

[FR] Bruno Lasserre report recommends relaunching legal tools and rethinking film industry regulation

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*Amélie Blocman
Légipresse*

Commissioned in September 2022 to draft some proposals for modernising regulatory tools in the film industry, Bruno Lasserre, former president of the French Competition Authority, submitted his report to the Ministries of the Economy and Culture on 3 April following numerous meetings with representatives from across the industry. The report follows the framework set out in the letter of assignment, focusing on issues linked to the relationship between cinema operators and distributors, and therefore does not cover the funding of film-making or media chronology.

The health crisis and its consequences had a devastating impact on a buoyant cinema industry: shrinking ticket sales, changes to audience distribution and film screenings (especially art-house and experimental films), competition from VOD platforms, reduced number of American films detrimental to potential audience sizes, etc. Among these causes, the author believes that only the changes to viewer behaviour are new, and directly linked to the consequences of the pandemic. Without underestimating these difficulties and legitimate points of concern, Mr Lasserre is therefore “optimistic about the potential of the French film industry...which has everything it needs to bounce back successfully without sacrificing the diversity that makes it strong today”.

In this context, the role of regulation is being debated within the industry, and one of the key challenges identified is the need to ensure a balanced commercial relationship between cinema operators and film distributors. In this regard, the report recommends simplifying the rules governing unlimited cinema passes (the main two examples of which are sold by UGC and Pathé). These passes are currently subject to approval by the *Centre national du cinéma et de l'image animée* (National Centre for Cinema and the Moving Image – CNC), which also governs their retail price. However, the concerns that were expressed when these passes first appeared on the market 20 years ago now appear to have disappeared. The report therefore proposes that this approval requirement be abolished, while retaining the two main guarantees set out in law, i.e. the right of independent cinemas to take part in the scheme and the fixing of a ‘reference price’ (fictional price of a single ticket) to form the basis for the remuneration of rightsholders and distributors. At the same time, it seems necessary to improve the transparency and dynamism of the reference price by recalculating it (it has

hardly changed since 2000). Several scenarios are proposed for this.

The second challenge facing the public authorities is the need to safeguard the diversity of works and their distribution throughout the country. Programming commitments are the main regulatory tool for achieving this. These commitments are obligations concerning cinema programmes, which are proposed by the operators and approved by the CNC. Originally designed as a tool for economic and competition regulation, they have gradually become a cultural policy instrument. Although they are meant to be renewed on a regular basis, this has not happened for any operator since 2019. According to the report, public subsidies could be made conditional on compliance with these commitments, the content of which must be determined through dialogue between the operators and the CNC.

The CNC president could therefore determine the cinema groups' programming commitments if they fail to submit their own proposals or if their proposals are unsatisfactory. At the same time, it is proposed that the introduction of distribution commitments for distributors be allowed, based on that adopted in 2016, in order to enable operators and the public to access art-house and experimental films in particular throughout the country. As regards financial incentives for film distribution, it seems appropriate to develop the system whereby cinemas receive subsidies based on the percentage of art-house and experimental films that they show.

The final emerging issue identified in the report concerns the safeguarding of French and European cultural assets in a context of concern about the possibility of predatory purchases by non-European companies of film catalogues and cinemas that are mainly publicly funded and that contribute to French culture. The report therefore recommends adjusting the catalogue protection measures introduced in 2021 in order to ensure the continued exploitation of works by increasing the consequences of a failure to report, while at the same time accelerating and simplifying the process for the stakeholders concerned.

Cinéma et régulation, rapport de Bruno Lasserre, remis le 3 avril à B. Le Maire et R. Abdul-Malak

https://www.cnc.fr/cinema/etudes-et-rapports/rapport/rapport-de-bruno-lasserre---le-cinema-a-la-recherche-de-nouveaux-equilibres---relancer-des-outils-repenser-la-regulation_1928729

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