Entering the new paradigm of Artificial Intelligence and Series
Executive Summary

December 2019

Introduction:

This study is the result of a Tender awarded on 10 May 2019 by the Directorate General of Democracy (DG2) of the Council of Europe and Eurimages to commission a study exploring the feasibility of the Council of Europe's intervention in the sector responsible for producing and distributing Television series.

The series sector has changed dramatically in the last few years with the recent development of online video platforms ("OTT platforms") offering large catalogues of content accessed via pay subscription models ("SVOD" offers). These offers have gained many customers worldwide and are strongly changing the way content is consumed and produced. Even though local SVOD platforms are now emerging throughout Europe, the rapid penetration and success of global platforms like Netflix and Amazon in most markets raise issues of their disruptive approach to marketing and content production. This study and analysis will focus on the growing fictional series segment which is henceforth referred to as "Series" in this Study. [1]

This study will provide key research elements and analysis of the Series sector in key Council of Europe member States markets. It will also present recommendations to assist Eurimages position itself as a potential new player in this market segment.

If Eurimages is also willing to explore its potential role within the framework of its prerogatives i.e supporting cultural diversity of all its member States and defending the fundamental values of the Council of Europe in the audio-visual sector, there may be a larger role for Eurimages to play. In this respect, a specific analysis on new AI methods has also been highlighted in this report which estimates their potential impact in this segment, and which also contains our counsel and proposed recommendations.

[1] Series is defined precisely in 2.2.1

The team selected to respond to the study consists of 2 companies with in-depth experience in the audio-visual sector:

- Consortium leader Peacefulfish UG (Thierry Baujard supported by Axel de Swarte) from Berlin, Germany with the support from TV and Series expert Remi Tereszkiewicz based in Paris
- Digital Media Finland company lead by TV expert Timoteus Tuovinen

The methodology used was primary and direct, based on interviews with more than 50 producers, public institution representatives and professionals in the audio-visual sector (a complete list is contained in Appendix 5).
This research was completed by meetings at “Série Series” Workshop in Fontainebleau in June 2019 and a visit to the International Broadcasting Convention (IBC) fair in Amsterdam in September 2019. It is important to note that global platform players like Netflix, Amazon and HBO were contacted for this study, but they did not respond to our inquiries.

In addition, we have conducted secondary research based on many studies, reports and trade press articles dealing with the global platform sector issues and have also included our analysis on potential factors and issues for this study.

<u>The audio visual sector is evolving right along with the AI evolution:</u>

Digitalization has transformed the TV and film industries with increasing speed during the past decade. The production, distribution and consumption of audio-visual content has also been affected by the increasing adoption of Artificial Intelligence (**AI**).

AI is already in wide use in various business areas and other functions of society. The use of AI in media is especially important as it challenges some of the commonly shared values, such as freedom of expression, access to information, cultural diversity and data privacy.

Some of these threats can be identified because of the use of AI. For example, personalized content recommendations can contribute to the narrowing of content offered, because recommendations are based on a viewer’s previous viewing choices or viewing patterns of others with similar viewing behaviour.

Another very common use of AI also involves personalization, but instead of program recommendations, personalization is used for targeted advertising. As more and more personal data is gathered by AI, the more targeted advertising will become. Media industries in general are moving away from mass audiences into smaller, and more specialized and perhaps engaged audiences. Furthermore, there is an increasing competition in Europe on collecting consumers data, and US digital companies are taking the lead. This may in turn have a deleterious effect on the issues of personal data protection.

This report studies the impact of AI on various levels of production, distribution and consumption of series and films. There are early signs of AI adoption in production. Many companies already use the AI-enabled tagging of metadata to more effectively index and identify their content, thus maximizing the use of their digital archives. AI applications utilizing voice recognition are also appearing as the numbers of voice-controlled smart speakers and other media terminals are rising. AI can also be used for original content creation. The first robot-generated news clips have now appeared, and there have even been fully computer-generated news anchors on the air. However, these are still trials and therefore, have not had any significant impact on the media industry yet.

Program distribution and content recommendations remain the main AI uses today. Personalization can be a valuable feature for consumers in finding content relevant to them. The study points out that it also can be beneficial to both consumers and advertisers not to have people exposed to non-relevant advertising.

For now, the main development and uptake of AI takes place among the large media companies. Smaller companies typically are solution providers focusing on single products or functionalities. The push for AI among commercial media companies is done to increase viewership and loyalty and to maximize revenues. Public sector companies are more focused on user experience and the transparency of the AI. There is also a need for sharing information and experiences about AI among professional organizations such as the European Broadcasting Union.

