BERGER REPORT

on

A NEW ORGANISATION FOR SCRIPTED DRAMA SERIES IN FRANCE

Words are sacred. They deserve respect. If you get the right ones, in the right order, you can nudge the world a little.

Tom Stoppard

More is not better. Only better is better.

Richard Plepler

FOREWORD

I am a cultural bastard. I was born in the United States and have lived mainly in France for the past 45 years; I constantly navigate between both worlds and both cultures. This dual identity is a distinct asset. Every day, it helps me to better relate to my field of work and understand the profound, irreversible mutations currently taking place in the world of media and scripted drama series. It also brings me greater acuity, perspective and impartiality in several areas, including storytelling, writing, creation and production because I can compare the skills, details and practices on both sides of the Atlantic.

This is why I wanted this report, commissioned by the CNC (Centre National du Cinéma et de l'Image Animée - the French National Film and Moving Image Centre, to be based upon a comparative study. What is the goal? To observe what works elsewhere, particularly across the Atlantic, and to evolve the French creative process and production of scripted television series. By looking at how leaders of the global industry have structured their activity for the past half-century, we will find efficient solutions to apply in France. In any case, this is what Eric Rochant and I tried to do in the context of the development, writing, financing and production of *Le Bureau des Légendes* - *The Bureau,* for the past 4 seasons in 4 years.

I am passionate about fiction. Since my early childhood, I have been driven by a deep desire to tell stories and share them with the world. This is why I've always known I wanted to do what I do today. This desire is innate. As a kid, I invented worlds, sometimes putting my ideas down on paper, and sometimes wandering in the fields of the Vosges region where I lived at the time. I knew I'd become a producer. I chose this path so I could fulfill my dreams. I have been doing this for over 35 years. And through this work, I continue to live my dream, as I imagine, invent, transmit, organize and structure worlds and stories that may be moving or thought-provoking. There is something magical about having an original idea and making it come to life. It is a moment of absolute grace.

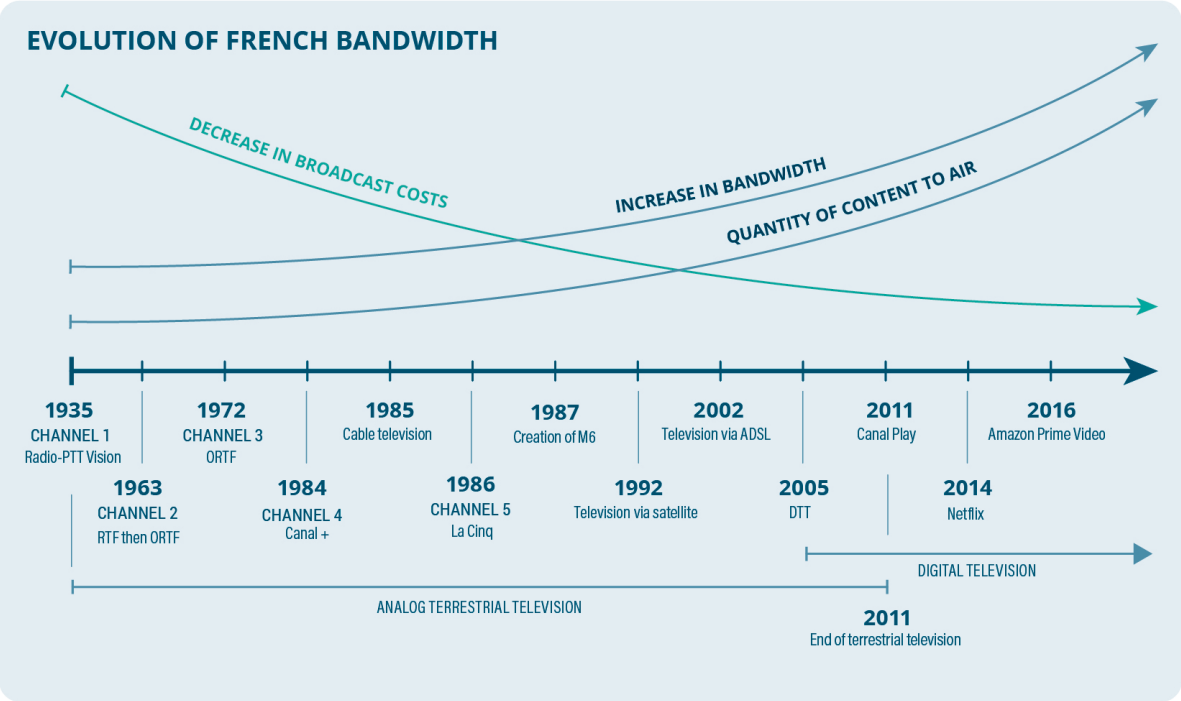
Over these three decades, I have also witnessed profound change. Stories are not created or shared the way they used to be. The evolution of technology has shifted our industry from film to tape, from analog to digital, and ultimately to full digital. Thirty years ago, television programs were broadcast on just a handful of over-the-air channels. Today, those programs, via cable and satellite, are aired on a multitude of digital channels throughout the world. The ability to broadcast a series on a planetary scale changes many things: how a story is written, how its pace, style and tone are managed, and most importantly, how it is developed and produced.

The arrival of new domestic players (Orange, Altice, etc.) and international players (Disney, Comcast, Netflix, Apple, Amazon, etc.) has shaken up the French ecosystem and is forcing longstanding players to reinvent themselves. As of the writing of this report, starting in 2018, these platforms allow for entirely delinearized viewing by broadcasting catalogs of international works.

They know that local content is the essential driver for exclusive content. By attracting top French talent (producers, writers, actors, directors), they enhance their original French production catalog (at the time of writing, only *Marseille* and *Plan Cœur* were on Netflix and *Deutsch-Les-Landes* on Amazon, but dozens of projects are currently in development such as *Osmosis* and *Family Business*). Simultaneously, viewers, internet users and mobile audiences have totally changed their viewing habits. As a result, internauts grow impatient after a18 month wait between seasons of their favorite series. They are attached to a world, a concept, and a set of characters, and want to quickly know what comes next and how the story they feel connected to ends. The "instant culture" effect implies that a regularly refreshed catalogue and competitive subscription pricing (to attain the threshold of critical mass and readjust upwards or change models) are essential. The platforms heavily invest in both catalog (acquisitions) and original productions (more and more so as the major US studios now compete for eyeballs directly instead of being big selling machines they have become direct to consumer providers by eliminating the middle man or traditional buyers and distributors. But they do so based on an American studio model, creating a group of producers and rights holders generally paid in copyright or fees, through margins or at flat rates, and with no possibility of recurring revenue. This split has led to an increased volume of production, but with reduced revenues (especially for creators). Back-ends become more and more theoretical.

Other changes are in the works, and they are redefining creation, financing, production and broadcast practices. It all comes down to bandwidth, which has undergone extensive technological transformation. The colossal volume of data that can now quickly be uploaded in a short period of time has given internauts access to global content of unparalleled quality in record time.

Thanks to the cost evolution of bandwidth, what was once rare and costly is now accessible to all. Bandwidth has become a commodity. Obtaining a license to broadcast cost millions 30 years ago, the regulatory bodies in each country were very strict, precise and protective. Today all one needs is to pay for an internet connection, the consumer pays for the cost not the broadcaster. The paradigm shift related to regulated bandwidth and content has all but disappeared. To penetrate the market, the Trojan horse is digital extraterritoriality.



The list of changes is long, and this report isn't designed to be exhaustive; it is meant to make a snapshot of the current state of affairs, so that we may urgently revisit our model. My personal belief is that this revolution is forcing us to act, be reactive and take risks.

Fortunately, we are not starting from scratch; France already has extraordinary means at its disposal. Our country continues to be the world's second- or third-largest exporter of feature films. French animation consistently breaks export records, with 75 million euros in overseas sales in 2016. So, why is it that while feature films and animation *made in France* are renowned for their quality, our series have had such a challenge finding their place in the global audiovisual landscape?

To understand this and attempt to propose some concrete solutions, I will organize my point of view in the following manner.

First, I will seek to compare the French and American ecosystems, to try and identify what we could improve upon domestically. In comparison with the world's leader in original creations, who boasts huge companies that dominate the television and feature film arenas, everything points to the need for France to urgently adapt its own system, by seeking inspiration from successful "best practices" across the Atlantic as well as in Europe.

Second, based in part on my experience with *Le Bureau des Légendes*/*The Bureau*, I will offer tangible recommendations for transforming the French fiction ecosystem. I believe this can be achieved by targeting three objectives:

- Put writing at the heart of a precise process;
- Empower all ecosystem players, in a transparent manner;
- Find new sources of financing.

The following pages have little in common with a formal, traditional report. This text aims to be expedient and accessible to all. It is the expression of my point of view and my optimism, because I know it is possible to make change and adapt French rules and methods. I also believe that France cannot do this alone and the European Union should also show its will and strength by committing to a minimum of up-to-date regulation.

Thanks to Eric Rochant – without whom much of what I've written below would not have been possible – and the precious help of Pierre Ziemniak, Quentin Lafay and dozens of other collaborators, friends, experts and colleagues who share my passion for this trade, I hope to be the catalyst for thought and reflection and to contribute to France taking its rightful place in scripted series creation. I would also like to thank the CNC, who has given me the opportunity of sharing my thoughts and perspective. I want to thank all those who accepted to meet with me in the context of this report and all those who answered my questions; their insight is invaluable and has greatly enriched the following analysis.

Together, we share a common ambition: to give French scripted series the status it deserves and to elevate France among the ranks of the leading countries in the creation of this major narrative form.

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SUMMARY

I have struggled for quite some time with a paradox: how can France be the world's second- or third-largest exporter of feature films (with India a serious rival), and yet, be so behind in terms of television series creation and production?

To that end, the comparison I will highlight in the first part (**I**), is very enlightening. It explains that the hiatus that differentiates the United States from France with regards to series creation and production is primarily the result of **different methods.** The Americans are indeed masters of the process; they know how to invent, reinvent and organize a system. In the US, the country of laissez-faire and liberalism, authors, screenwriters, actors, producers, technicians (and also broadcasters, distributors, brands and financiers…) are protected by powerful unions and precise regulations. Wages are defined by transparent rules. The role and job of each participant is integrated into a clear framework. In short, the market is totally free, highly competitive, and yet perfectly and totally regulated. **There is a precise, transparent framework across the whole chain, from the beginning of a project through to its exploitation.** The US has an entirely vertical system based on the major US studios model, retaining all rights on the basis of one simple rule: **whoever pays (well) retains ownership.** Minimum wages are regulated by the Guilds *(unions),* where membership is mandatory in order to work. The Guilds collect payment from the studios/distributors/broadcasters/publishers in the form of *residuals* (usage/rebroadcast rights) and royalties.

