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Item 3 of the agenda

## **STEERING COMMITTEE FOR CULTURE, HERITAGE AND LANDSCAPE (CDCPP)**

### **EURIMAGES**

#### **Possible new scheme for pan-European public financial support and a legal framework to facilitate international TV series co-productions**

Document for information in view of the role of CDCPP in

“Promoting policy measures on the digitisation of culture, cultural heritage and the audiovisual sector in view of protecting their diversity and meeting the challenges and opportunities of artificial intelligence in this sector and help share best practices”.

Terms of Reference of the Committee, under specific tasks (i)

Secretariat Memorandum  
prepared by the  
Directorate of Democratic Participation  
Culture, Nature and Heritage Department

## BACKGROUND

In 2018, Eurimages commissioned Ernst & Young to carry out an external evaluation<sup>1</sup> of its activities. In their conclusions, the external evaluators recommended the Board of Management<sup>2</sup> to take into consideration the continued evolution within the audiovisual industry, in particular the rapid development of video-on-demand (VOD) services<sup>3</sup>.

At the beginning of 2019, it was decided to launch a feasibility study on the Council of Europe's intervention in the sector responsible for producing and distributing TV series, considering the impact of predictive technologies and Artificial Intelligence (AI)<sup>4</sup>. TV series representing the premium content and output of the most popular VOD platforms' catalogues over other audiovisual content, including feature films. The aim was to establish whether the current situation in our member States requires specific measures to ensure that its founding principles, such as freedom of expression or cultural diversity, are upheld.

The final report prepared by two media consulting companies Peacefulfish (DE) and Digital Media Finland (FI) was delivered in December 2019<sup>5</sup>. Among their recommendations, the consultants suggested a new legal and/or financial framework to be set up for series co-productions.

More recently, in its latest report published in May 2021<sup>6</sup>, the Secretary General mentioned the possibility to replicate the "Eurimages framework" that has worked successfully for the cinema industry in the TV series sector.

*"In a similar vein, to promote diversity and pluralism in the audiovisual sector in Europe, we need to apply the model of cultural co-operation implemented in the domain of film by the European Support Fund for the Co-production and Distribution of Creative Cinematographic and Audiovisual Works (Eurimages) to new instruments of pan-European public financial support and create a legal framework to facilitate international television series co-productions."*

The purpose of this document is to describe the importance of the "series" format in the audiovisual landscape, its implications, the possible fields of actions for the Council of Europe and Eurimages

Why the CDCPP?

The committee is in charge of cultural matters, including the audiovisual sector, as indicated in its mandate<sup>7</sup> under specific tasks (i). During the 2014-2015 biennium, a subordinate committee (CPP-CINE) was created for the revision of the European Convention on Cinematographic Co-production (see Terms of references in Annex 1).

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<sup>1</sup> The summary of this evaluation report is available on the Eurimages website ([link](#)).

<sup>2</sup> The Eurimages Fund is managed by a Board of Management where each member State is represented. The list is available on the Eurimages website ([link](#)).

<sup>3</sup> The term "video on demand" covers a wide range of technologies, all of which allow the selection and rental – or remote purchase in dematerialised form – of video content for immediate or later viewing on various types of device (computer, television, telephone, portable player) for a limited or unlimited period", European Audiovisual Observatory, "Video-On-Demand in Europe", 2007 ([link](#)).

<sup>4</sup> In this document, the word "series" will refer to live action drama series in which live actors are playing and lasting at least a minimum of 20 minutes per episode. Many series are not provided uniquely by "TVs" (broadcasters), the term "TV series" or "series" will be used regardless of the commissioner (broadcaster, VOD platform, etc.).

<sup>5</sup> The study "Entering the new paradigm of artificial intelligence and series" is available on the Eurimages website ([link](#)).

<sup>6</sup> The report is available on the Council of Europe website ([link](#)). The "TV series" initiative is mentioned in the Chapter 8 Democratic Participation, section Culture and Cultural Heritage (p.143).

<sup>7</sup> The Terms of Reference are available on the CDCPP website ([link](#)).

## THE REASONS BEHIND THE SUCCESS OF INTERNATIONAL SERIES

Series have become a cultural and social phenomenon in the last few years. The success of cult TV series such as "Games of Thrones" have become worldwide references, subjects of books, or multidisciplinary academic research (from sociology to philosophy or even geopolitics).

