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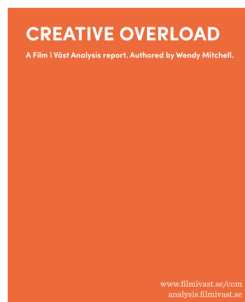
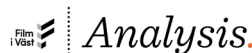
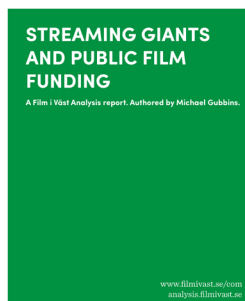
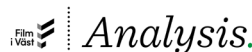
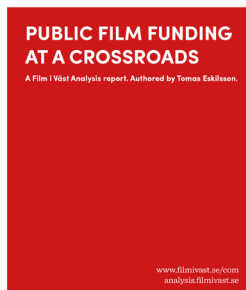
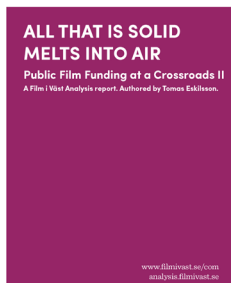
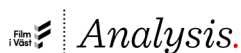
Analysis.

PUBLIC FILM FUNDING AT A CROSSROADS II

Close-up: Spain

Authored by Irene Jiménez

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ABOUT PUBLIC FILM FUNDING AT A CROSSROADS

All that is solid melts into air – *Public Film Funding at A Crossroads II* was launched in Venice in August 2022. Along with the first report *Public Film Funding at A Crossroads* it can be downloaded at www.analysis.filmivast.se. Here you also find the ten territorial reports, executive summaries, with strong links to the main topics. There you also find **Michael Gubbin's** report *Streaming Giants and Public Film Funding* and **Wendy Mitchell's** study *Creative Overload*.

Appendix 1	Topics for the interviews
Appendix 2	Survey to filmagencies
Appendix 3	Status of Article 13's transformation across Europe
Appendix 4	Presentation of the experts

Focus group

Eastern Europe (Assistant Professor **Petar Mitric**, Producer Joanna Szymanska)

French speaking Europe (Senior Consultant **Vincent Leclercq**, Senior Consultant Philippe Reynaert)

German speaking Europe (Senior Consultant **Manfred Schmidt**)

The Nordics (**Katarina Krave**)

UK (**Bengt Toll**, Associate Professor **Lydia Papadimitriou**)

Close-up

Flanders (Producer **Ilse Schooneknaep**)

Italy (Senior Consultant **Rickard Olsson**)

Netherlands (Senior Consultant **Doreen Boonekamp**)

Portugal (Visiting Professor **Nuno Fonseca**)

Spain (Journalist **Irene Jiménez**)

French speaking Belgium (Senior Consultant **Philippe Reynaert**)

SPAIN

Some context about Spain

Since Netflix came to Spain at the end of 2015, several global streaming platforms are operating in the country nowadays: Prime Video, HBO Max, Disney+, Apple TV+, SkyShowtime, AMC+... The worldwide phenomenon of *Money Heist (La Casa de Papel)* put the Spanish industry into the international spotlight.

Almost all of them have local production strategies, but Netflix is leading the way: only in 2022, it launched 30 Spanish originals (between series and feature films, any genre), and since it is present in the country, the platform has already worked with 40 different producers. Netflix has its biggest European production centre in Madrid, with ten stages, thirty editing rooms, a cloud editing system... In April 2023, filmmaker and former president of the Spanish Cinema Academy, Mariano Barroso, joins the platform as head of film for Spain and Portugal, so Netflix is expected to push the feature film production in both countries. Netflix AVoD subscription plan is available in Spain. Prime Video is also producing locally in Spain and has development executives for original feature films. It has launched two original films so far, directly on its VoD service, and is planning to launch two more in 2023, both of them targeted at young audiences and with the aim to be franchises. The service has just announced three more feature films in the country. Spain is one of the few European countries where HBO Max is still producing locally, but the Warner Bros. Discovery platform has not produced feature films yet.

At a national level, Movistar Plus+ is an important player. The Pay-TV service owned by telco Telefónica is producing around 12 original scripted series per year since 2017. The official investment in original production is €70-100 million per year. Movistar Plus+ has produced three feature films so far, premiering first in movie theatres because



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the financing plan includes public funds. They also say that the films that have more consumption on their platforms are those that had a significant box office previously.