In France, the situation is exactly the opposite; **the whole system suffers a lack of efficiency, clarity and parity.**

• **A lack of efficiency**: our collective organization does not always allow us to respond to the market's strong demand for quality series on a yearly or quasi-yearly basis. In France, we produce a great deal… for the French market. This is wonderful, but the world has changed and the demand for series has increased, along with related costs. So, we must start thinking like the Israelis or Scandinavians: **produce for a larger audience, while satisfying the home market.** The world has changed regarding series. In recent years, this format has become the locomotive for broadcasters. As a result, we must be more demanding and act more swiftly. As professionals in this field, we want to be able to be bold. Take greater risks. Step out of classic, constraining models, learn from our neighboring markets and thus elevate the entire marketplace. The world has become smaller. It has become more connected, more educated, more discerning and also more diverse. Borders are disappearing; linguistic barriers as well. The new programmers are social media, search engines and water cooler or coffee machine talk. To succeed, France has no choice but to do more and do it better in a up-to-date system.

• **A lack of clarity**: in France, the rules which govern the relationships between broadcasters, producers, authors and screenwriters are sometimes too "opaque" and can impede efficiency, trust, innovation, market dynamism… and also the emergence of talent. I am convinced, as are many of the people questioned for this report, that the profession and its institutional representatives and unions are all ready to reset our system, not so much in its form but in its approach. **Now is the time to adapt our system to the reality of the local market and global competition.** As I write this report, for the first time in France, a platform has reached the same level of subscribers as a premium pay channel (as this report is translated for this first time in its history a non-French channel is leader of a segment: Netflix is n1 in the premium pay segment). A foreign player seriously *challenging* Canal+ head-on is unheard of since the creation of TPS. However, Netflix is challenging all the players in the French entertainment landscape; once it reaches its critical mass, new players, such as other platforms, will by default impose their system, directly derived from the US film studio model.

Like in the US, where cable channels are not subject to the strong regulations imposed on over-the-air channels by the FCC (Federal Communications Commission), platforms and new players are spared a great deal of French regulation. **With greater clarity and adapted rules, I believe we can preserve the system of French creativity, while making it more dynamic.** We can implement and adapt a creative process that works for all. **We can put writing at the center,** train writer-producers, empower writers in a system that can look to reduce hiatus time, and make transparency between writers, producers, broadcasters, distributors and institutions the foundation upon which to build this creative industry. If not, it will be yet another industry where the "uber-culture" or the "GAFANization" alters things forever, via rules created for their model, based on the American studio system, with systematic verticalization of rights. Less rights held locally means less investment and less value of the market.

• **A lack of parity**. In France, producers must comply with many rules, especially independent producers. Increased clarity seems to be a logical necessity, but so is **more reciprocity in the specific obligations. The partnership at the root of a series' creation needs to be more far-reaching: producer/initial broadcaster(s)/co-producers(s)/institutions/distributors(s).** At each stage, the producer is controlled, audited and the costs are validated. From that perspective, parity implies that *all these costs* be identified and validated: production participation, license costs and also marketing strategy/support/distribution expenditures. The French model mixes creative dynamic and strong broadcasters. This partnership is a win/win if all the participants can correctly anticipate distribution revenue (this notion is a bit different for public broadcasters, given their mission and manner of financing). To achieve this, total transparency of costs and revenues is essential.

In a second part (**II**), I will use this comparison and the experience I acquired in the context of *Le Bureau des Légendes/The Bureau,* to outline ways to potentially adapt the French system. **I propose to empower writers and to put writing at the heart of the process by importing the concept of collective writing from the United States** - *showrunners* and structured writers' rooms. I feel that all the rules governing our industry must be reassessed, with the goal of clarifying and **making them transparent for all, and revisiting the relationships between screenwriters, producers, distributors and broadcasters.** Lastly, I will suggest ways to find new sources of financing for French ongoing scripted drama series.

These recommendations are not intended to artificially protect a profession, nor to create overregulation, which would make little sense in the digital era. Their goal is to improve the French system as a whole, to enable the industry to become a global leader in the creation and production of scripted series and by extension create a European wide initiative. This is a healthy, necessary objective. I sincerely believe we can achieve it.

I

PRODUCING SERIES ON BOTH SIDES OF THE ATLANTIC

Let's be clear from the start; the exercise of comparing the American and French fiction industries might appear somewhat absurd, considering the difference in market size and financial investments. Nonetheless, the attempt is relevant to the extent that it will enable us to determine a handful of points of convergency and understand the impact these may, have both on French series and on the creative processes developed decades ago across the Atlantic. Most importantly, this section will demonstrate that American success is largely based on methods and rules that could most definitely be imported in France. Lastly, this comparison is useful in that it both explains and demystifies a mass market phenomenon: the vast dominance and importance of American TV series in our society.

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1/ THE AMERICAN INDUSTRY: WHY IT IS THE LEADER

A/ A massive, dynamic market.

The American television industry draws its strength first and foremost from the size of its domestic market. In 2016, the American television advertising market was worth 73 billion dollars. The country has a phenomenal number of channels – approximately 1800. As a reminder, the vast majority of channels are privately owned, dominated by five major networks who air their content on a multitude of local channels, which are either "affiliates" or "owned and managed" by these networks.

The first three major networks (terrestrial broadcasters), founded between the 1920s and 1940s, are NBC, CBS and ABC. Then comes FOX (1986) and the CW (2006). These channels operate over traditional Hertzian airwaves are financed by advertising revenues, and controlled by the *Federal Communications Commission* (FCC). Since the 70s, the dominance of these networks has eroded, largely due to the emergence of cable television. This technology gave birth to channels such as HBO, SHOWTIME and AMC, who waited years if not decades before getting involved in original series production. These *pay-tv* channels are not controlled by the FCC, and as a result, they enjoy much more freedom of content. They build their respective identities by distinguishing themselves from the major mass market networks, aiming to incite viewers to pay for the essential cable subscription package.

In the United States, people distinguish between *basic cable channels* like CNN, Fox News, or MTV, called *cable networks* (financed in large part by advertising and accessible via a general subscription known as "basic cable"), and *premium cable channels,* including HBO and SHOWTIME (whose access requires additional subscription fees). As everywhere, what was only a TV package at first has become a *triple-play* package, providing Internet-television-telephone service. With the arrival of digital, these types of packages have multiplied, and cable is no longer the only way to access *pay-tv*. Satellite and telecoms have been a major source of television channel distribution since the early 2000s. This explains how, in 2015, American pay-tv still generated revenues in the vicinity of 101.7 billion dollars. At a time when the Internet and *streaming* platforms are reshuffling the deck, having to pay to receive exclusive television content has not gone by the wayside in the US, not by a long stretch, although the number of "cable cutters" (those who only pay for an internet connection) has increased significantly.

To provide some sense of scale, in 2015, content investment reached 4.3 billion dollars from networks and other American terrestrial channels, and 18.4 billion dollars from cable channels. Although these enormous investments are being increasingly challenged by competition from online platforms – we will come back to this – they clearly reveal the strength of the American television content industry.

Additionally, it is important to keep in mind that the cost of a program is totally relative. The profitability of these American companies is based upon their ability to sell their content (initial broadcast) by reselling it (multi-broadcast) in the domestic market (via syndication or license) and internationally (licenses or sales). Until the arrival of global platforms, this model made it possible to recoup one's investments. Whether referring to the major studios (Sony, Viacom-Paramount, ATT-Warner, Fox-Disney, Comcast-NBC-Universal-Sky, MGM, Lionsgate) or the main TV distributors or "mini-majors" (EndemolShine, DreamWorks, Fremantle...), the concept remains the same. Distributors are the bankers/financiers for TV series and ensure *deficit financing,* or the gap between the cost of production and the price paid by the lead broadcaster to obtain broadcast rights. Thus HBO, which is both a broadcaster and distributor, guarantees rights holders a portion of the *back-end revenues* by selling its content around the world. However, Netflix, Amazon, and Apple air their content themselves in one shot and on a global scale, which seems to be emerging as a long-term trend. This GAFAN model (Gang of Four, Five and soon Eight) – or for the time being, ANA (Amazon-Netflix-Apple) – is built upon a perpetual and full rights buyout, which incites them to become more involved in production upfront and make larger financial deals.


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AUGUST 17, 2018 10:00AM PT

How Netflix Accounts for Huge Deals With TV Creators Like Shonda Rhimes, Kenya Barris, Ryan Murphy

By TODD SPANGLER

From an accounting perspective, all costs (salaries, overhead, production profits, royalties and rights) are included in the one same deal, for an agreed-upon period of rights. As a result, Shonda Rhimes and Ryan Murphy will earn $150M and $300M respectively, including rights. In fact, this is exactly what the US networks and studios have been doing for years with regards to long-term output/first look deals for their most important, creative talents. This means that these kinds of exclusive deals will be signed in France (some are already underway) with actors, authors, directors and production companies (and even studios and facility companies).

The efficiency of the US commercial machine, this yet unparalleled soft power, has flooded our culture and provided the local public with quality, volume and stylistic standards. As with film, the American broadcast model is organized like the studios, based on vertical integration (production/broadcast/distribution). This is the same model adopted by the platforms. In France, preference still goes to a *Made in France* product of equal quality. Therefore, we must modernize and adapt our industry while keeping in mind the specificities and size of our domestic market. French broadcasters are sometimes hard-pressed to understand the complexity of the equation; acquire more rights and greater exclusivity, while spending less, within the context of a market in total competitive evolution, isn't an easy feat. Most importantly, the French and European markets must get organized before the US model imposes itself as the market standard.

B/ A new Golden Age for series.

In order to better understand the US market's accelerated transformation, we must take a look at the conditions leading to the emergence of this new era of television.

Pay television and fiction was largely reinvented when Chris Albrecht became head of programming for HBO (originally a subsidiary of Time Warner and now ATT-Warner Group) in the mid-1990s. At the time, this *premium* channel's content was primarily sports and movies.

When HBO lost its exclusive sports rights (the parallel here with France is an easy one), then lost its exclusive first window of film broadcast to competitors like Showtime, Starz!, DirecTV…, Chris Albrecht decided to revamp the HBO offer by doubling the budgets for the creation of original series, miniseries, longform, documentaries and shows (talk-shows, standups and variety). These original, exclusive programs went from 25% to 45% of air time.

At the same time, HBO significantly increased its marketing budget, to distinguish itself from the rest of the television landscape: "*It's not TV, it's HBO*". This radical transformation is at the root of the channel's survival. HBO's landmark original programming (*Curb Your Enthusiasm*, *The Larry Sanders Show*, *Band of Brothers*, *The Pacific*, *From the Earth to the Moon, Angels in America, Six Feet Under*, *Rome*, *Oz*, *The Wire*, *The Sopranos*, *True Blood*, *True Detective, Big Little Lies, Boardwalk Empire*, *Game of Thrones*, *Westworld*...) attracted writers, directors and actors who, up until then, were only focused on working in film. Top talent was drawn to the demand for quality (and budgets that go with it).

