[FR] Media chronology: Senate’s Committee on Culture makes proposals

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The saga of the reform of media chronology - the rules that define the operating windows for films shown via various media (cinemas, DVD, pay and freeview channels, video on demand, etc.) - is entering a new phase thanks to the efforts of the Senate’s Committee on Culture.

The various windows specific to each mode of operation are laid down in an extended agreement within the industry (signed on 6 July 2009 by thirty-five parties) and in legislation governing cinemas and pay-per-view video. Operators in the cinema sector, as well as consumers, want to see quicker access to films. What is more, the very foundation of media chronology is being threatened by the emergence of new stakeholders and changes in viewing habits. Platforms such as Netflix and Amazon now occupy a major part of the market; some of them avoid conforming to the rules on media chronology and the obligations to finance creation by virtue of their place of establishment. At the same time, traditional stakeholders such as Canal+ are finding themselves in serious difficulty, even though advance purchases (particularly by pay channels) are a core feature of the financing of films. Even so, discussions with the national centre for cinema and animated images (Centre National du Cinéma and de l’Image Animée) have failed to reach a conclusion. Faced with stalemate in the negotiations with the industry on the one hand and the urgency of adapting the regulations on the other, the Senate’s Committee on Culture held a session on 12 July 2017 at which all stakeholders in the sector had a chance to give their views, before delivering its conclusions on 27 July.

In its report, the Committee stresses the need to reform the present framework for media chronology. It reiterates that Directive 97/36/EC of 30 June 1997 lays down the principle of giving priority to an agreement with the industry on the subject, although the legislator’s intervention is not excluded if no agreement can be reached. It therefore proposes that, if no agreement is reached with the industry by the end of the year, legislative arrangements should be set in motion in early 2018 in the form of a bill or inclusion in the drafting of any new audiovisual legislation. Such an opportunity might indeed be provided by the need to transpose the AMS Directive into national law in 2018. The Committee goes on to note that the definition of a window more favourable than the thirty-six months for subscription VOD operators should be conditional on significant multi-year

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undertakings to finance the French cinema sector; it is convinced that modernising chronology should form part of a global reform, and in particular that it should be accompanied by both a stepping-up of the fight against piracy and the setting-up of systematic marking embedded in works.

As part of this overall reform, a number of aspects of chronology will need to be adjusted. The adoption of “sliding windows” would make it possible in respect of a work that has not found a distributor for one of its windows for distributors in the following window to be authorised to commence their operations earlier. Bringing forward the VOD window to three months is also recommended. Similarly, unfreezing the VOD window during the television windows would make it possible to extend the amount of time films would be available to viewers on the platforms and to promote legal offers. Bringing forward the broadcasting of films to six months after their first showing in cinema theatres (instead of ten months) ought to find favour with viewers, as well as help to combat piracy and add value for those stakeholders investing most in financing the cinema sector. Lastly, a more favourable window for “virtuous” subscription VOD platforms should be defined, so that those stakeholders that contribute as much as the pay channels to the financing of works would be allowed comparable conditions for using the films. The Committee feels that media chronology should continue to evolve in the coming years and adapt to new offers and new methods of use.

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https://www.senat.fr/notice-rapport/2016/r16-688-notice.html

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