Video-On-Demand platforms: Editorial strategies and logics of production. Netflix: a case study

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A case study: Netflix France.
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In just a few years, the audio-visual landscape has been deeply remodelled by the emergence of new key players: Video-On-Demand platforms. Now acting as new gateways for distribution, exclusive or additional to more traditional gateways like movie theatres, TV channels or DVDs; they tend to extensively modify the entire value chain of audio-visual products (Benghozi 2012). Coincidentally, and working towards the adoption of renewed consumerism based on the ATAWAD concept (Any Time, AnyWhere, Any Device), they based their development on two major technological advances, made possible by the digital era: the possibility to consume media on the go, getting rid of a double constraint specific to “old medias” (Jenkins 2006): the first constraint being geophysical (the television screen) and the second one being time-related (TV listings and their fixed schedules).

Among these key players are those who historically embody the film industry (Disney), members of the new digital driving force, the Big Five (Amazon, etc.), as well as *pure players* like Netflix, which we will tackle in this case study. With maybe even more ease than their competitors and thanks to a specialization in the audio-visual field, coupled to their recent appearance on the market; Netflix managed to build an innovative economic model (Perticoz 2019) based on the broadcasting of premium content, available to subscribers paying a monthly fee. This new prevalence of the *informational brokerage* system (Moeglin 2007) over the *private club system* (Tremblay and Lacroix 1991), inherent to this business model, led French distributors to partially reorient their multichannel strategy towards a strategy of extended availability, preferring the role of *super distributors* (Cassini 2019) of content, much like the modem routers provided by telecommunication operators. The aim is to gather a maximum of platforms in a bulk offer in order to provide convenient access. The reciprocal « distribution agreements » play a major role in reaching this goal: routers, as well as French broadcasters, trade their mastery of French audiences for the attractiveness of the American platforms. However, the intensification of competition provoked by the multiplication of players on the pitch could explain why they resorted to another older strategy, the editorial model, precisely due to Netflix strongly promoting the production of original content (Miège 2017). In 2012, five years after the launch of their streaming service, Netflix offered their American subscribers a Norwegian series announced as “*the first time Netflix offered exclusive content*” (Barthes 2018, p. 3). Thus, while purchasing the rights of traditional televisual content to establish their catalogue, they started to develop a new strategy, aiming to differentiate themselves from their competitors in the VOD sector, offering what they called “Netflix Originals”. Yet, this term deserves to be more precisely defined, as it covers a wide variety of realities. What is considered “Netflix Original” can range from movies or series of which Netflix has bought the exclusive rights for one or more territories (without benefiting from these rights for other territories in the world), to content coproduced by Netflix, in partnership with one or more producers on a specific territory (in this case, the distribution rights for the country of production are retained by the producer(s), while Netflix retains exclusive rights for the rest of the world) and lastly to content directly or indirectly produced by Netflix and for which they benefit from a worldwide exclusivity.

This specific characteristic of Netflix’s development policy will be further discussed in this article, specifically targeting the case of France, a country where the platform launched the development of original content in 2016 with the show *Marseille*, coproduced with the Federation Entertainment society, ran by Pascal Breton. Despite the relative failure of this first show, cancelled after the second season, the grand opening of a new office in Paris, France[1] - announced in September 2018 and inaugurated on January 17th, 2020 – validates this production policy in the country, as well as a growing ambition for a people considered as the most attached to cinema in the world. "I know you want to give me a hard time with Marseille. But Netflix is investing and wants to become a safe space in France, where creators know they can produce original content." Netflix CEO Reed Hasting proclaimed at that time. (Piquard 2018) The 3,5 million of subscribers advertised by Netflix France may justify the decision to invest in a country which specific regulation do not, at first sight, present high levels of attractiveness for foreign operators. In the following months, several television films (Paris est à nous, La Grande classe, Banlieusards, Mortel…), fictional series (Plan Coeur, Osmosis, Family Business, Marianne), and documentaries (Grégory…) are released, in a context of the drafting of a bill on the audio-visual by the French Government, yet to be revealed but said to "reaffirm our cultural sovereignty. And to give the French aces enough tools to compete with European, American, and soon, Chinese aces." (Piquard, 2019)

In this article, we will attempt to give an analysis of the peculiar context of this confluence, basing our line of work on a reflection on Netflix strategic choices in France. Our research will be based on several working hypothesis. The first hypothesis involves assessing the outstandingly structuring nature of the French legislation. If Netflix appeared to have given proof of their involvement in French production -via advertising-, the American company has initiated a real power struggle with French authorities to gain more flexibility regarding their obligations. Risking implosion, the French legislator has been led to force the evolution of a legislative framework deemed inadequate for the new horizons of the global audio-visual market. We will put forward the hypothesis that Netflix must constantly work against a conflict between their local ambition and their desire to homogenise their international production. Our second hypothesis is based on the assumption that Netflix's original production's rollout can only be fully understood in the light of the new ways to consume media, which the platform largely contributed to popularize: on one hand, *binge watching* and hyper consumption, which leads to a response based on hyper offer and constant renewal; on the other hand, their recommendation policy based on algorithms aiming to mould their users (Drumond, Coutant and Millerand 2018, Pilipets 2019, Dessinges and Perticoz 2019), shaping the concept of levels of expectation.