It is worth mentioning ATRESplayer Premium, Atresmedia's SVoD service launching one original scripted series per month in 2023 and with less than 500,000 subscribers. It is not producing feature films. Another local player is Filmin, SVoD service with 15 years of existence, focused on European independent cinema and series.

Private TV groups Atresmedia and Mediaset España concentrate 82% of all the ad investment in Television in Spain.

Since 2010, public broadcaster RTVE is ad-free and that meant a loss in spectators and relevance in society. It is being very difficult for RTVE to find stability in its strategy, because the presidency and the board of directors change frequently and it is reflected in the daily developments.

The independent producer

The Spanish independent production sector is composed of dozens of small and medium size companies, even more in the case of those producing only feature films (not TV series or entertainment formats). According to the figures registered by ICAA (Film and Audiovisual Arts Institute, public body), there were in Spain:

- 2017 - 329 active prodcos
- 2018 - 389 active prodcos
- 2019 - 381 active prodcos
- 2020 - 340 active prodcos
- 2021 - 402 active prodcos

Pan-European groups are strong in Spain. Especially those coming from France and especially among the production companies working for TV and streaming platforms. Studiocanal owns a 33% of Bambú Producciones; Mediawan has four companies (Boomerang TV, Veranda TV, Weekend Studio, Good Mood); Banijay has eight prodcos (Cuarzo TV, Diagonal TV, Shine Iberia, Gestmusic, Zeppelin, DLO Producciones, Portocabo, Pokeepsie Films); Federation Studios has a subsidiary company in Spain. Since May 2021, UK's ITV Studios owns Cattleya, and Italy's Garbo Produzioni became a shareholder of Spanish prodco Onza in September 2022.

Although they are registered as Spanish companies and are independent because they are not participated by any operator, they have a stronger position than the 'truly independent' ones.

In June 2020, private TV group Atresmedia and telco Telefónica announced the launch of Buendía Estudios, a joint venture to produ-

ce Spanish-speaking contents for the global audience. Taking into account that both shareholders have their own TV channels and SVoD platforms, the independent producers felt the launch of Buendía Estudios as a big threat. Three years later, most of the titles produced by Buendía Estudios are for Atresmedia and Movistar, that is, their own shareholders.

Mediaset España, the other big private TV group in Spain, also has its own production companies under the label Mediterráneo Mediaset España Group. In May 2023, Mediaset España will be absorbed by its mother company, Italian Mediaset.

Both, Atresmedia and Mediaset España, are seen as ‘essential’ by independent producers for their capacity to drive spectators to movie theatres, displaying aggressive advertising campaigns on their own TV channels, social media, websites...

In the middle of this landscape, in late May 2022, the Spanish government approved the Ley General de Comunicación Audiovisual, which is the transposition of 2018 Audiovisual Media Services Directive – AVMSD. A key point of this law is what kind of producer will receive the 5-6% of mandatory investment in European works from private and public operators.

Following the definition of this law, that was written by the Minister of Economy with a discreet participation of the Ministry of Culture, in Spain, any production company linked to an operator can be considered as “independent” when producing for third-party operators. So, Buendía Estudios can be considered as independent when producing for Netflix. This is seen as “unfair competition” by all the producers associations in the country. And, according to the law, operators such as Atresmedia, Movistar or Mediaset España could apply for public funding through their own production companies to obey the mandatory investment in European works. Independent producers also argued during their protests in 2022 that if Netflix sets up its own prodco in Spain or buys a stake of any existing company could also act, indirectly, as an independent producer.

The consequences of this new definition of “independent producer” can’t be assessed in the short-term. Even less when Spain is preparing the reform of the 2007 Ley del Cine (Cinema Law), in order to adapt it to the new reality of the audiovisual industry under the name of Ley del Cine y de la Cultura Audiovisual (Cinema and Audiovisual Culture Law). The reform is being led by the Ministry of Culture and the aim of all the agents is to approve it before this government’s term ends. Being 2023 a year full of municipal and regional elections in Spain, the reform is not evolving as expected and the date to be ready is still unknown, even though the proposal bill was released in late January

2023 and the amendments have already been made. National elections could be celebrated in December 2023.