This reconversion was made possible thanks to a new philosophy developed by HBO's top management, who believed that television is not inferior to the omnipotent world of cinema. The channel succeeded in standing out from the rest, thanks to its high-quality original content and the new relationship it had developed with its subscribers, whom it viewed as a demanding audience. The strength and creativity of HBO's content was based on redefining hierarchies and power relations among program creators. **Writing was brought back into the heart of production** and full creative power was given to writers like David Simon (*The Wire*, *Treme, Generation Kill*, *The Deuce*...) and David Chase (*The Sopranos*). A new **generation of *showrunners (writer-producers),*** such as Matthew Wiener (*Mad Men*), previously from *The Sopranos*, Todd A. Kessler (*Damages*, *Bloodline*), also previously from *The Sopranos,* and dozens of others all rose within the ranks of these *writers' rooms* before going on to create their own series.

And so, the creative process entered a new era. The emphasis was placed on the quality of the writing. But these high standards permeated all aspects, from casting to art direction, from technology to the image itself. Everything was in the detail, the precision, and what the Anglo-Saxons refer to as *production value*. Seeking out renowned actors and directors to take part in these projects, like Spielberg and Tom Hanks for *Band of Brothers* or *The Pacific*, Martin Scorsese for the pilots of *Boardwalk Empire* and *Vinyl*, Nicole Kidman in *Big Little Lies* (all these series aired on HBO) were part of the same strategy of differentiation, both in terms of content and production methods. This costly but profitable strategy consisted of making ambitious TV series and selling them well. Today, this very same strategy of differentiation has been copied and pushed to the limits by online platforms. It has shaken up not only the American audiovisual ecosystem, but series production around the world.

Make no mistake, this demand for quality is here to stay. The pressure is on, and even leader HBO is now forced to up its production volume to stay in the race. HBO is a studio, a major, fated to invest more just to maintain its leading position. And it can't do this alone when competing with Apple or Netflix. So now, telecom company AT&T has stepped in to provide the necessary cash, in exchange for a tripling of production volume in 24 months, a condition probably imposed in order to make way for an OTT package offer (as this translation is done HBO Max is set to launch in the months to come), like the competition. Richard Plepler, HBO's then CEO, summed it up well, "*I never want to have to say no to what we want to say yes to.*"

When I worked with Pierre Lescure at Canal+ between 1994 and 2000, our greatest fear was the possibility of being disintermediated, cut off from our main suppliers (the American film studios), despite the monopoly we enjoyed as the only French pay-TV channel. That was the original reason behind the strategy that I initiated with the Vivendi-Canal+-Universal merger in 2000: to establish and safeguard a Hollywood source of television and film (and music) with a massive catalog that would complete what we already had at StudioCanal. The trigger: AOL, the GAFA at the time, had decided to merge with Time Warner, thus creating a direct link between the producer and the consumer. Today, Universal is an American company once again, owned by NBC-Comcast-SKY. But who knows, maybe one day it will come back to France, and turn the tables once again…

It's fun to travel back in time. This was on the cover of Variety (the reference trade publication) in 1979. But it could also be this week's cover, exploring the profound changes within the business:

FILMS | VIDEO | TV FILMS | RADIO | MUSIC | STAGE

VARIETY

PRICE $1 NEWSPAPER Second Class P.O. Entry

Vol. 296 No. 8 — New York, Wednesday, September 26, 1979 — 96 PAGES

PAYCABLE RATINGS CHALLENGE WEBS

Alberta Hosts 6 Pix Budgeted At $16,700,000

By GRAHAM HICKS

Edmonton, Sept. 25.

MANILOW ORIGINAL STRONG AGAINST BIG PIX

By LARRY MICHIE

EMI Mulls Sale Of Scanner Div.; GE Mentioned

Today we could replace "cable" by "platforms." This cycle of change took place within barely one generation.

C/ An integrated structure and enhanced efficiency.

The American series market is structured around major media groups, or even multi-media

groups (between telecoms, cable companies, operators, outdoor advertisers and *pure players*), with a vertical integration/concentration strategy that has been accelerating since the 90s.

In 2018, a group like Disney owns not only a television studio (ABC Studios), but also a network, ABC, where certain channels are controlled by ABC and others are affiliates (depending on the size of the market), in addition to cable channels (including sports network ESPN) and, of course, the Disney channels. This allows Disney to produce in-house the content that airs on its channels - an example of integration pushed to its limits. And now, the group has doubled in size; Disney has just swallowed up 20th Century Fox, along with its studio and networks, and is presenting itself as an alternative to Netflix by launching its own platform, Disney +. The same is true of WARNER. Content is now at the center and has become the rare and costly commodity that bandwidth used to be.

In addition to these giants, we should mention CBS Corporation, owned by VIACOM (parent company of the CBS network, the cable channel SHOWTIME, MTV, an outdoor advertising group, movie theater chains and Paramount Studios), Time Warner, which is now ATT-Warner (who owns HBO), Comcast (NBC-Universal-Sky) and Sony.

This global phenomenon has led to the integration of the entire creative and financial process within these media conglomerates, from initial project acquisition via production companies, straight through to broadcast. Whereas in the past, a studio could feasibly produce a series that was aired on a channel owned by another group (for example *Dr. House*, produced by Universal for Fox, or *How I Met Your Mother* produced by Fox for CBS), this practice has waned since the 1990s.

The ability of these American terrestrial networks to produce series in an integrated - therefore rapid and coherent - manner is also linked to extremely precise schedules and decision-making processes. The pilot, also known as the first episode of a series, is traditionally produced after a very strict selection process that takes place annually.

- **July-October**: series projects are verbally pitched to the networks, and a very small number are judged sufficiently interesting to warrant funding the writing;
- **November-December**: the writers involved in the project write the pilot episode;
- **January**: each network options 15 to 30 pilots, which are shot before the beginning of May. Only 4-8 of these filmed pilots are picked up by each network. Pitches and pilots for mid-season (summer season series) take place as well;
- **May**: selected pilots are presented to advertisers and press during *upfront presentations* (a big New York industry event);
- **June**: production of the series' season formally begins;
- **September or January**: on air.

And the cycle doesn't end here. Two thirds of new series are canceled at the end of the first season, if not sooner, due to poor audience figures! Although this seasonal structure has become more flexible, it is the source of at least two features of network-aired series: 1. season length (each season of *Grey's Anatomy* or *Once Upon a Time*, aired from September to May on ABC, is 22-25 episodes long), and 2. the existence of "program intersections". Shows are aired at a set time on all networks - 7pm, 8pm, 9pm, 10pm - which allows the viewer to channel surf between networks without missing the beginning of another program.

The networks buy licenses, otherwise called broadcast rights, which are generally a license for the first exclusive broadcast window. This first window can be relatively short (depending on the channel and the deal), but the assumption here is that the license fee is the result of a simple equation: a return on investment for the exclusivity via advertising, multiplied by the value of the brand as relevant to the identity of the channel/identifiable franchise (ROI x ID). *Scandal* and *Grey's Anatomy* for ABC, and *Big Bang Theory* for CBS, are a huge audience and financial successes, but also in terms of channel identity. This makes them "lead-in" programs for the evening broadcast segment, where scripted series are aired back to back from 7pm-11pm. The goal is to hold on to the viewer as long as possible.

In parallel, American cable series destroyed this rigid framework, starting with the schedule. Totally outside the pitching process, pilot production and presentation to advertising media (excluding *mini-pay* channels AMC, FX, TNT...), these series can be aired at any time of the year, including the summer. Their seasons tend to be shorter, usually 8-13 episodes. Above all, and this is an important point, these series can be much more expensive to produce than their network counterparts. A one-hour series aired on a network costs an average of $3.5 million, whereas an episode of equal length in a cable series can cost up to $4.6 million per episode (*American Horror Story* season 3, on FX), going as high as $10 million or more for blockbuster HBO series like *Game of Thrones* and *Westworld*.

The premium channels and platforms are currently at war. Amazon paid $100M for the rights to *Lord of the Rings*, with a per episode estimated budget of over $10M. Netflix signed an exclusive deal with Ryan Murphy (*Glee/American Horror Story*) for $300M and with ABC's star producer, Shonda Rhimes. These figures include production costs, margins, producer salaries and rights. Facebook Watch is getting into original content production, as is YouTube Red and Premium. They all use the same development organization model and comply with the same WGA guidelines. It is highly likely that Katzenberg's (ex-DreamWorks) new short film platform, Quibi, will follow the same system, exactly in the same niche where the French initiatives Studio+ and Blackpills failed.

Platforms (Netflix, Amazon, Apple, Hulu, Facebook, YouTube…) are outshining the studios through the enhanced integration of the whole creative chain, from production to exploitation. However, this concentration and vertical integration comes at a price; talent, ideas and series exploitation costs money. Long-term rights windows are very expensive. The market is enormous and insatiable. Star talent must be paid for, and new talent must be discovered… lots of it.

D/ Strong unions and clear rules.

In the United States, anyone working in entertainment belongs to a union; this is the prerequisite to being integrated into the market. Each field has its own union and manages its social and financial transactions, in addition to the rules and regulations that govern interprofessional relations.

- SAG-AFTRA: *Screen Actors Guild* - the actors' union
- DGA: *Directors' Guild of America* – the directors' union
- Teamsters, IATSE: multiple unions for technicians and services
- PGA: *Producers Guild of America* – the producers' union
- WGA: *Writers Guild of America* – the writers' and screenwriters' union

These organizations establish precise, strict, transparent rules. Advisors are available to answer members' questions. Some of these unions not only regulate within the industry, but they also collect payment from affiliated companies. This little-known aspect is a barrier that can protect the domestic market against foreign productions.

The strength of these unions is a crucial factor in the negotiations with the studios and large media groups. The WGA (merger of all the writer/screenwriter guilds in the US) has about 20,000 members and handles the general administration for rights collection. Its phenomenal power was illustrated during a strike in 2007-2008 (or today's conflict with talent agencies). In 2007, the WGA, the studios and the media groups could not agree on a new standard contract (*MBA - Minimum Basic Agreement*) aimed at establishing new minimum fees and a fairer split between writers, on the one hand, and the media on the other. Every single guild member went on strike from November 5, 2007, through February 12, 2008, halting the production of films, series and various programs. These 100 days enabled everyone to redefine a new era of collaboration.

That was 10 years ago… France needs to raise these same questions today.