Series are now considered as artistic works and given an important place in the world of cultural creation. However, series have existed since television was born. The "daily soaps" or "telenovelas" were used to create loyalty with a codified and predictable format. Even if this standardised production is still present, increasingly qualitative – so-called *high-end series* – are now becoming predominant.

In a study published in 2020<sup>8</sup>, the European Audiovisual Observatory defines high-end series as short series (from 2 to 13 episodes) made for prime time with a consequent financial investment. The format is the result of a unique mix of highly skilled writers along with experienced creative producers<sup>9</sup>.

High-end series account for roughly half of all European fiction titles produced annually and this number increases every year (see Appendix 2).

This quantitative and qualitative upgrade can be explained by technological developments and digitalisation on the one hand, and the streaming revolution<sup>10</sup> on the other. The number of subscription video-on-demand services (SVOD) has exploded in the past few years, both from new players (global and local) and from "traditional" players launching their own online catalogues.

More than 200 different services are listed in the European Union<sup>11</sup>. These new players, dominated by Netflix, Amazon and most recently Apple+ or Disney+ (see Appendix 3), use series as an exclusive differentiator to attract and retain subscribers. The viewers are highly engaged with high-end-series. Therefore, more and more high-profile talents (artistic and technical crews) are hired to propose premium content and innovative stories.

Demand has also rapidly adapted to a new way of consuming audiovisual products and particularly series. With access to multiple screens and a personalised offer, young audiences seem to favour watching unlimited content anytime, anywhere, on any device. In less than 10 years, the number of subscribers to SVOD services in Europe has grown from less than 1 million in 2011 to 140 million by the end of 2020 (see Appendix 4).

This trend was reinforced by the measures related to the Covid-19 pandemic, including the closure of the cinemas.

Such shifts on the demand and the offer side also accelerated the appetite for international series, more specifically local stories made for global audiences – so-called "*glocal*" series –, generating interest and sales abroad<sup>12</sup>. The language becoming gradually less of a barrier since young audiences are used to subtitling.

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<sup>8</sup> "European high-end fiction series: State of play and trends", European Audiovisual Observatory, 2020 ([link](#)).

<sup>9</sup> In the US model, the leading producer is called "showrunner". The role is responsible for creating and managing the production of a TV series production through combining the responsibilities of employer, character creator, head writer, and script editor.

<sup>10</sup> A streaming service such as Netflix or Amazon Prime provides unlimited content over the internet. Viewers have immediate access to content without having to download it or wait for a broadcast at a particular time.

<sup>11</sup> "Trends in the VOD Market in EU28", European Audiovisual Observatory, 2021 ([link](#)).

<sup>12</sup> "Entering the new paradigm of artificial intelligence and series", study commissioned by the Council of Europe and Eurimages, 2019, p.34.

## IMPLICATIONS FOR “TRADITIONAL” BROADCASTERS

This qualitative upgrade (both at technical and artistic levels) of international series has resulted in higher production costs in a very competitive market, which are difficult to quantify. In the European Audiovisual Observatory's study<sup>13</sup>, the increase is estimated at 30% on a sample of some European series titles<sup>14</sup>.

This inflation in production budgets is an obstacle for traditional broadcasters already suffering from the decline of viewership and from the migration of advertising to the internet.

Co-productions between broadcasters is one of the solutions to address the need for additional resources. For the moment, even if increasing, the share of international co-production among high-end series is still quite low (around 13% between 2015 and 2018<sup>15</sup>). This cooperation can also take the form of an alliance between public broadcasters.

RAI (IT), ZDF (DE) and France Television (FR) are collaborating since 2018 on the co-production of big budget international series<sup>16</sup>. Recently, the European Broadcasting Union (EBU) has launched the Drama Initiative, which aims to facilitate access to high-quality content to its members (broadcasters from over 50 countries) by fostering co-production.

*The challenge* is to increase the number of international co-productions by avoiding the curse of “Europudding” series. This refers to the artificial juxtaposition of elements from the participating countries, for financial reasons, without due regard for narrative, and the resulting negative impact on quality.

## IMPLICATIONS FOR INDEPENDENT PRODUCERS

Whoever the commissioners (traditional broadcasters, SVOD platforms, etc.), the production of high-end TV series involves one or more producers.

Production companies must find a compromise between an immediate and known income earned by selling rights (intellectual property rights) to the series at an early stage<sup>17</sup>, and potentially higher future revenues obtained by retaining ownership of rights and exploiting them over a longer period<sup>18</sup>.

