



# Cinema windows across Europe

Rome, 17 June 2019  
#OBSPRES2019

**European Audiovisual Observatory**  
2019 Italian Presidency conference

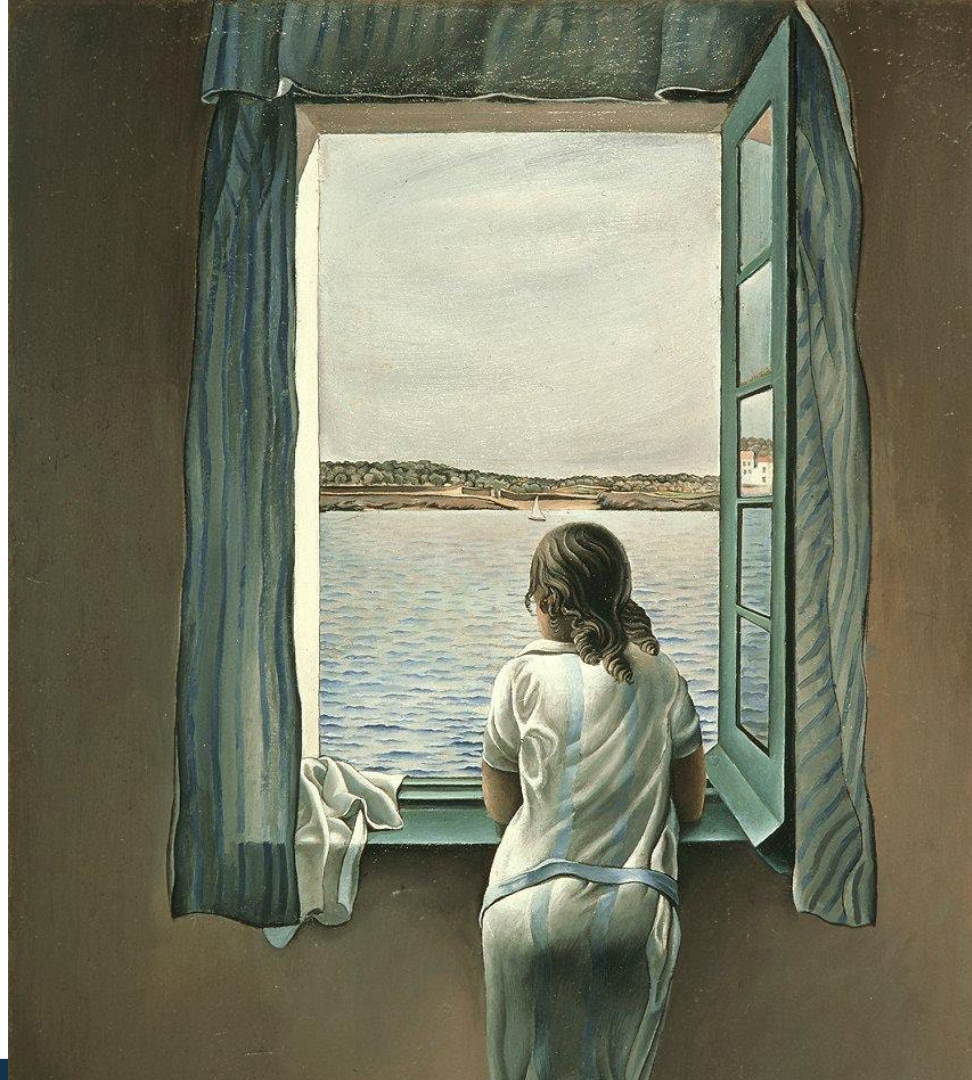


# Regulating release windows in Europe

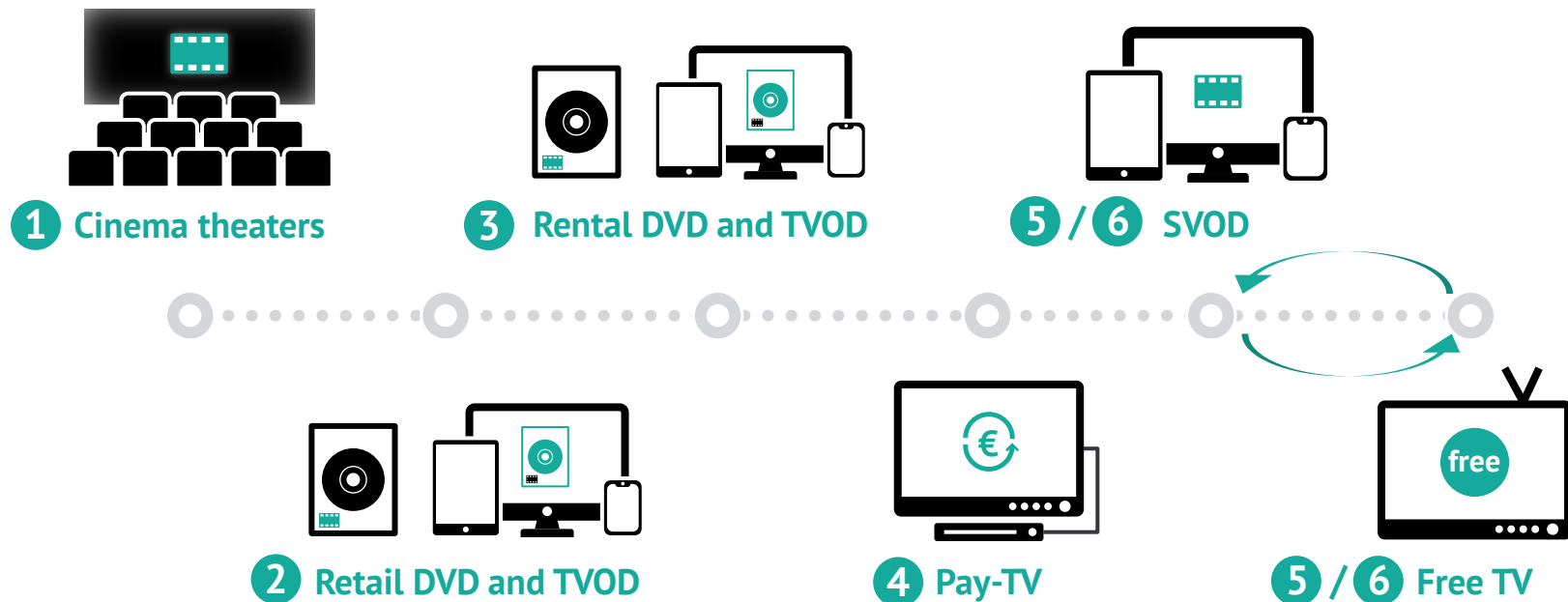