Our analysis will take an essentially socio-economic approach, developed within a theoretical framework shaped by several research works concerning cultural companies in the digital field and their business models (Miège, Benghozi, Perticoz, Paris, Tremblay, Lacroix, Rebillard, Rochelandais…). In the same time, we will strive to analyse the words of Netflix's supervisors and associates, adapted over time by French and Anglo-Saxon media. Lastly, we will finish off our investigation with a semi-guided phone interview with Jean-Michel Ciszewski, head of the International Department at Federation Entertainment (Marseille, Marianne), on December 18th, 2019.

We will first and foremost analyse the different strategic axis of development used by Netflix's French production, then we will see how they fit in the global frame of Netflix's development, in regard to France's legislative framework.

[1] It is the fourth office inaugurated by Netflix in Europe, along with the mainland headquarters located in Amsterdam, an office in London and production studios in Spain, within the 'Ciudad de la Tele' (City of Television, located in Tres Cantos, in the Northern suburban area of Madrid)

Netflix France: what strategic axis?

Netflix's international production policy is the result of a series of strategic choices developed since the early 2010s. The major turning point occurs in 2011, when the company obtains the distribution rights of the House of Cards series. Their differentiation strategy based on a search for exclusivity grants them a certain uniqueness on the SVOD market, reinforced in 2015 when, to expand their catalogue of exclusivities, the company makes the decision to invest substantially in the production of exclusive content – movies or TV shows. The gradual disappearance of part of the content for which the original rights holders claimed exclusivity - initiated by Disney productions- strongly encouraged Netflix to adopt this method, even though their direct competitors owned a significant and profitable array of rights. Aware that "content always represent the "initial bet" of audio-visual media in their attempt to conquer their audience" (Perticoz 2019, 341), Netflix is ready -as it is estimated- to invest 15 billion dollars in original content in 2019 (Forrester 2019). This "premium" catalogue now stands as the main point of appeal of their marketing strategy, building their policy on the basis of a business model that Benghozi et Paris (2014, 185-186) identify as falling within "distribution" territory.
This differentiation strategy relying on the labelled production of part of their content, allows them to manage the renewal and supply of content, giving them full control over "program timing" for the platform, along with an optimum compatibility with the audience's expectations. However, the massive debt caused by this policy forces Netflix to establish themselves as global leaders in the online audio-visual business to convince their creditors that their investments are justified, judging by their economic growth.

<u>Combining local and global</u>

National productions and especially those labelled by Netflix as "Non-English Programming" represent a central strategic element in this global plan, destined to flourish in the years to come, according to the company's officials (Netflix's head of international original productions claimed on December 5th 2019 that Netflix was only "scratching the surface of what it plans to do in non-English-language programming" [Clarke 2019]). Since the release of the first production of this type (the Mexican show Club de Cuervos, released in August 2015), in 2018, no less than 35 "Non-English Programming" were produced, an amount that the international originals vice-president Erik Barmack intends to increase up to 100 per year as of 2020. The end goal is "the creation of global television where any country that has great writing and acting can create a global franchise" (Hopewell & Lang 2018). The assessment of Netflix's strategy in France – where Reed Hastings envisions the production of 10-12 movies per year (Piquard 2018) - is based on this observation; at the end of 2017, French users represent a mere 3% of the platform's total count of subscribers, and yet the platform announces a significant augmentation in production investments in the country. This choice is justified by two correlated ambitions:

- On the one hand, showcasing French stories, landscapes and actors and creating products likely to rally or retain customers from this area (« We want to provide something for every subscriber that resonates with them », said Erik Barmack);
- On the other hand, spreading these productions globally in order to increase its potential audience and broaden their sphere of influence. As Jean-Michel Ciszewski declared in an interview (December 18th, 2019) about the show Marseille:

> « We offered them an appealing package: a best-selling author with an interesting background in the French and global scene, a good story, and Depardieu. We had plenty

> of elements which went in the “glocal” direction (global and local) which was essential for Netflix. There was a local side to it, because this story could have been the true backstory of Marseille, and there was something exotic, because of the actor’s presence, and because we had the tools to tell a story which is ultimately, universal.”

