rights acquisition, marketing and trailers, and thereby act as viable competitors to the US .
 - Such PPPs would involve leading media groups and could potentially be co-financed by the European Investment Bank and structured in the form of a public tender.
 - Other participants suggested that the market should be left to operate on its own and that an attempt to create large-scale pan-European VOD content aggregators would be prejudicial to independent operators and likely to lead to ineffective bureaucratic solutions.
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