The new Cinema and Audiovisual Culture Law will keep intact the definition of “independent producer” included in the 2007 law that is under reform. This definition is more favourable for ‘real’ independent producers. The key point of this law is to regulate the direct public funding for film.

So, two definitions of “independent producer” will coexist in Spain:

- The one of the Ley General de Comunicación Audiovisual (AVMSD transposition), to be applied when speaking about the 5-6% of mandatory investment
- The one of the Cinema and Audiovisual Culture Law, to be applied when speaking about the direct public funding.

According to the Ley General de Comunicación Audiovisual (the AVMSD transposition), linear services must dedicate 51% of their programming to European works, while VoD services must dedicate 30%. Public operators must invest 6% of their annual revenues in European works:

- At least 70% of the total must be done by independent producers.
 - 15% of this 70% must be shot in the different co-official languages of Spain (Catalan, Valencian, Galician, Basque)
 - And 30% of this 70% must be feature films directed or created exclusively by women
- At least 45% must be dedicated to feature films done by independent producers.
 - And 12% of this 70% has to be for animation and documentary feature films.

The requirements are the same for private operators, but they have to invest 5% of their annual revenues in European works.

The new Cinema and Audiovisual Culture Law

The new Cinema and Audiovisual Culture Law will boost every phase of a project through public funding: writing, development, pre-production, production, post-production, distribution, cinema exhibition, internationalisation. Even individual writers could apply for subsidies. In an exercise of transparency, it will be mandatory for the streaming platforms to release the number of views. Public institutions will have then more support to design their policies to boost the audiovisual industry.

According to the new law, ICAA will have to elaborate a strategic plan for the whole industry every four years, revisable every two years. ICAA will have to release an annual report about the evolution of the plan, the state of the industry and the critical actions needed.

National public funds given in Spain - call for 'general projects':

2019 - €35 million / 36 projects

2020 - €40 million / 35 projects

2021 - €47 million / 45 projects

2022 - €54 million / 55 projects

National public funds given in Spain - call for 'selective projects':

2019 - €8.4million / 44 projects

2020 - €11.9 million / 41 projects

2021 - €15 million / 47 projects

2022 - €9.6 million / 31 projects

In 2023, the call for selective projects will have a record budget of €36 million, the highest in history.

Number of feature films produced in Spain in the last years (data provided by ICAA):

2017 - 241

2018 - 266

2019 - 265

2020 - 222

2021 - 277

2022 - 237

National box office of Spanish feature films:

2019 - €92 million (15% market share)

2020 - €43 million (25% market share)

2021 - €41.4 million (16.5% market share)

2022 - €82.7 million (22% market share)

The IP

The battle for the IP is a sensitive issue in Spain and it is very difficult to find a half-way point among the interests of TV channels, streaming platforms, producers, distributors and authorities. All the agents are participating in a working table, but dialogue and discussion are blocked. While TV channels and streaming platforms argue “we finance, we own the IP”, producers talk back: “We develop the project with our own resources and take the whole responsibility and risk until the

delivery, so we deserve to keep, at least, part of the IP, which is the real value of our company.”

Most of the time, producers feel obliged to give up in order to add more money to the project and make it come true. Some of them say that they gave up just for the opportunity of working for Netflix, for example, in order to have a worldwide distribution, reach international success and gain reliability. Their strategy is trying to change the rules of the game in future productions.

There are many producers open to national and international co-production, and TV channels seem to be more open-minded than streaming platforms. But, making general conclusions about the IP issue is very difficult, since producers, TV channels and streaming platforms are studying the business model on a project-by-project basis.

For example, in Spain, Prime Video co-produces many TV series with national and regional broadcasters, and producers are able to keep a percentage of the IP of the project. Prime Video launches the title first with a 6 months exclusive window, under the label ‘Amazon Exclusive’.

Amazon is also participating in ‘The Fear Collection’, a brand created by Sony Pictures International Productions and Pokeepsie Films (Banijay Iberia) to co-produce several horror movies. The feature films premiere first on movie theatres and later on Prime Video. Recently, two Catalan independent producers (emerging talent) co-developed the TV series *This is not Sweden*. Later, national pubcaster RTVE, regional pubcaster TV3 and Sweden’s SVT were attached to the project as co-producers, but almost the whole IP is kept by the two prodcos. TV channels understood that every percentage of IP in hands of the producers was translated into more funding coming from the tax incentives. The business model, which includes pre-sales and international sales, was difficult to reach and required a lot of dialogue.