The audience likely to be targeted for a unitary or serial project will mathematically determine the budget to be granted. Diego Buñuel, Netflix commissioner, clearly explained the terms and conditions of this equation: “We submit a given project to people who will analyze the value of the IP on a global level and on a local level (…) They will give us a report that will help us understand what’s the best budget for each series, depending on the value of the IP, depending on the story and depending on the kind of audience that it may hit.” (Keslassy 2019). This mode of analysis is undoubtedly linked to the Hollywoodian pattern of A/B Series, and immediately leads to an industrial approach of the different ways to produce, at odds with the French cinematographic and audio-visual sector which, by its financial aids system, seeks to counterbalance the consequences of marketing with an asserted artistic voluntarism.
Thus, instead of a *glocalizalisation strategy,* it would seem more appropriate to speak of *locaglization,* which establishes, based on at least two different methods, local production as the foundation of global consumerism. This strategy would be at the crossroads of the *clusterisation* strategy for part of Netflix’s European production and their studio in Madrid, and of their direct contribution in local productions. The first of these strategies highlights a federalist vision of Europe, just like the show *Criminal: France*, while the other encompasses the nation states and their respective cultural policy.

Genre as a tool for content globalization

However, this desire to minimize the financial risks inherent to the uncertainty associated with the commercialization of these immeasurable goods that are audio-visual productions (Karpik 2007) forces Netflix to conduct quantitative as well as qualitative market research. Aiming for globalisation forces us to think about these products in terms of universal frames of references, resulting in the systemic use of the genre spectrum to define each audio-visual production. When in France, productions classified as “de genre” are a minority (especially in the film industry, where horror films, for example, have long been snubbed by reviewers and audiences, thus difficult to invest in.), this classification tool is more and more relevant in the French panorama of audio-visual creation. It acts as a response to the expectations of an audience already accustomed to Anglo-Saxon productions. Yet, in September 2018, when a press release announces the launch of three new French shows, they are presented by Erik Barnack as “a subtle comedy about friendship, family and coffee shops, a psychological horror show and a new take on the vampire show, playing out in Paris. [2]” This adherence to genre, out of touch with the sort of projects funded and prioritized by other French distributors (the advance on cinematographic revenue being at the forefront), tends to reinforce the rift effect intended by Netflix, in the way we envision local creation. This disruption in production is experienced as such by some creators, like Christophe Botti -author, screenwriter and director- who declared:

> “They’re coming to a territory judged as unprofitable by authors, as our distributors’ expectations tend to go one way but not the other. You’re an author, you’ve been dreaming to create a vampire show for twenty years and suddenly, you can.” (Baldacchino, 2019, p. 120).

[2] These describe the shows *Family Business* (Igor Gotesman, 2019), *Marianne* (Samuel Bodin, 2019) and *Vampires* (Benjamin Dupas) said to be released in 2020.

It is undeniable that Netflix managed to rally strong and vital players locally, despite a cultural background judged as inflexible, using the concept of genre as a Trojan horse. By choosing its production companies and supporting renowned figures such as Gad Elmaleh, the company relied on partners who had already adopted a global approach, willing to gain recognition or reinforce their own status within their own field. It is not a surprise that two types of players can be identified within their bosom:

- Newcomers hoping to gain recognition (SRAB Film founded in 2015, Empreinte digitale in 2007, Mandarin Télévision in 2009),
- Veteran players, experienced in collaborative shows like Canal+'s prestige TV shows: Capa Drama, founded in 1993 or Federation Entertainment, founded in 2014 by a notorious character, Pascal Breton. The latter has the added benefit of having an office in Los Angeles and several European branches, including one in Madrid. They are, along with Banijay Group (owned by Vivendi/Canal+) among the players who settled in and had been firmly oriented towards the global market for decades.

Revisiting the concept of level of expectations

This fondness towards genre, serving as a basis for Netflix's production policy, forces the platform's supervisors to address the question of expectation level, a concept which we will discuss with the help of Robert Jauss' research on reception theory. The company builds its policy on precise attendance ratings, classified in terms of time slots, territories, and products, allowing them to postulate on the presumed expectations of their users. On May 23rd, 2017, a press release gives an overview of a selection program for users "freed from programming schedules" depending on their location. Some of these specificities seem to be associated to the French audience:

> « French touch! The numbers reveal a surprising habit among French users: As true nocturnal bingers, night-time is anime fans' preferred playground. From Monday to Sunday, without exception, there is a noticeable viewing peak between 3 and 5am. As for French families, they like to start their weekend with a dose of transgenerational entertainment. On Saturdays and Sundays, around 9 am, young and old alike choose entertaining programs. Shows like A Series of Unfortunate Events or Beat Bugs are two times more likely to be watched at that time of the day."

