

# SHARED HISTORY OPPORTUNITIES FUTURE

OUR VISION FOR THE FUTURE OF THE AUDIOVISUAL INDUSTRY



# Europe is an artistic and cultural powerhouse with a thriving audiovisual sector, thanks to its diverse and dynamic media environment.

**The Motion Picture Association's members – Disney, Netflix, Paramount, Sony Pictures, Universal, and Warner Bros. Discovery – have been an important part of Europe's cultural ecology for a hundred years; contributing to it greatly, and amplifying European Culture within and beyond the borders of the European Union.**

Today, European audiences enjoy a vast choice of content, driven by high levels of investment, supporting jobs and local economic growth. An average feature film production shoot of an MPA member company in Europe brings €29 million in investment, including over 1,100 local jobs and €11 million in wages.

The continued success and competitiveness of the European audiovisual (AV) sector requires a stable regulatory environment. We therefore call upon policy makers to maintain a flexible, proportionate, and non-discriminatory approach to regulation.

This must be in line with the principles of the single market, to support jobs and growth, and help ensure our sector can adapt effectively to changes in technology and audiences' taste.

**To support the continued success and sustainability of the AV sector in Europe we advocate an approach based on three key principles:**

## **FLEXIBILITY**

- Ensure that production partners retain the freedom to reach agreements regarding intellectual property (IP) on projects, that reflect their appetite for risk and their individual priorities.
- Continue to license on an exclusive territorial basis, which is the foundation for financing, producing, marketing and distributing culturally diverse AV works.
- Provide conditions for competitive and diverse consumer offerings, adapted to audiences' needs and preferences.

## **LEGAL CERTAINTY**

- Protect content creation and support legal services.
- Maintain stability and predictability of the recently updated body of EU copyright law.
- Refrain from imposing any network fees regime that results in direct or indirect payments from the AV sector to providers of electronic communication networks.

## **PROPORTIONATE REGULATION**

- Support a healthy framework for co-productions by maintaining the existing definition of European Works.
- Prioritise flexibility when considering financial obligations, in order to avoid inflationary effects and prevent damage to the diversity of AV services offered to audiences.

# FLEXIBILITY

## MANAGE RISK BY NEGOTIATING DIVERSE PRODUCTION ARRANGEMENTS

MPA members sign thousands of deals with European and non-European producers every year to develop, produce, finance, and distribute films and television series. These deals ensure the sector continues to thrive, providing millions of jobs across Europe. However, like all investments in our sector, they carry considerable risk.

Not every film or series succeeds. Managing risk is part of our industry's DNA. Production partners do this by developing different production arrangements, depending on the nature, the creative value and cost of a project. In this balance of risks and rewards between production partners, IP rights are a driver for investment.

We believe that the best policy to maximise these investments is to ensure production partners maintain the freedom to negotiate and mitigate risk exposure. This allows the allocation of some or all of the risks -- and exploitation rights of corresponding value -- to partners who are prepared to shoulder them, and absorb losses should the production fail to achieve financial success.

### Recommendation 1:

Ensure that production partners retain the freedom to reach agreements regarding IP on projects, that reflect their appetite for risk and their individual priorities.



### PITCH PERFECT: BUMPER IN BERLIN

More than  
**650**  
local businesses  
supported  
across Germany



## SUPPORT EXCLUSIVE TERRITORIAL LICENSING

Over time, the market has driven the exponential growth of European films and AV content, giving European audiences an expansive choice of over 12,000 catch-up TV services; over 3,000 On-Demand Audiovisual Services (VOD) beyond the experience offered by over 10,000 European cinemas in more than 27,000 screens. Our members are committed to improving the production and availability of AV content across the EU.

Copyright is granted on a national territorial basis in the EU, and exclusive territorial licensing is crucial in enabling investment in AV content. The reasons for excluding the AV sector from the 2018 Geoblocking Regulation, including to cater for local languages and cultural preferences, remain valid. The 2017 Portability Regulation already enables consumers to travel abroad with their subscriptions.

The introduction of pan-European licences would destabilize the production market, publishing and distribution, ignoring the essential contribution of small players who currently represent most of the market.

### Recommendation 2:

The EU should preserve exclusive territorial licensing in the AV sector.

## ENABLE COMPETITIVE OFFERINGS ADAPTED TO CONSUMERS' NEEDS AND PREFERENCES

MPA members are clear that treating consumers fairly is not only the right thing to do, but is also good for business in a highly competitive market. This is why their content offerings are designed to be easy to use and provide consumers with important information in a transparent and upfront way, avoiding any misleading or unfair commercial practices. Regulation should support this approach and not hinder consumers accessing increasingly competitive offerings.

The existing legal framework has proved itself both strong and sufficiently flexible to adapt to continually evolving business models, incentivizing the provision of a high level of consumer protection.

