



Territoriality in EU Copyright Law: a never-ending story?

ARE AUDIOVISUAL WORKS LIKE A CAT ON A HIGHWAY TO EUROPE?

Territorial licensing and commercial freedom. The reality of a culturally diverse Film and TV sector in Europe
Venice, 3 September 2022

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European Audiovisual Observatory

30
Years *Ans* *Jahre*



Observatoire européen de l'audiovisuel
European Audiovisual Observatory
Europäische Audiovisuelle Informationsstelle

IRIS *plus*

A publication series of the
European Audiovisual Observatory

**Territoriality
and its impact
on the financing
of audiovisual works**

IRIS Plus 2015-2

2015

TERRITORIALITY IN COPYRIGHT LAW


- ❑ Regulated at **national level**
- ❑ Rightsholders can grant **territorial licenses**

TERRITORIALITY IN DISCUSSION

2015

OBSTACLE
to the circulation
of audiovisual works
in the EU

FUNDAMENTAL
for the financing
of European films



**Territoriality and financing of
audiovisual works: latest
developments**

IRIS Plus

A publication
of the European Audiovisual Observatory

2019

FUNDAMENTAL
for the financing
of European films

TERRITORIALITY IN PRACTICE

SOURCES OF FINANCING

Ranked by percentage share. Based on all 445 sample films.

Rank	Financing sources	Amount in MEUR	% share
1	Direct public funding	407.7	29%
2	Broadcaster investments	357.9	25%
3	Pre-sales (excl. broadcasters)	222.4	16%
4	Producer investments (excl. broadcasters)	215.7	15%
5	Fiscal incentives	144.1	10%
6	Debt financing	23.4	2%
7	Other financing sources	18.0	1%
8	Private equity cash investments	16.2	1%
9	In-kind investments	6.3	0%
	Total sample	1 411.7	100%

Source: European Audiovisual Observatory

TERRITORIALITY IN DISCUSSION

2014

OBSTACLE

to the circulation
of audiovisual works
in the EU

*...to achieve portability of content
and cross-border access to legally
purchased online services...*

...break down national silos...

OBSTACLE
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in the EU

TERRITORIALITY IN DISCUSSION

up to 2019

- Geo-blocking Regulation (2018)
- Portability Regulation (2018)
- Revision of the Sat-Cab Directive (2019)
- Copyright Directive (2019)

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TERRITORIALITY IN DISCUSSION

up to 2019

Geo-blocking Regulation (2018)

*Audiovisual products are
excluded from its scope!*

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TERRITORIALITY IN DISCUSSION

up to 2019

Geo-blocking Regulation (2018)

REVIEW 2020

Need for further assessment...

OBSTACLE
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in the EU

TERRITORIALITY IN DISCUSSION

Media and Audiovisual Action Plan (2020)

Stakeholders' dialogue (2021)

2022



Circulation of European films
on VOD and in cinemas

Christian Grece
December 2021

A Publication of the European Audiovisual Observatory

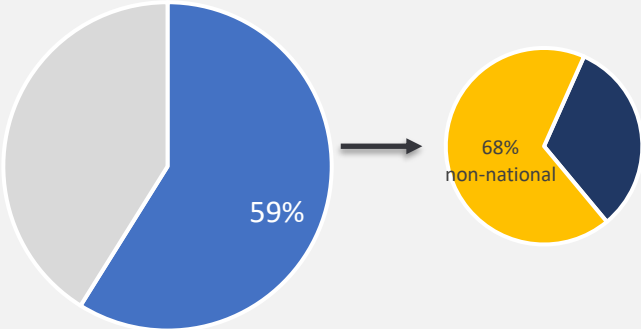
30
Years



From a PROVIDER perspective: large % of European films...