These systems of characterisation, identifying "French users" as a single, monolithic, targeted audience, is essentially opposed to the multiplicity of preferences and aspirations valued by the concept of cultural pluralism structuring French cultural policies. They also contradict the heterogenous and inquisitive profile usually associated with movie-lovers, shaping a value system deeply rooted in France's cinematographic and audio-visual landscape. On the opposite, the system of recommendation promoted by the platform, based on algorithmic logic, tends to condition users' expectation, unavoidably restricted because based on the available supply - which is very limited, whatever may be said-, hyper relevance and the repetition of past experiences, in the pursuit of a "continuous joyful experience freed from endless possibilities" (Drumond, Coutant & Millerand 2018, 39). This control over the browsing process, opposed to the fundamental values of France's cinematographic policies, becomes a source of worry when Netflix announces that their main targeted audience is younger generations who have not yet been educated about this very cultural approach to cinematographic creation. Sarah May, a Netflix commissioner, declared: « There is big chunk of our viewers in France that don't necessarily, especially younger audiences, go to theaters that often or don't watch TV that often and it feels important to make content also for them and answer that need in the market" (Keslassy 2019).

This « Consumer Centric » approach, advocated by Xavier Albert during his time as marketing director for Netflix France (Vincent 2015), requires a reduction of the offer range, which will be shaped by the level of expectation of the platform's main targeted audience, in a process that will ultimately manipulate -and narrow- the level of expectation of the other users (« Customer centricity means that you're going to be friendly, provide good service and develop new products and services for the special focal customers — the ones who provide a lot of value for you — but not necessarily for the other ones. You need to pick and choose. Some customers deserve the special treatment, and if others want to buy from you, that's great, but they are not going to be treated the same" [Fader 2012]). In France, these users benefiting from a "special treatment" are clearly identified as the "Early US TV Content Adopter », mostly "young and connected city-dwellers, big consumers of TV shows" (Vincent 2015).

A constant renewal of content

This technique of user targeting, closely related to the production business, also needs to be linked with another strategy of constant renewal to retain the subscribed audience: large consumers of TV Shows had the tendency to unsubscribe when the SVOD offer was less abundant, waiting for more new available releases to subscribe again. (Fraissard 2019). Therefore, as Baldacchino (2019, 120) reminded us: "Netflix prioritizes quantity, with hectic production rates and many new purchases". The *cordcutting* risk is one of the reasons behind Netflix's production strategy, but this choice can also be justified by the company's top priority which is to attract new subscribers. Their growth is indeed vital for their survival in a period of multiplication of SVOD platforms and services, these platforms reclaiming the rights of their own content, which was available on Netflix until recently. Moreover, a recent market research proves that new users are mostly attracted by relatively short serial stories, as longer shows tend to put them off.
Production business is, in that case, guided by a set of clearly identified marketing or strategic choices which have a direct influence on the nature of ongoing productions. These requirements are the reason why the shows produced by Netflix rarely get more than two seasons (Moreover, producers are not allowed to extend these "aborted" shows on any other medium or channel, as observed by a research conducted by the Ampere Analysis Institute [Fraissard 2019]). In France, this tendency is proven correct with the show Marseille and its two seasons, the other French shows being too recent to assess of their longevity. Based on the same judgment, Netflix will prioritize short seasons of 8 to 10 episodes over very long seasons, typical of certain successful shows.
Because of this urgency to offer new content, producers are encouraged to work fast. Netflix's French original production director aims to produce his shows 12 to 18 months after their basic pitch has been approved – namely two or three times faster than what is usual for French TV channels (Keslassy 2019).
What is made apparent by these new methods of operation imposed by Netflix to their French partners, is the industrialisation of production. The producer's creative role is completely evicted in this structure where, in order to work faster, Netflix's supervisors prefer to deal with their writers directly (Baldacchino 2019,120). The producer is demoted to an executive role, as a mere manufacturer. The same fate awaits directors who, far from the author theory characterizing the French model of creation, are demoted to a status of staging technician. According to this model of production, the writers are the ones managing the team, transforming France's production framework. As put forward by Damien Couvreur, director of international originals for France: ''It's a transition. The writer's job is no longer to just deliver a script; he [or] she becomes a creator who has creative control and input over all the process of the series" (Keslassy 2019). Netflix still has the final say for the final cut and is not afraid of replacing

their partners if necessary (that's why for example Osmosis' showrunner and Plan Coeur's producer were replaced after the first season, which is a common habit in American production). This whole process adds to the "internationalist" factor of the show promoted by Netflix and French producers are actively encouraged to adopt this model.