As highlighted in several interviews and background materials for this study, the concerns of fair AI use are evident. However, enforcing rules or regulations directed toward the AI itself is challenging, if nothing else, for technical reasons. AI uses proprietary algorithms which are the core of the AI system. This code is highly confidential and also has intellectual property rights. Advanced neural nets use AI in a way, which can make it impossible to open up the logic of the machine learning process. This is the “black box” problem in which even some developers don’t know why the AI system “learned” what it learned.

In the absence of international or European AI regulations, this study raised the importance of AI ethics being applied much more globally. While many companies already are imposing auto-regulation of AI, there is a need for general European wide guidelines to ensure the trustworthiness of AI. Numerous AI ethics related studies and codes of conduct already exist. One key finding was that there is a desire among the various entities using AI for a European-wide guidance gathering generally accepted rules on AI ethics.

The European audio-visual market is radically changing

In the last few years, European media markets have been deeply affected by new demands from TV users migrating to multi-screen, personalized and non-linear video usage. New non-linear offers sustained by strong marketing and massive content investments have almost reached 10% of users’ TV viewing shares and are currently growing everywhere with positive but different growth rates between countries.

Prioritized by Subscription Video On Demand (SVOD) new entrants, International Series have been used to build differentiation and loyalty to their services in all age groups. Local free broadcasters, pay TV, and telecommunication operators have also joined this trend to compete against the SVODs and retain their audiences in particular based on their viewers growing interest in local stories. “Glocal” (local stories made for a global audience) premium series with international distribution potential have thus become a growing strategical segment in the European media market.

Local producers and distributors have addressed this booming demand but have also had to face several challenges to benefit from this opportunity. OTT platforms (global providers such as Netflix or Amazon) tend to impose new business models considering producers as servicing companies, grabbing all rights and ownership in return for higher upfront payments.

In these new business models, talents become scarcer for other media players because they can be captured directly by platforms through exclusive contracts. Distributors may also see their sales revenues in danger of falling because worldwide rights deals can be done directly by platform players or media groups which can internalize all aspects of the deal.

On their side, broadcasters can't finance projects on their own anymore due to higher budgets and as such, are trying new strategies to join forces (including co-productions, joint ventures, and alliances) opening to producers a new central position as coordinators of these international co-operations. This dynamic market will be even more stimulated by the upcoming arrival of new players such as Disney+ or HBO Max who are themselves reacting to Netflix or Amazon's threats of predominance.

Institutions start to support this segment at the European, national and regional levels but with far less support than in the cinema industry. Tax shelters or the European Commission's Creative Europe - Media Sub-programme support are nevertheless becoming essential financing mechanisms in these projects. Development phases still remain fragile, but they are very important in achieving full international potential. Some countries' best practices are leading the way: the recent French political impulse, the Belgian initiatives financing almost 100% of the development phases, or the Danish focus on the writing phase, all of them aiming to find growing international sales opportunities as already addressed by the UK or Israel media industries. Institutions work fiscally and at the legislative level with quotas, obligations of investment in local production and taxation on SVOD services, currently in discussion or in deployment as permitted by the AVMSD (Audio-visual Media Services Directive).

European content ownership is challenged

As highlighted in the several cases studies presented in the report, there is a need from all players to work at the institutional and European level to ensure fair conditions and growth in this strategic segment, in compliance with European values on cultural pluralism and freedom of expression.

Preserving content ownership for producers as much as possible in global productions involving OTT platforms is a primary challenge, as platforms models dictate full copyright transfer (as inherited from US studio methods) and acceptable only where unions have precisely negotiated all the conditions necessary to defend talents and producers. As author's rights prevails in Europe, this requirement has to be adapted and integrated in collective negotiations with platforms.

With international series giving more importance to the development and writing phases, transparent and fair commercial and working rules should be established between all stakeholders. This is in order to achieve high quality at optimized costs and enable writing talent fair compensation and living means, which today are far below US standards. This implies investment is needed more in the early stages, along with training and development (notably the new “showrunning” role) and adaptive financial treatments.

The ability to avoid monopolies on OTT/SVOD distribution by a few US OTT platforms is also a condition to preserve European cultural pluralism and enable fair conditions for producers and other stakeholders. Current alliances initiated by allied TV companies for shared production and local OTT platforms projects are paving the way and should be further encouraged.

Public support to series is increasing

Public support’s impact analysis shows that most of the funds for series are not large enough to support high-end series in Europe. In a growing number of countries, fewer series are, in fact, supported, but those that are receive higher levels of individual support.

The development phase is underserved, even if it’s the phase where public intervention could be the most efficient and where private investments are lacking because of its high risk.

Some criteria of selective support programs tend also to not be adapted to series and might need to be reworked taking into account the cultural criteria and business success expectations trade-off.