**Maja Cappello**

Head of the Department for Legal Information  
European Audiovisual Observatory





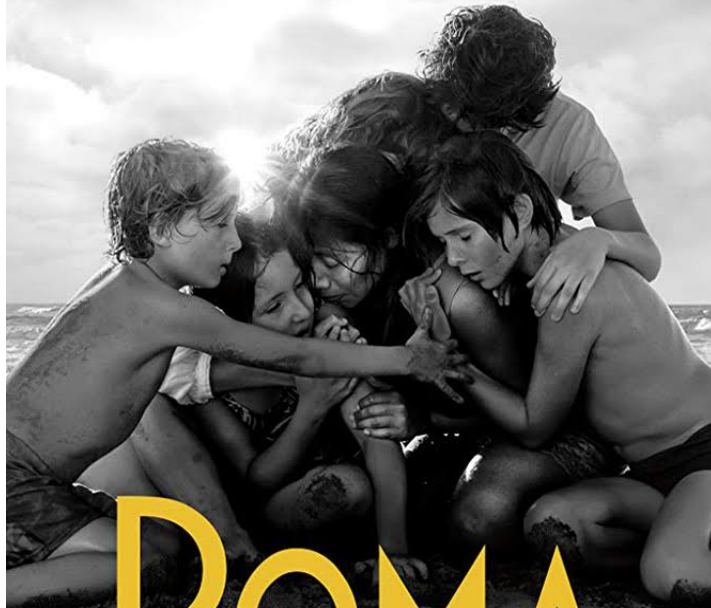
# The exploitation of cinematographic works







From Academy Award® Winner Alfonso Cuarón  
Director of "Gravity" & "Children of Men"