The coherence of this model with France's film-loving system

These observations naturally lead us to wonder about the place of this production model in France's cinematographic and audio-visual landscape, whose participants are deeply rooted in a national cinephile system. As put forward by Yann Darré in his research works on cinema sociology (2006, 125), French "craftsmen as well as French artists have one thing in common: they started as cinephiles, a trait that Godard associated with the New Wave movement in comparison to filmmaking as a profession."

Even though some may assume that the generational gap is beyond repair and that cultural education is flawed, a special connection between the film or audio-visual piece of work and the audience remains, a relationship the French system takes pride in and wishes to pass on to viewers, regardless of which services they use to discover these movies and shows. This cultural stance proper to the cinephile culture -a love for cinema characterized by the recognition of the artistic value of the director's work – lives on. The fundamental incompatibility of this model with Netflix's general identity in France is highlighted by the SVOD platform's pursuit of a long-term strategy called Love Brand which Xavier Albert defined in these terms: "We must not think in terms of purchase, but above all in terms of commitment, of creativity, to establish a certain notoriety and interest for the brand" (Vincent 2015). However, aiming for the company's growth via a "love for the brand" is fundamentally at odds with the core of French cinephile culture which relies upon a "love for the works". Indeed, the Love Brand system is not concerned with the products. What is showcased by advertisement, marketing and social networks is the global image of an industry which present itself as disruptive in the overall panorama of French cinematographic and audio-visual production. When linking these observations to the realization that Netflix's targeted audience is largely composed of younger generations, we can foretell the dawn of a global project aiming to destroy the French system and logically relying on the renewal of its audience, as French viewers' fondness for animated works is undeniably boosting the platform's growth on this territory. Elsa Keslassy (2019) stated that « the French market has now become one of the fastest-growing for the streaming service, which currently boasts more than 5 million subscribers locally ». Considering this assumption, the fact that Netflix claims to be raising a new generation of creators and hiring directors whose filmography only consists of one or few movies, we can assume that this project will reach a global scale in France's film industry.

Of course, not all home-grown professionals deem themselves ready to offer their services to Netflix; many of them are opposed to it, condemning them for not respecting European laws or collective agreements and denouncing their "obscure contracts" and "illegal terms and conditions" for the pre-emptive rights to exploit their works" (Vulser 2019). While admitting that collaborating with Netflix was beneficial, Jean-Michel Ciszewski (in a December 18th, 2019 interview), insisted on the necessity to remain independent and to focus on agreements that allowed his society to remain the right holder. This is what he stated about this peculiar partner and the ambivalence of their relationship:

> "They're a very powerful contributor, and as any other powerful contributor, they possess strength. We must keep this in mind and be clever in our judgment to remain independent, which we are happy to be."

The grip of a fundamental right

This ambivalent situation isn't new in French history. In 1990, Jacques W. Oppenheim already observed similar conflicts concerning Canal+'s strategy for international production:

> « Since Autumn 1988, our financing plan is only available for Europe, starting by Italy and Germany. This globalization of production stops at North America's doorstep. Indeed, even though the Americans are interested in Europe's various financing sources, they prove themselves to be unyielding and unenthusiastic towards the projects that they cannot control from start to finish. English language only, international but mostly American celebrities, fast pace, screenplays rewriting, technical teams almost exclusively under their leadership, these are the terms and conditions to consider even before you start negotiating." (Oppenheim 1990, 45)

Thirty years later, have the terms of these types of partnerships truly evolved? Even if Netflix managed to fit without difficulty within French households, the fact remains that their establishment caused a lot of trouble to French legislators from the very beginning. Indeed, cinema and television are both relying on a subtle equilibrium between producing, distributing and broadcasting, a stability that SVOD's ace came to disrupt.

The country of cultural exception has adopted - since the Second World War - an audio-visual legislation defining the limits of supportive economy, characterized by a number of aids, automatic or selective, as well as a strict separation and classification of the different markets, especially via a chronology of media for the film industry. Even though the latter is now mostly shaped by interprofessional agreements, the CNC promoted and often helped the revision of the legislation framework. CNC's goal was mainly to promote a number of principles likely to build a powerful industry of creative cinematography, and to launch an ambitious plan of television commissioning. Just like a legislative habitus, it was adapted to a closed perimeter first, the French hexagon, then progressively opened geographically to Europe and preferred partners (bilateral agreements on cinematographic and televisual coproduction notably), always making sure to refine it in regards to technological advances and to the different means of distribution and broadcast (internet, satellite). Many of these structuring principles are directly confronted to the issue raised by Netflix's expansion in France.