Global providers such as Netflix, Amazon and Apple, impose the first model considering producers as suppliers, obtaining all rights and ownership in return for higher upfront payments.

*The challenge* is to protect independent producers and their ability to negotiate with key market players with the view to making relevant and meaningful series. The producers must have the choice to retain their rights and not necessarily be considered as service companies.

The complex multi-player financing model of international series should imply a more central role for producers, as regards financing and management of rights, in close collaboration with scriptwriters.

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<sup>13</sup> “European high-end fiction series: State of play and trends”, European Audiovisual Observatory, 2020, p.63.

<sup>14</sup> “The Bridge”, “Deutschland 83”, “Occupied”, “The Crown” and “The Ministry of Time”.

<sup>15</sup> “European high-end fiction series: State of play and trends”, European Audiovisual Observatory, 2020, p.11.

<sup>16</sup> “Mirage”, “Leonardo”, “Le Tour du monde en 80 jours” or “Eternal City”.

<sup>17</sup> “Cost Plus” model (sometimes called ownership deals): the audiovisual service (broadcaster or VOD service) of the series fully funds the programme and retains all exploitation rights.

<sup>18</sup> “Deficit financing” model (sometimes called co-production): the audiovisual service (broadcaster or VOD service) only partly finances the programme and where the production company retains certain rights to either gather additional pre-financing or recoup its investment from future sales.

## **IMPLICATIONS FOR NATIONAL AND EUROPEAN PUBLIC INSTITUTIONS**

At national level, most European countries have already perceived the strong trend in favour of series. Many initiatives and support programmes have been launched with cultural and/or commercial aims. However, most of the funds for series are not large enough to support high-end series. Producers from countries with smaller production capacities tend to feel especially underserved and blocked in their international projects<sup>19</sup>.

*The challenge* at national level is to give legal and financial means to producers in cooperation with broadcasters for co-developing and co-producing international series.

At international level, global US service providers from tech, telecom, and entertainment (Netflix, Amazon, Disney, Comcast, AT&T, Apple, Discovery, etc.) are set to dominate the media landscape in Europe. These companies have the required scale, financial power, and consumer base to outcompete European players on their own national markets.

European audiovisual service providers will subsequently have to seek alliances, mergers, and acquisitions to compete with US entrants in a market which is consolidating horizontally to gain scale or vertically to control the value chain from production to distribution<sup>20</sup>.

*The challenge* at international level is to preserve diversity of voices and pluralism in Europe as an alternative practice to the now dominant model of creative control and intellectual property being essentially held by non-European global players.

## **COUNCIL OF EUROPE AND EURIMAGES ADDED VALUE**

Promoting freedom of expression and a diversified cultural offer represent core goals for Eurimages, the cinematographic co-production Fund of the Council of Europe. This is the reason why the Fund is closely following the main trends in the European audiovisual industry.

To face the many challenges resulting from the arrival of new video-on-demand (VOD) players and the success of the high-end series format, the Fund intends to replicate the approach used for cinema. Eurimages and the Council of Europe have acquired relevant experience in the implementation of a legal and financial instrument in the audiovisual sector.

Since 1989, more than 2 200 film co-productions have been financially supported. Eurimages is recognised as a label of quality and excellence as demonstrated by the many prestigious awards received by the supported films.

Shortly after the Fund was established, the Council of Europe developed a legal instrument to facilitate co-productions. Today, many multilateral and bilateral feature film co-productions fall under the Council of Europe Convention on Cinematographic Co-production (revised).

The objective of the coming months is to determine the need for a new scheme of pan-European public financial support for TV series and a new legal framework to facilitate international TV series co-productions.

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<sup>19</sup> *Entering the new paradigm of artificial intelligence and series*, study commissioned by the Council of Europe and Eurimages, 2019, impact analysis of public support schemes.

<sup>20</sup> *Trends in the VOD Market in EU28*, European Audiovisual Observatory, 2021, outlook – 3 main take-aways.

## THE ROLE OF THE GR-C<sup>21</sup> AND CDCPP

The Secretariat proposes to study the feasibility of the financial instrument within the GR-C. This will be discussed at a meeting to be planned in the autumn after the conference organised on TV series under the auspices of the Hungarian presidency of the Committee of Ministers.

