Curtains up on regulation and support measures for the cinema exhibition sector

IRIS

A publication
of the European Audiovisual Observatory

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

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IRIS
Curtains up on regulation and support measures for the cinema exhibition sector
European Audiovisual Observatory, Strasbourg, 2024
ISSN 2079-1062

Director of publication – Susanne Nikoltchev, Executive Director
Editorial supervision – Maja Cappello, Head of Department for Legal Information
European Audiovisual Observatory

Author
Sophie Valais

Proofreading
Linda Byrne

Editorial assistant – Sabine Bouajaja
Press and Public Relations – Alison Hindhaugh, alison.hindhaugh@coe.int
European Audiovisual Observatory

Publisher
European Audiovisual Observatory
76, allée de la Robertsau, 67000 Strasbourg, France
Tel.: +33 (0)3 90 21 60 00
Fax: +33 (0)3 90 21 60 19
iris.obs@coe.int
www.obs.coe.int

Cover layout – ALTRAN, France

Please quote this publication as
Valais S., *Curtains up on regulation and support measures for the cinema exhibition sector,* IRIS, European Audiovisual Observatory, Strasbourg, May 2024
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Curtains up on regulation and support measures for the cinema exhibition sector

Sophie Valais

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Foreword

The history of cinema exhibition can be traced back to the late 19th century, when the first commercial cinemas appeared. In 1894, the Kinetoscope Parlor opened in New York City, allowing customers to view short films through individual peepholes for 25 cents. This was one of the earliest dedicated cinema experiences, predating the rise of the "Nickelodeon" format in the early 1900s and the construction of more elaborate cinema buildings.

Over the decades, the film industry has undergone a profound technological transformation, transitioning from analogue to digital cinema. The advent of digital technologies offer cinema operators new opportunities to increase the value proposition of cinemas by enhancing the cinemagoing experience. They also enable the formulation of management strategies based on big data analysis, facilitating adaptation to rapidly changing consumer preferences regarding film consumption habits. At the same time, the rise of digital technologies has brought about significant changes in the entertainment industry, including the emergence of individual on-demand viewing options which also raise new challenges about the future role of traditional cinemas.

In recent years, cinemas have continued to modernise, exploring new technologies like laser projectors and immersive audiovisual experiences to enhance the big screen viewing experience.[1] This digital transformation has also raised sustainability challenges, as cinemas must navigate the costs of upgrading equipment and infrastructure.

Despite the major crisis experienced by the sector worldwide during and after the COVID-19 pandemic, which significantly accelerated the rise of on-demand viewing, the collective cinema experience remains an important element of cultural and social entertainment. National authorities are aware of the role of cinemas in society, in promoting cultural diversity, and as part of an industry that generates income and employment. In many countries, a number of regulatory and support instruments are in place for the film exhibition sector, both on an economic and cultural level. These aim to encourage the diversity of films screened in cinemas, to promote the distribution of national film production or to support cinemas in general, arthouse cinemas or cinemas in rural areas. The form of this intervention varies, with some countries relying more on the legislator, others on the industry. Meanwhile, a variety of aids and tools are emerging, sometimes with innovative approaches to attracting audiences and ensuring a thriving, sustainable future for cinemas, balancing technological innovation with the enduring appeal of the shared cinematic experience.

This report examines the regulatory landscape and support policies concerning the cinema exhibition sector. After an overview of the film commercialisation circuit and recent market trends in cinema exhibition in Chapter 1, Chapter 2 presents the dual approach of public intervention in the sector, between the regulation of competition and the adoption of sector-specific regulations to ensure cultural policy objectives. Concrete national examples of regulatory tools at economic and cultural level are given to reflect the diversity

[1] https://www.sharpnecdisplays.eu/p/download/cp/products/shared/whitepapers/cinemas/wp-cinemas.

of approaches. The chapter also outlines the relevant EU legal framework, from theatrical exclusivity and the possibility for EU member states to organise release windows as they wish under the Audiovisual Media Services Directive, to recent developments in EU law on territoriality and geo-blocking. EU rules also cover competition and state aid in the sector as far as EU member states are concerned. Chapter 3 presents the legislation in force at EU level in this field. It illustrates the various schemes put in place at EU and non-EU national levels, ranging from support to arthouse cinemas or for the renovation of cinemas to innovative schemes aimed at attracting new audiences, as well as some support schemes provided to the sector at supranational level.

During the process of writing this report, we benefited from the valuable collaboration of the members of the International Union of Cinemas (UNIC) and the International Federation of Film Distributors Associations (FIAD), who conducted a joint survey to help us get an overview of the regulatory tools and support provided to the sector. I would like to warmly thank Laura Houlgatte and Sonia Ragone (UNIC), Robert Heslop and Emanuele Grassi (FIAD) for this valuable cooperation.

From the peephole of the Kinetoscope Parlor to the immersive visual experiences of today's digital cinemas, there is not much in common. Yet cinemas continue to play a strategic role in the distribution and circulation of films, while cinemagoing retains its social significance as a collective experience. As the sector faces technological and market changes, it is time to look at the legal tools and public policies that will ensure a prosperous and sustainable future for cinemas in Europe.

So … Curtains Up! And enjoy the read!

Strasbourg, May 2024

Maja Cappello
IRIS Coordinator
Head of the Department for Legal Information
European Audiovisual Observatory

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1. Overview of the exhibition sector

1.1. The film commercialisation circuit

1.1.1. The film value chain

The value chain for a film can be divided into three main stages: pre-production, production and commercialisation. In the initial stages, the creative impetus for a film typically originates from an author, the director (in some cases, there may be several authors). Subsequently, the copyright and related rights of the author(s), actors and crew are transferred to the producer, who assumes responsibility for overseeing the film production. The final stage involves the actual commercialisation of the work, which includes its physical or digital distribution to the public through a variety of distribution channels operating under different business models, as well as related marketing and promotional activities.

The film exploitation process involves multiple stages and licensing scenarios, whether before or after the work's completion, usually involving the transfer of exclusive rights for specific territories and time frames across different exploitation channels. Typically, the classic route for a film to its audience includes the producer using the services of a sales agent who represents the film at major festivals and markets it to various international distributors and broadcasters. After premiering in festivals, the film is typically distributed for theatrical release in cinemas and then to non-theatrical markets. A series of windows and holdback periods are usually observed to allow a film to follow this route, which maximise the chances of a commercial return on the investment in theatrical release. This process generates revenue for different players in the value chain, including exhibitors, distributors, physical and online video publishers, broadcasters, and sales agents, ultimately benefiting the producers and their financing partners, and authors and performers, depending on their contractual agreements.

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1.1.2. The roles of distributors and exhibitors in theatrical exploitation

To distribute a film in cinemas, producers turn to distributors who serve as intermediaries with exhibitors. Traditionally, distributors were responsible for creating physical "prints" of films (the copy used to screen the film), a practice which was replaced by digital files in the 2010s. The distributor's role includes placing the film with cinemas and determining a "release schedule" for theatrical exhibition, in accordance with its distribution strategy.[2] The distributor often contributes to the film financing through a "minimum guarantee" (MG) payment (i.e. advance payment) to the producer. It is also responsible for carrying out promotional activities to attract audiences for the film. Exhibitors curate their programming by selecting, marketing the film via different channels (posters, emails to audiences, social media etc.), films and managing ticket sales to the public.

Revenue from ticket sales at cinemas forms the basis of the remuneration system for the entire value chain. In the film distribution process, each ticket sold for a film is divided between the exhibitor and the distributor, representing the upstream sector. This split is based on a contractual rental fee (or film rental)[3] which determines the portion of film revenues allocated to distributors. The rental fee is set in a contract between the distributor and the exhibitor within a range that may be fixed in the law (e.g. in France). This fee is typically set at 50% at the beginning of a film's release[4] and usually varies within a range of 50 to 25% depending on the film and the week of screening.[5]

The revenue allocated to exhibitors allows them to cover their operating costs and generate a return on their investment. The distributors' share, in turn, allows them to earn a return on their investment before sharing the revenues with producers and authors according to their contractual obligations. As a general rule, under MG systems, downstream parties in the value chain, such as authors, benefit from box office receipts only after the upstream parties have recouped their costs.

[2] To date, by and large, the common release windows chronology is as follows: cinema theatres, TVOD/physical retail, TVOD/physical rental, pay TV, SVOD and free TV (although the position of the last two can be interchangeable or simultaneous). For more details, see section 2.4.2. of this publication.
[3] https://www.filmsite.org/filmterms16.html.
[4] Lasserre B. assisted by Goin A., *"Cinéma et régulation, Le cinéma à la recherche de nouveaux équilibres".*
[5] Source: EAO survey to UNIC and FIAD members conducted in March 2024.

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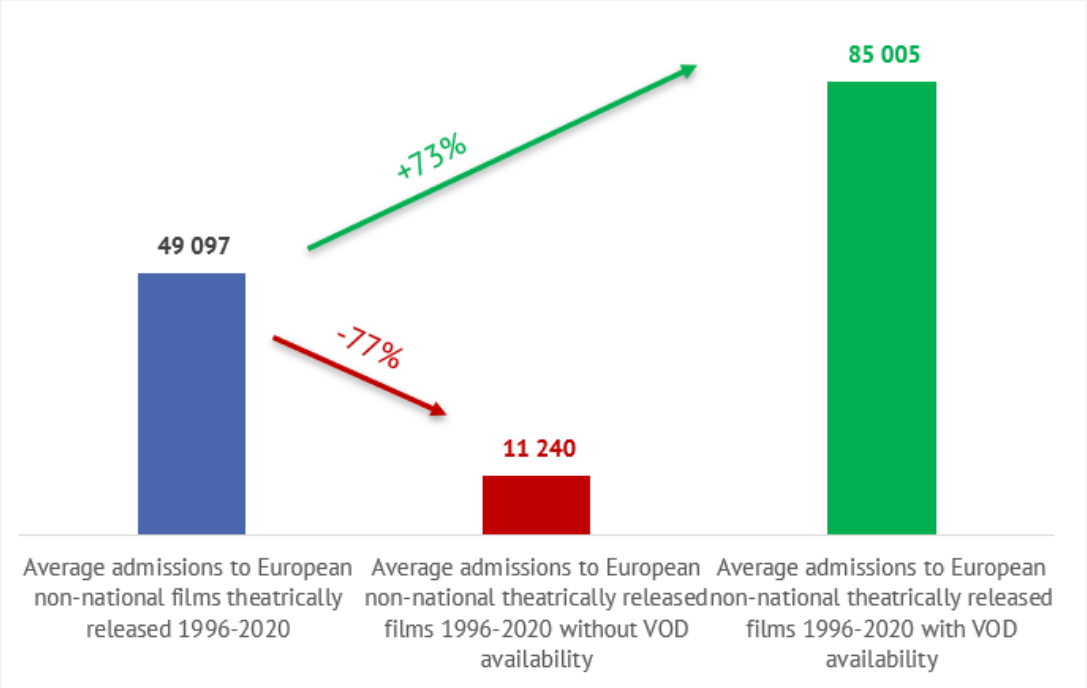
FOCUS BOX – Circulation of European films in cinemas and on VOD

- **Commercial success in cinemas and VOD availability of European films**

The European Audiovisual Observatory's report "Circulation of European films on VOD and in cinemas"[6] analysed the availability of European films on pay VOD services after their theatrical release. Among the five factors influencing later VOD availability of European films (theatrical admissions, release markets, perceived quality, recentness, origin), commercial success in cinemas had the most influence on later VOD availability. European non-national films available on VOD services had on average 73% more admissions than average admissions to European non-national films in cinemas while European non-national films not available on VOD services had on average 77% fewer admissions.

Figure 1. Average admissions of European non-national films by VOD availability, in admissions per non-national film



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

- **Theatrical admissions and VOD country availability**

In addition, higher admissions to a film correspond to its availability in more countries on VOD services, demonstrating the correlation between theatrical admissions and VOD country availability.

[6] Grece C., "Circulation of European films on VOD and in cinemas", European Audiovisual Observatory, 2022.

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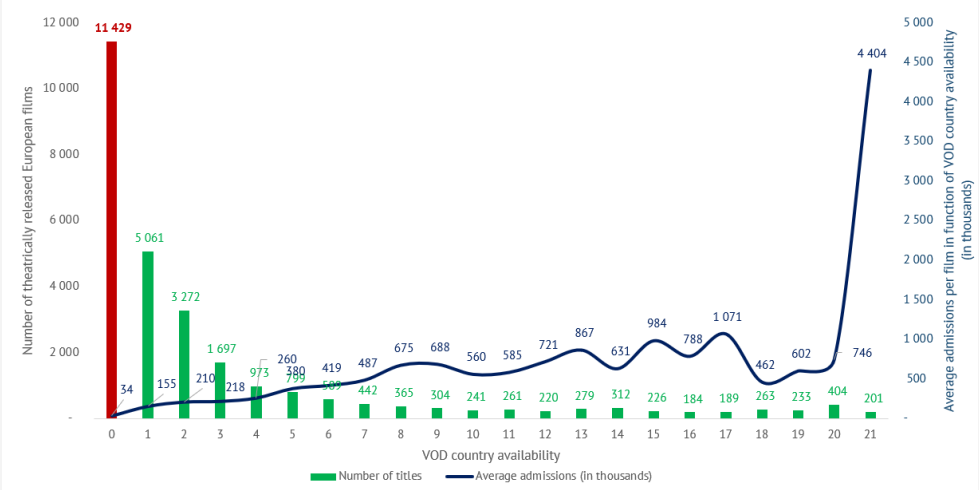
Figure 2. **European films' VOD country circulation by number of films and average admissions**

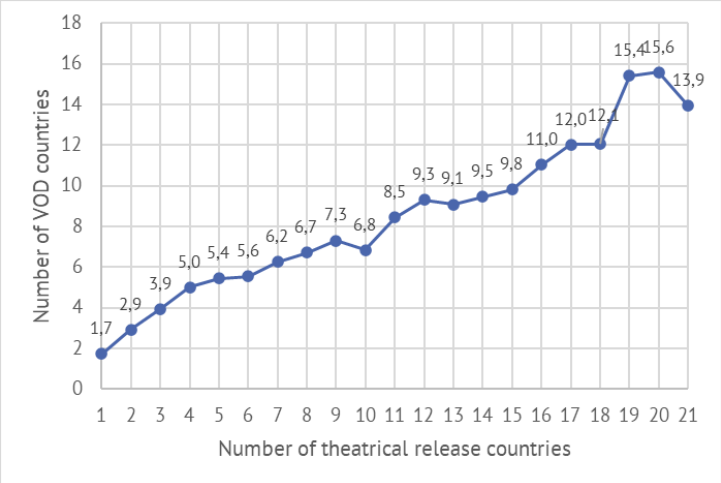


Source: JustWatch, LUMIERE, LUMIERE VOD, European Audiovisual Observatory

- **Significance of theatrical exploitation**

In addition to admissions, the number of theatrical release markets is also a key factor influencing the future VOD availability of European films and their commercial success, as distributors aim for bigger releases. There is a correlation between VOD country availability numbers and the number of theatrical release markets. More theatrical release markets generally lead to higher VOD country availability. Additionally, VOD services facilitate circulation for films with fewer than six theatrical release markets, making them available in slightly more countries.