The first of these principles is the recognition of the author as the source of both creation and manufacturing process. French law designates the author as right holder of his work, whereas American copyright designates the company. The author divests his rights to the delegate producer on a contractual basis, a producer who has the legal obligation to produce the audio-visual work, signing a performance guarantee with all beneficiaries. This strategy to win authors over by reinforcing their status, which is at the core of Netflix productions, can be understood in this light and can serve as a first step to re-assess the delegate producers' role within French production's process. Indeed, the author-producer relationship is regulated by a negotiation which includes, traditionally, both the artistic side and the economical constraints.

Another one of these characteristics is related to the fact that the protection of a truly independent production - embodied by the delegate producer and representing most French creations – is a matter of law. Independence is economical: societies linked to or collaborating with audio-visual groups are a minority. Thus, television channels (and the groups owning them) must for the most part work with independent companies to comply with their financing obligations for the audio-visual. The decree 90-67, dated 1990 and amended many times since then, forces television channels to invest 3,2% of their total revenue for the previous year in cinematographic production (around 75% in independent companies) and 15% in televisual production. To preserve creation, it is essential to restrain the influence of those funding the products and to diminish the control of production companies' capital financialization. But above all else, it is crucial to maintain enough rights for independent producers for them to

make a living out of their work, and for them to fully take on a role of artistic and economic mediator, as independence must also apply to art.
From there, the perpetuation of secure working conditions for those employed in these sectors was at the core of the French audio-visual and televisual cultural policy. As we've just observed, in order to avoid any debt, frequent among producers, the legislator saw fit to encourage consumers to join in the investment effort. This is how television, major consumer of film rights, became the main source of funds for French cinema. However, when potential market opportunities occur, the French legislator knows when to make changes to the law. To anticipate Netflix's entry on the market, it created favourable market conditions, open to the globalization of part of the French production. Following the Plancade report in May 2013, the access to part of the shows' reinforced property rights has been eased in 2015, benefiting both private and public sponsors and broadcasters, and making investment in notorious shows more appealing for all beneficiaries. As a result, many French independent societies or cinematographic and audiovisual production companies reinforced or created their own division of televisual production. This period of restructuration was extended, strengthening the market via the concentration of groups willing to become leaders in the production of international shows in France and Europe: Gaumont, Lagardère, Newen Studios (owned by TF1), RTL Group, Altice Content France, Mediawan, Banijay (mainly owned par Canal+), EndelmolShine France… The take-over of the most promising independent societies was one of the consequences of this evolution, another being the fusion of big production groups '(Banijay and Zodiak in 2015, Endemol France and Shine France in 2017). CNC's "TV show Project » supported this initiative in 2019, in order to "allow French creation to gain in popularity internationally" (Delahaye 2019).This flexibility can be understood as a will to set the scene for a new production ecosystem dominated by the availability of audio-visual content introduced by On-Demand Audiovisual Media Services. Netflix, which strategies we've analysed, has turned to in-house production as well as independent production.
If these initial principles give us a better understanding of the power struggle between French legislators and Netflix, it has been circumscribed by three legislative texts up until now.

<u>The SMAD decree and ASM directive, media chronology: terms and conditions of a negotiation.</u>

We must first consider the structuring role of the 2010/13/UE ASM directive redacted on March 10th, 2010, and of its French implementing legislation, the decree n°2010-1379 redacted on November 12th, 2010, concerning the On-demand Audio-visual and Media Services. For the most part, aligning itself on the televisual and cinematographic sectors, this decree described and specified - for television's catch-up service, subscription services and one-time offers – the legal obligations for the production and distribution of original French and European audio-visual creations. As for subscription services, they had to allocate "part of their annual net revenue from the past year to expenses contributing to the development of the production of audio-visual and cinematographic works", European and original French-language films; at least 26% and 22% when they offer at least ten feature films annually in less than 22 months after their theatrical release in French; 21 and 17% when they offer at least ten feature films annually in less than 36 months and equal or more than 22 months after their release in French theatres; 15% and 12% in other cases.
Netflix's response upon their arrival on French territory was immediate: the relocation of their headquarters in Amsterdam to slip through the French financing system and benefit from a more profitable legislation; the alignment of their French programming on movies than took more than three years to produce. The revision of the European directive became a key issue for French legislators and is made in October 2018. From then on, Netflix had to include 30% of

European works in their catalogue and above all comply to the targeted country's rules concerning financial contributions for the production of European works.
Coincidentally, on February 10th, 2019, the CNC and representative bodies agreed on a new chronology of media for cinema. Distribution delay was shortened and the accountability of SVOD platforms was made clearer. Three new SVOD systems were created: for platforms approved by the CSA, like Canal+, a "secondary window of non-free television" of 15 or 17 months depending on the total of entries; for those only falling under the SMAD decree, a window of 28 or 30 months; the rest maintains a window of 34 or 36 months. However, in the face of this systemic strategy and its set quotas of production and distribution, Netflix appeared to have retaliated with a *locaglization* strategy, with an ecosystem constructed on a "nihilo-liberal" global baseline, avoiding most legal constraints.

