RECOMMENDATIONS: CONTENT FINANCING SCHEME

Levy vs. Financing Obligation

A simple and proportionate levy scheme would allow providers to pay into a national film fund or meet a requirement for direct investment. Both systems have their advantages and disadvantages from a local content production as well as from a VOD service perspective.

Direct investment requirements can be very resource intensive from an overhead perspective - identifying and management of the relevant investments and developing a complex infrastructure for reporting and tracking. Many VOD services, especially in their early days, will not be in a position to do so. At the same time it does allow services to more easily make direct investments into areas that make more commercial sense. A levy scheme is in general simpler to administer, but can have a more direct impact on the profitability of service.

There are merits to allow for both schemes. However, a VOD service should be given the option to choose in which scheme to participate and not be required to contribute to both.

TVOD vs SVOD

TVOD and SVODs are fundamentally different business models, with a different underlying economics, cost structures and market incentives. As a consequence, the basis of turnover between needs to be calculated very differently.

- TVOD's income is generated periodically when customers rent/buy specific titles and varies substantially based on the volume of content purchased by customers and may fluctuate depending on new releases.
- SVOD turnover is based on a pre-determined flat fee depending on the overall number of paying subscribers, which fluctuates over time with the end of user's trial periods, new customer acquisition and customer that cancel their subscription.

The turnover of each type of offering may also be generated by third party partners, for instance by collecting a wholesale price from third party resellers that resell the service. Such a third-party offering is often done in a very different way depending on the type of offering (TVOD or SVOD) and needs to be differentiated. In particular for services that follow a hybrid model (TVOD + SVOD), the different types of offerings may be at very different stages of maturity and development. For example, a TVOD service might have already existed for a significant period before an SVOD feature was added.

A differentiation between TVOD and SVOD is therefore necessary to allow for more flexibility and recognise those differences of business models while assessing the investment obligations.

Calculation basis

Any financial contribution should be calculated on the basis of local profit. Many VOD service work on very tight margins, with high cost. Adding additional financial obligations would cut even further into those margins and question the economic sustainability of the service. However should the financial obligation (levy or investment) be based on local turnover then it should be on the basis of post VAT and other applicable taxes.

Some services have a combination of TVOD and SVOD features. Whilst it is still one service, the different features have different revenue models and turnover. In such cases, the turnover for each service should be calculated separately in order to take into account the difference business and cost structures.

Qualifying Investments

It is important to understand that there is not automatic link between VOD services and original production. Content production is a significant financial commitment and not every service will be able to follow that strategy as means of increasing its catalogue. It is therefore advisable taking a broad approach that goes beyond just the primary production costs. The goal is not just to incentivise the production of content, but to ensure that it can be brought to market for audiences to enjoy. The framework should also create incentives to invested in culturally relevant and enriching content and give it new audiences.

Furthermore it needs to be recognised that TVOD services are fundamentally different to SVOD and as a consequence the investment criteria will be different. Transactional services do not traditionally produce or purchase content, but are simply a “store front” to sell content. With this in mind, the following types investments should all qualify under the national scheme.

- Production: Incl. hiring personnel to perform the work, sourcing and identifying potential new projects, engaging in the early development of talent ideas, assisting in the writing process, assembling creative casts, crews, technical supplies, starting filming, editing etc.
- Post-production: There are additional post- production investments required before a work is ready for the market. This includes; formatting of the work for each distribution channel (digital, broadcasting, physical) localisation (dubbing, subtitles for each market) as well as advertising and marketing support
- Accessibility investments: Investments in accessibility features to support hearing, visually impaired other sorts of disabilities
- Royalty payments: Service providers are required to royalties to its right-holders. These payments often constitute a significant portion of the revenue. All payment agreements to local or European content providers/ channels should qualify.
- Digitalisation: The cost of encoding/formatting of works in order to make them available on online platforms. This should in particular include the digitisation of classic works or simply of works that never had been digitised before. This would create significant cultural value and help these works find new audiences.
- Ancillary investments: Investments in training of new talents and authors (eg partnership with schools, charity initiatives for the development of underrepresented categories of workers etc); distribution and promotional activities including events, ceremonies, festivals, sponsoring, partnerships etc

Identification of qualifying investments

It is important that a new regulatory regime does not assume perfect knowledge at all times. Often, even with extensive efforts, a VOD service provider examining its catalogue for compliance will have an incomplete or ambiguous data set with which to work. The regulations must not penalise service providers for this inherent complexity; nor should it create incentives that mean consumers miss out on content due to the result that services may need to cut their catalogue in order to ensure compliance

Thresholds and ramp up periods

VOD services often operate on low margins and require enormous investments in order to launch a new service and are thus particularly exposed to material obligations that raise the cost of doing business. A service’s profitability is largely dependent on its ability to attract a large active customer base. This requires significant upfront investments (acquisition of content, marketing, promotions, IT infrastructure, etc.). Higher turnover thresholds for exemptions would better reflect the realities of the sector and give new services the ability to not only grow in their home market but also to expand into other EU markets.

In order to compensate for the enormous investments, to avoid overburdening new entrants and to allow for fair access to market a transition or ramp up period should be foreseen. Such a ramp up period should take into account the necessary duration between the identification of new production projects until such projects can actually be made available on the AVMS platform and create value. (This period can take up to five years for the more complex productions).