Figure 3. **Average VOD market availability, in function of the number of theatrical release markets, for all theatrical European films 1996-2020, in the number of release markets in EUR20+1**



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

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1.1.3. Contractual aspects

The distribution agreement between a producer and a distributor typically grants the distributor the rights to reproduce copies of the film and authorise exhibitors to screen the film in cinemas. The distributor's key role in facilitating the film distribution to cinemas involves establishing a close relationship with exhibitors.

The assignment of cinematographic rights to the exhibitor is governed by a contract, which must be established in writing between the distributor and the exhibitor to be enforceable in the event of a dispute. In practice, however, this contract is not always formally documented, due to resource constraints, tight deadlines (e.g. securing an agreement on a Monday for a Wednesday screening), or the lack of written response. Instead, these agreements often rely on this distributor-exhibitor relationship based on mutual trust and understanding. When the contracts are drawn up, they specify various elements:

- The film titles: The agreement always relates to a specific title; it cannot be a global agreement covering all or part of the current catalogue (block booking) or future catalogue (blind booking), a technique formerly used in Europe by the US Majors. If the distributor rents several titles from the same operator at the same time, separate contracts will be drawn up.
- The screening locations: A group of exhibitors can obtain several copies of a title but cannot place them as it sees fit within its circuit. In the case of a cinema complex, the number of screens – or at least the number of seats – may be specified, especially if the agreement concerns the one with the largest capacity. In the event of the film's lack of success, any downgrading to a lower-capacity cinema should, in theory, be subject to the distributor's prior agreement (which is rarely the case in practice).
- The rental fee: This is generally calculated as a percentage of the box office takings, but it may be accompanied by a guaranteed minimum (or MG) to cover the distributor's fixed costs inherent in this rental (handling of the print, any verification, invoicing, etc.), or it may be a flat rate in some countries for small exhibitors.
- The preferred screening dates, and duration: The length of time the film is exhibited may depend on the number of box office receipts or admissions the film has to achieve, which determines whether or not it is kept in the cinema. Beyond the initial contract, each film may remain in theatres for a shorter or longer period, which is discussed each week between the distributor and the exhibitors. Very short periods may be planned (one or a few days), particularly for exhibitors in small towns.
- Ticket pricing: This may be a sensitive area, as any promotional practices upstream will impact revenue streams shared between distributors and exhibitors.

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After cinema release, exhibitors provide revenue declarations to distributors, detailing ticket sales and revenue shares. Distributors then invoice the rental fee, monitor payments, and report film performance to producers, providing periodic revenue statements, which are then shared among the various rightsholders. This system relies on effective revenue control, not uniformly practiced across European countries. This interconnected system also means that ticket sales directly impact the profits and revenues for all parties involved. The economics of cinema exhibition are unique in this respect compared to other traditional supplier pricing structures, as distributors are compensated based on a percentage of the ticket price, placing control of remuneration in the hands of the exhibitors.

FOCUS BOX – Overview of film industry deals and contracts[7]

In the film industry, the terms and amount of any deal are primarily based on a buyer's forecast to recoup their investment. While most deal terms are standard, negotiability plays a crucial role in shaping agreements.

- **Advance and recoupment:**

A sales agent or distributor may offer a producer an advance, which is recouped along with agreed costs ("costs off the top" or COT) before overages (a percentage of income from sales) are due to the producer. There is no fixed industry standard for advances, and competition among distributors for the same title can influence advance prices.

- **Percentage split (rental fee):**

Percentage splits are fairly standard. Sales agents typically take around 30% on all advances and overages. Distributors may offer various splits such as 50/50 (COT) for theatrical and non-theatrical releases; 15-20/80 (no COT) in favour of the distributor for video releases; 30-35/70 in favour of the producer for sales to television. Distributors often require rights to be cross collateralised ("crossed") to offset losses from different distribution channels.

- **Cinema exhibition deals:**

Cinemas offer different structures as a straightforward percentage (e.g. 35% for first run features) with a minimum guarantee (MG c. GBP 100). Some cinemas use series of percentages according to house terms, based on box office figures and the NUT (Net Ultimate Take) figure[8] (break-even point, i.e. when profits are equal to the costs).

House terms can vary, with some cinemas having the following type of scale:

- **Chain cinema: screen 4**

25%	30%	35%	40%	45%	50%
GBP 2 269	2 673	3 070	3 468	3 867	4 265

Others work 25% to a NUT figure or 90% over that amount for box office earnings.

[7] "A Filmmakers' Guide to Distribution and Exhibition", BFI (2001).
[8] The NUT refers to the total revenue from a film after all expenses and deductions have been accounted for.

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1.2. Market trends

1.2.1. Trends in cinema attendance in Europe

In the first year unaffected by restrictions related to the now four-year-old global pandemic, cinema attendance in wider Europe (Council of Europe member states except for Azerbaijan, hereafter referred to simply as "Europe") grew by 18.3%, reaching over 861 million tickets sold, 133 million more than in 2022. These satisfactory results represent a recovery rate of 77.3% in relation to the average admission levels achieved between 2017 and 2019 of 1.1 billion tickets sold.

Admissions in the European Union and United Kingdom (EU27+UK) saw slightly stronger growth, increasing by 19.6% to 784 million. In the region, admission levels remained 20.1% below the pre-pandemic average of 982 million tickets. Inflation and rising ticket prices contributed to better box office revenues: the higher increase of box office v. admissions is also due to the success of premium format screenings especially for some of the top films of 2023 like Oppenheimer, Mission Impossible 7, The Super Mario Bros Movie, or Avater: The Way of Water.

Cinemas across Europe are estimated to have generated EUR 6.7 billion in 2023, a 22.3% increase compared to 2022 (EUR 5.5 billion). Similarly, box office figures in EU27+UK grew by 22.1%, settling at EUR 6.2 billion. Despite these positive trends at a macro level, the variation in growth among individual countries remains noteworthy. In 2023, Ukraine (+60.1%), Italy (+59.2%), and Albania (+42.0%) saw the most substantial increases in cinema attendance. Conversely, Czechia (-1.2%), Denmark (-1.9%), and Türkiye(-12.9%) were the only countries witnessing a decline. Notably, Georgia and Bosnia & Herzegovina outpaced pre-pandemic attendance levels, boasting recovery rates of 117% and 113%, respectively. However, challenges persist for countries such as Sweden (recovery rate: 68%), Ukraine (50%), and Türkiye (46%) in reclaiming pre-pandemic highs.[9]

[9] European Audiovisual Observatory, "GBO in Europe up to EUR 6.7 billion in 2023, cinema attendance reached 861 million tickets sold," Strasbourg, 7 May, 2024.

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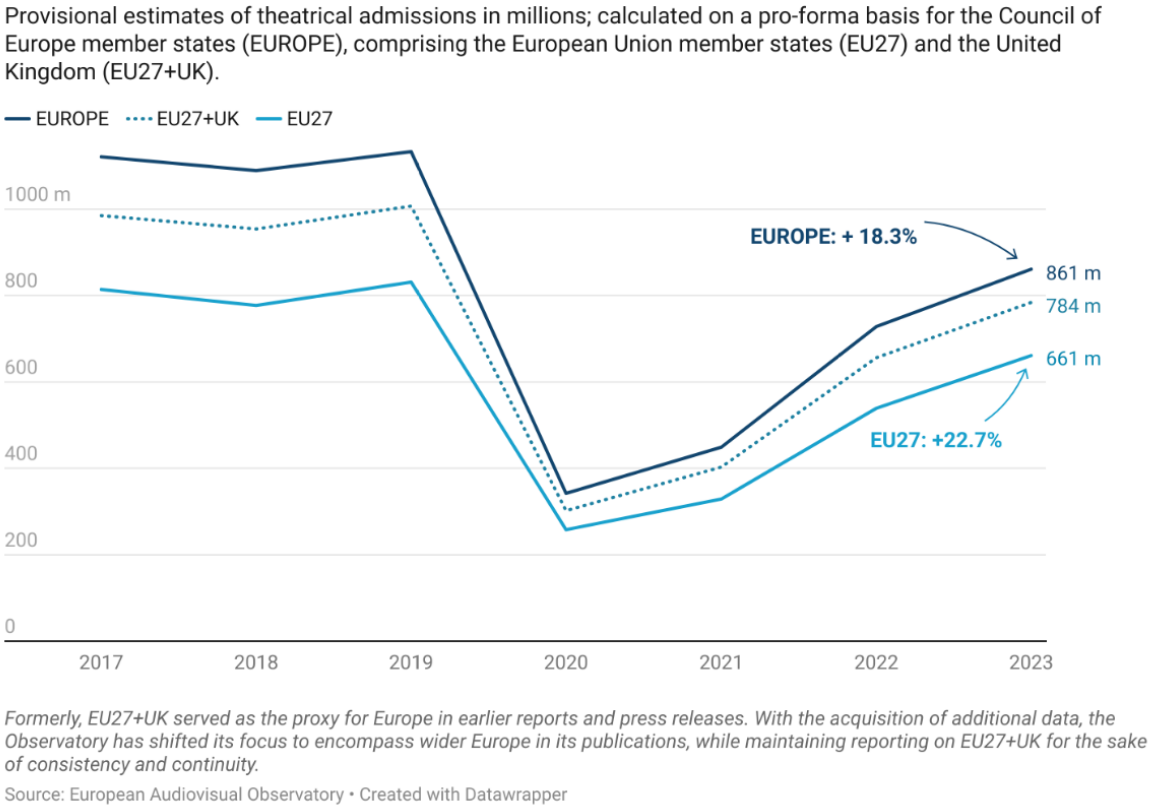
Figure 4. Cinema attendance in Europe — 2017-2023



1.2.2. Structure of the European box office

The European Audiovisual Observatory's report entitled "An analysis of European box office structure, 2010 and 2022",[10] reveals that only a small fraction of films, fewer than 100 out of the 12 000 films registered as on release, sold over one million tickets across Europe in 2022. Despite the large number of European films in the market (68%), US films dominated the box office (63%). While the European film offering is vast, consisting mostly of low-grossing films[11] (96%), blockbusters are the primary drivers of admissions. The box office structure varies widely among countries, reflecting the diversity of the European theatrical landscape.

The market is highly concentrated, with only 156 films generating 80% of cumulative admissions in 2022. This concentration has increased compared to previous years, indicating a growing importance of blockbusters and low-grossing European films.

[10] Kanzler M., "An analysis of European box office structure 2010-2022", European Audiovisual Observatory, Strasbourg, 2023.
[11] For the purposes of the above-mentioned report films had been categorised – based on the number of tickets sold per year – as one of the four following film types: blockbusters, high-grossing films, mid-tier films or low-grossing films.

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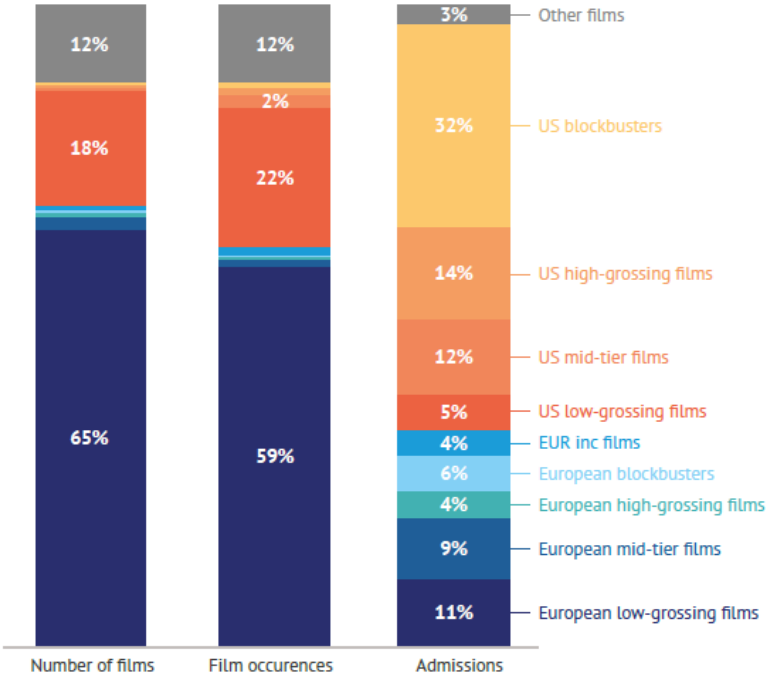
Despite an increase in the number of European films, admissions to these films have remained stable, with most stemming from low-grossing and mid-tier films in national markets.

Figure 5. Composition of European box office market by film types and origin – 2022

(Estimated – refers to the 27 European sample markets)



Source: European Audiovisual Observatory (EAO)

1.2.3. Structure of the European cinema exhibition market

1.2.3.1. Film economy and market concentration

Fixed costs are inherent throughout the film industry, from production to exhibition. Regardless of viewership, film production costs remain constant, emphasising the importance of maximising revenue through diverse distribution channels for commercial success. Distributors and exhibitors also face fixed costs like promotion and venue setup – including rent, local taxes, electricity, renovation, etc. - , respectively, which are independent of audience numbers. To mitigate risks and maximise returns, some exhibitors focus on optimising theatre occupancy through tailored programming and pricing strategies, such as discounts and loyalty programmes. Others focus on offering a premium experience, etc. These strategies are crucial as production, distribution, and exhibition costs are sunk and non-recoverable once a film is released, contributing to the unpredictability of a film's commercial success.

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Investing in film production, distribution or exhibition therefore entails significant risks, with different players assuming varying levels of risks and constraints. Producers manage risks by sharing them with players like broadcasters or distributors, who contribute to financing through the pre-acquisition of rights on the film or the payment of an MG on the film's future revenues. Distributors select films from a wide range, bearing the risk of commercial failure due to sunk costs in promotion. Exhibitors face increased risks due to major investments in cinema equipment but wield control over pricing policies and programming adjustments based on film performance.

The industry's fixed cost structure drives supply concentration through horizontal and vertical integration, enabling risk-sharing and alignment of interests across production, distribution, and exhibition sectors. In general, the exhibition sector tends to be more concentrated than the distribution sector, although there are differences between European countries, with some countries having a more fragmented sector characterised by a large number of independent and smaller cinemas (e.g., in France, or in Italy, where 46,2% of all cinemas are independent single screens). Major cinema chains hold market power influencing release conditions and audience attraction, with local dynamics like subscription models shaping customer loyalty.[12]

1.2.3.2. The European cinema exhibition landscape

The European theatrical infrastructure rebounded in 2022 after disruptions caused by the health crisis in 2020 and 2021, with the EU and UK seeing an increase in operational screens to a total of 32 996, marking a growth of 515 screens from the previous year. The ranking of major cinema chains by UNIC and Boxoffice Pro[13] highlights the diverse landscape of European cinema exhibition.