Conclusion

At the beginning of 2020, we're told that the company should invest a little more than 100 million Euros in French production throughout the year, an amount of money that should increase the following year (Piquard 2020). Beyond the struggle between the most cost-effective bid and the lowest bid and the issue of content standardisation, the core of the debate is the countries' share of this booming windfall. The minister for Culture, Frank Riester, announced on January 14th, 2020 that he aimed to include -in a future bill on the audio-visual sector- an obligation for SVOD services to allocate 25% of their revenue to local production. In France, the result is unforgiving: Netflix will have to invest more than 200 million euros in the territory. The loss of viewers recorded by traditional groups (TF1, France Télévision, Canal+) is restricting their ability to invest in production, their obligation to produce being proportional to their revenue or number of subscribers. French legislation seeks to find a balance and to demand financial contribution from all SVOD services, in order to prevent the collapse of a cycle of investment, quite virtuous up until now as based on the pre-financing and MTO (Made-To-Order) system. Transitioning from a non-exclusive model to a model relying on exclusivity and originality, SVOD's key players, especially those with an international reach, can endorse this standpoint to a certain extent. Netflix pledged their good will by significantly increasing their production in 2020 but they're adopting a production strategy which may become disruptive in the long run.
But the regulatory struggle is not over yet… As Piquard (2020) reminds us, "a negotiation between distributors and producers is to be expected by next summer, with the presence of state mediators. Netflix might try to lower the rate by 25%". This battle is also decisive in terms of rights, since the French Government wants to impose a minimum of 50% of "Associate production" on Netflix, allowing the associate production company to retain a number of rights; an initiative rejected by Netflix, strongly committed to their "executive production" principle, which allows them to purchase all rights over a long period.
The tale of Netflix's establishment on French territory is thus far from over. Plus, the arrival of their - equally powerful - direct competitors on the market can only reinforce the tension between both sides.

Bibliography

Baldacchino, Julien. 2019. "Netflix, l'usine à séries que le cinéma déteste adorer." *Nectart* 9: 116-125. https://www.cairn.info/revue-nectart-2019-2-page-116.htm

Barthes, Séverine. 2018. “De quoi la série originale Netflix (Netflix Original) est-elle le nom ? Quelques jalons sur l'histoire de Netflix”. Conférence au colloque *Numérisation généralisée de la société,* mai 2018, CRICIS, Montréal. https://halshs.archives-ouvertes.fr/halshs-02097155

Benghozi, Pierre-Jean. 2012. *Entreprises culturelles et Internet : contenus numériques et modèles d’affaires innovants.* Paris: ministère de la Culture et de la Communication.

Benghozi, Pierre-Jean and Thomas Paris. 2014. “L’économie culturelle à l’heure du numérique : une révolution de l’intermédiation”. In *La culture et ses intermédiaires. Dans les arts, le numérique et les industries créatives,* edited by Laurent Jeanpierre and Olivier Roueff, 175-188. Paris: Editions des archives contemporaines.

Darré, Yann. 2006. “Esquisse d'une sociologie du cinéma”, *Actes de la recherche en sciences sociales* 161-162 : 122-136.

Dessinges, Catherine and Lucien Perticoz. 2019. “Les consommations de séries télévisées des publics étudiants face à Netflix : une autonomie en question”, *Enjeux de l’information et de la communication* 20: 5-23.

Drumond, Gabrielle Silva Mota, Alexandre Coutant and Florence Millerand. 2018. “La production de l’usager par les algorithmes de Netflix”, *Les enjeux de la communication*19: 29-44.

Fader, Peter. 2012. *Customer Centricity: Focus on the Right Customers for Strategic*. Philadelphia: Wharton School Press.

Jauss, Hans Robert. 1978. *Pour une esthétique de la réception*. Paris: Gallimard.

Jenkins, Henry. 2006. *Convergence Culture: Where Old and New Media Collide,* New York: NYU Press.

Karpik, Lucien. 2007. *L’économie des singularités.* Paris: Gallimard.

Miège, Bernard. 2017. *Les industries culturelles et créatives face à l’ordre de l’information et de la communication.* Grenoble: Presses universitaires de Grenoble.

Moeglin, Pierre. 2007. “Des modèles socio-économiques en mutation”. In *Les industries de la culture et de la communication en mutation,* edited by Philippe Bouquillion and Yolande Combes, 151-162. Paris: L’Harmattan.

Perticoz Lucien. 2019. “Filière de l’audiovisuel et plateformes SVoD : une analyse croisée des stratégies de Disney et Netflix”, *Tic & société*13, no. 1-2: 323-353.