Cash rebate mechanisms have been largely adopted as it is a relevant program to attract audio-visual projects of all kinds and it is easy and clear to use for production companies. However, it cannot replace early stage support of the projects. Furthermore, the European Commission is always reassessing its authorization due to unfair competition risks. Finally, co-productions seem to be the key success factor for ambitious series as they boost international cooperation on creativity, financing and distribution.

Producers tend also to have difficulties understanding clearly how public support works for series and the procedures are often too complex and slow in a market where things are going faster and faster.

Apart from a few countries (mostly the Nordics) that have seized the international co-production institutional support opportunities, producer form countries with smaller production capacity tend to feel especially underserved and blocked in their international projects.

5 recommendations for Eurimages to enter the series sector

1) Recommendation 1: Mandating Eurimages to build competence on Series

Interviews we have conducted for this report indicate high expectations from stakeholders about a possible role for Eurimages in this growing series market. Therefore, Eurimages could be mandated to build competence in this area and granted the necessary budget to do so. Eurimages could organise a conference with partners about this report.

2) Recommendation 2: Setting up a legal framework for series co-productions

We have seen in this report the importance of increasing series budgets for European broadcasters to compete against OTT propositions. This phenomenon is quite new as the growing importance of OTT players took place only 2-3 years ago.

The most efficient solution is to increase the number of series co-productions, which today are far below the level co-productions of the cinema industry (only 9%[2] of series are co-productions, compared to 22% of feature films). Eurimages is uniquely capable of handling this mission as it did so successfully in the cinema industry. In order to facilitate cooperation and co-production in the series sector, a new convention for series, inspired by the Council of Europe Convention on Cinematographic Co-production (revised) could be envisaged.

Eurimages could be mandated by the COE to draft a proposal for a COE convention on series co-production in collaboration with interested member States.

3) Recommendation 3: Supporting innovation and risk-taking in series development

We have shown in this report the importance of script writing and the development phase which is much higher for series than it is in the cinema or local fictions. In this new paradigm, the producer is the main player. The producer is usually the stakeholder without high capital resources unless he/she is part of a large media group. We therefore recommend financially assisting independent producers specifically at this stage. The impact we expect is on three levels:

- There will be more international projects, also from low production capacity countries where national broadcasters are much below international series budget requirements.
- Independent producers will play an important role in this growing segment thus preserving European pluralism.
- Eurimages objectives of cultural diversity would be secured thanks to specific selection criteria.

The development support would focus on producers from member States willing to develop co-produced series projects. The Focus would be to support producers in their creative

[2] Source: The production and circulation of TV fiction in the EU28, Report published by EAO (2018)

development but also for their marketing tools to pitch projects at the international level. For example, the scheme could allocate to them 50-100k€ (depending on their project) with an objective to cover 25% to 50% of their development costs .
It could be complementary to other transnational development support funds such as Creative Europe-Media or the Nordic Film & TV Fund, by focusing on independent producers willing to produce riskier but also more artistically innovative series with international distribution potential. This way, Eurimages would fulfil its commitment to supporting cultural diversity in the series sector, which can be more business driven than film for reasons explained earlier.

4) Recommendation 4: Proposing terms of trade for series production in member States inspired by international best-practice and encourage collaborations

This report has underscored the importance of process, transparency and equity between the different players to develop successful series projects and economic growth for each. We therefore recommend that Eurimages contribute to the establishment of standardised terms of trade for series production in member States by promoting dialogue between professional representative organisations (such as EBU, ACT, FERA, etc.) inspired by international best practices.

This can be done via several simultaneous actions, to be discussed and shared with partners at all levels, from the supranational (European Commission) to the professional organisations.

We suggest also to develop further collaboration and expertise by sharing concrete editorial and business practices, training programmes, offer and demand on coproduction projects. Eurimages could be mandated to centralize these pieces of information and promote them via different online tools such as an online marketplace and an online marketing & data services platform.

5) Recommendation 5: Raising awareness on the impact of Artificial Intelligence in the Audio-Visual sector.

Eurimages could assist the Council of Europe to be fully informed about the role and players of AI in the audio-visual field and its associated impact on data protection, freedom of expression and cultural diversity in this context. The purpose of awareness raising is to build credibility and ensure Eurimages is seen to be proactive and diligent in protecting members' interests. Eurimages should make sure that the role of AI in the series sector is taken into account in the work of the Council of Europe.

So far, AI has been driven by commercial interests mainly to guide consumer decision-making and to target advertising. Only recently have we realized that some of the AI usage must be regulated. A governance system is definitely needed to improve the trustworthiness of AI.

We recommend that the Council of Europe consider the new creation of a governing body for a media AI certification. It will screen and use the existing codes of ethics and similar publications and base its scrutiny on generally accepted principles.