The film market and the audience

According to a study of FECE (the Spanish federation of Cinema exhibitors, representing the 80% of the sector), made by Ikerfel, a 25% of the moviegoers that already went to theatres before the pandemic three or four times a year are planning to go to the movies during 2023 more frequently. 61% say they will go the same number of times, and 11% will go less frequently.

This study on the behaviour of moviegoers highlights that among those who are going to go to the movies the most this year in Spain, above average, is the +50 years old demo. Also people who already went more than seven times a year before lockdown, and those who have not come back yet since the pandemic.

The cinema exhibition sector has been hit hard by the pandemic and the recovery is going slower than expected. In 2022, up to 61.2 million people went to the movies in Spain, far away from the 105 million spectators of 2019. The 2022 Spanish box office was 379 million euros, a 51% more than in 2021, but, again, far away from the 615 million euros box office of 2019.

In 2022, the number of moviegoers and the box office were 39% lower than the average before the pandemic in 2015-2019, according to Comscore. But, Q1 2023 is shining a light and the numbers are climbing: the number of moviegoers and the box office are 27% lower than in Q1 2019.

The Spanish federation of movie theatres says that they need 80 million spectators to reach profitability and leave 'the survival mode'. The desirable number could be reached in mid-2024, so 2023 is seen as a 'transition year' in the path to total recovery.

The federation has presented some claims now that the new Ley del Cine y de la Cultura Audiovisual (new law of cinema and audiovisual culture) is being discussed in Spain.

For example, they propose to exchange the mandatory share of national and European films for a public funding programme to drive more spectators to national and European films. The new law will keep the mandatory share of national and European films to be screened in movie theatres, reducing it from a 25% to a 20% and including Latin American feature films and women directed movies.

Cinema exhibitors also ask for the return of the 100-day exclusive theatrical window, although the new generation of cinema exhibitors in Spain is aware of the changes in the industry and more flexible to discuss the windowing.

The feature films that receive public funding are obliged to premiere in theatres. Even those films without public funding were screened only in theatres for 100 days, following a tacit agreement of the whole industry. But, with the pandemic, this requirement was relaxed for public funded films. Also, the US majors started to be more aggressive, releasing their films directly on their own streaming platforms or shortening the windows.

The Spanish federation of movie theatres says that the sector is still "fragile" and the extraordinary public funding they received during the worst part of the pandemic should be maintained. They also claim for tax incentives, "as part of the industry as we are", to face the next investments in order to improve the energy efficiency of their complex and to introduce laser projection systems.

In the meantime, with the aim to call the attention of the citizens, the movie theatre owners are celebrating different promotional

actions, such as Fiesta del Cine (twice a year, with reduced price of €3.50 per ticket only for a few days). In April 2023, Cinesa (exhibition company of ODEON Cinemas Group, an AMC company) has just started selling the Unlimited Card, the first subscription movie plan in Spain.

Oddly enough, the number of cinema screens grew in Spain in 2022, from 3,583 to 3,626. Some of the new cinema complex opened during 2022 were already confirmed to be built inside shopping malls before the pandemic. But there is also a new intention to recover the proximity movie theatres to help spectators recover the habit. For example, in the centre of Madrid, Cines Embajadores, opened in July 2020, is expanding with two new screens soon, thanks to their daily success. The new law will oblige movie theatres to provide information of spectators and box office of "alternative content screened", such as opera, live music, live sports, TV shows.

Tax incentives

From January 1, 2023, Spanish producers can benefit from a 30% tax rebate for the first million euros of deductible expenditures, and a 25% onwards. It applies for feature films and series, live-action or animation, fiction or documentary. The amount of this deduction must not exceed 20 million euros and, in the case of audiovisual series, 10 million euros per episode. The amount of this deduction, along with the rest of the aid received, must not exceed 50 percent of the production cost.

Any foreign producer shooting in Spain can benefit from the same 30%-25% tax rebate.

