Saving Na'vi cinemas

The pace of cinema digitisation in Europe is undoubtedly quite surprising. Ten years after the unveiling of the first equipment, it seemed to be very slow but, to the surprise of many, accelerated in the latter half of 2009. According to Screen Digest, the number of digital screens worldwide went up by 89% in 2009 and represented about 15% of all modern screens at the end of December.

The role of James Cameron's film *Avatar* in this development is undeniable. What is paradoxical about this pleasantly ecological film is that it is in fact itself, the terrible weapon of the logic that it illustrates: the destructive efficiency of technologies once blindly unleashed on traditional environments. At this point in time, many European cinema professionals suddenly feel just as threatened as the Na'vi in *Avatar*.

Various elements have contributed to this acceleration of the digitisation process: the designation of the DCI format as the international standard, the development and propagation of the Virtual Print Fee (VPF) model by which distributors contribute, through third-party investors, to financing the digitisation of cinemas, and the arrival of 3D, which finally provided exhibitors with a commercial argument by offering the public a new cinema experience. The history of the cinema teaches us that major innovations become fairly quickly established throughout the world cinema system as soon as the costs are borne by the majors and the big cinema networks. The move to digital is now clearly underway and it is impossible to see anything that could stop it.

There is no reason to doubt that the digitisation of distribution is a step in the right direction. Like the development of multiplexes around ten years ago, the DVD and, more recently, Blu-ray and video on demand, digital cinema is an aspect of the modernisation of distribution that helps to keep the industry in good health.

However, this enthusiasm must not blind us to the risks inherent in the transition. These risks are obvious as far as something dear to the hearts of cinema professionals, *cinéphiles* and cinema policy-makers worthy of the name is concerned: the existence of a network of independent cinemas that ensure the diversity of the films offered and the circulation of minority interest works – European films and films originating from production and distribution channels other than the Hollywood based companies, such as Asian, Indian, South American and African films and independently produced films from North America or Oceania.

The conference entitled "The independent exhibition and the challenges of digitisation" organised in Barcelona (4-6 March 2010) by the Spanish presidency of the European Union served to highlight the concerns of independent exhibitors and the difficulties in introducing national or European policies. (1) The participants agreed that it was preferable for the transition process to be as short as possible since it led to cost duplication and therefore delayed achieving the economies of scale that could be generated for the benefit of the financially weakest.

Risk assessments for the film exhibition sector in the European Union have been produced by the European Investment Bank, according to whose figures 4.4% of screens are already digitised without recourse to the VPF. In most cases, these are screens belonging to certain major circuits that have decided to finance their transition themselves. About 5 400 screens out of 30 185 (or approx.17%) are allegedly unable to access the VPF system. However, this estimate presupposes that the integrators' rollout potential has been fully achieved. The integrators have already signed agreements for 4.7% of screens and are in negotiations with distributors for another 15.2%. In addition to the 17% considered at risk, there are accordingly more than 17 500 cinemas (or 58%) for which the validity of the VPF model still has to be demonstrated. This means there are considerable uncertainties. The financial situation of the third party integrators is not under discussion here but it seems clear that these new players are dependent on access to bank loans, which has been made more difficult by the crisis.

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(1) All the documents, speeches and conclusions of the conference are available at the Spanish Presidency's website: http://en.www.mcu.es/MC/PresidenciaUE2010/Conferencias/ImpactoTecnologia.html

Links to sources of information and reference documents can be found at the European Audiovisual Observatory's website: http://www.obs.coe.int/medium/digitalcinema_europe_links.html

In this context, it is now admitted that the VPF model, in its different guises, is not universal and that alternative models need to be developed. The ideal is clearly for the exhibitors to be able to finance the transition themselves, which would potentially strengthen their programming autonomy. However, there can be no doubt at all that the fact that investment capacities are often limited and the VPF model is not systematically applicable constitutes a failure of the market that justifies public intervention. It is against this background that public bodies at the European, national, regional and local levels are trying to come up with solutions to support the transition. In September 2009, the Council of Europe Committee of Ministers adopted a recommendation on national film policies, which states in particular that *"public policies should urgently and proactively take into account the need to support the emergence of business models for digital film and the development of new platforms and services for European cinema. Such models should respect the diversity and specificity of cinemas in Europe and of their programming, and make sure that distributors keep control of release plans. Models should also ensure that all theatres wishing to engage in such a 'digitisation process' can do so in a co-ordinated way, and within a reasonable timeframe. European participation in the ongoing international digital cinema standards definition process should be strengthened and enforcement of these standards should be ensured."*

The Barcelona conference illustrated the diversity of the solutions explored:

- At the European level, the European Commission launched a consultation of professionals in late 2009. The results should lead to the publication by the Commission of a Communication on Opportunities and Challenges for European Cinema in the Digital Era and the incorporation next autumn within the MEDIA 2007 Programme of a new support scheme for the digitisation of cinemas offering substantial European programming. Possible funding is also available, under certain conditions, through the structural funds, which involves the presentation of dossiers by the regions and not the exhibitors. The European Investment Bank is also starting to become involved. In the first instance, it is supporting the market solutions by facilitating access to funding (especially for the integrators). It then envisages becoming involved by supporting the other European and national public initiatives to assist with the transition those cinemas that are unable to access the VPF model.
- At the national level, several support schemes are already in operation. In the United Kingdom, the UK Film Council launched its Digital Screen Network scheme in 2005. In Norway, the Film&Kino network of municipal cinemas launched its scheme in 2006 and negotiates VPF agreements directly with the majors. In Finland, the new measures for supporting the cinema industry, which were approved by the European Commission in 2008, include aid for cinema digitisation. In Sweden, the Swedish Film Institute launched a pilot project to support the digitisation of 28 cinemas in 2009. In the Czech Republic, the State Fund for Support and Development of Cinematography launched a support programme in 2009. In Slovakia, a new fund was created in December 2009. In the Netherlands, in February 2010, the new Eye Film Institute has assigned the implementation of a project to PriceWaterhouse and this should commence in July 2010.
- At the regional level, the *Land* of Bavaria set up a support system in 2009. In Poland, the region of Małopolska (Cracow) has succeeded in obtaining aid from the Community structural funds as part of a project to develop tourism and the cultural industries.
- At the local level, there are a few municipalities that provide support for the digitisation of cinemas located in their area.

In several countries, support schemes have run up against political or legal difficulties. (2) In Germany, negotiations on the implementation of a support scheme worth 40 million euros, proposed in June 2009 by the Federal Film Board (Filmförderungsanstalt – FFA), was rejected in November 2009 by the federation of exhibitors, which does not accept the principle of this support being offered in exchange for the withdrawal of the exhibitors' complaint to the Federal Constitutional Court concerning their alleged unequal treatment: their contribution to the funding of the FFA is compulsory, whereas that of the television broadcasters is voluntary. In Italy, the tax credit plan proposed by the government in 2009 for the installation of digital projection equipment is being investigated by the European Commission's DG Competition. At the beginning of April 2010, the Commission had not yet issued its opinion. Finally,

(2) For a detailed analysis of the legal aspects of this question, see Digital Cinema, IRIS Plus, European Audiovisual Observatory, April 2010.

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in France the plan for a mutual fund drawn up by the CNC in 2009 has had to be abandoned in response to the Opinion of the Competition Authority, which held that the system would have caused significant distortion of the market for funding the transition. The CNC was therefore forced to propose an alternative plan in March 2010.

The procedure opened by the Commission on the Italian case is particularly important for the whole of Europe: the Commission has to assess the compatibility of tax credits for exhibitors with Article 83(3)(c) of the EC Treaty or with the exception in the case of aid to promote culture provided for by Article 87(3)(d). The Commission accordingly has to check the need for the aid as well as its proportionality and relevance. The various comments sent to the Commission by the national agencies and professional bodies tend to support the need for public assistance and agree that the Italian government's proposal is appropriate.

The focus of the European debate is on the support available to film exhibition companies to enable them to finance their equipment. However, the impact of the transition on the different areas of the sector should not be underestimated: not only the impact on the technical industries – we are likely to witness the disappearance of print production facilities in a few years' time – but also on distribution and production. The rapid increase in cinema digitisation that took place in the second half of 2009 is forcing the independent distributors and sales agents to speed up making their own strategic choices. At the same time, the political and legal uncertainties affecting the transition timetable of the independent cinemas is a destabilising factor. The very nature of the business of managing the scarcity of prints is about to change, since digitisation will radically alter ways of accessing films. These uncertainties as far as distribution is concerned are clearly having an impact at the level of independent production, which is also going to be hit by the additional costs involved during the transition period and will probably also be affected by the uncertainties of the timetable. (3) All this will be compounded by the difficulty in Europe in responding to the announced flood of productions in 3D, a technology that requires big development and production budgets if it is to be successfully exploited. Some European producers of animated films are taking risks in this area but the market share effects produced by Hollywood observed in 2009 and the first quarter of 2010 are likely to continue in the months and years ahead.

It seems urgent that the European film industry emerge from the present confusion and for a timetable for completing the transition to be determined by mutual agreement between the parties. It is striking to compare the methods employed for the digital transition in the cinema sector with those of the television sector, where Europe has succeeded in laying down its standards, regulatory framework and transition timetable, with transition already completed in some countries and proceeding smoothly in most of the others. As far as the cinema is concerned, Europe has had no alternative but to adopt *de facto* the DCI standard chosen by the American distributors and registered as ISO standard, and it is still very difficult to establish common legal rules and a timetable. European television is a sector dominated by a few big private and public groups with significant planning and investment capabilities, and the issue of the release of spectrum used for analogue transmission has stirred the institutions and economic players into action. Despite the existence of a number of integrated groups, the European cinema sector, whether it be production, distribution or film exhibition, is still essentially one made up of micro- or even nano- companies with low profitability and weak investment capabilities.

It may be this structural fragility that accounts for the charm and romanticism of European film industry. This fragility, creative and rich in many different talents, enables it to lay claim to being an alternative to the Hollywood model, which, despite everything, is still dominated by planning and rationalisation. However, if Europe wants to continue to offer the world the wealth of its cinema, it is important for it to succeed in bringing about mutual co-operation between all the sector components, both public and private, in order to ensure a smooth transition. We believe this applies all the more because the digital surge definitely poses a threat to other Na'vi tribes worldwide whose resistance and investment capabilities are still weak and because the alternative European model is being monitored with great interest in other parts of the world.

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(3) It should be noted that the Council of Europe's Eurimages Fund offers producers financial assistance for the production of digital masters.