While most of the top European cinema chains operate within the continent, some exhibitors either belong to groups established outside Europe or have expanded globally, such as AMC Entertainment, Cineworld, Kinepolis, Yelmo Cines, and Paribu Cineverse (formerly Cinemaxximum), with activities extending beyond Europe into regions like the USA, Canada, Mexico, South Korea, and Vietnam. Leading European cinema groups like the Odeon Cinemas Group (AMC Entertainment), Cineworld, and Vue International have a pan-European presence across multiple countries. Additionally, regional and national players included in the ranking, such as Pathé Cinémas, UGC, Cineplex, Cinestar, Helios, and Nordisk Film Cinemas, Cineplexx, Svenska Bio, CGR, operate primarily within one European country but may extend their reach into neighbouring markets for broader regional impact.

[12] Leclerc J-P, Perrot A. and Verot C., "*Cinéma et concurrence*", March 2008.
[13] *Les* "Giants of Exhibition" Europe 2023, Boxoffice Pro, 5 June 2023. Europe's "exhibition giants" are ranked by total number of screens at 31 December 2022. The top fifty circuits represent nearly 20 000 screens and more than 2 600 cinemas across the country.

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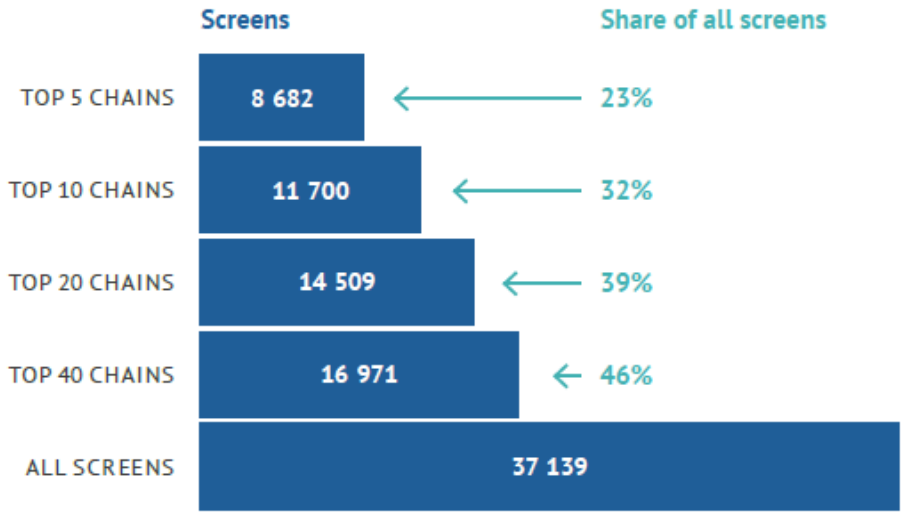
Figure 6. Concentration of the European cinema exhibition market (2022)



Source: European Audiovisual Observatory analysis of UNIC/Boxoffice Pro data

1.2.4. New strategies to attract cinema audiences

In recent years, cinemas have faced significant challenges, including the impact of the COVID-19 pandemic and the growing influence of VOD platforms. Notably, the pandemic has influenced shifts in theatrical release strategies and windows, impacting both studios and revenue distribution. In countries where there is no legal system of release windows, negotiations between exhibitors and distributors regarding theatrical exclusivity often tie into rental fee discussions.[14] Exhibitors also face additional challenges, such as increasing interest rates, the cost-of-living crisis affecting consumer spending habits, and escalating energy expenses. This has led to increased pressure on operational budgets and ticket sales. To address these challenges, cinemas have implemented various strategies, not only to bring back traditional cinemagoers but also to attract new audiences.

Some cinemas have focused on enhancing the overall cinema experience to make it more appealing and immersive for audiences. This includes upgrading audio and visual systems to provide a higher-quality, more immersive viewing experience; offering premium seating options, such as recliner chairs and VIP lounges, to provide a more comfortable and luxurious experience; expanding food and beverage offerings, including gourmet options and alcohol, to create a more enjoyable and social atmosphere; implementing innovative technologies, which incorporate special effects such as motion, wind, and scent to further engage the senses. For some major cinema chains, investing in premium large formats such as Imax is also a strategy to attract more audiences through film promotion collaborations

[14] Screendaily, "In conversation: leading European cinema operators talk cost-of-living challenges and changing consumer behaviour", 17 April 2023.

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with studios or special events in smaller markets. For example, the Austrian exhibitor Cineplexx organised a bus trip from Athens to Thessaloniki in Greece for audiences to experience Imax screenings of films such as Avatar.[15]

While premium format tickets with luxury amenities are prioritised by some cinemas, the sector also acknowledges the positive response to discounted pricing. For example, some exhibitors, like Mk2 cinema in France, focus on competitive pricing strategies to encourage people to go to cinema. Exploring options like price flexibility and dynamic pricing, such as family discounts on weekends or varying prices based on seating categories or days of the week, is ongoing.[16]

Other strategies are based on programming diversification to cater to a wider range of audience preferences. This includes screening a mix of blockbuster releases, independent films, and niche specialty content to appeal to different groups of viewers; hosting special events, such as film festivals, retrospectives, and live-streamed performances, to create a sense of exclusivity and community; partnering with content creators and distributors to offer unique, limited-time experiences, such as director Q&As or behind-the-scenes footage.

To stay relevant in the digital age, cinemas have also embraced various digital strategies, including developing user-friendly mobile apps and websites to facilitate online ticket purchases, concession orders, and loyalty programmes; utilising social media platforms to engage with audiences, promote upcoming releases, and create a sense of community; exploring the integration of virtual and augmented reality technologies to enhance the pre- and post-movie experience.[17]

[15] Screendaily, "In conversation", op. cit..
[16] See more details on unlimited cinema cards in §2.3.2.3. of this publication.
[17] See national examples in section 3.3.1. of this publication.

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2. Regulation tools in the cinema sector

2.1. Competition law v. sector-specific regulation

2.1.1. Competition mechanisms extend to the cinema sector

EU competition law, encompassing the prohibition of abuses of dominant positions[18] and anti-competitive agreements between undertakings,[19] is applicable to cinematographic undertakings and activities in the European Union. As national competition law of EU member states is, to some extent, based on EU treaties, particularly in addressing practices that may affect trade between EU member states (which at least concerns certain film activities such as film distribution),[20] national legislators in the EU cannot opt to exclude film activities as a whole.

In this context, competition rules can offer useful mechanisms for protecting the weakest operators against discriminatory practices, abuse of a dominant position or economic dependence, whether by distributors or exhibitors. For example, with regard to distribution, competition authorities may recognise a distributor's freedom to determine a film's release plan so as to ensure the most effective dissemination, in particular by limiting the number of copies if the distributor considers that the film's success depends on its being

[18] Article 102 (ex Article 82) of the Treaty on the Functioning of the European Union (TFEU) prohibits as incompatible with the internal market any abuse by one or more undertakings of a dominant position within the internal market or in a substantial part of it in so far as it may affect trade between member states. Such abuse may consist in directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions; limiting production, markets or technical development to the prejudice of consumers; applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage; making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts. Article 102, Consolidated version of the Treaty on the Functioning of the European Union.

[19] Article 101 (ex Article 81) TFEU prohibits 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. This includes those which directly or indirectly fix purchase or selling prices or any other trading conditions; limit or control production, markets, technical developments, or investment; share markets or sources of supply. Article 101, TFEU, ibid.

[20] See, for example, the Opinion of the French Competition Authority of 16 April 2021 on a concertation between film distributors aimed at the temporary introduction of a regulated film release schedule during the post-COVID period. The Competition Authority considered that this concertation could be classified as a concerted practice within the meaning of competition law. In addition, insofar as this concertation would be likely to concern a large number of films, whether French or not, and in view of the very large number of films due to be released in French cinemas when they reopened in 2021, it would be likely to have a significant effect on trade between member states, which would make European competition law applicable to the case in point. *Autorité de la Concurrence* (France's national competition regulator), Opinion 21-A-03, 16 April 2021.

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screened over a long period of time. However, this freedom must not be exercised in a discriminatory manner, by systematically placing one exhibitor at a disadvantage compared with one of its competitors in a given distribution area, or without objective justification. This would be the case if a dominant integrated exhibitor favoured the cinemas it owned to the detriment of competing cinemas. In the same way, the prohibition of abuse of a dominant position would allow for the sanctioning of specific commercial practices, such as the refusal by a cinema network to screen films from distributors unless exclusive rights are granted, even in a monopoly cinema environment.

Conversely, restricting anti-competitive agreements limits the potential for "self-regulation" through professional agreements, such as coordinating promotional ticket pricing strategies (e.g. unlimited cinema passes).[21]

FOCUS BOX – French competition authority sanctions GIE Ciné Alpes for anti-competitive practices

Cons. Conc. décision n° 07-D-44 du 11 décembre 2007 relative à des pratiques mises en oeuvre par le GIE Ciné Alpes.[22]

In December 2007, the French competition authority condemned GIE Ciné Alpes for anticompetitive practices in pressuring film distributors to grant exclusive rights in certain areas where the company was in competition with other exhibitors. GIE Ciné Alpes, the fifth largest exhibitor in France at the time, had a strong monopoly in the ski resorts of the northern Alps and in several medium-sized towns, operating cinemas and multiplexes in various locations.

The company forced distributors to give it exclusive rights to films in exchange for access to areas where it had a monopoly. For example, GIE Ciné Alpes demanded exclusivity for the film *Gangs of New York* in Clermont-Ferrand, even though a copy had been promised to a competitor. This resulted in the film not being shown in any cinemas in the circuit. In addition, GIE Ciné Alpes refused to share films with competing cinemas, thus restricting their access to popular films that are vital to their survival.

The company's actions included boycotting distributors who did not agree to its demands, such as Mars Films and SND, which resulted in these distributors being denied programming for several months. These practices not only harmed competing cinemas by limiting their choice of films, but also disadvantaged consumers, who were deprived of the option of cheaper or more convenient cinemas that showed films for longer periods of time. Despite warnings from industry authorities, GIE Ciné Alpes persisted in these practices, which unfairly restricted competition and consumer choice in the cinema sector. On the basis of the financial statements of GIE Ciné Alpes between 2004 and 2006 and factors relating to the seriousness of the infringement committed by the group, the extent of the damage to

[21] See, for example, Decision No. 07-D-17 of 10 May 2007 of the French Competition Council on practices implemented in the film exhibition sector.
[22] Decision No. 07-D-44 of 11 December 2007 of the French Competition Council on practices implemented by GIE Ciné Alpes.

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the economy and the individual situation of the group, the competition authority considered that it was appropriate to impose a fine of EUR 9 000.

2.1.2. Ensuring cultural policy objectives in the film sector

While competition rules are important in regulating the film industry, they may not be sufficient on their own to achieve the broader objectives of public cultural policy. In particular, they may not be able to guarantee a diversified supply of films to the public. There may be a risk of market concentration and dominance by a few major players, which could lead to the homogenisation of the film offer, marginalising independent structures and undermining the existence of smaller cinemas. In particular, competition rules alone may not ensure that the public has access to a wide range of arthouse or more niche films. These films may struggle to find commercial success and distribution without additional support, as they are often less profitable than mainstream blockbusters. Yet, a diverse film offering is an integral part of cultural diversity, which is essential for freedom of expression, pluralism of opinion, access to culture and regional development.

The objectives of cultural policy often go beyond purely economic considerations and seek to promote these broader societal and cultural goals, which competition rules may not be able to address effectively. Consequently, public intervention is often seen as necessary to correct market failures and to achieve these cultural policy objectives. Competition law does not prevent the introduction of specific rules for the cinema sector, as is the case in other sectors such as energy, transport or broadcasting.

In fact, as far as the EU member states are concerned, the treaty establishes a shared responsibility of the member states with the Union in cultural matters. In particular, Article 167 TFEU states that the European Union contributes: “to the flowering of the cultures of the member states, while respecting their national and regional diversity and at the same time bringing the common cultural heritage to the fore”.

Action by the Union shall be aimed at encouraging co-operation between member states and, if necessary, supporting and supplementing their action concerning, inter alia, artistic and literary creation, including in the audiovisual sector. Also, the European Union has to take cultural aspects into account in its action under other provisions of the treaties, in particular in order to respect and to promote the diversity of its cultures.[23]

National public authorities are therefore entitled to adopt specific rules for the cinema in order to promote cultural diversity and the exhibition of a wide range of films. These rules may be aimed at enhancing competition, taking into account market structure or non-economic issues. By combining competition rules with targeted cultural policies, governments can create a more holistic and effective framework to support the film industry and ensure that it is aligned with broader societal and cultural goals.

[23] Article 167, Consolidated version of the Treaty on the Functioning of the European Union (TFEU).

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2.2. General overview of sector-specific regulation

Regulation in the cinema exhibition sector relies on diverse tools that serve dual objectives, often combining economic and cultural considerations. These tools encompass legislative and regulatory frameworks established by public authorities and legislators, support from film funds, and industry agreements when mandate by law.

2.2.1. Levels of public intervention

Public authorities can play an important role in regulating the film sector, by laying down the main rules affecting competition between operators in the sector. Depending on the country, some rules may be laid down by law, while others may be entrusted to administrative bodies such as film funds or cinema ombudsmen.

In particular, film funds can influence the behaviour of the industry through the granting of public support, and, depending on the country, through regulatory competences that enable them to settle sectorial issues. However, in most European countries (with the exception of France, where the film fund (*Centre National du Cinema et de l'image animée*, CNC) has a wide range of regulatory competences), film funds only hold a few regulatory competences (e.g. ratings, tax collection, certifications), while the Ministry of Culture remains the main regulatory authority for the sector. A number of countries also have a Cinema ombudsman or mediator (e.g. Austria, Cyprus, Denmark, France, Germany, Spain),[24] who can settle disputes and monitor the sector, akin to an independent administrative authority.

In addition to the intervention of the state, the film sector has traditionally relied on industry agreements to organise itself, sometimes under the supervision or guidance of the film funds which ensures association, consultation and transparency, enabling industry consultations on the goals pursued. These agreements may be imposed by law (as in France, for example, to regulate the release windows system). They may also be the result of cross-industry associations, like in Austria, where ARGE was set up as a formal association that coordinates joint issues, such as the association's_bylaws; film ratings; Virtual Print Fee agreement; delivery conditions (*Filmbezugsbedingungen*); investment deduction agreement (*Investabzugsabkommen*).[25]

However, this type of intervention can also entail legal risks with regards to competition law as industry agreements may be considered as prohibited concerted practices between undertakings. This risk is higher when these agreements concern prices or essential aspects of competition related to the cinema exhibition or distribution sectors.

[24] Source :EAO survey to UNIC and FIAD members conducted in March 2024.
[25] https://www.wko.at/oe/arge-film-kino/start.