When it comes to writing series, the WGA sets the rights and obligations that apply to everyone. The guild makes sure that each writing assignment gives way to:

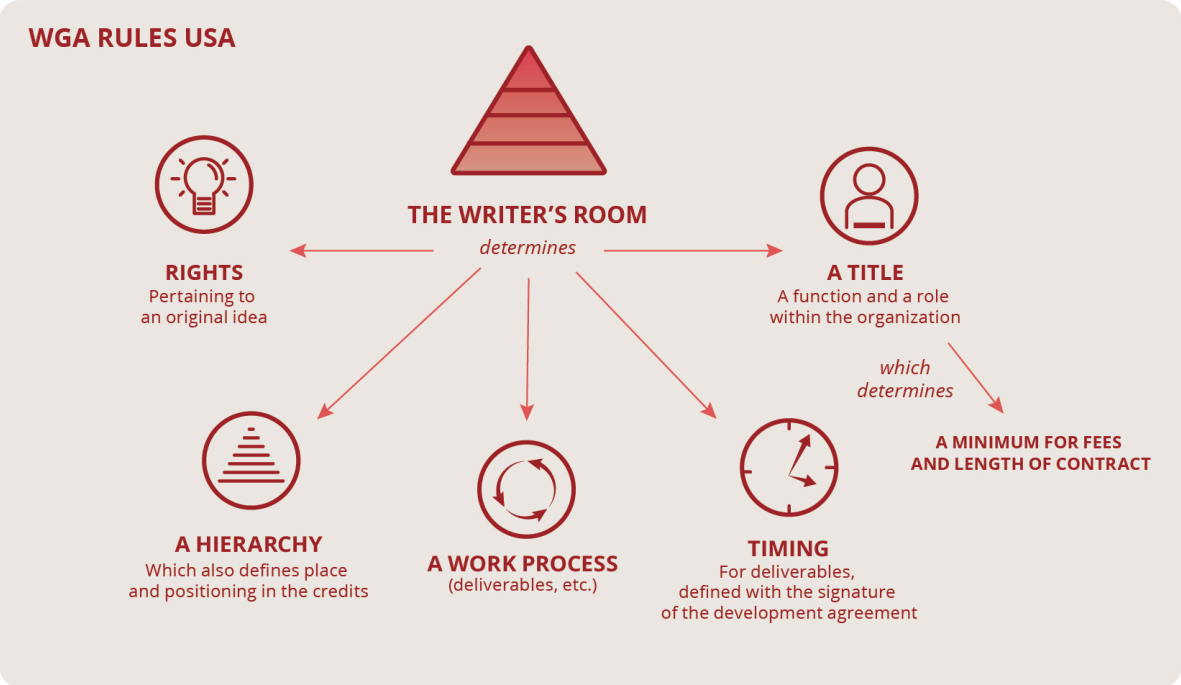
● a set of "*creative rights"*, which gives writers a form of authorship of the work ("a film by…" etc.) in addition to the c*redits*; how names are mentioned in the film credits (placement, position, size)

● a role in the organization and management of writing: the role determines positioning in the credits, minimum pay and contract length, and all other related compensation (salaries, royalties, rights).

● a title that confers a position in the production hierarchy, granting responsibility that goes beyond the writing, including how it is translated onto the image, and within the schedule and the budget.

The following chart describes the organization of the "writers' room", according to the WGA, and shows how everything is standardized from the top to the bottom of the ladder.

The framework agreements arbitrated by the guild are renegotiated every three years. They clarify writers' and directors' financial rights, define minimum fees and arrange for the payment of "*residuals*". These are complementary payments to writers for all secondary exploitation of their work (sale to a channel, international sales, video, etc.) in the United States and around the world. These *residuals* are collected from the producers by the guilds (WGA, DGA, SAG...). They are the fruit of contractual negotiations and depend upon each party's negotiating power.



Let's invent an example to illustrate this concept: Bobby Z, a writer, creates a concept that he calls Project Z. He wrote and detailed his concept based on an original idea. If other people contributed to developing this idea, even without writing anything, it will be decided that it is "based on an original idea by Bobby Z and Joe Y, written by Bobby Z". The WGA determines each person's contribution to the writing. As Joe Y wasn't a writer on this project, he will have a production role (NWEP – *Non Writing Executive Producer,* but in the credits, he will appear as an *Executive Producer* – this is why there are so many *Executive Producers* on American series' credits, which don't differentiate between "writer-producer" and "producer"). For example, a screenwriter can be credited as a "producer." A title is determined according to the person's role in a hierarchy, according to a pre-defined chart which everyone is familiar (writers, screenwriters, producers, broadcasters, distributors…).

Now, let's say Bobby Z writes and also supervises the writing. As a WGA member, he will be entitled to a minimum weekly salary for a precise and predetermined length of time, as well as rights (those famous residuals), as defined by the current WGA scale. These rights are part of the negotiation and are admissible depending upon the agreements between all parties: producers, studios and broadcasters.

Bobby Z, who wrote the story arcs, the bible and the pilot script, who pitches to the broadcaster and/or the studios, will be considered to be the "showrunner". This means he will be the writer/producer or head writer in a team of writers. He will choose his team, which will be approved by the studio and broadcaster.

The showrunner/executive producer (writer-producer or head writer) is the link between writing and making the series, in other words, between conception and production.

His title will be ***Executive Producer***, and he will be **the series' creative head.** This title will determine the following, in a precise, clear manner:

● His minimum weekly salary in the writer's room as writer-producer or head writer (the agent determines Bobby Z's additional value over the union scale, based on his past experience and successes, mostly for the production phase, meaning after the show has been *greenlit* (agreement for development and production).

● His proportionate compensation (*residuals)* and his royalties/copyright (*exploitation)*

● His work conditions: overtime wages, days off, etc. so he can follow the production, which has no set work limits.

● His work structure: once an agreement has been reached for the writing of the pilot or another episode or script, the writer must write two draft versions of the script. For each scripted version, feedback in the form of precise written notes must be returned to the writer. Once the two versions have been turned in, the studio or the broadcaster can ask for two "polishes,' i.e.. minor changes which do not modify the structure of the script. **This process forces everyone involved to be precise and reactive in a limited time frame.** If there is a need for additional work above and beyond these deadlines and drafts, another negotiation must take place.

● A schedule for deliverables: everything must take place within a short timeframe, which obliges the writers, screenwriters, studios and broadcasters to work quickly. This schedule is determined upfront, within the context of the development agreement.

The WGA is empowered to establish this complete framework, covering everything from the birth of the idea through to rights payments. This framework applies to all those who sign agreements with the various unions, but in reality it benefits the entire industry, because it creates clear standards which are respected by all.

The US market is unified by a language and culture, and protected by strict rules which are transparent and mandatory for all. The stability of the domestic market allows the American industry to recoup and make money from investing in projects, to innovate and to export globally.

In France and in Europe, we have everything we need to build a comparable market in terms of size and quality, but we must structure ourselves in this fashion, with regards to process and necessary investments (programs and infrastructure). Thanks to the structured nature of its industry, France has an opportunity to be a catalyst in Europe, establishing the processes and defining a common set of rules to govern copyright and development and production structure. Our financing models must follow this evolution proportionately. Being bold also means daring to be demanding, and seeking out necessary innovation… And just like in the US, being allowed to make mistakes.

In France, it is time to establish clear minimum standards for the whole profession that regulate each stage, from creation to exploitation. We must get up to speed, without distorting our system or our culture and how we manage it. Through their system, the Americans have found a common language for everyone in this field. It is comprehensible, transparent, and updated every 3 to 5 years… The creation of common standards saves an enormous amount of time and increases efficiency, while giving each individual the freedom to adapt and innovate within its guidelines.

2/ The French context: why it is behind

A/ A restrained market.

The French television market is clearly smaller than the American market, but more to the point, it is lagging behind its neighboring European markets. In 2016, its value was 11.7 billion euros (including advertising revenues, subscriptions and public funding). This is less than the British and German audiovisual industries, which were worth 18.4 billion euros and 18.1 billion euros respectively, in the same year.

Considering that the first terrestrial free private channels, like TF1 and M6, were created during the 80s, and that cable and satellite represented new program sources, it wasn't until the launch of Digital Terrestrial Television (DTT) in 2005 that the viewer could have free, unlimited access to multiple channels. Although this sudden and delayed appearance of a competitive environment has boosted the advertising market, it hasn't yet had an impact on the financing of France's original fiction. As explained by Stéphane Le Bars of the USPA, the French producers union, *"The French fiction market hasn't evolved in ten years. We have stagnated at 900 produced hours per year and 500 million invested by French broadcasters annually, while the global market is growing significantly."*

This stagnation translates into a significantly lower annual volume of fiction than that of our neighbors. After years spent under the bar of 800 hours produced annually, France almost reached 900 hours in 2016. During the same period, the UK was at over 1600 hours annually, and Germany, 2000 hours annually. France will need to wage a volume war if it wants to remain globally competitive and save its audiovisual production from drowning in today's tidal wave of content. This metaphor should come as no surprise, at a time where the heads of American cable channels themselves are issuing warnings over the "peak TV" phenomenon. In the United States alone, the number of series produced per year has reached such heights (487 in 2017) that it has become impossible for viewers to keep up with the pace, raising doubts over this "gold rush". Then again, the bubble isn't about to burst just yet, given the public's vast, ongoing demand for scripted series.

This structural weakness, which doesn't only affect public channels, is notably the result of industry choices made in the 80s, when the sector was opened up to privatization.

The first choice pertains to Canal+, the premium pay channel founded in 1984, which was the sole player in the pay-tv space for a long time. By virtue of this, Canal+ generated fewer subscribers than its European neighbors. In fact, similar to Sky, Canal+'s model was based more upon its quality of programs aired than quantity. When Sky reinforced its distribution, high-speed access, and other services included in a box boasting over 10 million subscribers in the UK, Canal's way of innovating was to cultivate its premium heritage (like HBO). Today, Canal's support of French cinema has decreased, and the channel has lost its exclusive soccer and sports deals. Yet, Canal +'s original series production is still a benchmark within the world of ongoing French series. Canal has started its transformation via its SVOD offer, myCanal. However, it still needs to clarify its position by prioritizing innovative culture and investment in the talent and franchises it created.

Two important factors should be taken into account. One is **the small contribution to France's public audiovisual service, in comparison with our neighbors. The other is the mandatory taxation on all new screens and new players in the French market. Another debatable factor is the expanded advertising resources of the private channels.** In order to generate profit from heavy investment in content, and more specifically in ongoing scripted series, the funding sources must be adapted accordingly.

Most importantly, the market's newcomers, the platforms, must be integrated into these financing models. **This calls for the implementation of simple rules and requirements, which must apply to anyone operating in France without exception, even if their head offices are located elsewhere.**

B/ An overall framework that should be improved

a) The inadequate contribution of subscription platforms toward financing content creation.