# ROMA

THIS DECEMBER

IN SELECT THEATERS  
AND ON

NETFLIX

Participant  
media

ESPERANTO



European  
Audiovisual  
Observatory

NETFLIX



ON MY SKIN



***“Once you commit to a television format,  
you’re a TV movie.***

***[...]***

***I don’t believe films that are just given  
token qualifications  
in a couple of theaters  
for less than a week  
should qualify for the Academy Award nomination.”***

***Steven Spielberg***

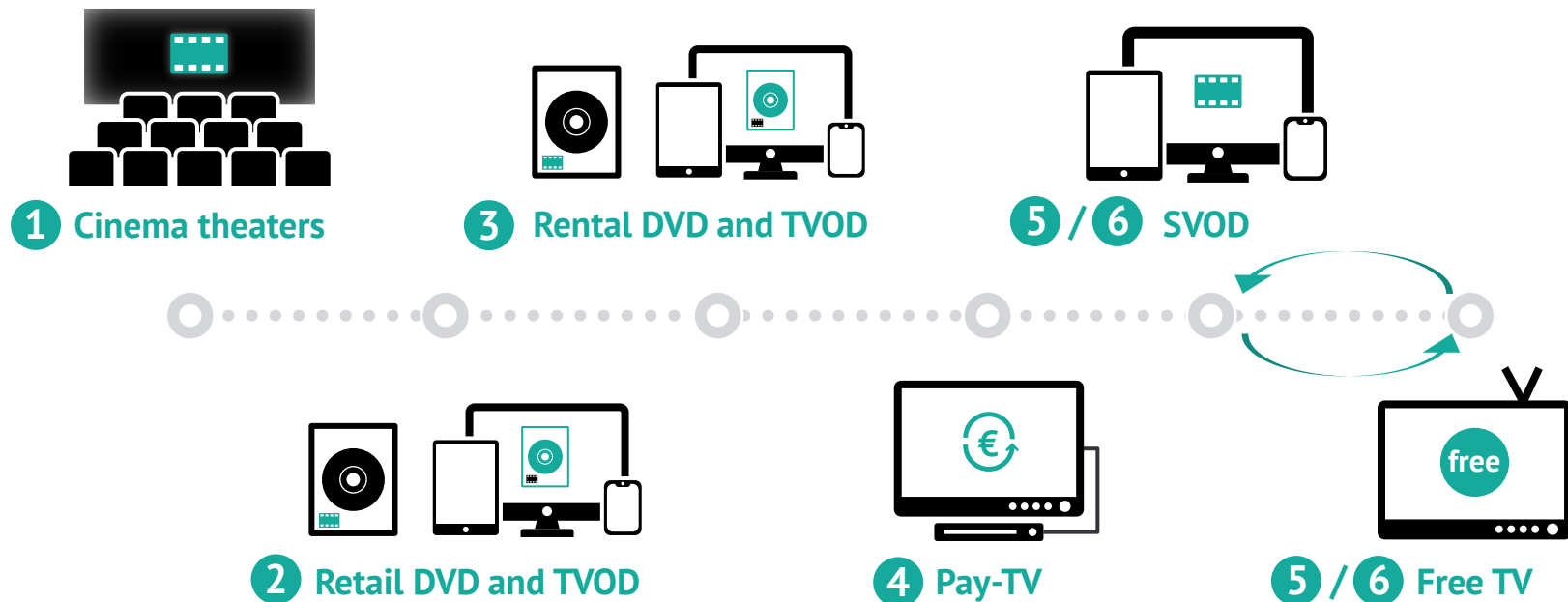


*“How many theaters do you think  
a **Mexican film in black and white,**  
in **Spanish that is a drama without stars**  
– how big of release do you think it will be in a theatrical release?  
[...]*