For the legal instrument, the Secretariat proposes to create a subordinated committee to the CDCPP. A request for a budgetary reinforcement of €100K has been made as part of the 2022-2025 programme and budget process.

The Eurimages budget will also cover part of the expenses of this sub-committee.

### NEXT STEPS

Task description	Governance body	Date
Arrival of a seconded agent to work on this initiative about series	Eurimages BoM	June-21
Presentation of the “series” initiative to the CDCPP (focus on the creation of new legal instrument)	CDCPP	June-21
Integration in the 2022-2025 programme and budget (ordinary budget + extrabudgetary resources)	GRPBA/CDCPP	August-21
Integration in the 2022-2025 Terms of Reference of intergovernmental committees	GRPBA/CDCPP	August-21
Organisation of a conference under the auspices of the Hungarian presidency and in collaboration with the Hungarian National Film Institute	Eurimages BoM	30/09/2021-01/10/2021
Creation of sub-committee to evaluate the feasibility of a new legal instrument	CDCPP	January-22
Presentation of the “series” initiative (focus on creation of a new support Fund)	GR-C	TBD

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<sup>21</sup> Rapporteur Group on Education, Culture, Sport, Youth and Environment

## APPENDIX 1: TERMS OF REFERENCE OF THE COMMITTEE OF EXPERTS FOR THE REVISION OF THE EUROPEAN CONVENTION ON CINEMATOGRAPHIC CO-PRODUCTION (CPP-CINE)

### Committee of experts for the revision of European Convention on Cinematographic Co-production (CPP-CINE)

*Set up by the Committee of Ministers under Article 17 of the Statute of the Council of Europe and in accordance with Resolution CM/Res(2011)24 on intergovernmental committees and subordinate bodies, their terms of reference and working methods.*

**Type of committee:** Subordinate body

Terms of Reference valid from **1 January 2014 until 31 December 2015**

<b>Main tasks</b>
<p>Under the supervision of the Steering Committee for Culture, Cultural Heritage and Landscape (CDCPP), the CPP-CINE is entrusted with the task of assessing the continued relevance of the provisions of the European Convention on Cinematographic Co-production and drawing up a revised version of the Convention which takes into account recent technological and financial changes in the European film industry.</p> <p>The CPP-CINE will submit its final draft to the CDCPP, which will transmit it to the Committee of Ministers for adoption and opening for signature.</p>
<b>Pillar/Sector/Programme</b>
<p><b>Pillar:</b> Democracy  <b>Sector:</b> Diversity  <b>Programme:</b> Valuing the cultural and natural heritage</p>
<b>Expected results</b>
<p>A draft revised convention is prepared and submitted to the CDCPP for approval prior to being sent to the Committee of Ministers for adoption and opening for signature.</p>
<b>Composition</b>
<p><b>Members:</b>  Each States Party to the European Convention on Cinematographic Co-production can appoint one or more experts in the field of cinematographic co-production having extensive knowledge of procedures, legal aspects, mechanisms and approaches at domestic, European and international level.</p> <p>The Council of Europe budget will bear the travel and subsistence expenses of one representative from each States Party.</p> <p>Other member States may send representatives without defrayal of expenses.</p> <p><b>Participants:</b>  The following may send a representative, without the right to vote and at the charge of their corresponding administrative budget:</p> <ul style="list-style-type: none"> <li>- Eurimages;</li> <li>- European Audiovisual Observatory.</li> </ul> <p>The following may send representatives, without the right to vote and without defrayal of expenses:</p> <ul style="list-style-type: none"> <li>- European Union;</li> <li>- Observer States to the Council of Europe: Canada, Japan, Mexico, United States of America.</li> </ul> <p>as well as the following intergovernmental organisations:</p> <ul style="list-style-type: none"> <li>- United Nations Educational, Scientific and Cultural Organisation (UNESCO);</li> <li>- Conferencia de Autoridades Cinematográficas de Iberoamérica (CACI).</li> </ul> <p><b>Observers:</b>  The following may send representatives, without the right to vote and without defrayal of expenses:</p> <ul style="list-style-type: none"> <li>- Israel</li> </ul>

as well as the following non-governmental organisations:

- Society of Audiovisual Authors (SAA)

#### Working methods

##### Plenary meeting:

43 members, 1 meeting in 2015, 2 days

##### Working group:

The working group, composed of up to 15 experts nominated by the States Parties, will prepare the proposals for the consideration of the CPP-CINE.