The system of obligatory financing has fostered the production of highly diversified and qualitative film and audiovisual content. By virtue of its first mover status in the marketplace, Canal+ became French cinema's main financier. To comply with its commitments to the State, Canal+ reinjects a percentage of its revenues into domestic production (roughly 10%). In exchange, it retains the right to be the initial broadcaster for the films it has funded.

All French channels finance fiction through mandatory investment. This is above and beyond their commitment through broadcast quotas for "audiovisual content"; channels must air at least 60% European content, of which 40% must be original French language during prime time slots. This is a wonderful model, but it is primarily structured for the linear, traditional channels.

But the younger generations are challenging this linear vision of how TV fiction is viewed/consumed. Although they adore ongoing scripted series, millennials are also the first to live by the credo WIWWIWWIW (What I Want, Where I Want, When I Want).

Investment obligations for French creation must urgently be standardized between all operators. The platforms must also contribute to our model by feeding into the system (obligations, investment funds managed by the CNC, collective administration…) and following our rules.

An important step forward took place when these players became subject to the taxation that finances the support fund managed by the CNC. But we must go further and **establish true equity in the content financing requirements of all operators.** This includes support funds, investment obligations, protection and support of independent domestic production, copyright**…** Herein lies the challenge with the upcoming directive on audiovisual media services.

When a foreign player wants to enter the American market, not only is it subject to FCC (Federal Communications Commission) rules, but it also must comply with those of the various guilds (unions). Everyone who wants to write, produce, distribute and broadcast must sign the agreement. If you want to air a show written by an American author, you become subject to the American rules. If you want to broadcast in the US market, you become part of a specific system. This relationship must be reciprocal. If not, the French market will be subject to rules imposed by foreign market leaders and the same applies by transitivity to all European Union markets.

b) <u>A culture of TV movies versus series.</u>

At the same time, the editorial model of TF1, the leading channel privatized in 1987, encouraged the development of TV movies. TF1 established the "90-minute format", closer to film than series. This longform content format, with self-contained plots yet recurring characters, had real influence on the entire French television landscape. Given TF1's dominant market audience share and the success of its productions, other channels were encouraged to copy this model. Following TF1's *Navarro* and *Julie Lescaut* came other public service channel productions such as *L'Instit*, *Louis la Brocante* and other TV movies. These productions, with their positive protagonists geared to please the mass market, are a direct consequence of the ecosystem we just described. This is not a value judgment, but simply the result of an industry evolving in a closed circuit, which hasn't yet cut loose from the film industry's production models and formats. TF1's first priority was to satisfy its audience, who was not yet accustomed to modern American series, whether from networks or cable channels.

In simpler terms, France Télévisions and TF1 need to satisfy their core audience, which is older and looking for traditional formats, while simultaneously appealing to a younger public, who want ongoing series that are creatively more innovative and ambitious. Both the BBC and the ZDF managed this bipolarity relatively successfully, with courage and conviction… and high standards. The BBC **created BBC Enterprises and BBC America (in partnership with AMC Networks), to be able to avoid certain public service constraints and have more freedom to put talent and creative innovation toward ongoing series that were better adapted to the market, more specifically the US market. This is the case with *Killing Zoe*, for example, comprised of eight episodes per season rather than six, with an international cast (UK-US). In the case of the ZDF, its privileged partnership with Scandinavian operators and the EU's Media fund allowed the "*Nordic Noir*" genre to benefit from a financial and commercial model which resulted in accelerating the penetration of original content within a multi-domestic model (satisfying locally with creations of international quality and ambition).**

c) Drawbacks of the separation between broadcasters and producers

French domestic fiction has been a long-standing victim of another major structural issue: the clear separation between broadcasters and producers. To foster the emergence of a solid independent production market in France, production quotas were associated with an obligation for broadcasters to allocate roughly three quarters of their annual investment to "independent" production entities. In other words, companies that are external to the broadcasters and have no capitalistic connection to them. For France Télévisions' channels, this "independent production" obligation even went as high as 95% of its investment over a given period.

This ecosystem, founded entirely upon broadcaster requirements and the obligation to turn to external companies for fiction production, became more flexible in 2010. The logic behind this evolution was obvious. Broadcasters, forced to finance productions whose rights they didn't control once first broadcast had taken place, wanted to regain control of the distribution of these programs. Most importantly, they fought for the ability to produce in-house, or at least have coproducer shares in the programs largely funded by them.

This regulatory separation between broadcasters and producers came to an end in 2015-2016, and allowed TF1, France Télévisions and Canal+, to retain coproducer shares and even produce their series in-house. Now, when a broadcaster funds more than 70% of a production, it retains coproduction shares. The percentage of "dependent" productions is now 17.5% for France Télévisions and 26% for TF1. And this evolution has made it possible for France 2 to produce its long-running daily series, *Un si grand soleil/A Sun So Bright,* via its own production subsidiary, France.tv Studio.

Thus, this complex ecosystem that regulated the relationship between broadcasters and producers from the late 1980s through 2010 has had long-term consequences on domestic fiction, and more specifically, on scripted series. By strongly limiting in-house production, these rules failed to encourage broadcasters to innovate, given that they had no financial stake in the success of these programs following traditional linear broadcast.

The goal going forward is to **make series that are creative and industrial long-term successes, initially within the domestic market, and then to shine around the world… like feature films do.** French players must embrace this concept.

d) <u>The impact of American competition</u>.

At the same time, French fiction has been subject to serious competition. The onslaught on the main channels of programs from the other side of the Atlantic, during prime time no less, in the late 90s and in the 2000s (beginning with *ER* on France 2 and *CSI* and all its franchises on TF1 in 2005) constituted a major turning point which marks the beginning of the "French fiction crisis". In other words, domestic production experienced a rating freefall when faced with these successful American series.

The counterattack, mounted in a staggered manner by different French broadcasters, took several years to pay off. But the return of domestic fiction to the top of audience ratings, as of 2015, was a sign of hope. Whether via Canal+'s "Original Creation" series label, TF1 and France Télévisions' transition to a 52-minute format, or original creations aired by Arte, OCS and more recently M6, progress is tangible and a source of optimism. **French fiction has even gained international recognition in recent years, with the export success of *The Returned, Call My Agent!, Spiral, Witnesses* or *The Bureau,* and also with English-language productions like *Versailles*, *The Young Pope* and the *Narcos* format from Gaumont.**

e) <u>A poorly adapted financing structure</u>

Despite these few rays of hope, we should not lose sight of the challenges inherent to producing innovative series in France, largely related to the way in which fiction is funded. In the industry's current state, the channels finance approximately 70%; the remainder comes from CNC subsidies (writing grants, development and production grants from the audiovisual support fund – selective and automatic – for producers), Sofica contributions, funding from regional and European institutions and the occasional brand, minimum guarantees from distributors, distributor advances for development, foreign financing, and sometimes producer profit margins. The lack of qualitative emulation, raised by many professionals, can be attributed largely to the small number of channels, which are the main financiers of French audiovisual content. And these channels have such disparate editorial profiles that a project turned down by one broadcaster can't be pitched to another. This

situation is changing in the new audiovisual landscape, with the arrival of the platforms and their ever-increasing need for content. The Audiovisual Tax Credit has also reshuffled the deck. Through this initiative, the country's entire production chain can be restructured, which should lead to increased volume.

Additionally, unlike what exists in the American industry, there is no seasonal element to French series production. And in Europe, where our programs are sold, there is no *pitch* schedule. Nor is there a particular calendar for turning in the first written episodes to the channel, and even less so for shooting pilots. As outlined on page 16, the major networks and cable channels in America follow a precise calendar for new series, so they can present their lineup to advertisers upfront. This doesn't apply to the platforms, who need "fresh content" on average once a week, given that their programs are their advertising. In order to create a desire to subscribe to their varied content menu, their initial offer must be based on quantity.

However, our goal here is to defend the need to implement a more reactive, standardized structure in France. This would save time and mobilize writers-screenwriters more efficiently, which in turn would make development a more profitable undertaking.

Because of the intense competition in the US, when a new project is released into the market, it makes the rounds in one week. The producers-showrunners and their agents organize a series of meetings. A "pitch" lasts about one hour. Either the idea or concept is "bought" right then and there, and the channel decides to develop the show in compliance with specific market standards and schedules, or the channel passes, and the idea is pitched to the next broadcaster. Within 2 weeks, it is clear whether or not a project will happen. A pilot submission is usually reviewed over a ten-day period. In terms of the French market, the idea is to make our system more reactive and put an end to waiting periods of months, if not years. To make this concept more tangible, I have come up with a process which would fit within a specific time frame (p.42). Offer more, more quickly, with better financing. As I often tell writers, we already have the "no"; the "yes" is what we want to hear, as quickly as possible. Faster and more precise next steps.

Current broadcast competition accentuates the need for a more ambitious financial structure. We cannot demand additional rights for longer periods without offering matching remuneration. The US system shows us that the broadcasters/distributors, and now the platforms too, are defining market prices. A balance must be found should the norm become additional verticalized rights, longer terms and more distribution mandates for distributors/broadcasters. The deals for producers need to be more balanced by contractually indicating the split/price paid for rights acquisition/license, value of purchase of the distribution rights of the program as well as the breakdown of all other components of product acquisition. Every aspect needs to be clearly separated so that all participants are fairly compensated within

the author rights and asset value system.

f) A complex public service system

Given that competition between broadcasters is virtually non-existent, it is worthwhile taking a closer look at the role of public service television. The striking fact is that the European countries whose series have had the most impact in the global market in the last decade – the UK and the Scandinavian countries – have public service channels which are both powerful and editorial *leaders* in their respective markets. One specificity of the French market is that its public service – particularly the France-Télévisions channels – is not always a driver for local TV fiction programming. Its missions include daring to move away from classic formats and offering more diversity, always striving for excellence, taking risks and innovating. This means being able to be free itself temporarily from the weight a purely ratings-oriented programming mix catering to an older existing, more mature audience, while dedicating time and energy to three essential principles: produce more, do it better, and market better their identifiable shows. To accomplish this, marketing needs to be further into the production process, which in turns will create brands and generate value. Yes, shows are brands!

To this day, the editorial strength of France's public channels resides not only in their series, nor even in their one-off fiction TV films, but in their investigative magazines and exclusive reports. These are driven by independent spirit, a rare commodity within our audiovisual landscape. It would be hard to imagine *Cash Investigation* or *Complément d'Enquête* on private channels, because of the potential impact of these programs' industrial and financial revelations on the channel's advertising revenues (that's the strength of not being totally advertising driven).