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2.2.2. *Ex ante* or *ex post* regulation

Regulation of the cinema sector can be *ex ante* (through general rules laid down in advance for all actors) or *ex post* (through individual decisions or the settlement of disputes). The advantages of *ex ante* regulation are that it establishes clear and predictable rules of the game for all, promotes legal certainty and guides the behaviour of actors. However, it also has its limitations, notably that it cannot take into account all the specific situations and power relationships between stakeholders. It can also become too complex and impractical.

In contrast, *ex post* regulation allows for adaptation to specific situations and offers a degree of flexibility and responsiveness. However, it can be slower and less transparent. It can also be less effective if resources and tools are insufficient. Cinema ombudsmen can also play an important role in the *ex post* regulation of the film sector, by mediating, issuing binding injunctions or general recommendations to improve commercial relationships in the sector.[26]

FOCUS BOX – Examples of mediation bodies in the cinema sectors

Austria – "Fachverband der Kino-, Kultur-, und Vergnügungbetriebe"

The Trade Association of Cinema, Culture and Entertainment Companies (*Fachverband der Kino-, Kultur-, und Vergnügungbetriebe*)[27] is the legal representative of the interests of cinemas as well as Austrian event and theatre companies. It represents the professional interests of the companies at federal level. Legally, the Trade Association of Cinema, Culture and Entertainment Companies is a public corporation. It is based in the Austrian Federal Economic Chamber and is part of the Federal Tourism and Leisure Industry Division. Its bodies are the trade association committee as well as the trade association chairman and its deputies. These bodies are elected by the respective representatives of the regional professional groups and the regional professional organisations. The specific concerns of the individual professional groups represented in the professional association are dealt with by their own specialised committees. The following specialised committees are active in the current term of office:

- the Cinema Committee;
- The Specialist committee for culture and entertainment companies
- The office of the professional association

In organisational terms, the professional association is supported by the office of the professional association, i.e. employees of the Chamber of Commerce.

[26] See Report by Lasserre B., op. cit.

[27] Fachverband der Kino-, Kultur- und Vergnügungsbetriebe (*Professional association of cinema, culture and entertainment companies*).

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France – "Médiateur du Cinéma"

Created in 1982, the Cinema Mediator (*Médiateur du Cinéma*)[28] is responsible, under articles L. 213-1 to 8 of the French Cinema and Moving Images Code (*Code du cinéma et de l'image animée*),[29] with the task of prior conciliation for "any dispute relating to access by exhibitors of cinematographic establishments to cinematographic works and access by cinematographic works to cinemas, as well as, more generally, the conditions under which cinematographic works are shown in cinemas, originating from a de facto monopoly, a dominant position or any other situation intended to restrict or distort competition and revealing the existence of obstacles to the widest distribution of cinematographic works in the general interest. For example, in a post-pandemic context characterised by a backlog of unreleased films, French film distributors sought guidance from the Cinema Mediator about the possibility of conducting consultations among themselves aimed at agreeing on a regulated film release schedule until the situation returned to normal. The Cinema Mediator referred the question to the Competition authority, which ruled, in April 2021, that such consultation could potentially restrict competition, but that exemptions could apply under specific conditions (that the agreement benefits the film economy by promoting diversity and wide distribution, remains neutral for cinemas and viewers, lacks viable alternatives, and preserves competition in other aspects of film distribution).[30]

2.3. Economic and cultural regulatory tools in the cinema sector

The main tools for economic and cultural regulation of the cinema sector are varied and can encompass the following types of regulatory intervention, depending on each country:[31]

2.3.1. Rules and procedures for cinema's operation

The rules and procedures for cinemas' operations in Europe are often fixed at the national or regional level, through legislative and regulatory provisions. These requirements are usually delivered at the local level by municipal authorities and cover various aspects of the cinema operation. Thus, in many European countries, cinemas are required to obtain specific permits and licenses to operate. This includes permits for the construction or renovation of cinema venues (e.g., in Austria, Belgium, Poland); permits for public film

[28] https://www.lemediateurducinema.fr/le-mediateur/.
[29] Code du cinema et de l'image animée (*Cinema and animated image Code*)
[30] Blocman A., "Temporary consultation between distributors on film release schedule compatible with competition law", IRIS 2021-5:1/30.
[31] Legislative initiatives to fight against piracy are not covered in this report.

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screenings (e.g., in Austria, Czechia); permits based on safety regulations or public health inspections (e.g., in Belgium, Bulgaria, Czechia, Greece, Netherlands), etc..

In other countries, cinemas are required to register as companies, sometimes under a specific category as cinemas or exhibitors (e.g., in Bulgaria, Bosnia and Herzegovina, Montenegro, North Macedonia, Serbia). This registration may be accompanied by additional requirements, such as a registration with the tax office (e.g., in Czechia); the annual payment of a monitoring tax to the national film fund (e.g., in Finland, EUR 200). In France, the construction of large-scale cinema venues, particularly on the outskirts of cities is subject to authorisation by commissions composed of elected local representatives and qualified personalities. This is to ensure that the new venues do not excessively affect the economic situation of local cinemas, especially those in city centres, and that they do not have an impact on the diversity of programming.[32]

2.3.2. Special vouchers, discounts, and price formulas

In some countries, there is a strong culture of vouchers launched by the state towards certain audience groups (e.g. Czechia, Finland, France, Spain, etc..). These state-backed initiatives aim to promote cinema attendance and accessibility for specific demographics, such as children, young, seniors, disabled persons, etc..

In **Spain** for example, a Young Cultural Voucher was launched in 2022, granting a direct aid of EUR 400 for those who turn 18 to purchase and enjoy cultural products and activities (EUR 200 for live arts, cultural heritage, and audiovisual arts, for example, cinema tickets). Once the aid is granted, the total amount is credited in a single payment, in the form of a nominal virtual prepaid card that is valid for the twelve months following the grant. As of September 2023, the program had reached 600,000 young beneficiaries between the first two editions. This year, the call is expected to open in June 2024. In the same way, the Senior Cinema Program is a measure driven by the Government since 2023 for people over 65 years old to go to the cinema on Tuesdays for EUR 2. Through the Royal Decree of 13 June 2023,[33] the Government created this public aid programme of EUR 10 million to promote access to cinemas for the over-65s., on grounds of public, social and economic interest. On the one hand, in order to provide the necessary protection for the economic viability of cinemas, which are an essential and fundamental means of access to culture, and to restore cinema attendance by a large part of the population (9.5 million people aged over 65 throughout the country, according to figures from the National Statistics Institute). Secondly, by arguing that the enjoyment of such an important and satisfying cultural activity as going to the cinema contributes to the right of the elderly to lead a life of dignity and independence and to participate in social and cultural life, in

[32] Source :EAO survey to UNIC and FIAD members conducted in March 2024.
[33] Real Decreto 447/2023, de 13 de junio, por el que se regula la concesión directa de subvenciones a salas de exhibición cinematográfica para fomentar el acceso al cine de las personas de 65 o más años (*Royal Decree 447/2023, of 13 June, regulating the direct granting of subsidies to cinemas to promote access to the cinema for people aged 65 and over*).

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accordance with Article 25 of the Charter of Fundamental Rights of the European Union. Finally, by pointing out that the existence and operation of cinemas have a clear social impact in the places where they are located, promoting both the cultural offer and the leisure activities related to this activity, which gives them a clear social interest. During the campaign of the program, which took place between July and December of last year, a total of 924,724 senior spectators were recorded, which represented an average of 25.5% of the total 3,663,676 tickets sold. The continuation of the campaign in 2024 has recently been approved in response to the positive reception of the first edition.[34]

Across many countries, cinemas also offer various discounts towards different audience segments (e.g. children, students, senior, persons with disabilities..) or regular promotional ticket offers (eg. in Austria, Belgium, Spain, UK, France, Greece, etc.). These offers in the market are typically created by exhibitors, sometimes in collaboration with external promotional partners. For example, in Switzerland, cinemas have deals with local or national banks to offer discounts to students. The individual distributors then negotiate their own film rental fee with the individual exhibitors for these discounted tickets.[35]

In addition, some countries have seen the launch of unlimited cinema passes or subscription models mainly by larger cinema chains. In France, the principle of authorisation for such unlimited cinema access formulas is laid down by law. The aim for regulation in this field is to ensure that unlimited passes allow fair remuneration to distributors (and hence producers and authors) and exhibitors alike, based on a negotiated rate verified by the film fund (CNC). Other cinemas in the same competitive area as the cinemas issuing these cards can also benefit from these cards for a negotiated remuneration. However, France stands out as an exception in this respect because, in most cases, unlimited cards and subscription models are market initiatives regulated solely by competition law.

2.3.3. Programming commitments and screen quotas

The principle of these commitments may be laid down in the law and subsequently negotiated between the film fund and the exhibitors concerned. The aim of such commitments is to guarantee the diversity of film programming in cinemas.

Thus, for example, in **France,** a decree of 27 October 2023[36] amended the Cinema and Animated Image Code (*Code du cinéma et de l'image animée*) to take into account certain recommendations contained in the report entitled "Cinema and regulation – Cinema in search of new balances: relaunching tools, rethinking regulation" that was submitted to the ministers of culture and the economy by Bruno Lasserre, former vice president of the State

[34] Source :EAO survey to UNIC and FIAD members conducted in March 2024.
[35] Ibid.
[36] Décret n° 2023-999 du 27 octobre 2023 modifiant le Code du cinéma et de l'image animée et relatif aux engagements de programmation et aux formules d'accès au cinéma (*Decree No. 2023-999 of 27 October 2023 amending the Cinema and animated image Code and regarding programming commitments and unlimited cinema passes*).

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Council and former president of the competition authority in April 2023.[37] One of the key issues identified in this report was the need to safeguard the diversity of cinematographic works and their distribution throughout the country. Programming commitments were considered as the main regulatory tool for achieving this. These commitments are obligations concerning cinema programming, which are proposed by exhibitors and approved by the French film fund (the National Centre for Cinema and the Moving Image – CNC). The decree describes the approval procedure for the programming commitments of cinema groups and extends the powers of the CNC president, which already apply to owner-exhibitors (Article R. 212-36 of the Cinema and Moving Image Code), to determine programming commitments if the exhibitor's proposals do not do enough to safeguard film diversity.[38]

In terms of screen quotas as such, **Spain** is the only EU member state to have implemented them through Law 3/1980 on the regulation of screen quotas and film distribution (Ley 3/1980, de 10 de enero, de regulación de cuotas de pantalla y distribución cinematográfica), later revised in 2007 by the Cinema Law (Ley 55/2007, de 28 de diciembre, del Cine) (Article 18).[39] Introduced in 1980 in response to the critical situation of the Spanish film industry, the 2007 Cinema Law highlights the need to strengthen the protection of free competition in commercial relations in the face of practices likely to restrict competition, in particular those obliging cinemas to contract films in batches, linking the screening of one film to the contracting of others. According to the law, cinemas in Spain must annually screen 25% of cinematographic works from EU member states in any version (subtitled or dubbed) out of the total number of screenings scheduled for that year. Additionally, a separate quota specifically supports screenings of such films by community cinemas in order to strengthen access to a diverse cultural offer by local audiences. Non-compliance with quotas is categorized as an offense, ranging serious to minor based on the extent of percentage deviation from the requirement. The new Draft Law on cinema and audiovisual culture registered in the Spanish Parliament in March 2023[40] lowers from 25% to 20% the quota of European productions to be screened in cinemas and includes within this percentage Ibero-American productions.

In other countries, the law encourages programming diversity by establishing specific programming requirements so that exhibitors can benefit from access to certain public subsidies, such as, for example, in **Bulgaria**, in **Serbia**, or in **Switzerland**.[41]

[37] See report by Lassere B., op. cit.
[38] Blocman A., "Regulatory amendments concerning programming commitments and cinema passes", IRIS 2023-10:1/10, IRIS Legal Observations of the European Audiovisual Observatory.
[39] Ley 55/2007, de 28 de diciembre, del Cine.
[40] 121/000137 Proyecto de Ley del Cine y de la Cultura Audiovisual (*Draft Law 121/000137 on Cinema and Audiovisual Culture)*; See also, Ministerio de Cultura y Deporte, Ley del Cine y la Cultura Audiovisual(*Ministry of Culture and Sport, aw on Cinema and Audiovisual Culture*).
[41] See in Section 3.3.1. of this publication.

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2.3.4. Statutory limits on the rental fee

The rental fee is, in most countries, freely negotiated in the contract between exhibitors and distributors, based on a range of criteria linked to the film, the week of screening, etc. As seen previously, this fee is typically set at 50% at the beginning of a film's release. However, in certain cases, the law can regulate the fixing of this fee, in order to ensure equitable remuneration both for distributors representing the upstream end of the value chain and for exhibitors, by rebalancing situations in which a distributor or exhibitor is in a position of strength. This is the case in France, where a range between 25% and 50% of the cinema's net revenue before tax is set by law.[42]

2.3.5. Control of cinema box office receipts

Control of cinema box office receipts can be set out in the law, or by decree. It can also be administered in some countries by film funds. A regulatory framework is designed to ensure the smooth operation of the revenue-sharing system and all other aspects of cinema taxation based on ticket sales.

Besides film programming and pricing formulas, a number of different aspects of cinema exhibition can be regulated by law. For example, the French decrees of 25 February 2022[43] and 10 March 2022[44] revising the French Cinema Code intervene in a number of areas, such as: the regulation of the authorisation system for new cinemas, including by regulating the types of derogation from technical or programming requirements that may be granted by the president of the French film fund, CNC; the type of information contained in the weekly income declaration submitted by cinema exhibitors (e.g for each screening rather than for each day); the system for submitting the relevant documentation; the legal framework for protecting public access to cinematographic and audiovisual works, etc.[45]

2.3.6. Selective support

The eligibility criteria may be fixed in the general film support regulation. Selective support schemes aim to promote the diversity of film production, distribution or exhibition. It may

[42] Source :EAO survey to UNIC and FIAD members conducted in March 2024.
[43] Décret n° 2022-256 du 25 février 2022 modifiant la partie réglementaire du Code du cinéma et de l'image animée et portant diverses mesures relatives au secteur du cinéma et de l'image animée (*Decree no. 2022-256 of 25 February 2022 amending the regulatory part of the Cinema and animated image Code and concerning various measures relevant to the cinema and animated image sector*).
[44] Décret n° 2022-344 du 10 mars 2022 modifiant la partie réglementaire du Code du cinéma et de l'image animée, (Decree no. 2022-344 of 10 March 2022 amending the regulatory part of the Cinema and Animated Image Code).
[45] Blocman A., "New film exploitation regulations", IRIS 2022-5:1/12, IRIS Legal Observations of the European Audiovisual Observatory.

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take the form of support to independent players, who are the guarantors of cultural diversity, with financial aid, tax incentives and easier access to cinemas.