15 members, 2 meetings in 2014, 2 days

#### Budgetary information\*

##### 2014

Meetings per year	Number of days	Members	Plenary €	Bureau €	Subordinate structures/ Working groups	Secretariat (A, B)
2	2	15	-	-	55 000	0.5 A ; 0.5 B

##### 2015

Meetings per year	Number of days	Members	Plenary €	Bureau €	Subordinate structures/ Working groups	Secretariat (A, B)
1	2	43	55 000	-	-	0.5 A ; 0.5 B

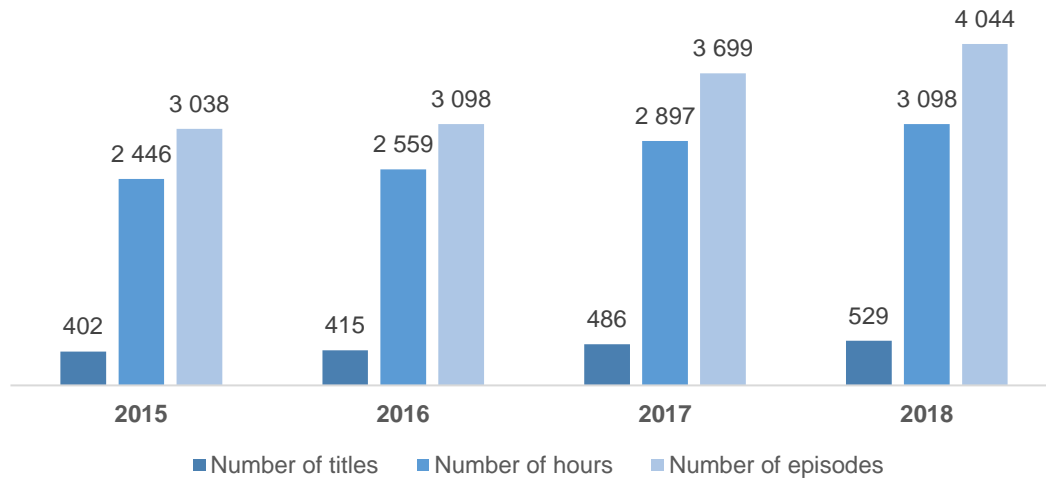
\*The costs presented above take into consideration the per diem, travel, interpretation, translation and document printing. Costs calculated on the basis of the per diem and recharged services costs at their 2014 level.

Eurimages will contribute to the process of revision of the Convention with an amount of €25 000 per year.



**APPENDIX 2: VOLUME OF HIGH-END SERIES PRODUCED IN EU28, 2015-2018**

Figure 1

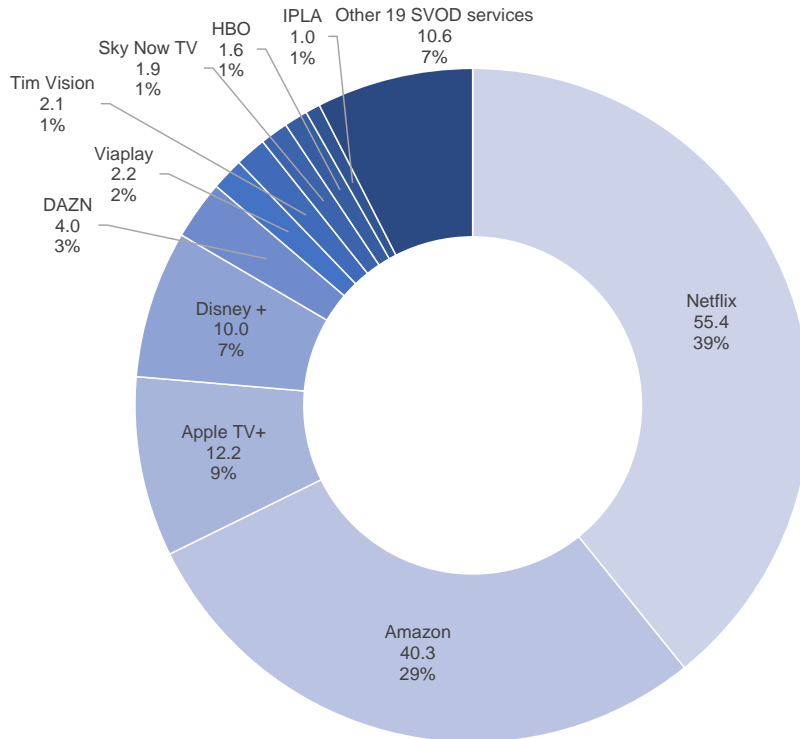


Source: European Audiovisual Observatory analysis of the European Metadata Group data<sup>22</sup>