% of European films on offer

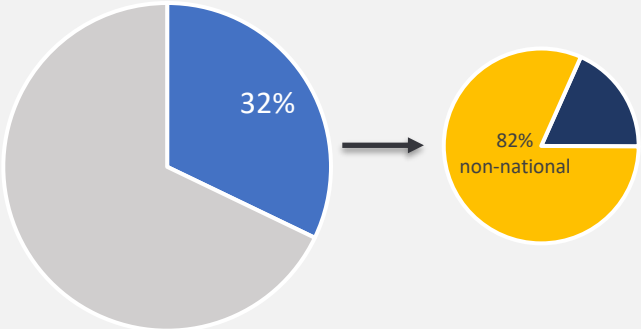
Cinema



Source: European Audiovisual Observatory (EAO)

% of European films on offer

VOD



Source: European Audiovisual Observatory (EAO)

...and a significant number in absolute terms

Nr of European films on offer in cinemas

> 6 100 European films

on release in the EU27+UK
(vs ~ 1 700 US films)

Avg ~ 440 European films

on release in each market

Capacity limits

Between 140 and 350 films
on release in each cinema every year.

Source: European Audiovisual Observatory (EAO) / Europa Cinemas

Nr of European films on offer on VOD

~ 42 700 European films

available in EU27+UK
(vs ~ 36 000 US films)

Avg ~ 8 500 European films

available in each market

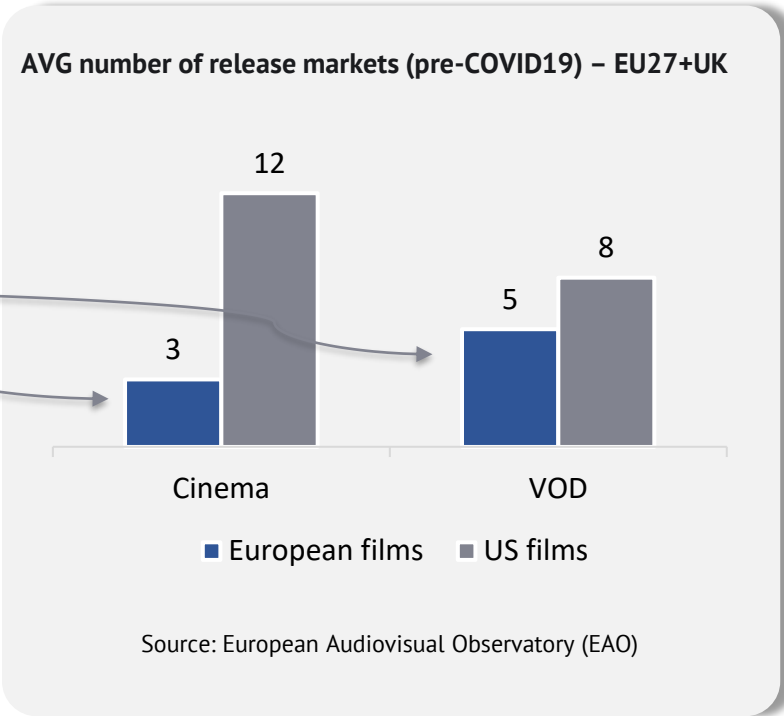
Capacity limits

Avg VOD catalogue size:
TVOD: ~ 5 200 films; SVOD: ~ 1 100 films

Source: European Audiovisual Observatory (EAO)