2.3.7. Intervention of the mediator

The intervention of a mediator, either through conciliation between exhibitors and distributors, or through recommendations to the sector, aim to settle or prevent disputes arising between exhibitors and distributors over the release of films and their screening in cinemas, primarily on the basis of economic criteria but also in order to promote the distribution of films in the public interest.

2.3.8. Release windows

The principle and certain essential rules of release windows systems may be laid down by law, by industry agreements or in the film funds rules of eligibility for support. Such rules aim to establish the order and timeline of the exhibition of cinematographic works on different distribution supports.

FOCUS BOX - National Cinema Days

European countries are increasingly celebrating their national cinema with events aimed at attracting audiences back to cinemas. For example, in Belgium, Finland, France, Germany, Greece, Ireland, Italy, Norway, Poland, Portugal, Slovakia, Spain, Sweden, Switzerland and the UK, these initiatives have become a popular trend. The format for these events varies, ranging from one-day celebrations to biannual week-long festivals. Some events feature special contests or invite filmmakers to participate. Notably, these efforts have seen success in boosting cinema attendance, by creating excitement around the "big screen" experience. Reduced ticket prices are a draw, but surveys reveal a deeper desire to rediscover the communal cinema experience and share it with family and friends.

In **France**, the *Printemps du cinema* (Spring of Cinema),[46] is an event that has been held every year since 2000. Organised in early spring by the national federation of French cinemas (*Fédération nationale des cinémas français* – FNCF),[47] it consists in offering cinema tickets at a reduced rate for three days (EUR 5), regardless of the cinema or screening. The 22nd edition of this event in March 2023 attracted 2.5 million cinemagoers in three days, an overall growth of 10% compared to 2022. Similarly, the *Fête du Cinéma* (Cinema Festival),[48] organised by the FNCF in partnership with 6 000 cinemas in France and with

[46] https://www.printempsducinema.com/.
[47] https://www.fncf.org/.
[48] https://www.feteducinema.com/.

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the support of the French pay TV channel Canal Plus, is celebrated at the beginning of the summer and offers cinema tickets at a reduced rate (EUR 5) for four days. The 38th edition of this event, which took place in June 2023, brought 3.1 million people to the cinema.

Inspired by the French model, **Spain** launched in 2009 the first edition of the *Fiesta del Cine* (Cinema Festival), an initiative organised by the Spanish federation of film distributors (*Federación de Distribuidores Cinematográficos* – FEDICINE),[49] the Spanish federation of cinemas (*Federación de Cines de España* – FECE)[50] and the Ministry of Culture and Sports, through the national film fund (*Instituto de la Cinematografía y de las Artes Audiovisuales* – ICAA).[51] During four days, in May and October, cinema tickets are offered at a reduced rate (EUR 3.50) in any cinema and for any screening. Initially subject to prior registration following the success of this event, it is now accessible to the public without prior booking. The last edition of this event attracted 1.2 million spectators, 22% more than the May edition.

In **Poland**, the *Swieto Kina* (Cinema Festival) held its 9th edition in 2023; 250 cinemas in Poland took part and 550 000 tickets were sold. This event is organised by cinema chains (Cinema City, Helios and Multikino), in cooperation with the Association of Studio Cinemas and the Association of Polish Cinemas, under the patronage of the Polish Film Institute.

More recently, **Italy** launched its first *Cinema in Festa*[52] in 2022, organised by the cinema industry's national association (*Associazione Nazionale Industrie Cinematografiche Audiovisive Digitali* – ANICA)[53] and the national cinema exhibitors association (*Associazione Nazionale Esercenti Cinema* – ANEC)[54] with the support of the Italian Ministry of Culture and the David di Donatello award,[55] offering special tickets at EUR 3.50 in all cinemas for five days in June and September. The June 2023 edition recorded 1.2 million admissions, a 187% increase compared to the previous year. The September event was even more successful with 1.56 million admissions, highlighting the impact of this event.

In **Greece**, a second edition of the Greek Day Fest took place on 26 October 2023, with a 31.2% increase compared to the first edition. In the same way, **Finland** launched its first national Cinema Day on 22 April 2023. *Suuri leffapäivä* (the Great Cinema Day) was a collaboration between the cinema association and the film distributors' association, with tickets sold at half price in cinemas across the country.

An increasing number of cinemas are also now hosting these national initiatives. In **Germany**, 771 cinemas took part in the 2nd *Kinofest*, representing 90% of the market. In **Switzerland**, 195 cinemas took part in the 7th edition of the privately funded Allianz Cinema Day in September, with a total of 531 screens, offering 150 different films with

[49] https://fedicine.com/.
[50] https://www.fece.com/.
[51] https://www.cultura.gob.es/cultura/areas/cine/inicio.html.
[52] https://www.cinemainfesta.it/.
[53] http://www.anica.it/film.
[54] https://anec.it/.
[55] https://www.daviddidonatello.it/.

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2 400 screenings. The **UK** and **Ireland**'s National Cinema Day had its 2nd edition in 2023 and welcomed 1.56 million visitors. Findings showed that 95% of attendees said that they would happily recommend the cinemagoing experience to friends and family and three quarters of the respondents also said that they were now likely to return in the coming weeks.[56]

FOCUS BOX - Unlimited cinema pass

In the cinema sector, the introduction of unlimited cinema passes exemplifies another measure balancing remuneration for industry stakeholders and fostering competition between independent exhibitors and cinema groups to attract audiences and preserve programming diversity.

The first cinema pass giving access to an unlimited number of screenings was the Virgin Megapass, launched in the **United Kingdom** in 1999. In 2000, UGC acquired Virgin and launched the first pass under the brand name *UGC illimité* in **France**. The launch of this new offer faced criticism from distributors and independent exhibitors, who feared it would "kill off competition".[57] Subsequently, Pathé and Gaumont MK2 launched in 2000 their own formula, which gained popularity among audiences. In response to these developments, legislation was enacted in France in 2001 to regulate unlimited access to cinemas.[58] This legal framework established two key principles that remain unchanged to this date:[59] setting a fair reference price as a basis for the proportional remuneration of rightsholders; and ensuring access for independent exhibitors to participate in the scheme. These exhibitors receive guaranteed remuneration per admission, thanks to an unlimited card in their establishment. These two obligations respond, in an appropriate and proportionate manner, to the two objective principles of general interest pursued by the legislator: on the one hand, to ensure the remuneration of rightsholders, and on the other hand, to prevent a situation where subscriptions lead to independent cinemas being deprived from an audience that has become loyal to such packages. The CNC, which approves exhibitors' subscriptions, ensures that these two elements are respected. In 2004, the French Competition Council (*Conseil de la Concurrence*) ruled that UGC's unlimited card did not unfairly undercut prices. In 2023, following recommendations from the Lasserre report[60] on the need to ensure balanced relationships between cinema operators and distributors, the French decree of 27 October 2023[61] simplified the rules governing unlimited cinema passes. This decree removed the requirement for significant changes to be approved by the CNC president, granting companies issuing these passes

[56] UNIC, National cinema days in 2023, 21 December 2023.
[57] Monceau S., "*La carte UGC tuera la concurrence*", *Libération*, 27 May 2000.
[58] *Loi n° 2001-420 du 15 mai 2001 relative aux nouvelles régulations économiques* (Law no. 2001-420 of 15 May 2001 on new economic regulations).
[59] These principles are today codified in Articles L. 212-27 to L. 212-31 and R. 212-44 to R. 212-66 of the *Code du Cinema et de l'image animée* (Cinema and animated image Code).
[60] Report by Lasserre B., op. cit.
[61] Op. cit.

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more flexibility in customer relations and allowing adjustments to sales conditions during the term of the licence. Approval will now only be necessary for substantial changes that could impact the original approval parameters.

Other initiatives have been launched in some countries to attract audiences to arthouse cinemas, combining an action on prices with unlimited subscription formulas and encouraging the networking of arthouse cinemas in several cities. These initiatives are not necessarily enshrined in law but may be the result of a joint initiative between different branches of the industry. In this way, Cineville is an "all you can watch cinema subscription service" founded in Amsterdam, **Netherlands**, in 2009. It started as a way to attract more people to an arthouse cinema struggling with low attendance. Cineville collaborates with cinemas, sharing data, revenue, and subscribers. Today, Cineville has over 80,000 members and 1.5 million admissions per year across 70 cinemas. Their unlimited card costs around EUR 21 per month, with discounts for students. Cineville uses 10-15% of card revenue to cover subscriber expenses and distributes the rest (85-90%) to cinema exhibitors and distributors. Cineville is transparent with data, providing audience behaviour insights and a dashboard for exhibitors and distributors. This allows them to track audiences from movie trailers to theatre visits. Cineville has now expanded to **Belgium**, **Austria**, **Sweden**, and **Germany**.[62]

2.4. Territorial distribution and theatrical exclusivity

2.4.1. The EU legal framework

The regulation of the cinema sector in the EU is based on two fundamental principles: the principle of territoriality of copyright, and theatrical exclusivity. Both principles, which impact on the way films are financed and distributed in Europe are grounded in EU law.[63]

2.4.1.1. The principle of territoriality of copyright

The principle of territoriality in copyright law dictates that each country in the EU can regulate copyright within its borders in its own way within the framework of international treaties and relevant EU directives. According to this principle, rightsholders in the EU may grant licences on a territorial basis to various licensees in different countries. This principle has been enshrined in a set of EU directives, and tolerates only a few exceptions. In recent

[62] https://cineuropa.org/en/newsdetail/432992/.
[63] Cabrera Blázquez F.J., Cappello M., Grece C., Simone P., Talavera Milla J. and Valais S., "Territoriality and release windows in the European audiovisual sector", IRIS *Plus*, European Audiovisual Observatory, Strasbourg, June 2023.

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times, some legislative developments to improve the circulation of works within the European Union have raised concern among rightsholders about the dismantling of this principle.

First, a regulation on the cross-border portability of online content services in the internal market (the **Portability Regulation**),[64] adopted on 14 June 2017, which came into force in April 2018, ensures that EU citizens can access online content services from their home country when travelling within the EU. It mandates that service providers allow subscribers to access content in the same manner as in their home country, even when temporarily in another EU state. In order to reconcile this aim with the principle of territoriality, the Portability Regulation created a legal fiction whereby the provision of the service to a subscriber who is temporarily present in a member state, as well as the access to and the use of that service by the subscriber, will be considered as happening in the subscriber's member state of residence.

Secondly, on 17 April 2019, a **directive on copyright and related rights applicable to certain online transmissions**[65] was adopted after much political wrangling; it introduces the principle of the country of origin (COO) for certain types of online transmissions of TV and radio programmes, such as simulcasting and catch-up services, with the goal of facilitating the licensing of content online by broadcasters and ultimately, of increasing cross-border access to broadcasters' online services in the Digital Single Market. However, as far as audiovisual content is concerned, the adopted rules on the COO principle apply only to television programmes that are (i) news and current affairs programmes, or (ii) fully financed own productions of the broadcaster. Moreover, the COO principle shall be without prejudice to the contractual freedom of the rightsholders and broadcasting organisations to agree, in compliance with Union law, to limit the exploitation of such rights.

Finally, the **Geo-blocking Regulation**,[66] adopted in 2018, prohibits unjustified discrimination against customers buying goods or services based on nationality, place of residence, or establishment. It ensures equal access to online shops and services within the EU, but it excludes copyright-protected materials like e-books and audiovisual products from its scope. The regulation contains a review clause which requires the European Commission to report every five years on the evaluation of the regulation. The Commission's first report, covering the first 18 months of implementation, discussed the possibility of extending the scope of the regulation to audiovisual services. However, it concluded that further evaluation would be necessary, taking into account the broader

[64] Regulation (EU) 2017/1128 of the European Parliament and of the Council of 14 June 2017 on cross-border portability of online content services in the internal market (Text with EEA relevance).
[65] Directive (EU) 2019/789 of the European Parliament and of the Council of 17 April 2019 laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes, and amending Council Directive 93/83/EEC (Text with EEA relevance).
[66] Regulation (EU) 2018/302 of the European Parliament and of the Council of 28 February 2018 on addressing unjustified geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market and amending Regulations (EC) No. 2006/2004 and (EU) 2017/2394 and Directive 2009/22/EC (Text with EEA relevance).

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context of accompanying the industry in its recovery and transformation in the Commission's Media and Audiovisual Action Plan.[67]

In its Own Initiative (INI) Report on the implementation of the Geo-blocking Regulation of 13 December 2024,[68] the European Parliament confirmed that it considered that

> *[…] the inclusion of audiovisual services in the scope of the Geo-blocking Regulation would result in a significant loss of revenue, putting investment in new content at risk, while eroding contractual freedom and reducing cultural diversity in content production, distribution, promotion and exhibition; [and] emphasises that such an inclusion would result in fewer distribution channels, ultimately driving up prices for consumers; [….]*

The European Parliament's report states that more assessment is needed on the potential impact extending the rules would have on the audiovisual sector and it advocates for a realistic time frame so the audiovisual sector can adapt and ensure the preservation of cultural diversity and content quality.[69]

2.4.1.2. Release windows and theatrical exclusivity

The term "release windows" usually refers to the more or less flexible practices or territory-based legislation regarding the time that must pass between the theatrical release of a film and its exploitation on other services (VOD, TV, home video).[70] Such a system has been found compatible with EU law since its origins in the Television without Frontiers Directive (TwFD) of 1989.[71] Today, member states are free to organise such periods as they wish. According to Article 8 of the 2018 AVMSD, "Member States shall ensure that media service providers under their jurisdiction do not transmit cinematographic works outside periods agreed with the rightsholders".

Recitals 76 and 77 of the 2010 AVMSD do not provide further information on this matter:

> *(76) It is important to ensure that cinematographic works are transmitted within periods agreed between rightsholders and media service providers.*

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[67] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Europe's Media in the Digital Decade: An Action Plan to Support Recovery and Transformation, COM/2020/784 final, 3 December 2020.

[68] European Parliament resolution of 13 December 2023 on the implementation of the 2018 Geo-blocking Regulation in the digital single market (2023/2019(INI)).

[69] European Parliament resolution of 13 December 2023 on the implementation of the 2018 Geo-blocking Regulation in the digital single market (2023/2019(INI)).

[70] Other terms that refer to this practice are: statutory windows, release patterns, exploitation window regulations or media chronology.

[71] Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by Law, Regulation or Administrative Action in Member States concerning the pursuit of television broadcasting activities.