Of course, it would be unfair to say that the public service has never innovated in the area of fiction. Proof to the contrary is the creation of the weekly Friday "police thriller" slot, starting in the 90s, with series like *P.J.* and *Avocats & Associés,* or the relatively bold creation of an *access prime time* slot just before the 8pm nightly news. This format was determined by the available airtime (6 minutes) and gave birth to the iconic *Un Gars, Une Fille* and other *short-coms* on France 2 and M6.

In reality, the absence of editorial continuity, due to frequent staff turnover within the drama departments, is the main criticism of certain producers and screenwriters. In the same vein, the lack of risk-taking, at least in the second half of the prime-time segment (10pm), is somewhat in opposition to the desire expressed by different executive teams in 2017, through a "Creative Plan" aimed at increasing the volume of French fiction and guaranteeing better on-air exposure. The increase in the number of serialized shows - with more complex intrigues than the "procedural" police and medical series - is undeniable.

This is particularly obvious since 2015, the year France 2 aired the initial seasons of *Witnesses*, *Chefs* and *Call my Agent!*.

However, this evolution is taking place too slowly in the opinion of many screenwriters and producers, who believe that **risk-taking should not be an exception on public service channels, but rather the guiding principle,** at odds with the fear of failure their status theoretically protects them from.

As French producer Fabienne Servan-Schreiber so rightly reminds us, *"The vocation of public service television should be to reveal talent, choose daring subject matter, display civic responsibility, mark the public debate, and take risks; yet, it does little of any of these things. The heads of the fiction units with intuition should be given more authority, their teams should regularly evolve and be encouraged to push the limits of creative excellence in all genres, even the most conventional and formatted ones."*

This means starting a revolution, from the inside out. The arrival of a new team around France Télévisions' current director, Delphine Ernotte Cunci, is perhaps a sign of this growing awareness.

The seasonality of series is also a challenge, and the public channels are not immune to the serious lack of industrialization. Despite positive audience reaction and reviews, a year and a half went by before *Call My Agent!* and *Chefs* returned for a second season. This jeopardizes the audience's loyalty. Creating desire, making the public want to come back for more, rediscover the characters, and reinvest emotionally is a good thing. **From this perspective, a standard timeframe should be defined for series' hiatus, with a return to air within a maximum of 18 months after Season 1 and subsequently after every season.**

This calls for a specific organization within the writers' room, and more importantly, starting development of the next season much earlier on. The public service must take these risks in order to build brands and establish them for the long run.

Only crime series, with their recurring characters and their repetitive format of one new case per episode, have been truly successful in the past decade or so. The yearly return of TF1's *Research Unit* and *Profilage* and France 2's *Chérif*, *Caïn* and *Candice Renoir* are proof in the pudding of the French industry's ability to respect the seasonality of series.

C/ Opaque legislation that weakens the entire ecosystem

Contrary to the United States, the French rules that govern the interaction between producers, distributors, broadcasters, writers and screenwriters are still too unclear, even if significant progress has been made these past years with transparency agreements. This situation weakens the whole ecosystem and benefits the American giants who are able to impose their methods notably in the light of the platform age, studio vertical integration and the copyright model. The ambiguous role and status of writers and screenwriters does not encourage these professionals to innovate or defend

strong, original points of view. As a result, they are never really in the competition or able to collaborate with foreign writers. What is the solution?

All those working in this sector and this ecosystem, especially writers and screenwriters, have everything to gain from the implementation of rules that more clearly outline missions, objectives, processes, deliverables and schedules. Aside from the development agreement signed between France Télévisions and the industry, there are no rules that apply to the scripted sector as a whole. There is no general framework for defining timing, deliverables, development organization, the number of drafts broadcasters can demand, how long they can take to provide feedback, how they provide feedback nor the rights and obligations of each individual and production template. **The entire process leading up to the production** *green light***, when the broadcaster gives his agreement to move forward and shoot the series, remains to be precisely defined.** How many French screenwriters have had broadcasters ask for twenty rewrites on a script, only to hear in the end that their project won't happen or is no longer in sync with the channel's editorial position?

Historically, writers and screenwriters were paid fees, like lawyers. This pay structure ascribed value to the job of developing and writing scripts. In 1977, the AGESSA (Authors' Social Security Association) modified this legislation by putting in place a derogation system based on droits d'auteur (author rights) by affiliation. The estimated value of future program exploitation by broadcasters now replaced a fee structure for services rendered. In practice, the payment calendar for writing services too often exposes the writer to risk during his creative work, especially at the very beginning. And if additional compensation is anticipated after investment recoupment, unfortunately this money is rarely distributed.

Furthermore, the exchanges between the SACD – Société des Auteurs et Compositeurs Dramatiques (Society of Dramatic Authors and Composers), broadcasters, and producers on the subject of collective management and administration of rights remains complex. Without clarity on all the factors of the equation, the broadcaster can pressure the producer to lower the "writing" budget of a series, arguing that the writer and screenwriter(s) will be compensated through collective rights management (droits d'auteur in France are paid to the writers by the SACD in a that deal negotiated directly by the SACD with all broadcasters-the producer does not know the details of what the writer receives besides the payment made to write – to simplify all residuals are known only by the writers, the broadcasters and the SACD). Producers are unfamiliar with the details of this system, whether it be the value of each media agreement or the SACD's distribution scheme.

If this information were public, as is the case with the WGA, this would help clarify relations between all the links in the chain; the entire system would benefit. Nonetheless, this transparency would have to be carefully monitored to make sure it doesn't undermine its goal: fair compensation for writing assignments, which live up to the creative ambitions of series.

These challenges, which impact on the entire industry, are at the heart of the interprofessional discussions on the subject of transparency. Going forward, everyone must contribute to building a new ecosystem.

The comparison between the United States and France demonstrate that the latter can progress in many areas. Clearly, America's dominant position in the world of TV series creation isn't just a product of its market size. It is also the result of a clear-cut, transparent set of rules that organize relationships between institutions, broadcasters, producers, distributors and writers. In the following section, I propose to show how France can also clarify and simplify the standards and processes of TV scripted drama series creation.

Clarity of new rules, transparency of practices, efficiency in a streamlined process from conception to broadcast, elevating the standards to what audiences are now used to, implementing the idea that a series is a fragile brand that needs to emerge in a very crowded environment, keeping a majority of the asset domestic…all these aspects are what we need to think about NOW. By having a better and more coherent system, we have one thing to gain: creativity. It all boils down to time, having a better process means not wasting time by reinventing the process for each project but by building a project within the most efficient process.

Through observing methods developed across the Atlantic, Eric Rochant and I were able to rethink the development and production of five seasons of *Le Bureau des Légendes* /*The Bureau* over the past six years. These methods are those that enabled us to deliver one season approximately each year, maintaining very high standards throughout. I would like to share this experience so everyone can, if they so choose, be inspired by it.

II

REINVENTING THE FRENCH SYSTEM

In recent years, there have been a number of successful French series. *Le Bureau des Légendes/The Bureau, A French Village (Un village Français), Call My Agent! (10%), Spira (Engrenages), Capitaine Marleau, Research Unit* and many others are proof that it is possible to write quality series and attract a large audience. It is even possible to keep that audience captive for several seasons. **The French like French series. As for every country in the world: with equal quality, audiences will always prefer local content that matches local culture.** Among the last year's ten highest rated series, nine are domestic and only one is American, with the lion's share on TF1. At the same time, our series are being exported more and more. Revenues from the international sales of French series doubled between 2013 and 2016.

However, there are still many areas of improvement for French series: a lack of industrialization, an ecosystem with too few financing outlets and no real form of qualitative emulation, no strong seasonal schedule, risk-averse broadcasters, and unclear rules all along the creative chain. This assessment somewhat darkens the very bright picture that has been painted since series have enjoyed a return to favor with local audiences.

To allow strong points of view to emerge, to enable our writers to defend their vision, the French system must be reinvented, with the writing at its center. We must clarify our rules, empower all the players in this ecosystem, and find new sources of financing. It's time to grab the bull by the horns and stop waiting for new players to change our market forever, imposing their rules and methods in this new era of series.

1/ Put writing back at the center

A/ One ambition: writers & screenwriters at the heart of the creative process.

If it's not on the page, it won't be on the screen. The writing is the starting point of everything. The excellent 2011 Chevalier mission report he wrote for the CNC clearly identified this issue. *"…the first phase of a television series revolution in France must involve reasserting the role of the screenplay and the writer. The success of series has profoundly changed the balance between the various players in the entertainment industry, pushing screenwriters to the forefront. (…). A series' success depends upon the imagination, talent, and creative freedom of the screenwriter/creator and his team. This holds true for both long and short formats, and even more so for those considered "low cost", but we will come back to that. In the major series-producing countries, the job of the writer*

has become more complex. It has branched out and been structured through the establishment of the incredibly effective writers' room system. This special organization reflects new responsibilities given to writers, at the heart of series writing. Conversely, France still has a culture – bordering on cult – of the director and actors, inherited from the film industry."

To develop yearly recurring series, it is essential to place the writer-screenwriter at the heart of the project and rely on the "screenwriter/producer" duo, as mentioned in the Chevalier report.

The producer and the writer, the producer and the screenwriter, and more specifically the writer-producer or *head screenwriter* (thank you, Benjamin Dupas), also known as the *showrunner,* must work together seamlessly. Their roles must be clarified upfront, and each needs to keep within the boundaries of their role. The showrunner should have the last creative cut. The producer needs to ensure that the actual production is coherent with the vision of the writer, who is the creator. The executive producer sees to the proper execution of all financial and legal aspects. These three roles are interrelated and require total trust and transparency. Each one must complement and understand the others; they must have mutual respect for their work. The producer must understand the assignment and constraints of the writer and screenwriter, and vice versa.

At the same time, the writers and screenwriters must be empowered in their work. Their role must be revisited from top to bottom. The goal is not to protect them, but to make them face the relative harshness of the commercial nature of their writing. The producer should no longer be a buffer between writers and broadcasters; in fact, she/he should be the connection between the two, making sure the two communicate, understand one another and advance towards a common goal. To illustrate this point, I want to raise the specific case of *Le Bureau des Légendes*/*The Bureau.* The network, Canal+'s Original Creation, accepted both Eric Rochant's original idea of *The Bureau*, rooted in the French intelligence community and service , an area in which he is one of the most eminent specialists. Canal+ also agreed to our proposal for an accompanying industrial process, organized around a *showrunner*, which I will now describe in greater detail.

B/ One person in charge: the *showrunner*: writer-producer or head screenwriter

The term *showrunner* is in fashion. The showrunner is the person who runs the show, the boss, the creator of the work. And yet, this term can apply to very diverse situations. This term has existed in the US for decades.