### Recommendation 3:

The EU should recognise the benefit to consumers of the flexibility in the existing consumer protection framework, and avoid one-size-fits-all measures related to, for example, contract cancellation or withdrawal, which could disincentivise investment and limit consumer choice.

# LEGAL CERTAINTY

## PROTECT CONTENT CREATION AND SUPPORT LEGAL SERVICES

Piracy of copyright-protected content remains a serious problem in Europe, threatening both online safety for viewers and the underlying economics of the industry. The issue must continue to be addressed to ensure the market functions properly: "What is illegal offline should be illegal online."

The European Commission should enforce, and ensure Member States correctly enforce, the key provisions of the Digital Services Act. When the Act is next reviewed, the EU should seize the opportunity to create tools to uncover mass piracy infrastructure, including expanding the "know your business customer" provisions of DSA Article 30.

### Recommendation 4:

The Commission should ensure EU Member States correctly implement and apply existing EU legislation to fight against illegally accessed and distributed content, while also exercising its direct enforcement competences appropriately. The DSA review should look at how it can be adapted better to address illegal activity online. The Commission should also ensure the ongoing review of the Live Piracy Recommendation concentrates on making available appropriate tools to address piracy of live events.

## MAINTAIN A STABLE AND PREDICTABLE COPYRIGHT SYSTEM

The AV sector depends on a stable and predictable copyright system that encourages creativity, risk-taking and innovation, and rewards success. The EU copyright system has evolved in line with technological development, including with major legislation in 2019 which introduced new exceptions and limitations to copyright, and new benefits for authors and performers.

The EU AI Act is establishing a legal framework for the responsible development, deployment, and use of AI models and systems, giving the sector the opportunity to adapt to both the technology and legislation to continue generating jobs and growth. EU institutions should exercise restraint in considering any new changes to the copyright frameworks, which have proven highly adaptable.

### Recommendation 5:

The EU should maintain the stability and predictability of the recently updated body of EU copyright law, on which the success of the EU AV sector's competitiveness is founded.

## NO TO NETWORK FEES

Imposing financial contributions on content and application providers to fund large telecom operators in any shape or form would fundamentally change the way the internet works and would negatively affect our members' investment ability in AV works.

Our sectors are mutually beneficial and internet service providers (ISPs) benefit from our investment in creating AV content, which drives demand and revenue for their services. Both VOD services and ISPs have a vested interest in providing great customer experience by investing in their infrastructure and interconnections.

There is no convincing evidence of market failure, nor justification to transfer value from one sector to another. Our concerns are shared by an overwhelming majority of stakeholders, including the broader creative sector, consumers and the telecoms regulators.

### Recommendation 6:

The EU should refrain from imposing any network fees regime that results in direct or indirect payments from content and application providers to providers of electronic communication networks.



THE WHITE LOTUS

€38m

total contribution to Italy's GDP



# PROPORTIONATE REGULATION

## MAINTAIN AN INCLUSIVE DEFINITION OF EUROPEAN WORKS

MPA members are highly incentivised to invest in and distribute European film and television. The 2023 Media Outlook highlights that EU27 works already represent nearly a third (28%) of works available in EU Video On Demand (VOD) catalogues, in addition to 9% UK works.

Research has shown that media services providers make investment decisions mostly based on the local cultural specificity of a production, along with the available incentives.

Changes to the definition for European Works would damage the production ecosystem, reducing crucial opportunities for international co-productions, which provides a critical solution for the funding of high-end projects.

### Recommendation 7:

The EU should uphold the existing definition of European Works which provides a healthy framework for co-productions.

## ENFORCE THE PRINCIPLES OF COUNTRY OF ORIGIN, PROPORTIONALITY AND NON-DISCRIMINATION

The country of origin principle ensures that providers of broadcast channels or VOD services based in one country are only subject to one set of rules from a 'country of origin.' This provides a foundation of legal and business certainty on which investment can thrive. Financial obligations imposed on AV services in recent years erode this principle and create barriers to entry and growth for new market entrants, inflate production costs, and undermine economic decision-making. MPA members are facing increasing fragmentation and burdensome, discriminatory local policies which are rarely subject to impact assessments.

Requirements are often excessively high, in some cases reaching 20% or more of revenue, often disproportionate to market size, and are inadequate to preserve the diversity of services offered, including by thematic channels. This undermines the digital single market, the diversity of media offerings, and the cross-border provision of services, and encourages a 'tick box' approach to investment.

Meanwhile, media service providers also face viewing time competition, particularly among younger audiences, from social media and video-sharing platforms which are subject to different regulatory constraints.

### Recommendation 8:

The EU should prioritise proportionality and flexibility when considering financial obligations, enforce the key principles of country of origin, proportionality and non-discrimination, and issue guidance on this to Member States.



# DELIVERING VALUE



MPA members spend an average of

**€29 million**

per feature film production

in Europe,



including

**€11 million**

in local wages,



and hire over

**1,100**

local workers.