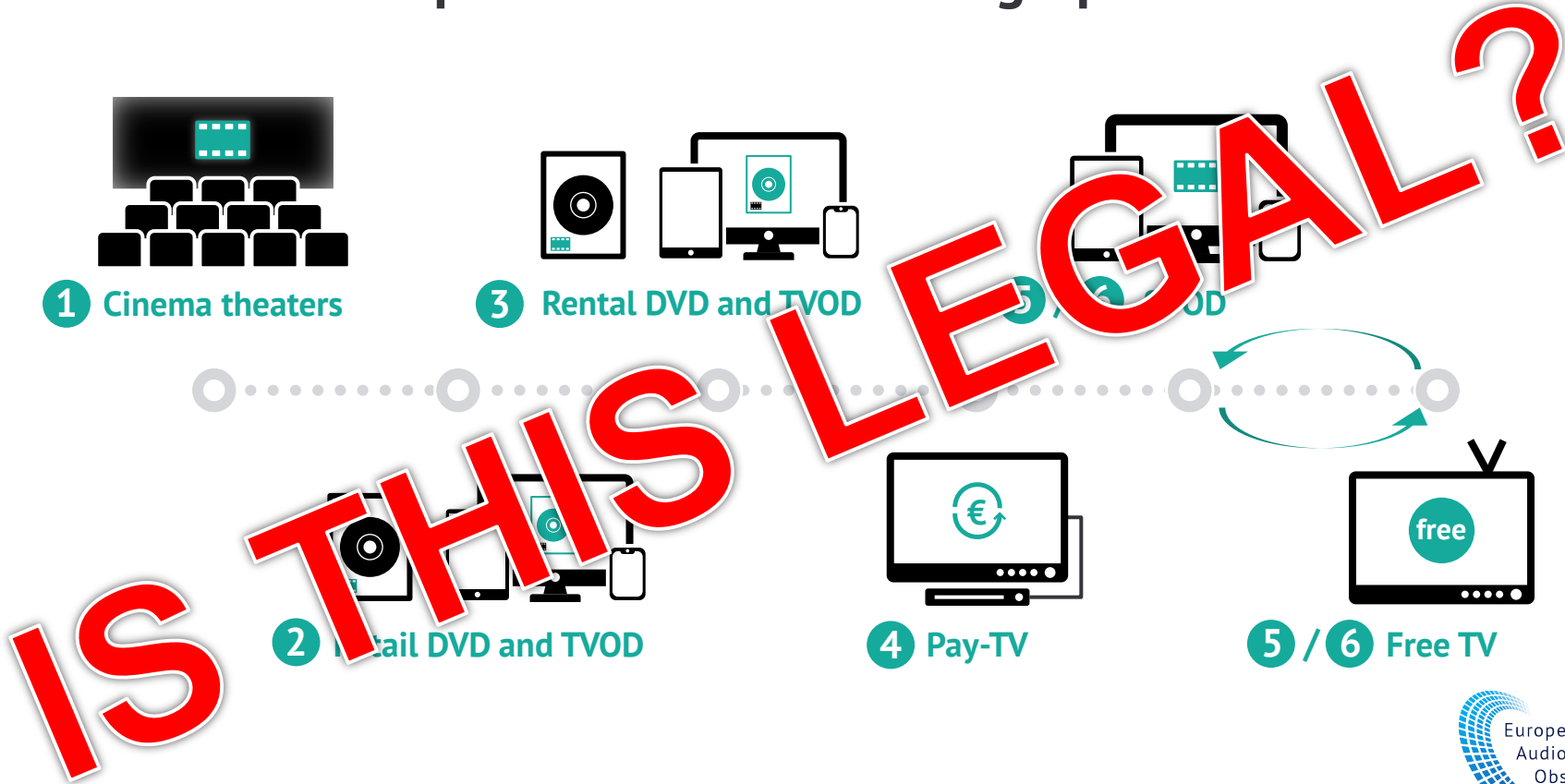
*Streaming coupled with a limited theatrical model  
can “**elevate cinema,**  
and more importantly  
can **create a diversity in cinema.**”*

**Alfonso Cuarón**

# The exploitation of cinematographic works



# The exploitation of cinematographic works



# European Union

# EU Competition Law

Systems of release windows may **restrain the freedom to provide goods and services** and **distort competition** in the audiovisual sector.