Pilipets, Elena. 2019. “From Netflix Streaming to Netflix and Chill: The (Dis)Connected Body of Serial Binge-Viewer”, *Social Media + Society*. https://doi.org/10.1177/2056305119883426

Tremblay, Gaëtan and Jean-Guy Lacroix. 1991. *Télévision, deuxième dynastie*. Montréal: Presses Universitaires de Montréal.

Newspaper articles

Cassini, Sandrine. 2019. “Apple, Netflix, Amazon : la concurrence des géants américains rebat les cartes de la télévision française”. *Le Monde*, October 31, 2019. https://www.lemonde.fr/economie/article/2019/10/31/les-cartes-de-la-television-francaise-en-passe-d-etre-rebattues-face-a-l-arrivee-des-geants-americains_6017553_3234.html

Clarke, Stewart. 2019. "This Is Just the Beginning,' Netflix Exec Says of Non-English Programming". *Variety*, Dicember 5, 2019. https://variety.com/2019/tv/news/netflix-kelly-luegenbiehl-non-english-language-programming-1203426016/

Delahaye, Martine. 2019. "Plan séries » du CNC : Nous allons recentrer nos aides sur la création originale". LeMonde.fr, Mars 29, 2019. https://www.lemonde.fr/culture/article/2019/03/29/plan-series-du-cnc-nous-allons-recentrer-nos-aides-sur-la-creation-originale_5443170_3246.html

Fader, Peter. 2011. "Peter Fader on Customer Centricity and Why it's Matters", November 18, 2011. https://knowledge.wharton.upenn.edu/article/peter-fader-on-customer-centricity-and-why-it-matters/

Forrester, Chris. 2019. "Netflix to boost spend in 2019". Advanced-television.com, Febbruary 13, 2019. https://advanced-television.com/2019/02/13/netflix-to-boost-spend-in-2019/

Fraissard, Guillaume. 2019. "Chez Netflix, heureuses sont les séries assez fortes pour passer le cap des deux saison". *Le Monde*, April 17, 2019. https://www.lemonde.fr/idees/article/2019/04/16/chez-netflix-heureuses-sont-les-series-assez-fortes-pour-passer-le-cap-des-deux-saisons_5450794_3232.html

Keslassy, Elsa. 2019. "Netflix Lays Out French Originals Strategy, Including Hookups With Local Industry". *Variety*, April 1, 2019.

https://variety.com/2019/film/global/netflix-france-originals-strategy-collaborations-local-industry-1203177200/

Hopewell, John and Jamie Lang. 2018. "Netflix's Erik Barmack on Ramping Up International Production, Creating Global TV". *Variety*, October 11, 2018.

https://variety.com/2018/tv/global/netflix-erik-barmack-international-production-global-tv-1202976698

Piquard, Alexandre. 2020. "La petit revanche de la France sur Netflix", *Le Monde*, January 17, 2020

https://www.lemonde.fr/economie/article/2020/01/17/la-petite-revanche-de-la-france-sur-netflix_6026281_3234.html

Piquard, Alexandre. 2019. "Comment la France veut forcer Netflix et Amazon à financer la création française", *Le Monde*, September 4, 2019

https://www.lemonde.fr/economie/article/2019/09/04/comment-la-france-veut-forcer-netflix-et-amazon-a-financer-la-creation-francaise_5506232_3234.html

Piquard, Alexandre. 2018. "Netflix ouvre un bureau à Paris, un geste symbolique", *Le Monde*, September 27, 2018.

https://www.lemonde.fr/actualite-medias/article/2018/09/27/netflix-ouvre-un-bureau-a-paris-un-geste-symbolique_5361212_3236.html

Vincent, Maud. 2015. "Xavier Albert, Netflix France : 'Notre mot d'ordre : sortir des sentiers battus'", Emarketing.fr, June 30, 2015. https://www.e-marketing.fr/Thematique/agences-1089/Breves/Interview-Xavier-Albert-netflix-France-notre-mot-ordre-sortir-sentiers-battus-256885.htm

Vulser, Nicole. 2019. "Netflix, ce trublion américain que le cinéma français adore détester", Le Monde.fr, October 31, 2019. https://www.lemonde.fr/economie/article/2019/10/31/netflix-ce-trublion-americain-que-le-cinema-francais-adore-detester_6017556_3234.html

Press releases

"Netflix révèle ce que les spectateurs veulent – vraiment – regarder". May 23, 2017. https://www.netflixfr.com/netflix-revele-ce-que-les-spectateurs-veulent-vraiment-regarder/

"Netflix annonce sept nouveaux contenus originaux français". September 28, 2018. https://media.netflix.com/fr/press-releases/netflix-announces-seven-new-french-original-titles