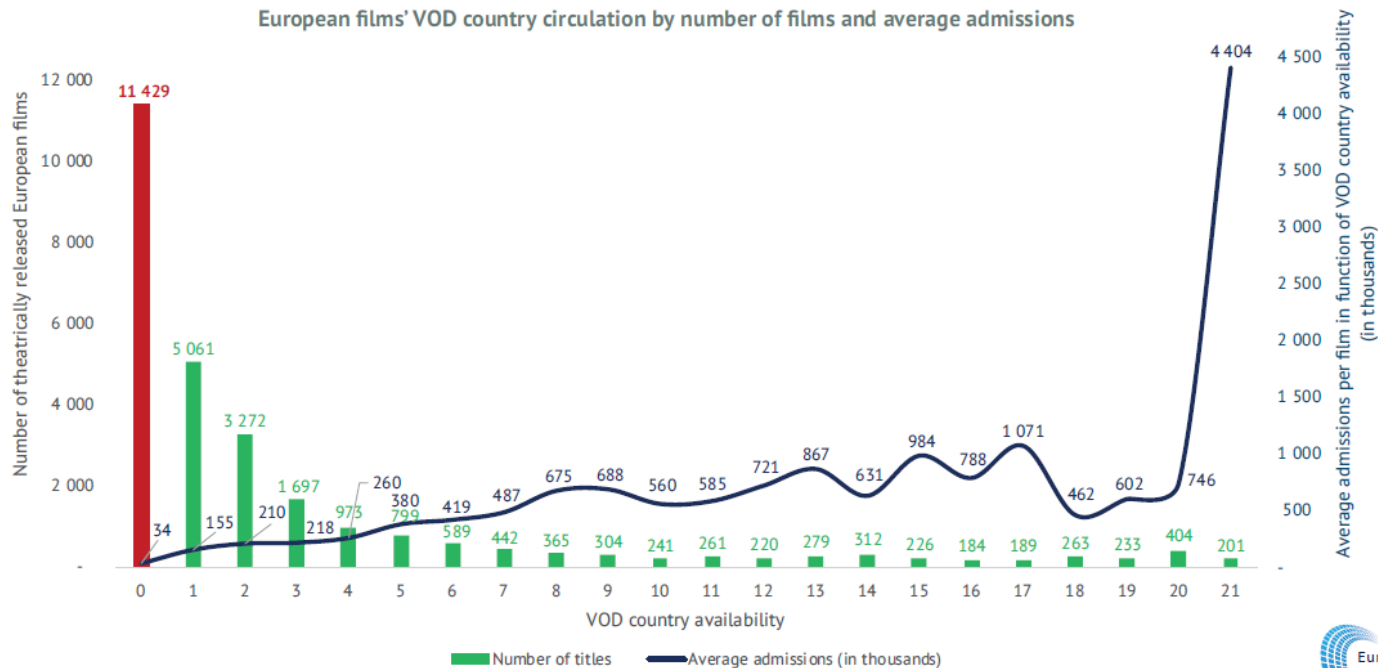
From a CONSUMER perspective: limited circulation

~ 2 000
European films
produced every year
2015-2019 avg



The number of countries of availability for a film is also correlated to admissions

- ▶ On average, the higher the admissions during the theatrical release, the greater the number of EUR20+1 countries in which a European film will be available on VOD.
- ▶ The correlation between admissions and VOD country availability is not perfect but higher admissions will increase, on average, the number of countries in which a European film will be available on VOD services.



Source: LUMIERE, JustWatch, LUMIERE VOD, European Audiovisual Observatory



LE FATE
IGNORANTI

LA SERIE

LE FATE
IGNORANTI
LA SERIE



TILDE CORSI E GIANNI ROMOLI PRESENTANO

MARGHERITA BUY

STEFANO ACCORSI

LE FATE
IGNORANTI

Un film di
FERZAN ÖZPETEK



LE FATE IGNORANTI

LA SERIE

TILDE CORSI E GIANNI ROMOLI PRESENTANO
MARGHERITA BUY STEFANO ACCORSI

pas disponible!