<sup>22</sup> "European high-end fiction series: State of play and trends", European Audiovisual Observatory, 2020

**APPENDIX 3: VOLUME OF SVOD SUBSCRIBERS BY COMPANY IN EU28 (IN MILLION), 2020**

Figure 2



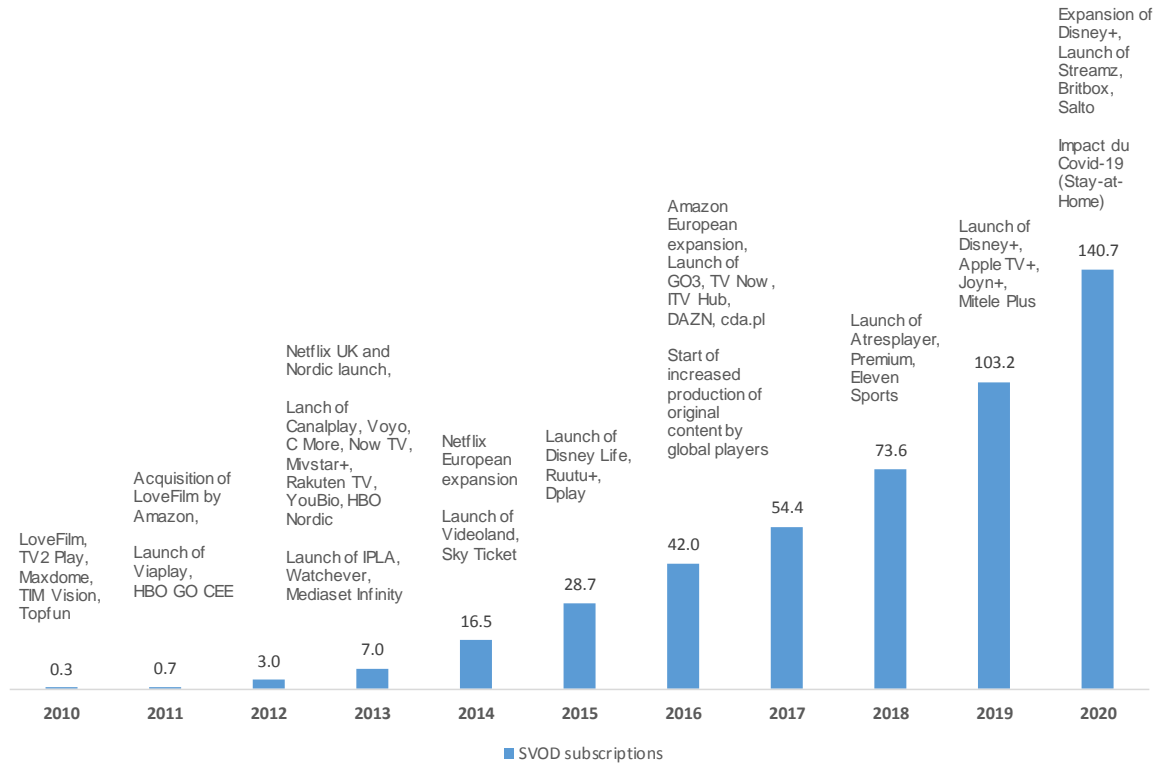
*Other 19 SVOD services: Mediaset Infinity, Joyn Plus, TV Now, Videoland, Dplay, TV2 Play, Voyo, C More, Sky Ticket, ITV Hub+, Streamz, Player.pl, Atresplayer Premium, cda.pl, Ruutu+, Mitele Plus, Rakuten TV, Go3, Eleven Sport*

Source: Ampere analysis<sup>23</sup>

<sup>23</sup> "Trends in the VOD Market in EU28", European Audiovisual Observatory, 2021

**APPENDIX 4: VOLUME OF SVOD SUBSCRIBERS IN EU28 (IN MILLION), 2010-2020**

Figure 3



*Not all SVOD services are taken into account, only a selection to show the most impactful*

Source: Ampere analysis<sup>24</sup>

<sup>24</sup> "Trends in the VOD Market in EU28", European Audiovisual Observatory, 2021