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> *(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.*

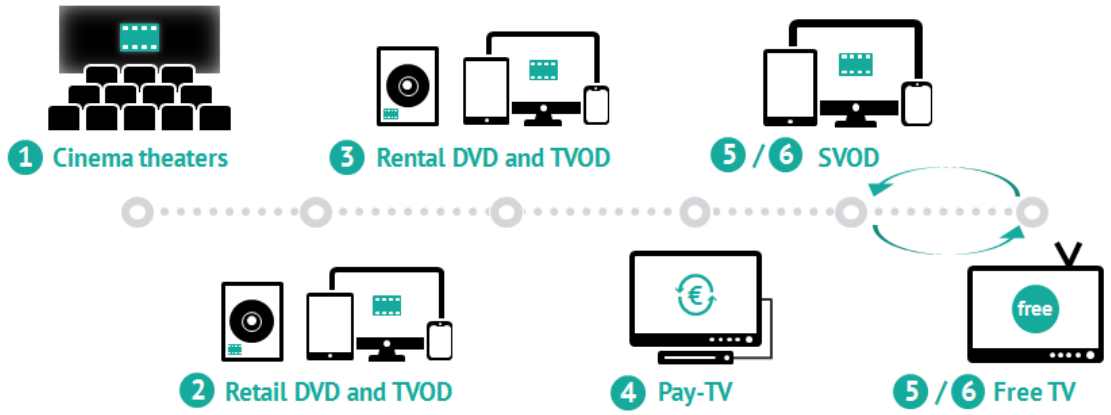
The Court of Justice of the European Union (CJEU) also confirmed in 1982, in the *Coditel* case, that such systems of release windows are compatible with EU competition rules:[72]

> *Although copyright in a film and the right deriving from it, namely that of exhibiting the film, are not as such subject to the prohibitions contained in Article 85, the exercise of those rights may, nonetheless, come within the said prohibitions where there are economic or legal circumstances the effect of which is to restrict film distribution to an appreciable degree or to distort competition on the cinematographic market, regard being had to the specific characteristics of that market.*

2.4.2. National rules on release windows in selected European countries

Release windows are conceived in chronological order. To date, by and large, the common chronology is as follows: cinema theatres, TVOD/physical retail, TVOD/physical rental, pay TV, SVOD and free TV (although the position of the last two can be interchangeable or simultaneous).

Figure 7. Typical release window schedule



Source: European Audiovisual Observatory

[72] Judgment of the Court of 6 October 1982. *Coditel SA, Compagnie générale pour la diffusion de la télévision, and Others v. Ciné-Vog Films SA and Others*. See also Judgment of the Court (Grand Chamber) of 4 October 2011, Joined Cases C-403/08 and C-429/08, *Football Association Premier League Ltd and Others v. QC Leisure and Others*, and *Karen Murphy v. Media Protection Services Ltd.*

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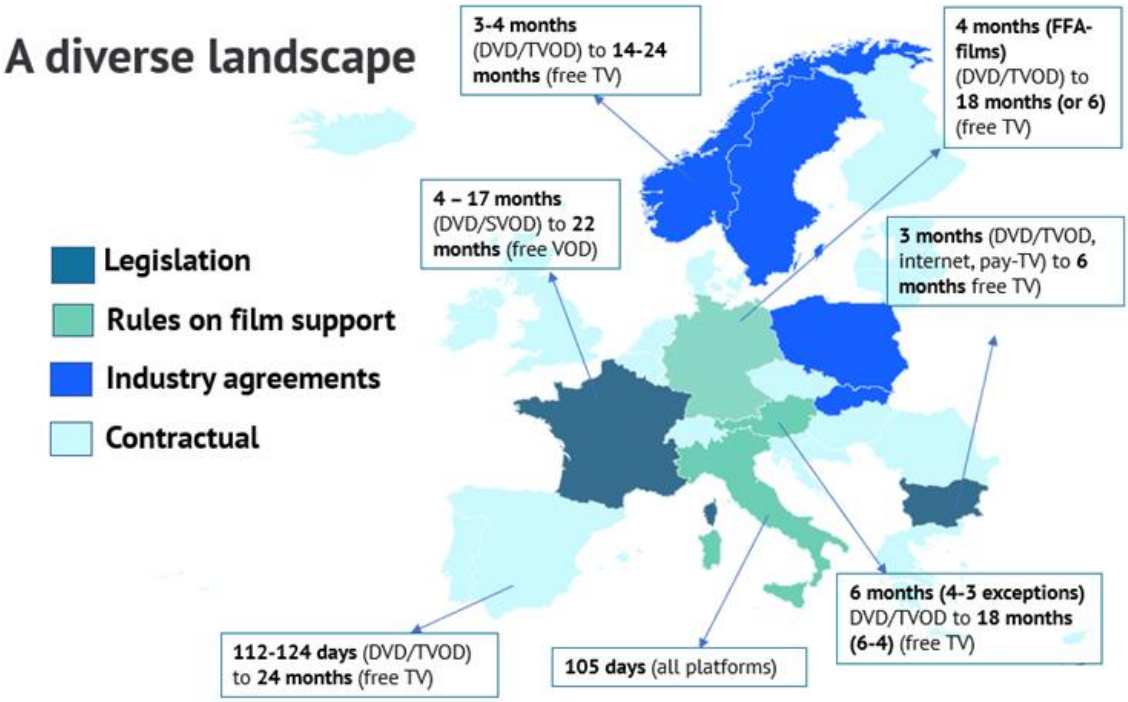
In some countries, only common trade practices can be observed; in others, there are gentlepersons' agreements between producers, distributors and exhibitors to respect a certain margin of time between windows; and there are also countries where industry associations have signed agreements to establish the framework for release windows. In a few countries, the release windows are regulated by law.

Figure 8. Release windows trends in selected European countries[73]



Source: European Audiovisual Observatory

[73] For more details, see table (Annex) realised by Europa Distribution, the International Federation of Film Distributors' & Publishers' Associations (FIAD), the International Video Federation (IVF), and the International Union of Cinemas (UNIC), based on a survey conducted with their members in December 2022, and additional research in April-May 2023 conducted by Cabrera Blázquez F.J., Cappello M., Grece C., Simone P., Talavera Milla J., Valais S.: Territoriality and Territoriality and release windows in the European audiovisual sector, IRIS *Plus*, European Audiovisual Observatory, Strasbourg, June 2023.

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3. Public support to cinemas

3.1. Public film policies and cultural diversity

3.1.1. The emergence of film policy in Europe

Film policy in Europe has a rich history that evolved in response to challenges such as American dominance in cinemas and the decline of domestic films' market position. This led to the establishment of national film agencies and support mechanisms, such as the French CNC, in 1946, funded through state budgets and taxes on exploitation windows. This model influenced other European countries. The introduction of television in the 1950s and 1960s led to further adaptations in film policy, while the rise of home video in the late 1970s and early 1980s expanded the audiovisual landscape, leading to policies beyond traditional film. In the 1980s, institutions such as the Council of Europe's co-production fund Eurimages and EU support within the MEDIA programme aimed to promote the circulation of European films and cultural diversity, emphasising "independent production" and "independent producers". By the late 1980s and early 1990s, regions began supporting film production to enrich cultural heritage and boost economic growth. The evolution of film policy towards a global audiovisual policy means constantly redefining policy orientations, integrating multiple justifications and balancing the cultural and economic dimensions.

3.1.2. From cultural exception to cultural diversity

The concept of "cultural exception" originated within international trade discussions, emphasising the distinctiveness of cultural products and services. The unique significance and role of culture mean that it cannot be treated merely as other commercial goods or services. This recognition of culture's importance in society and the need for its protection was enshrined in the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions.[74] The cultural sector's special status reflects the acknowledgement that cultural expression and diversity are fundamental to democratic societies. Consequently, public authorities are justified in making special provisions for the flourishing of culture, ensuring access for all and fair remuneration for creators. This principle finds support in the International Covenant on Economic, Social and Cultural Rights,[75] which sets out the right of individuals to participate in cultural life, and mandates

[74] The 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions.
[75] International Covenant on Economic, Social and Cultural Rights, 16 December 1966.

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states to promote cultural conservation, development and diffusion, while ensuring creative freedom. This principle applies to all policy areas relevant to the film and audiovisual sector. For instance, it played a pivotal role in discussions regarding the eligibility of state aid for cinema within the framework of European competition rules in 2013.

3.1.3. Promoting “strategic cultural assets” in Europe

The political will to protect "strategic cultural assets" in the cinematographic and audiovisual field from acquisition by non-European companies has emerged in the public discourse in recent years. This has resulted in the adoption, in April 2022, of conclusions by the Council of the European Union,[76] referring to the challenge of defining, safeguarding, and promoting the Union's "strategic cultural assets", in particular the capacity to produce and distribute works, in order to preserve cultural heritage and promote cultural diversity. Special mention is made of catalogues of audiovisual works, but the wording – which mentions both tangible and intangible property – may also refer to cinemas, which are often supported by public funding.

This trend is inspired by the growing national and European frameworks regulating foreign investments,[77] as well as precedents in the cultural field, such as the national treasures regime that limits the export of certain exceptional cultural assets. However, the film sector’s key assets – cinemas and works, encompassing their physical or digital forms and associated intellectual property rights – present unique challenges and would probably require tailored approaches.[78]

3.2. State aid and EU competition law

National film funds in Europe distribute around EUR two billion per year to support audiovisual creation in general (excluding tax incentives). National support schemes are diverse and vary by country. They can cover all stages of creation: script writing, development, production, distribution, promotion, etc. Support extends beyond feature films, encompassing TV series, virtual reality (VR) projects, interactive works, user-generated content, video games, etc.

[76] Council Conclusions on building a European Strategy for the Cultural and Creative Industries Ecosystem 2022/C 160/06, 13 April 2022.
[77] See for example, at European level, the EU’s framework for the coordination of foreign direct investment screening in the European Union, as set out in Regulation 2019/452 (as amended – the FDI Regulation), which was adopted in March 2019 and has been applied since October 2020. The FDI Regulation is the first to give the European Commission general powers to review private transactions since the entry into force of the EU Merger Regulation.
[78] See report by Lasserre B., op. cit.

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Most funding takes the form of grants or loans which are considered state aid under EU law as far as EU member states are concerned.

3.2.1. Exception to general prohibition of state aid under EU law

State aid in the European Union is typically deemed incompatible with the common market due to its potential to distort competition between undertakings and affect trade between member states (Article 107 of the Treaty on the Functioning of the European Union – TFEU). Nonetheless, exceptions exist, with the most relevant ones for the audiovisual sector being Article 107.3(c) and (d) TFEU. These provisions outline two types of aid that can be deemed compatible with the common market:

- Article 107.3(c) aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest;
- Article 107.3(d) aid to promote culture and heritage conservation where such aid does not affect trading conditions and competition in the Union to an extent that is contrary to the common interest.

Under Article 108(3) TFEU, any plans to grant or alter aid must be notified to the European Commission, in sufficient time to enable it to submit its comments.[79] In the case of aid concerning audiovisual works, including cinematographic works, the Commission assesses whether the aid scheme respects the "general legality" principle, ensuring it aligns with EU Treaty provisions beyond state aid regulations. Subsequently, the Commission assesses the compatibility of the support scheme with TFEU state aid rules, guided by criteria outlined in the 2013 Cinema Communication.[80]

3.2.2. Assessment criteria for national support schemes under EU law

3.2.2.1. Conditions for public support under the 2013 Cinema Communication

The Communication from the Commission on state aid for films and other audiovisual works (the "Cinema Communication") outlines criteria for assessing national support schemes. In

[79] When the total amount of the aid granted per member state for one undertaking does not exceed EUR 200 000 over any period of three fiscal years, this aid measure is exempted from the notification requirement in Article 108(3) TFEU. See Commission Regulation (EU) No. 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid (Text with EEA relevance), 18 December 2013.
[80] Communication from the Commission on State aid for films and other audiovisual works (2013/C 332/01).

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terms of scope of activity, the Cinema Communication, as revised in 2013, includes public support for all aspects of film creation, including support to distribution and cinemas.[81]

In addition, the aid must be targeted at a cultural product. As explained above, the rules concerning state aid for the audiovisual sector are based on the exception included in Article 107.3(d) TFEU concerning the promotion of culture. However, in line with the subsidiarity principle, the definition of cultural activities is set at EU member state level. Therefore, the Commission limits itself to checking whether a EU member state has a relevant, effective verification mechanism in place able to avoid manifest error, such as a cultural selection process to determine which audiovisual works should benefit from aid or a cultural profile to be fulfilled by all audiovisual works as a condition of the aid. The Commission makes reference to linguistic diversity as an important element of cultural diversity. The 2013 Cinema Communication allows EU member states to require, as a condition for the aid, *inter alia*, that the film is produced in a certain language, when it is established that this requirement is necessary and adequate to pursue a cultural objective in the audiovisual sector, which can also favour the freedom of expression of the different social, religious, philosophical or linguistic components which exist in a given region. The fact that such a criterion may constitute in practice an advantage for cinema production undertakings which work in the language covered by that criterion appears inherent to the objective pursued.

The Cinema Communication also establishes territorial spending obligations, i.e. how much the country/region can require spending in its own territory. In particular, the 2013 Cinema Communication allows film production support schemes to either:

- require that up to 160% of the aid amount awarded to the production of a given audiovisual work is spent in the territory granting the aid, or
- calculate the aid amount awarded to the production of a given audiovisual work as a percentage of the expenditure on film production activities in the granting member state, typically in the case of support schemes in the form of tax incentives.

In both cases, EU member states may require a minimum level of production activity in their territory for projects to be eligible for any aid. This level cannot, however, exceed 50% of the overall production budget. In addition, the territorial linking shall in no case exceed 80% of the overall production budget.

3.2.2.2. The De Minimis Regulation and the GBER

The De Minimis Regulation[82] exempts small aid amounts from the scope of EU state aid control because they are deemed to have no impact on competition and trade in the internal market. In addition, in some cases, simplified rules under the General Block Exemption

[81] Nikoltchev S. (ed.), "The new Cinema Communication", IRIS *Plus* 2014-1, European Audiovisual Observatory, Strasbourg, 2014.
[82] Commission Regulation (EU) 2023/2831 of 13 December 2023 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid.

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Regulation (GBER)[83] can apply. In particular, the GBER declares specific categories of state aid compatible with the TFEU, provided that they fulfil certain conditions. It therefore exempts these categories from the requirement of prior notification to and approval by the Commission, enabling EU member states to grant the aid directly and inform the Commission only *ex post*.[84]

On 23 June 2023, the European Commission amended the GBER,[85] with a view to further facilitating and speeding up the green and digital transition within the film industry. While Article 54 on audiovisual aid schemes remains unchanged, the transparency threshold for disclosing information about individual grants has been lowered from EUR 500 000 to EUR 100 000 (Article 9). The new regulation entered into force on 1 July 2023.