LE FATE
IGNORANTI

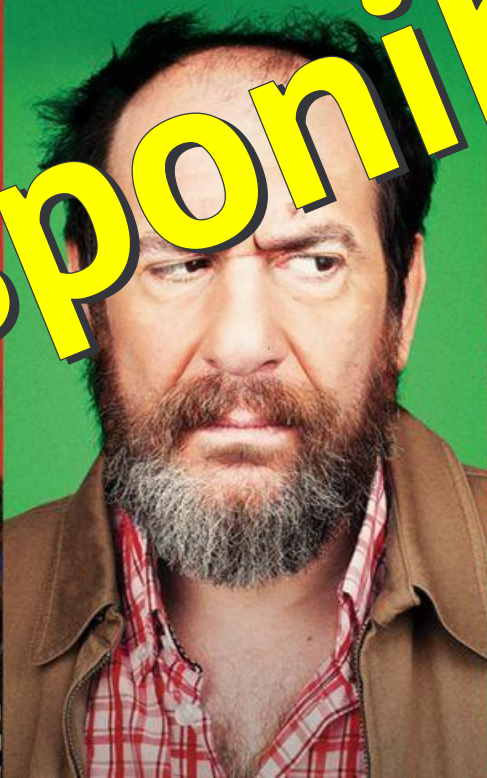
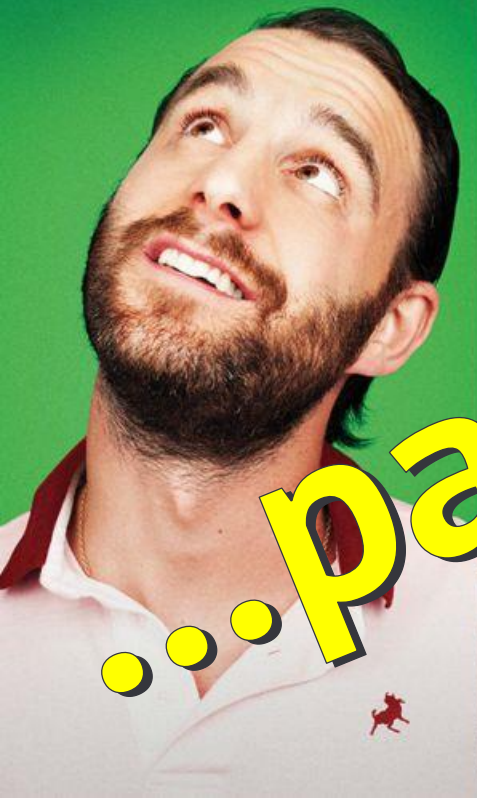
Un film di
FERZAN OZPETEK

A red graphic overlay is positioned diagonally across the right side of the image. It features a white cartoon character with large yellow eyes and a blue body. The text 'pas disponible!' is written in a bold, yellow, sans-serif font across the character. Above the character, the title 'LE FATE IGNORANTI' is written in a blue, stylized font. Below the character, the text 'Un film di FERZAN OZPETEK' is written in a white, sans-serif font. At the top of the red area, the names 'TILDE CORSI E GIANNI ROMOLI PRESENTANO' and 'MARGHERITA BUY STEFANO ACCORSI' are written in a white, sans-serif font.

OCHO APELLIDOS VASCOS



OCHO APELLIDOS VASCOS!



...pas disponible!

OBSTACLE
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TERRITORIALITY IN DISCUSSION

Media and Audiovisual Action Plan (2020)

Stakeholders' dialogue (2021)

*Commission asked for **industry-led solutions** which would **allow consumers to access** audiovisual content offered in other Member States*



OCHO APELLIDOS VASCOS



¡Disponible!



OBSTACLE
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in the EU

TERRITORIALITY IN DISCUSSION

Media and Audiovisual Action Plan (2020)

Stakeholders' dialogue (2021)

*Users' representatives proposed to explore the idea of setting up a **non-commercial TVOD service** to ensure the distribution of **publicly funded films in unlicensed territories***

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TERRITORIALITY IN DISCUSSION

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*Representatives of the audiovisual sector explained
that any such option would in their view
undermine the sustainability of the industry*

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TERRITORIALITY IN DISCUSSION

Media and Audiovisual Action Plan (2020)

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*The Commission is going to invite stakeholders to
provide further ideas to improve the access of
European works **after the summer***

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TERRITORIALITY IN DISCUSSION

Competition Law

Article 101 TFEU

1. The following shall be **prohibited** as incompatible with the internal market: all **agreements** between undertakings, **decisions** by associations of undertakings **and concerted practices** which may **affect trade** between Member States and which have as their **object or effect** the **prevention, restriction or distortion of competition within the internal market** [...]

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TERRITORIALITY IN DISCUSSION

Competition Law

Court of Justice of the EU:
Case T-873/16 Groupe Canal+ (2021)

TERRITORIALITY IN DISCUSSION

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FUNDAMENTAL
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**It's a never-
ending story...**

Thanks for your attention!

Questions?

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30
Years *Ann* *Jubilee*



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COUNCIL OF EUROPE



CONSEIL DE L'EUROPE