



**EUROCOPYA** is the European Association of Audiovisual & Film Producers' collective management societies. EUROCOPYA's statutory members are : **EGEDA (Spain), FILMKOPI (Denmark), F.R.F. VIDEO (Sweden), GEDIPE (Portugal), G.W.F.F. (Germany), PROCIBEL (Belgium), PROCIREP (France), SEKAM VIDEO (Netherlands), V.A.M. (Austria), SUISSIMAGE (Switzerland), and ZAPA (Poland).**

Other collecting societies or organisations representing audiovisual producers, established in countries in and outside Europe are also associated to EUROCOPYA's activities. They are as of today: **FILMJUS (Hungary), INTERGRAM (Czech Republic), SAPA (Slovakia), TUOTOS (Finland), COMPACT (United Kingdom), SCREENRIGHTS (Australia), and CRC-SCRC (Canada).**

### *Preliminary comments*

European producers as digital content creators and providers are deeply involved in the Information society's development.

They constitute a major stakeholders group in the film and media sector. Their activity is based on cultural, technical and financial resources whose exploitation depends on strong IP protection.

European Audiovisual & Film producers are remunerated through exclusive rights and - more marginally - through collectively collected remuneration rights (mainly cable retransmission rights & private copy levies).

Today the Film and audiovisual industry is threatened by huge on line piracy, uncertain future business models and, more generally, lack of regulation on new media, endangering cultural diversity in Europe. These uncertainties might shadow the numerous opportunities created by new digital technologies.

#### 1. ICT for growth and job agenda

ICT is an economic sector which is in itself source of innovation and growth, but it can also be considered as a set of devices and technologies which aims at responding the needs of other sectors and/or which should take into account such other sectors' global interests. As always, when dealing with economic, one should refrain from having a naive or a simplistic approach which can be summarized as "what's good for ICT is good for the world".

One could for example measure the number of jobs created within the ICT industry and destroyed elsewhere by the side effect of the introduction of new technologies in a defined activity.

Furthermore, room should be left to further considering the human and cultural added value in a developed economy.

No doubt that the role of ICT should be reinforced but not to the detriment of well established other assets.

A balanced trade-off is definitely the goal: one should adapt to new technologies on one hand and on the other hand, new technologies should meet the social and business actual needs.

## 2. ICT & IP

This is particularly true when going into the film and Audiovisual (AV) industries.

The film and AV industry is a close partner of the ICT. It contributes largely to the ICT value chain by providing attractive content to network's operators and device's manufactures. Strong partners should share values and understand mutual needs.

The film and AV industry requires regulation, Intellectual Property (IP) protection and common understanding of its cultural dimension.

The launching of a smart phone and a feature films do not follow the same track/model. They even do not need to do so to optimizing their respective market share.

Where a Smartphone will highly benefit from a pan European marketing campaign, a feature films will do better with a territorial approach and media chronology, well defined by specific holdbacks, not as such to prevent consumers from getting access to content - which producer or any other right holder doesn't want its work to be seen ? – but necessary to protect (i) exclusivities granted in exchange of pre-financing of production costs and/or (ii) maximize revenues needed to amortize remaining production costs.

Digital techniques such as DRMs and geo-localization of Internet Protocol addresses make the coexistence of such different approaches feasible.

One should not stick to theoretical assumptions. Operating at EU level is not always better, because:

- Film and television markets in the EU are still national. National TV stations are getting the majority of the audience, and Pay TV and VOD services are tailored to local expectations. Let's remind that it is only when most satellite distributed TV programs shifted from a pan-European approach to a local-tailored approach (through access control system enabling to align the area of reception to the market for which IP rights on premium content had been purchased and cleared) that satellite broadcasting started to develop in Europe, to the contrary of the pre-conceived idea that all services would be pan-European because the technology was possibly pan-European.

- Films and AV content are distributed by different national digital platforms exploiting packages or bouquets of programming: linear and non linear, national, local or international- on different networks applying different technologies: cable, satellite, mobile, internet, IPTV.

Traditional segmentation existing between various players- producers, broadcasters, distributors, telco's operators- is blurring making the need to controlling the entire licensing process more important than ever.

The film and AV industry's value chain is governed by a series of transfer of exclusive rights. Each link is essential since they all contribute to the enterprise investments recoupment. To that respect, it is of major importance to inform consumers about the terms of the licence they are getting and make them clearly understand that a transfer of rights differs from a transfer of ownership so that consumers are not allowed to do everything they want with the protected AV work they got access to.

IP is deemed to protect creation and related investments. IP is not at all an obstacle to new digital exploitations for content.

Ad hoc regulation should be introduced to promote efficient cooperation between right holders and ICT operators in the fight against piracy.

### 3. Consolidating the online single Market

Despite the above concerns and uncertainties, film and AV producers assess broadband networks more as an opportunity than a threat, provided they can exploit their works properly. But, Film and AV content's exploitation & licensing rules differs from music and/or any other protected content such as books, video games, etc. They deserve a specific regime that maintains possibility for territorial exploitation, for the reasons explained above (the demand remains mainly national, and rights markets/clearance systems put in place to respond to such demand in the most effective way and provide for the necessary pre-financing of European AV works is therefore structured on a geographical basis).

The existence of broadband networks offering a borderless market as such is not sufficient condition to impose Pan European licensing (see our example above about another Pan European media – satellite broadcasting – that only developed when organised to fit into existing territorial exploitation of rights). Pan European licensing has a price that today nobody seems prepared to pay (which national broadcaster wants to pay for Pan European rights, i.e. for an audience that he is not able to generate and/or to valorise?). Moreover, national stakeholders such as film distributors or digital platforms are playing a major role in the value chain while promoting creative content to their own specific national audiences (a European movie has more chances to reach an audience in Scandinavia if broadcasted through a Scandinavian TV channel than is it is broadcasted through a pan-European Spanish channel; the same applies for any new media). We therefore support reinforced support to distribution in Europe of European non-national content (cf. MEDIA program).

An initiative in the field of a reduced VAT rate could also contribute to develop the legal AV services more rapidly.

Creative content is definitely not a trivial component of Triple play's offers. Creative content represent huge investments, jobs, cultural activities. They are part of the European Heritage. The EU strategy to boost Europe's lead in ICT would be meaningless if creative content's assets are not listed at their real value.