3.3. A diversity of public schemes to support film distribution and exhibition

Public film and audiovisual policies, as well as funding mechanisms, vary significantly across Europe due to factors such as economic strength, the structure of public activities, cultural policy frameworks, and the distribution of power among different levels of governance (local, regional, national). Financing models for film and audiovisual policies, whether through general taxation, indirect taxes, or a combination thereof, further contribute to this diversity. The digitalisation and globalisation of the sector that has intensified in recent years, have further transformed the industry's ecosystem, impacting business models and operational strategies throughout the value chain. Increased capital and content production, coupled with the emergence of global streaming giants, predominantly American-owned, as significant investors in local content have led to shifts in power structures in many countries. The rise of Direct to Consumer (D2C) solutions adopted by several established studios, is accelerating this transformation. In European countries where incentive systems (automatic financing) play a more important role in the financing of audiovisual works than selective financing by public film funds, a distinct dynamic is emerging which challenges the traditional role and influence of traditional public entities within the industry.[86]

[83] Commission Regulation (EU) No. 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (Text with EEA relevance).
[84] For more details on notification obligations, see: Cabrera Blázquez F.J., "Notification obligations for state aid concerning audiovisual works in the EU", European Audiovisual Observatory, Strasbourg, 2018.
[85] Commission Regulation (EU) 2023/1315 of 23 June 2023 amending Regulation (EU) No. 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty and Regulation (EU) 2022/2473 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty (Text with EEA relevance).
[86] Eskilsson T., "All that is solid melts into air – Public Film Funding at a Crossroads II", Film i Väst Analysis.

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3.3.1. National approaches

All European countries support their film industry, for both economic and/or cultural reasons. The nature of the measures put in place varies considerably from one country to another. For instance, they can take the form of direct aid financed from the state budget, as in Denmark, or from regional budgets, as in Germany; dedicated resources, such as those from lottery revenues in the UK; tax incentives, as in Germany and Ireland; or bank credit facilities backed by a guarantee fund, as in Spain.

While most funding typically targets production, some countries have also developed support schemes for film distribution and exhibition. In some cases, innovative strategies are put in place to boost cinema attendance, promote arthouse cinemas and enhance film programming. Certain countries have focused on distribution, by offering subsidies to facilitate the non-national distribution of films and encourage their circulation. Additionally, some countries have taken the opportunity of broader film legislation reforms to adopt a holistic approach that addresses aspects like inclusion, diversity, accessibility, or energy efficiency and environmental sustainability. These diverse approaches demonstrate the range of strategies countries employ to support their film industries and enhance various aspects of the cinematographic ecosystem.

3.3.1.1. Support to exhibition

Although public aid is mainly allocated to the production sector, some countries offer specific support schemes for exhibition.

In **France**, for example, cinemas receive automatic and selective support from the film fund (CNC) for all maintenance, renovation or construction work, as well as for any improvements to physical or sensory accessibility. They may also receive regional support depending on the way in which the French regions decide to support cinemas (or not). Selective support is open to all cinemas, except those representing more than 1% of national attendance. This aid is made possible by a 10.72% tax on cinema tickets and a special tax on television and streaming advertising.[87]

In **Finland**, all grants awarded by the Finnish Film Foundation are selective. Support for exhibition includes regional operational support for cinema; support for cinema equipment and modernisation; and training support.[88]

In **Czechia**, on the contrary, there is no general support scheme for exhibition. However, two types of financial support are available: one applies only to state-funded institutions and public cinemas, through a certain amount of budget granted by their local municipality every year. Another scheme is provided by the Czech Film Fund, which annually opens a grant for (re)digitalisation under which cinemas can obtain direct support

[87] Source :EAO survey to UNIC and FIAD members conducted in March 2024.
[88] https://www.ses.fi/en/funding/support-guides/cinemas/.

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for their project.[89]Some countries also provide a support to cinema through tax measures, such as in the **Netherlands**, where all cinemas pay a low tax rate: 9% instead of 21%.

3.3.1.2. Support to arthouse cinema

Initiated in **France** in 1955 by exhibitors and critics, who created the French association for arthouse cinema (*Association française des cinémas d'art et d'essai* – AFCAE), arthouse cinema was soon accompanied by a system of public support that began to develop in the late 1950s. In 2020, selective support for arthouse cinema represented EUR 18.5 million as part of the aid provided to cinemas in response to the health crisis. This is the second-largest form of state support for cinema exhibition, after the automatic support for investment. It is granted to some 1 300 classified cinemas (2021), which receive an average of over EUR 14 000 per cinema per year. Given the possible capping of the aid when the amount exceeds the budget envelope, the increase in the number of classified cinemas leads naturally to a reduction in the aid granted to each cinema. In addition to the subsidy, the "arthouse" classification may also facilitate the granting of other public aid at local level, or even be a condition for maintaining a public service delegation. Finally, it should be noted that other forms of public support aim to guide or support the programming of cinemas, either through automatic aid linked to specialised programming or the screening of "fragile" films, or through selective aid for cinemas that maintain a demanding programme in the face of competition, which mainly concerns Parisian cinemas.[90]

In **Italy**, Law No. 220 of 14 November 2016 (*Disciplina del cinema e dell'audiovisivo*)[91] established the Film and Audiovisual Fund aimed at funding works through tax credit, automatic and selective contributions. The law recognises six types of tax credits among which tax credits for film exhibitors, technical industries and post-production companies (Article 17). According to this law, film exhibition companies are eligible to a tax credit ranging from 20% to 40% of total expenses incurred for various purposes such as constructing new cinemas, restoring inactive cinemas, renovating and adapting cinemas structurally and technologically, as well as installing, restructuring and renovating equipment and facilities. In 2022, the government raised the tax credit for exhibitors from 20% to 40% to offer additional support to the struggling sector due to the COVID-19 pandemic.[92]

In **Romania**, the Romanian Film Centre offers various forms of financial support which cover the entire value chain, from development to distribution. In August 2020, the Romanian Government adopted a decision amending and supplementing government Decision No. 421/2018 establishing the state aid scheme to support the film industry, allocating an additional EUR 150 million to support the film industry, starting at the end of 2023. It includes support for the distribution and exhibition of films in cinemas in the form

[89] Source :EAO survey to UNIC and FIAD members conducted in March 2024.
[90] See more details on the 16 public schemes to support film exhibition here.
[91] Law of 14 November 2016, No. 220 *Disciplina del cinema e dell'audiovisivo*. (16G00233) (GU *Serie Generale* No. 277 del 26-11-2016).
[92] Screen Daily, "Italian government boosts exhibitors' tax credit to 40%", 9 May 2022.

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of non-repayable grants. In particular, de minimis aid is provided to encourage arthouse cinemas and the programming of films in arthouse cinemas. In addition, the centre finances events linked to the film industry (festivals, workshops, educational programmes, etc.) in Romania and abroad.[93]

In **Bulgaria**, state support does not target specifically arthouse cinema but is directly linked to the exhibition of Bulgarian films, official co-productions and European films. For Bulgarian films and co-productions, support is provided in the form of earmarked funds, capped at 50% of the previous year's average ticket price multiplied by the number of seats and screenings. Bulgarian films must be screened for at least 5% of the total annual screening time in each cinema. This support is nationwide (and not limited to cinemas part of Europa Cinemas network). State support for European films represents up to 25% of total box office receipts or distribution costs per film. In addition, at least 15% of annual screening time must be devoted to European films. State support is also offered for the distribution of Bulgarian films, official co-productions and European films in the shape of earmarked funds amounting to no more than 50% of the distribution and advertising budget of a film (within the limit of 25% of the incurred distributor expenditures). The Bulgarian National Film Centre also supports the promotion of Bulgarian films at international and national film festivals.[94] The Bulgarian Film Industry Act was amended in March 2021, with an unprecedented increase in the state support for national cinema, which is the highest ever – BGN 25 million per year as a minimum (EUR 12.5 million).[95]

In the same way, in **Serbia**, on the basis of the Law on Cinematography, the Film Centre of Serbia grants a financial incentive (Stimulation for Cinema-exhibition of local films) to cinemas that have more than 30% of the total number of screening hours of national and European films in their regular annual programme. The total budget earmarked for this programme is distributed to all cinemas that meet all the conditions of the programme, according to predetermined quotas. Other support is available for "Pre-digitalization and digitalisation of cinemas", with the aim to support cinemas in achieving the technical conditions for the digitalisation of cinemas.[96]

In **Switzerland**, according to the Cinema Law as revised in 2022 (*Loi fédérale sur la culture et la production cinématographiques, Loi Cinéma LCin*),[97] new provisions were introduced with a view to promote the diversity of films screened to the public. Based on this law, certain support schemes are reserved to cinemas that screen a certain percentage of non-US films. Thus, for example, Cinema Success ("*Succès Cinema*") is a public support scheme that applies to all cinemas showing Swiss films (for every spectator, a certain amount is paid to the cinema).[98] In addition, the Support to Diversity scheme ("*Soutien à la Diversité*") grants a yearly bonus to cinemas with a programme showing a certain amount

[93] KPMG, "Film Financing and Television Programming". See also, Cojocariu E., "2020-2021 aid schemes for film industry", IRIS 2020-3:1/2, IRIS Legal Observations, European Audiovisual Observatory.
[94] https://www.nfc.bg/en/funding/exhibition/.
[95] Kanusheva, I, Amendment to the Film Industry Act, IRIS 2021-6:1/1, IRIS Legal Observations of the European Audiovisual Observatory.
[96] Source :EAO survey to UNIC and FIAD members conducted in March 2024.
[97] Chapter 3, Loi fédérale sur la culture et la production cinématographiques *(Loi sur le cinéma, LCin*).
[98] Office Fédéral de la Culture, Succès Cinema.

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of diversity (Swiss films, European films, US independent films). Cinemas that are part of Europa Cinemas are excluded.[99]

In the **Netherlands**, the Nederlands Filmfonds provides subsidies for distribution, encompassing financial support for marketing, promotion, prints, and advertising for both Dutch cinema release and non-theatrical releases of foreign arthouse films or documentaries that have been selected for at least one film festival. These foreign productions must show unquestionable quality and distinctiveness, with an added value for film culture in the Netherlands. Similarly, financial support is extended for the Dutch cinema release and non-theatrical release of quality foreign children's films and films for young people in the Netherlands.[100]

Some support is also granted at local level. Thus, for example, in **Austria**, the Vienna Cinema Fund, which has been in existence since 1999, serves to maintain Vienna's arthouse cinemas. By supporting arthouse cinemas, the aim is to ensure a high-quality programme in terms of both quality and content. In particular, the preservation of cinematic diversity is promoted. Artistically valuable films, high quality Austrian films, films in original versions and child-friendly films (child and youth-free) are to be given more opportunities to be shown.[101]

3.3.1.3. Support to international distribution

In **Italy,** according to the above-mentioned 2016 law *Disciplina del cinema e dell'audiovisivo*, distribution companies are eligible for a tax credit ranging from 15% to 30%, which can be increased to 40% under certain conditions, for expenses incurred in both national and international distribution of cinematographic and audiovisual works (Article 16).[102] The rate of the tax credit prioritises 30% for international distribution or distribution by independent companies, and can be increased to 40% for works distributed directly by independent producers, subject to compliance with specified technical requirements. Additionally, the tax credit is extended to cover distribution expenses in regions where linguistic minorities reside, for works produced in languages other than Italian, with the rate determined based on the size of the linguistic groups in those territories. The determination of the tax credit rate for other types of works considers factors such as available resources, types of works distributed, and the independence and nationality of the distribution enterprise, with the aim of achieving a set of economic objectives outlined in the law, such as the development, growth and internationalisation of enterprises, as well as technological and managerial innovation (Article 12).

In **Norway**, an important role is attached to decentralised distribution and exhibition, combining public and private interests: a public-funded exhibition and distribution municipal system has been developed over the last 100 years. Recently, within the framework of a pilot project from 2022, a scheme has been developed to stimulate

[99]Office Fédéral de la Culture, Support for diversity.
[100] Nederlands Filmfonds, Rules and regulations 2021.
[101] Source: EAO survey to UNIC and FIAD members conducted in March 2024.
[102] Law of 14 November 2016, No. 220, *Disciplina del cinema e dell'audiovisivo*, op.cit.

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increased exports of Norwegian films by providing grants for the marketing and distribution of Norwegian films abroad. Grants are paid to the foreign distributor via the film's Norwegian producer.[103]

Similarly, in **Finland**, the Finnish Film Foundation offers grants to support the international distribution of Finnish films in foreign cinemas. The aim is to encourage and support the international cinema distribution of Finnish films as well as to increase their international commercial opportunities. The aim is also to support a more effective international distribution campaign for films in order for them to reach broader audiences.[104]

In the same way, in **Spain**, the government launched, in December 2023, a call for applications for aid for the international distribution of Spanish films, with a budget of EUR one million attributable to the Recovery, Transformation and Resilience Plan.[105]

In the **UK**, the international distribution strand of the UK Global Screen Fund[106] makes three forms of support available: Film Sales Support – awarded to a UK sales agent presenting a UK film to international buyers at international markets with the aim of securing international distribution deals; Festival Launch Support – awarded to either the UK producer or UK sales agent of a UK film, to support the launch of the film at an agreed film festival with the aim of increasing the film's profile and sales; Prints and Advertising (P&A) Support – awarded to either the UK producer or UK sales agent of a UK film, to contribute towards the P&A costs of a grouping of international distributors, with the aim of increasing the film's circulation, audience size and box office potential.

In **Germany**, ongoing discussions are taking place within the film sector on the federal government's proposal to restructure the country's film funding system. The proposed reform[107] includes plans to introduce new financial instruments such as an incentive scheme and an investment obligation for streamers to invest in local production. The proposed changes aim to address the evolving film landscape due to the rise of streamers, declining admissions, and bureaucratic challenges. These reforms are part of a broader effort to revamp Germany's Film Law (FFG) and create a more centralised film funding system that supports production, distribution, and cinemas by January 2025. Arthouse exhibitors as well as distributors and exporters associations ask for funding models "for the preservation of cultural diversity", including a EUR 20 million distribution investment fund to offer automatic funding of at least EUR 50 000 for German documentaries and EUR 100 000 for German fiction films to cover 30% of the costs incurred before a film's theatrical release. They are also calling for a EUR eight million innovation fund to provide support to distributors. This would be based on a points system determined by factors such as how many German or European films are in their respective line-ups or the number of films with nominations or prizes from the German or European Film Awards. The German sales agents, meanwhile, argue that the budget for German films should be increased. They have also called for stronger representation of German film exporters in

[103] Norwegian Film Institute, international distribution.
[104] Finnish Film Foundation, international distribution support.
[105] https://www.cultura.gob.es/actualidad/2023/12/231216-ayudas-distribucion-internacional-icaa.html
[106] https://www.bfi.org.uk/get-funding-support/funding-support-international-activity/uk-global-screen-fund.
[107] *Die Beauftragte der Bundesregierung für Kultur und Medien*, *Reform der Filmförderung auf einen Blick*.