In France, there are different showrunner models:

- This first is a **vertical or pyramidal** model: the showrunner is a writer-producer, series creator, episode co-writer and co-director. This is the model we used for *Le Bureau des Légendes*/ *The Bureau*. I will come back to this.
- The second model is **triangular**: writing revolves around a known director, producer and writer (who works with the screenwriters for the narrative arcs and synopses). Frédéric Krivine used this model for *Un village Français* /*A French Village,* as did Fanny Herero for the French show 10%/ *Call My Agent!* , one of their most popular series of the past few years. The writer pens most of the season's dialog.
- The third is a **duopoly**: the showrunner writes everything, yet is surrounded by screenwriters, consultants and advisors who give input. This is the model used by Anne Landois for *Spiral/Engrenages*, and Eric Rochant for *Mafiosa*.
- The fourth is: **writer-director**. Alone at the controls, from start to finish. This model is often used for web series.

Despite the diversity of these models, there are some common denominators. The *showrunner* is involved in the **creation and development** of a series and meets three distinct criteria:

● **the *showrunner* is always a creative:** he (or she) is generally the creator of the series. He is a writer. Above all, he is the guardian of the work's artistic vision. He co-authors each episode, coordinates the writing and rewrites passages or even full episodes. He oversees the development of the original idea, writes the initial versions of the pilot, ensures coherence of tone, rhythm and style from one episode to another, and throughout the season. He harmonizes the series.

● **the *showrunner* must understand the technique**. He must be fully aware of the constraints that weigh upon the producers, distributors and broadcasters. He must master all parameters of production, budget, logistics, legal aspects and post-production imperatives. Most importantly, he must be capable of spelling out his vision for the directors, so they may most efficiently and accurately transpose his written word onto the screen. It is also his job to make sure this vision is understood and catered to by the various elements of the creative team, from casting to production design, music, costumes, and editing. He must be present throughout the process and be involved in the breakdown, location scouting, production and editing. Only the writer-producer can find writing solutions to make his story fit into a budgetary and production framework.

● **the *showrunner* is always a manager**. He must be able to manage his team of screenwriters and involve them in his creative project. He also has to manage the hierarchy of all artistic decisions. **He is the artistic director and the primary contact for the production and broadcast.**

C/ One method: The Structured Writers' Room

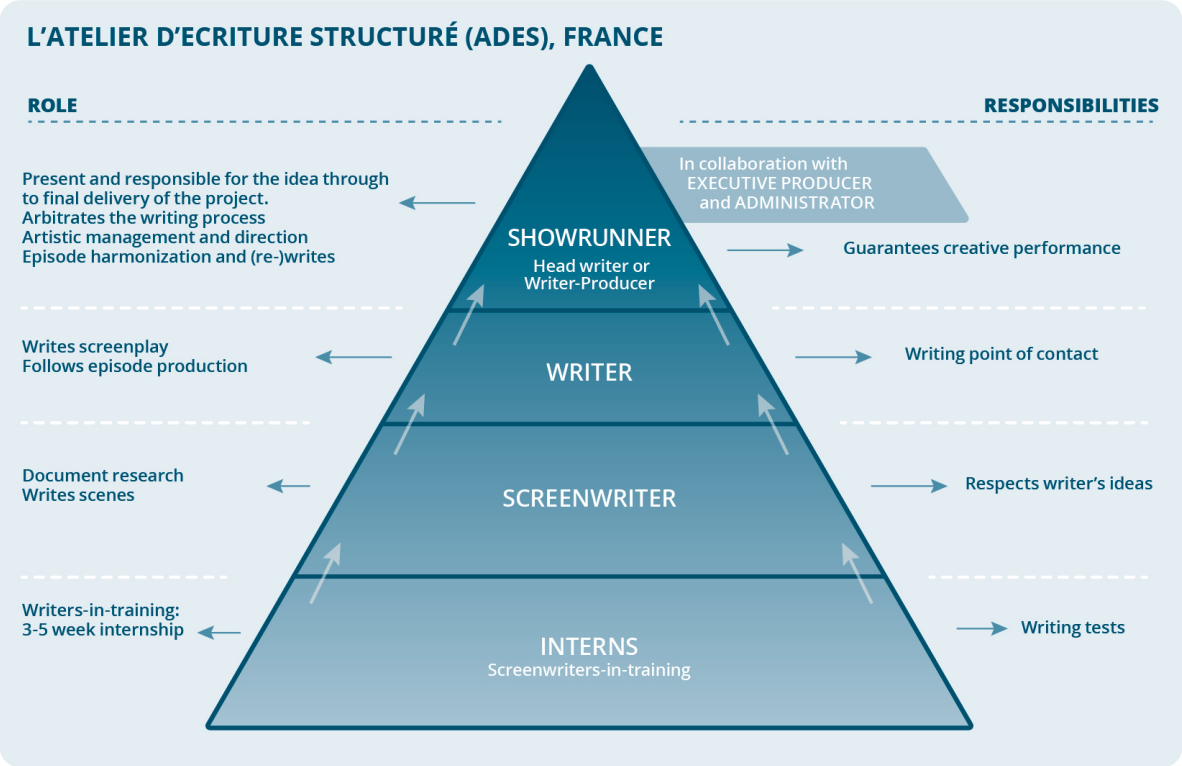
There are two prerequisites for efficient team work. First, you must establish a hierarchy; only the showrunner, in charge of the show's artistic vision, decides and arbitrates writing choices. The second prerequisite is humility on the part of the writers; in a team context, it is crucial for everyone to respect each other's ideas and accept the fact that they are at the service of the showrunner's characters and original idea. Everyone must understand the finer points of the vision, which guides the characters and the narrative.

In 2013, Canal+ had little experience with writers' rooms. We had initiated the idea in 2008 with our series, *The Oligarchs* (which offered us the chance to learn what a real writers' room was, on location in the US with Todd A. Kessler). However, Tom Fontana was the first to use this method with Canal+, on *Borgia,* an American-European series written in English. The series *Versailles* is another illustration of the importation of the American writing method - English showrunners, accustomed to working at an American pace and environment, in English.

For *The Bureau*, Éric Rochant and I implemented a vertical or pyramidal showrunner structure.
It was pretty simple to conceive. What was incredibly complicated was to adapt this process to French copyright regulations, writers' moral rights, labor laws, not to mention the system of proportional compensation. Together, we established a few rules:

● There can be **no filters** between the channel's Original Creation executives and the showrunner. All network meetings were organized around the writers first, with the production executives present.
● **Clarify the role of the showrunner***:* as the co-writer of the episodes, the showrunner also runs the structured writers' room and creates the "algorithm" for the distribution scheme between those involved (percentage of who gets what of the residuals distributed by the SACD collective management scheme).
● Define **fair fees** for everyone on the team and draw up plans for their evolution over the course of the seasons.
● Work with the broadcaster to determine a **precise calendar for deliverables -** screenplays, notes, and rewrites - all in writing, specified contractually.
● **Organize the writers' room** as soon as the writers are chosen. Hire a writing coordinator, the writers' room "central brain", who manages information, documents, timing and deliverables (hard copies or electronic).
● Create a team of writers and screenwriters, organized according to a **specific hierarchy.**

● Establish **step meetings**, at least weekly but more often daily, with the production team, and have a pre-production team in place at the start of the writing process.



The above graphic shows how we organized the writers' room for *The Bureau*. We established four levels of hierarchy:

● The *showrunner* is the writer-producer (Eric Rochant) who created the series. He co-writes and co-directs all the episodes.

● To produce 10 x 52' episodes a season, meaning per year, our writers' room has 3-5 senior *writers* who write full dialogued episodes. Along with the head writer/writer-producer/showrunner, they make sure the writing is properly followed on the set. They are also the director's and actors' point of contact on the shoot, for all issues related to writing.

● The junior writers or collaborating screenwriters handle research and write specific scenes for the senior episode writers. Depending upon the season, there are 2 to 5 junior writers.

● The interns are there to learn. The listen and observe and see if they get the "little music" of the show. They take writing tests at the end of their internship and may be integrated into the junior writers' screenwriting team. Depending upon the season, there are between 2 and 6 interns. In fact, there were more interns at the beginning of the series, for Season 1, because we needed to train screenwriters who could work at this yearly pace and were familiar with the series' little details and specificities.

D/ One rule: appropriate attribution of roles

If *The Bureau* model works so well, if the series is such a critical success in France and is distributed in dozens of countries around the world, it is because each and every person on the team carries their weight. It is runs like clockwork.

Throughout the making of the series, Eric Rochant has brilliantly carried out his role as showrunner. He excels at this because he is so demanding. As is often the case with successful writers, he is never satisfied. But more importantly, he has all the qualities required of a showrunner. For starters, he knows the world he is writing about, does a great deal of research and expects the same of his screenwriters. **He knows how to write; he knows how to make other people write. And he knows how to rewrite and harmonize various contributions, while ensuring absolute continuity and respect of his vision.** He has his own style. He creates endearing characters and integrates them into fascinating stories. He is precise and always loyal to his style. No fantasy or impulse, which is ideal for *The Bureau* and the subject matter of the series: the geopolitical role of France in the world through the lens of a fully operational intelligence service (the DGSE).
But Eric Rochant also *manages* the writing. **He knows how to inspire a team to give their best, to serve his vision.** He runs the writers' room like a set - with respect, discipline and methodology. These are the most important qualities of a showrunner – **to encourage each writer's humility and talent, so he/she is able to contribute as much as possible.** He harmonizes between 30% and 100% of a script, which means that his rewrites are based on an overall view of the season. He is a demanding, realistic partner for me. Demanding, because he understands and gets involved in everything, from the creative process to the economics of the profession, from the budget to relations with our partners and even to the project's marketing. He seeks to understand each person's contribution or potential contribution to the project. He questions. He *challenges*. Realistic, because he is able to go from staunchly defending his screenplays to dropping certain sequences in order to remain within a technical or budgetary framework.

As for me, as executive producer, I try to act as an integrator. I fought very hard so that the showrunner and his team would be truly empowered in all aspects of the project, from production to writing to promotion. I also made sure that Eric Rochant could set up a work structure that would allow him to surround himself with the best writers and screenwriters. Clearly defined rules, integrated into our writers' and screenwriters' contracts, enabled us to build this well-oiled machine. At the same time, I fought to organize this process and to make it operational.