Such systems can be nevertheless **acceptable under EU law** given their **aim of promoting film production.**

*Judgment of the Court of 11 July 1985. - Cinéthèque SA and others v Fédération nationale des cinémas français.  
Joined cases 60 and 61/84*

*Decision of the European Commission, Nederlandse Federatie voor Cinematografie, Case 34.927.*



# Television without Frontiers Directive (1989)

## Article 7

Member States must ensure that *television broadcasters under their jurisdiction do not broadcast any cinematographic work, **unless otherwise agreed** between its rights holders and the broadcaster, **until two years have elapsed since the work was first shown in cinemas in one of the Member States of the Community; in the case of cinematographic works co-produced by the broadcaster, this period shall be one year.***

# Audiovisual Media Services Directive (2018)

## Article 8

*Member States shall ensure that media service providers under their jurisdiction **do not transmit cinematographic works outside periods agreed with the rights holders.***

# Audiovisual Media Services Directive (2018)

## Recital 77

***The question of specific time scales  
for each type of showing of cinematographic works  
is primarily a matter to be settled  
by means of agreements  
between the interested parties  
or professionals concerned.***



# EU Member States

# Legislation



# Belgium (CFWB)

Recommendation of 2012



**8 months**  
TVOD and DVD



**12 months**  
Pay-TV



**24 months**  
Basic linear services



**36 months**  
SVOD and free VOD



# Bulgaria

## Film Industry Act



**3 months**  
Video distribution, DVD,  
internet and pay-TV



**6 months – free TV**



# France

Cinema Code



**4 months**  
DVD and TVOD



**8 months** – film pay-TV (agreement)



**17 months** – film pay-TV (no agreement)



**30 months**  
Free TV and non-film pay-TV

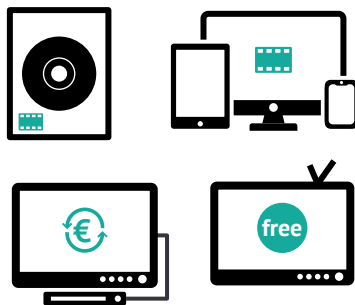


**36 months**  
SVOD online platforms



# Italy

Ministerial Decree No. 531  
of 29 November 2018



**105 days**  
All platforms



**60 days**  
Released in <80 theatres and  
<50 000 admissions



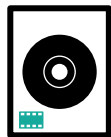
**10 days**  
Short-time released works

# Rules concerning film funding



# Austria

ÖFI guidelines



6 months

Picture carrier exploitation,  
VOD and pay-per-view

12 months

Pay-TV

18 months

Free-TV





# Germany

Film funding Act (FFG)



**6 months**

Picture carrier exploitation,  
VOD and pay-TV

**12 months**

SVOD

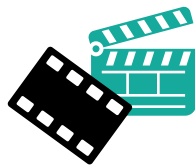
**18 months**

Free-TV

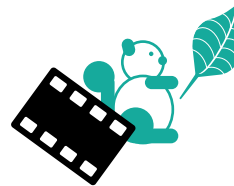


# Ireland

Screen Ireland guidelines



**24 months**  
Feature films

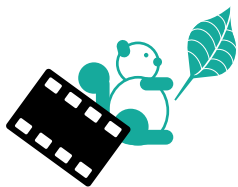


**18 months**  
Documentaries



# Netherlands

## NFI Distribution sub-regulation



### Documentaries

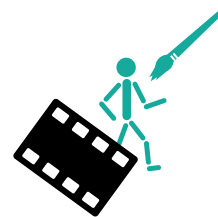


**6 months**  
Non-theatrical  
release

**24 months**  
Open network



### Feature films



### Animation (long)



**18 months**  
Non-theatrical  
release

**24 months**  
Open network



# Sweden

SFI's Moving Sweden  
guidelines



4 months  
Sveriges Television



5 months  
TVOD



12 months  
SVOD and Pay-TV

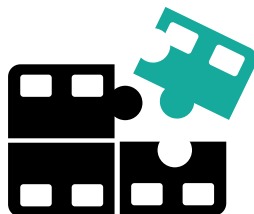
# Exceptions to the rules...

## Cases where holdback periods may be reduced:



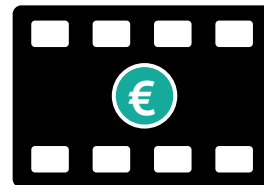
**Work fails to reach a certain level of theatrical admission.**

ex: Italy



**Broadcaster is a co-producer of the work.**

ex: Germany



**Service provider agrees to promote national and/or European works.**

ex: France

# Industry agreements

# What about the audience...?



# Thank you!

For any queries:  
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