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committees allocating funding and taking decisions as a way of boosting the international circulation of German films. While the industry awaits the release of the draft bill for the new Film Law, stakeholders emphasise the importance of swift action to ensure that reforms are enacted in time for implementation in 2025.[108]

In **Austria**, distribution support is also available to distributors or producers whose films are supported by the Austrian Film Institute (ÖFI), in order to support their theatrical release. Furthermore, ÖFI provides support for distribution and support for promotion of exploitation eligible to companies that release Austrian theatrical films, and to distribution companies that have a corresponding structure in Austria (up to a maximum of 15% of the release expenses incurred in Austria). In addition, companies that exploit Austrian cinema films internationally are eligible to apply.[109]

3.3.1.4. Audience and festival support schemes

In the **UK**, the British Film Institute (BFI) offers various schemes to support film exhibitors and distributors in showing films to wider and more diverse audiences.[110] One notable initiative is the BFI National Lottery Audience Projects Fund, which supports ambitious, independent UK and international films that engage audiences at a national level. This fund supports film exhibitors, distributors, and other organisations in delivering audience development activities as well as research and development. Additionally, the BFI Film Audience Network (BFI FAN) is a collaboration of eight film hubs, managed by leading film organisations and venues across the UK. This network aims to enhance access to a broader range of UK and international film and screen culture. With over 1 800 members, including cinemas, festivals, community venues and film archives, FAN provides project funding for audience activities and offers events and skills programmes. Furthermore, innovative approaches, such as the BFI National Lottery Open Cinemas, aim to boost attendance of new audiences at independent cinemas and grow engagement with independent films across the UK. This pilot activity involves simultaneous screenings of the same film across participating cinemas on the same day to create a unified national viewing experience. Targeted marketing efforts are employed to attract audiences with low current engagement with cinema. The BFI Audience Fund includes reports and evaluations by the BFI, such as Screen Culture 2033, a 10-year corporate strategy, effective from 1 April 2023, which outlines plans to cultivate a diverse UK screen culture that benefits all segments of society.

In **Croatia**, specific schemes are offered by the Croatian Audiovisual Centre to stimulate greater audience choice through support to festivals in Croatia. Film education is also at the heart of the system with various educational schemes operated through the Croatian Film Association. Funding and promotional activities also aim to promote and sell

[108] https://www.screendaily.com/news/german-film-industry-proposes-major-changes-to-370m-funding-system/5183638.article.
[109] https://filminstitut.at/foerderung/antragstellung/verwertung.
[110] https://www.bfi.org.uk/get-funding-support/bring-film-wider-uk-audience.

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Croatian films around the world.[111] In **Romania**, the Romanian Film Centre[112] provides financial support to events linked to the film industry such as festivals, workshops and educational programmes in the country and abroad. In **Ireland**, Screen Ireland offers a Screen Stakeholders Funding Scheme[113] to support skills development for the wider screen sector in the country. This scheme involves two strands offering respectively up to EUR 25 000 and EUR 40 000 to stakeholders to deliver a range of high quality, substantial skills development activities that would have a significant impact on the screen sector in Ireland over a 6-12 month period.

3.3.1.5. Global approaches encompassing digitalisation, diversity, sustainability and accessibility

Film and audiovisual policy and practice are increasingly incorporating horizontal perspectives, such as inclusion, diversity, sustainability and gender balance. These factors are becoming crucial in the decision-making processes of both private and public entities regarding content co-financing. Some countries have integrated these objectives into their legislation comprehensively.

For instance, in **Spain**, a new Draft Law on Cinema and Audiovisual Culture (*Proyecto de Ley del Cine y de la Cultura Audiovisual*) was introduced in parliament in March 2023 to modernise regulations in an industry, which has been significantly affected by new market entrants, project internationalisation, and changes in consumer habits since the 2007 Cinema Law.[114] The proposed bill takes a comprehensive approach to strengthening and supporting the entire value chain of the cinema sector. Under this new framework, new aid will be introduced for exhibition, digitalisation and support for independent and rural cinemas. It emphasises film distribution, proposing, for the first time in Spain, new support for the international distribution of Spanish films abroad, aid for distribution in alternative spaces or online for films that are difficult to distribute, and expanded subsidies for participation in festivals, fora, markets, laboratories and events, not only in Spain but globally. The draft law also promotes research, audience development and literacy projects, and extends R&D&I grants across the entire audiovisual value chain. Grants will be subject to diversity and sustainability criteria to encourage gender equality, environmental responsibility, digital transition, and accessibility to persons with disabilities. The draft law will, for the first time, mandate the incorporation of accessibility systems for aid eligibility and requires companies seeking aid to adhere to disability employment quotas. It also adjusts the quota for European film screenings in cinemas from 25% to 20%, and includes Ibero-American productions in this percentage. Furthermore, the draft law seeks to enhance public-private dialogue by establishing the State Council for Cinematography and Audiovisual Culture (*Consejo Estatal de la Cinematografía y la Cultura Audiovisual*), which will

[111] https://havc.hr/eng/about-us/project-funding#.
[112] https://cnc.gov.ro/?page_id=52953.
[113] https://www.screenireland.ie/funding/distribution-loans/screen-stakeholders.
[114] 121/000137 *Proyecto de Ley del Cine y de la Cultura Audiovisual*, op. cit.

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address public policy, audiovisual literacy, and cultural heritage.[115] Although progress on the draft law was paused due to elections in 2023, the Ministry of Culture plans to resume the project in 2024.[116]

In **Ireland**, to be eligible for the previously mentioned Screen Stakeholders Funding Scheme, proposed activities should address at least one priority theme from a specified list. These themes encompass equality, diversity and inclusion, sustainability and green production, future technology, virtual production and games, and initiatives aimed at enhancing workplace culture and wellbeing.

In **Austria**, cinemas and cinema initiatives eligible for funding from the Federal Ministry of the Republic of Austria for Arts, Culture, the Civil Service and Sport (BMKOES) are those that, based on their annual program, consistently promote European, particularly Austrian, film culture, focus on a high artistic level; are not primarily commercially oriented; demonstrate economic efficiency, sustainability, and effectiveness tailored to target audiences, and possess professional qualifications. Additionally, they must adhere to ecologically sustainable practices outlined in the Ecolabel Guideline UZ 200, specifically module "210 Cinemas".[117]

3.3.2. Supranational approach

3.3.2.1. EU Creative Europe programme – MEDIA strand

The MEDIA strand of the Creative Europe programme[118] supports the European film and audiovisual industries to develop, distribute and promote European works, taking into account today's digital environment. It is structured around four clusters (content, business, audience and policy support), which cover a range of actions that may be eligible for support. As far as cinema exhibition is concerned, these can be covered by the business cluster in its various dimensions (e.g. markets and networking, innovative tools and business models, MEDIA360, and, although more indirectly, European film sales and distribution). For example, distributors and sales agents can benefit from selective and automatic aid schemes. Some aid schemes also aim to improve the transnational distribution of non-national European films, for example by increasing investment in theatrical and online distribution of these films and by developing links between the production and distribution sectors in order to improve the competitive position of non-

[115] See also, Cañedo A. and Rodriguez Castro M., "The Spanish congress launches the parliamentary processing of the new cinema and audiovisual culture law", IRIS 2023-5:1/23, IRIS Legal Observations of the European Audiovisual Observatory.
[116] https://www.panoramaaudiovisual.com/2024/02/13/nacionalidad-obras-audiovisuales-ayudas-produccion-nueva-ley-cine/ and https://enfoqueav.es/cine/la-ley-del-cine-a-examen/; https://www.europapress.es/cultura/noticia-ley-cine-reforma-inaem-culminacion-estatuto-artista-retos-ministerio-cultura-2024-20231231130026.html.
[117] Ibid.
[118] https://culture.ec.europa.eu/creative-europe/creative-europe-media-strand/.

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national European films. These actions can have an impact on the entire film value chain, including cinema exhibition.

Cinemas are also directly concerned by the initiatives supported within the audience cluster, which seeks to foster audience growth on multiple platforms. This is in response to the progressive shift from cinema to platforms, a shift that has been accelerated by the COVID-19 crisis. Specific actions within this cluster include, for example:

- The network of European cinemas (see Europa Cinemas below);
- European festivals aiming at increasing audiences' interest in non-national European audiovisual content and promoting its circulation and visibility;
- Films on the move: this action supports the theatrical and online distribution of European films outside their territories. The activities to be funded under this action are campaigns for the pan-European theatrical and/or online distribution of eligible European films, coordinated by the sales agents of the film;
- Subtitling of cultural content;
- Audience development and film education, aimed at stimulating the interest of audiences, in particular young audiences, through events and innovative or cross-border film education initiatives.

3.3.2.2. Europa Cinemas network

Founded in 1992 with support from the MEDIA Strand of Creative Europe, and the French CNC (film fund), Europa Cinemas[119] is the first film theatre network focusing on European films. At the beginning of 2024, the network comprised 1 279 cinemas (3 160 screens) in 38 countries. Europa Cinemas aims to provide operational and financial support to cinemas that undertake to give a significant part of their screenings to non-national European films and to put in place activities for young audiences. Over the years, the network has expanded its activities through new projects driven by this same objective.

Among these projects, the "Audience Development & Innovation Labs" are a well-established initiative organised on the periphery of festivals and markets, offering opportunities to collaborate along the value chain and exchange best practices on a range of topics such as audience development, communication strategies, technologies, use of social media, etc.

A number of new projects have emerged from these labs. For example, inspired by the "Audience Development & Innovation" labs and workshops for shared innovation and best practices, the "Collaborate to Innovate" initiative was launched in 2021.[120] This aims to support innovative and collective approaches and strategies to develop audiences for European production and improve the circulation and diversity of European films. This initiative supported by the MEDIA programme is built around three core ideas:

[119] https://www.europa-cinemas.org/.
[120] https://www.europa-cinemas.org/en/activities/Support_for_cinemas/collaborate-to-innovate.

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- Innovation – recognising that new approaches, practices, and processes are necessary to deal with new realities in terms of culture, audience, society, technology and industry.
- Collaboration – in the sense of partnership and network building within Europa Cinemas and beyond.
- Sustainability – meaning both environmental responsibility but also innovation that can be replicated and shared for efficient and effective, long-term development across the network and beyond.

3.3.2.3. Council of Europe – Eurimages

Eurimages, the cultural support fund of the Council of Europe,[121] has set up, as part of its strategy to promote independent filmmaking, a support programme to increase the programming of European films in cinemas in Council of Europe member states that do not have access to support under the Creative Europe MEDIA programme (Armenia, Canada, Georgia, Switzerland, Ukraine, and Türkiye). This programme also aims to develop a wide network of cinemas, allowing joint initiatives, both between exhibitors and distributors and with other Eurimages member states and European organisations that support cinemas, as Europa Cinemas.[122]

3.3.2.4. Special cinema days and nights

At European level, the International Confederation of Arthouse Cinemas (CICAE), a network of national cinema unions, independent cinemas, film festivals and distributors, launched in 2015 the **European Arthouse Cinema Day** with a view to strengthening cinemas in regions that don't have their own arthouse unions, developing support structures and increasing the visibility of arthouse films in general. In November each year, cinemas participating in this initiative co-funded by the Creative Europe MEDIA Programme organise special events such as Q&As with film cast members, cine-concerts, premières and previews or workshops and activities for young audiences.[123]

In the same vein, a **European Cinema Night – sharing the stories we love** was launched in 2017 by Creative Europe MEDIA and Europa Cinema to celebrate the richness and diversity of European film culture through free screenings across the continent. In 2023, 85 cinemas from the Europa Cinemas network participated in this edition.[124]

[121] https://www.coe.int/en/web/eurimages/.
[122] https://www.coe.int/en/web/eurimages/exhibition.
[123] https://artcinemaday.org/fr/index.
[124] https://digital-strategy.ec.europa.eu/en/policies/european-cinema-night.

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4. Concluding remarks

The cinema distribution and exhibition sectors are characterised by a delicate balance and complementarity between the roles of distributors and exhibitors within the overall film exploitation value chain. Distributors are responsible for securing rights, financing and promoting films, while exhibitors curate their programming and marketing strategies, and manage the critical interface with audiences. This interdependence is further complicated by the inherent unpredictability of box office revenues, which can significantly impact the returns for all stakeholders.

The regulation of the cinema sector involves a delicate balance between competition law and sector-specific interventions. While competition law aims to ensure fair market conditions, public authorities have often found it necessary to enact specific rules for the cinema sector to promote cultural diversity and a wide range of film programming. Regulatory approaches vary between countries, with some taking a more prescriptive approach through *ex ante* regulation and others relying more on *ex post*, case-by-case intervention. This dual approach is also reflected in the strategies underpinning the regulation of the film industry, which aim to promote cultural diversity and the economic vitality of the sector.

A closer look at the regulation and tools used by policy makers and industry players to support the cinema sector across Europe reveals a great diversity, not only in terms of the level of intervention, whether at ministry or film fund level, and sometimes at the industry level, but also in terms of the instruments used: from selective schemes to support independent exhibitors or distributors and guarantee cultural diversity to programming commitments by cinema exhibitors to ensure a diverse film offering; from regulation of pricing formulas and box office revenue sharing to the organisation of national cinema days to attract audiences back into cinemas; from legal procedures for the authorisation of new cinema venues to legal frameworks or industry agreements to define release window mechanisms. Some of these initiatives demonstrate the industry's efforts to engage with audiences, to foster a renewed appreciation of the "big screen" experience and to promote the cultural richness of European cinema.

In terms of public support for the sector, public film and audiovisual policies and their funding mechanisms vary widely across Europe, depending on factors such as economic strength, the structure of public activity, cultural policy frameworks and levels of governance. The financing of these policies, whether through general taxation or indirect taxation, adds to this diversity. Recent trends in digitalisation and globalisation have further reshaped the industry, affecting business models and strategies across the value chain, and this new dynamic is challenging the traditional influence of public authorities in the industry.

Despite these differences, all countries support their film industry for both economic and/or cultural reasons. However, the nature of the measures taken varies considerably from one country to another. They may take the form of direct aid from the national or regional budget, special funds, tax incentives or bank credits backed by a guarantee fund.

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Whatever the form, in most countries this support is directed primarily at film production, with a more limited number of countries supporting the exhibition and/or distribution sector. However, a look across Europe reveals interesting approaches to supporting arthouse cinemas, the international distribution of films and innovative approaches to bringing audiences back to the cinema.

It is also worth pointing out that the rationale for film and audiovisual policies has evolved in recent years, with sustainability, diversity (including inclusion and representation) and gender balance becoming essential elements. This shift reflects a broader recognition of the role of the film sector in shaping cultural narratives, promoting democratic values, and fostering social cohesion. As the industry faces the challenges of the post-pandemic era, these emerging priorities are likely to play an increasingly important role in shaping the regulatory landscape and the strategies of policy makers and industry stakeholders.

In conclusion, the European cinema industry faces a complex and dynamic regulatory environment in which balancing economic and cultural objectives, leveraging collaborative approaches and addressing the evolving needs of different audience segments may become crucial for the long-term sustainability and growth of the sector. A look across Europe suggests that a multi-faceted regulatory framework, combined with industry-led initiatives and a renewed focus on inclusion, sustainability and representation, can help the cinema industry meet the challenges of the digital age and ensure the continued vitality and cultural diversity of the European film landscape.

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