Three territories in Spain have their own fiscal system and that allows them to set up their own tax incentives:

- **Canary Islands:** 50%-45% deduction on eligible spend in the Canary Islands provided that expenditure amounts to at least €1,000,000 (€200,000 in the case of animation) and a service production company with tax domicile in the Canary Islands is hired.
- **Basque Country** offers a 35% via tax credit. This territory is composed of three provinces. One of them, Bizkaia, has decided to rise the bet with a 60% tax credit for national and international productions if expenses in the territory surpasses the 50% of the total production cost. The tax credit will be 50% if expenses are between 30 and 50%; and 40% if expenses are between 20-35%. Bizkaia offers a 35% tax credit overall and an additional 10% tax credit if the production is shot in Basque language. In a race to keep productions and to compete within the territory, Guipúzcoa and Álava, the other two Basque Country

provinces, are revising their tax laws in order to put them at the same level as Bizkaia, retroactively since January 1, 2023.

- **Navarra** offers a 35% via tax credit.

The tax incentives for foreign productions are seen as a business opportunity, but also as a threat for local producers, since the demand for crew, locations, equipment and investors will raise and the consequence is, probably, a hike of production costs. Spain has always been one of the most cost-effective countries in Europe and nowadays has the lowest inflation of the European Union (5.8% in 2022). But, at the same time, production budgets have been lower compared to the rest of Europe, and if prices rise, local producers are afraid of not being able to make their own projects. So, the main fear of the Spanish production sector is to become into a service industry and not being able to develop and produce their own ideas.

However, during Q1 2023, up to three consolidated Spanish production companies (Brutal Media, Filmax, Bambú Producciones) have opened a service division to take advantage of the new tax incentives and the foreseeable growing number of international shootings. Great infrastructures (airports, high-speed train lines, roads, hotels, restaurants), a wide range of natural locations and qualified crews are some of the advantages of Spain as a shooting destination. On the opposite side, there are few professionals who can speak English and there is a lack of studios. According to the latter, there are some good news: Gran Canaria Estudios, a 6,000 square metres complex, has opened in the island, and Ciudad de La Luz (Alicante, west coast) is reopening after being closed for ten years following a suspension imposed by the European Union for the illegal financing of the construction. These facilities include a water tank.

There are also several private and public funded initiatives to build virtual production studios in different parts of Spain.

The rise of the tax incentives is part of Spain Audiovisual Hub of Europe, a programme launched by the national government in March 2021 that will mobilise €1,603 million during the 2021-2025 period. The financial resources will come from the national budget and from the EU Recovery and Resilience Facility. €1,330 million will be committed to tax incentives. €240 million are for the digitalization of the audiovisual industry. €18 million are for law improvements. And €15 million are for developing more human resources.

One of the measures is the establishment of Spain Audiovisual Bureau, an assistance service for local and foreign countries undertaking projects in Spain. Since the launching of the new tax incentives, the Bureau has received more queries, specially from US, Nordics, Ger-

man, Australian and South African producers.

Capacity development

Among the profiles that are most scarce in the Spanish industry are those related to post-production (animation, VFX), cost controllers, international sales agents, marketing specialists. Producers mention any profession related to shootings, from carpenter to actor.

Instituto RTVE (audiovisual school managed by the national public broadcaster) has received €77 million to train 40,800 people in digital skills during 2022 and 2023. The funds come from the EU Recovery plan.

There are multiple public and private initiatives to create a new generation of film and TV workforce. For example, Canary Islands have been training new animation professionals for years now, but producers say that it takes some years to turn these junior employees into experienced professionals.

Even Netflix celebrated a post-production summit in Madrid in October 2022. For 15 days, around 300 selected and invited professionals (producers, technicians, creators, students, teachers) attended training sessions about post-production, VFX and virtual production. In Spain, Netflix has also Grow Creative, an initiative to include more diversity in the industry through grants, incubators, pitching sessions, in collaboration with Spanish associations and institutions. Netflix says that Grow Creative is not linked to its content department, so the aim of Grow Creative is not finding new projects to produce.

Prime Video also collaborates with some associations in the country. ICAA (Institute of Cinematography and Audiovisual Arts) gave €9 million to 49 labs and incubators to be celebrated in 2022 and 2023. Associations, foundations, market and festival organisers, schools, and copyright management organisations received the funds and set up many different types of labs and incubators, each of them dedicated to a specific genre (fiction, documentary), to a particular demo (-30 years old, +50 years old)... Some of the labs and incubators already existed and had the opportunity to reinforce themselves.

Sources: ICAA, Comscore, BOE, Audiovisual451, FECE, Spain Film Commission

Written by **Irene Jiménez**. **David Sequera** contributed to this article