My role doesn't stop once the series is delivered. It is important to understand that once the show is delivered, aired and assimilated by the public, **it becomes a brand** (I know that Eric Rochant,

master of the written word, hates when I say this). It becomes a **brand with an emotional commitment** from its audience, over many hours each season. It is linked to an imaginary world that the viewers have become attached to. This world must be relayed on social media, internationally, and through various product releases. Our creation generates tie-in products. *Le Dictionnaire de L'Espionnage* (The Espionage Dictionary), written by Agnès Michaux and illustrated by our graphic designer Fred Cambon, is an extension of Season 3. Bruno Fuligni's *Le Bureau des Légendes Décrypté* (The Bureau Deciphered) is linked to Season 4 and uses the series to compare real Intelligence archives. I handle coordination with the various players - the creative team, the distributor, the lead broadcaster, and also the press, the merchandizing department, and the translators. As a producer, I build a titanium cocoon around the writers, technicians, directors, actors, and production teams so that they can stay focused on the show and operate within a clear process that works with our timing requirements. This new aspect of the producer's role, which should be further developed, is what we call PMDC (Promotion-Marketing-Digital-Communication). **We have to continually express the series' DNA to all the ecosystem participants** and make sure that each initiative is aligned with our vision for the series.

The **writer-producer and producer duo should form a united front.** This entire organization must be set forth formally and contractually, and be managed transparently. When we began getting organized for *The Bureau* in 2013, it was complicated to make our contractual process comply with French rules and regulations. The system did not offer the appropriate tools. That said, we have already proven that it is possible: we can train writer-screenwriters to work not only within this structure, but also at this demanding pace. We can find writers who are humble enough to work collectively and invent a system with a team that comes entirely from the world of film. Adapting this rhythm and process to all legalities of the French droit d'auteur and collective rights management system as well as labor laws was a hard but possible task. If it works in France it should be able to work all across the EU just like and complimentary to Article 13.

As I mentioned earlier, this requires the upfront definition of a distribution scheme and rights for each participant at the early stages of development and clear responsibilities for each participant in the hierarchy, managed by the showrunner and organized by a writing coordinator in the writers' room. This hierarchal structure calls for several development phases, and a shift from the collective to the individual (after collective conception, the screenplay is written by the writer only, prior to being submitted to the showrunner for rewrites and harmonization). All this must be slotted into a very tight calendar for the exchange of drafts and notes with the lead broadcaster. The writing schedule is therefore totally integrated into the overall work schedule and begins several weeks after production kicks off.

2/ Adapt the French ecosystem and empower its players

A/ Reinforce the status of writers and screenwriters.

In order to put the writing back at the heart of things, the entire ecosystem must be adapted to better protect and empower writers while they develop powerful, original program ideas.

The WGA system (along with other guilds and unions in the US) created the MBA (*Minimum Basic Agreement*), to formalize a common standard for the whole industry. Even if the specific ecosystems aren't identical, France must adopt this kind of arrangement to be on even footing in the global series creation space. We must go way beyond the development charter that was signed between industry professionals and France Télévisions. We must revisit the entire writing/development process and establish a standard "signature-ready" framework that applies to the entire profession.

The French Screenwriters Guild suggests several avenues of thought:
"According to the law, only the remunerations linked to the sale and exploitation of screenwriter copyright are considered authors' rights. This qualification has resulted in the practice of payment via advances (minimum guarantees) which in fact negates the true value of the work that goes into writing. Although the transparency agreement signed in 2017 by the writers' organizations and the producers' unions has facilitated recoupment of these advances, it does not break away from the symbolic implications of paying advances, which ***deprives the screenwriter's assignment or mandate of its intrinsic value.*** *The screenwriter is forced to accept, without additional pay, any number of rewrites requested by the producer, because the screenwriter's fees are contingent upon the producer's acceptance of his text and its broadcast. The absence of a specific fee tied to the writing mission itself is likely one of the causes of often abnormally long development turnaround times, and the challenge of maintaining strong artistic coherence over the course of an entire project. In an industry where the search for innovation and creativity is always quickly launched,* ***France risks being left behind if it does not quickly implement contractual practices and minimum fees to help organize the writing process."***

To bring France into this new era of content production, the whole ecosystem must be clarified and structured. In particular, we must

- ensure that **each French writer has a specific status** and related compensation structure;
- **negotiate interprofessional agreements that structure the writing and development**

phases (rights/responsibilities tied to each function, timeframes, collaboration guidelines, etc.) and to make sure they are respected;

- **require all broadcasters/distributors** wanting to collaborate with writers/screenwriters, and more generally to operate within the French territory, **to sign** these agreements and apply their guidelines;
- **publish the agreements established between the SACD (Society of Dramatic Authors and Composers) and media/broadcasters.** It is crucial to differentiate between fees related to a writer's creation, whose terms and conditions should be the subject of discussion, and those that constitute a back-end share of the exploitation from the broadcaster. But our system must operate in a clear, transparent manner so that revenues from each type of exploitation are spelled out and can be dispersed biannually.
- take necessary steps to give each writer and screenwriter **access to a rights simulator** for potential earnings per project and broadcast source. This will give them a better understanding of the changes within the agreements signed with platforms in this new digital era, which may very possibly become the norm for other broadcasters/distributors.

The priorities for such an agreement would be as follows:

- **Clarify the rules pertaining to minimum compensation for writers and screenwriters with regards to series, and more broadly within the overall activity of writers and screenwriters in France.** This implies:

- establishing a working framework for writer-producers or head writers;
- creating minimum fees per type of format, in each phase of writing or development;
- defining roles, titles, deliverables, timing and the obligations of writer-screenwriters who participate in the writers' room, and more broadly their overall responsibilities to the production;

- **Outline a process to restructure the relationship between writers, producers and broadcasters.**

For this process to function properly, the following are required:

- specify the terms of collaboration and each person's rights and responsibilities;
- define the development phases, including a deliverable timeline and a format/process for written feedback and all the exchanges between the various links in the creative chain.
- establish precise methodology regarding the form and timing of responses to verbal pitches (project submission), the written elements to present, and the overall collaborative framework (an element missing from the charter signed with France Télévisions);
- include in this structure the new role of the agent, who now must negotiate recurring multi-

annual deals, based on the writer/screenwriter pay scale and organizational framework;

- it would also make sense to facilitate the process in France by integrating the agent's fees into writers/screenwriters' and actors' compensation. Producers would pay a flat fee to agents, who would in turn distribute the fees among their clients, according to their individual representation agreements.

  The issue of VAT between writers and agents could be solved by following the US model, where writers have established companies in their name. In US series television production, the agent is becoming more and more frequently a sort of "assembler" on a production (packager), sometimes going as far as to manage the conditions of distribution deals, and allocation of shares and/or job functions in the production itself. Once again, this exemplifies the need for a standardized, transparent framework which can be the basis for all negotiation.

B/ Enhance screenwriters' training and increase their value

In order for France to attract talent and have the best screenwriters, **training must be improved and given greater importance**. If the framework and functions change for writers and screenwriters, each and every one must have a solid understanding of the hierarchy and process before starting work on a given project.

French screenwriters are currently trained at schools like the FEMIS (Fondation Européenne pour les Métiers de l'Image et du Son) or the CEEA (Conservatoire Européen d'Écriture Audiovisuelle). These are very high-level training programs, but they still aren't fully adapted to new marketplace demands when it comes to series writing. Showrunner and collective writing courses are still too rare, and students often struggle to find professional opportunities that correspond to their level of talent and ambition. Many young graduates from these schools end up gravitating towards industrial *soaps* - stripped shows developed in a writers' room (for example *Plus Belle la Vie* or *Tomorrow is Ours*) and short sitcoms (on M6 for example) - so as to both practice their trade and earn a living. They are often frustrated not to have been trained in these more productive working methods. Schools must continue to adapt the content of their courses. The FEMIS is currently launching several showrunner-centric training programs. The CEEA must also start training its students in the importance of writing within the production, in addition to teaching writing techniques.

The Americans won't wait for us to come poach French talent. The *UCLA Film & Television School,* run by President Terri Schwartz and Professor Neil Landau, have already set their sights on France and other European countries. They now offer training programs, workshops and exchange programs to writers on both sides of the Atlantic. Standards are rising, but the market will always need ideas. The key is, and will always be, the writing.

At the same time, **productions must commit to connecting and training young writers.** As Benjamin Dupas reminds us, *"There is definitely a gap between our hopes of systemic progression (the development of structured writers' rooms), and the reality, which is that only one or two screenwriters will actually work on rewriting all the scripts in a series. However, this is also the case in the US.* ***What matters is that these rooms allow other writers to LEARN.*** *In France today, there are very few writers' rooms where you learn to write anything other than crime thrillers."*

We consistently include "interns" into *The Bureau*'s writers' room. They don't take part in the writing. They come and listen to the exchanges for three to five weeks, after which they take a writing test. The best ones are offered a job.

To attract the best, the screenwriter's work must be held in higher regard. Fees are not the only issue. Benjamin Dupas adds that true recognition of the writer's work "*starts with tiny details that aren't so tiny;* ***the screenwriters should be included on crew lists and call sheets,*** *for example. This is simply a question of habit, just like the interaction between screenwriters and script supervisors – this relationship should be a natural occurrence, but in practice, it is virtually inexistent."*

C/ Rebuild the relationship between screenwriters and broadcasters.

The goal is not to rethink the relationship between writers/screenwriters and broadcasters with a view to protecting the former and punishing the latter. On the contrary, the overall objective is to empower writers and encourage them to be more creative. As Pascal Breton reminds us, "*authors' rights come with obligations".*

Here are some ideas for structuring this collaboration:

- **Step One**: *the verbal pitch.*

The series' writer-producer, executive producer, producer and distributor meet with a channel executive who is authorized to express interest from an editorial, artistic, sales and/or economic/financial perspective. At the very least, the writer-producer, the executive producer and the channel's head of fiction should be present. After this meeting, where the writer's original idea has been laid out, the broadcaster must express written interest (or the contrary) in writing within 2 to 7 days… Our series' market has tripled in size since the arrival of new players, and *best practices* must be integrated. France Télévisions has already taken a step forward with its industry agreement, but this must be taken further and extended to all industry players.

- **Step Two**: A document establishing the overall project specifications is circulated. It should resume the creative pitch, list those who will be involved in the writing and production of the series, set a deliverables schedule (pilot and story arcs for the first season), a development budget, and

provide a calendar covering all phases of development. This work brief is inspired by a model already proven effective in many countries, especially in the United States. A writer-producer turns in an initial version of his script and must receive the broadcaster's feedback in writing within ten business days. The writer-producer and his team will be required to turn in a maximum of two new drafts that reflect the broadcaster's notes; these comments may lead to significant script restructuring or change. Once the two drafts have been submitted, the studio or channel can ask for two *polishes*, minor modifications that don't impact the structure of the script. These forces all those involved to be precise and reactive in a timely fashion. Based on this document, the broadcaster sends (or doesn't) the production an MOU (memo of understanding) and orders the first version of a pilot and the arcs for the first season. As stated in 2019 by Michele Zatta, RAI's Head of Fiction and International Coproductions and member of The Alliance (with France Télévisions and German public broadcaster, ZDF), a three-page pitch document can be read, considered and responded to in the space of one week.

- **Step Three:** Phase 1 of development.

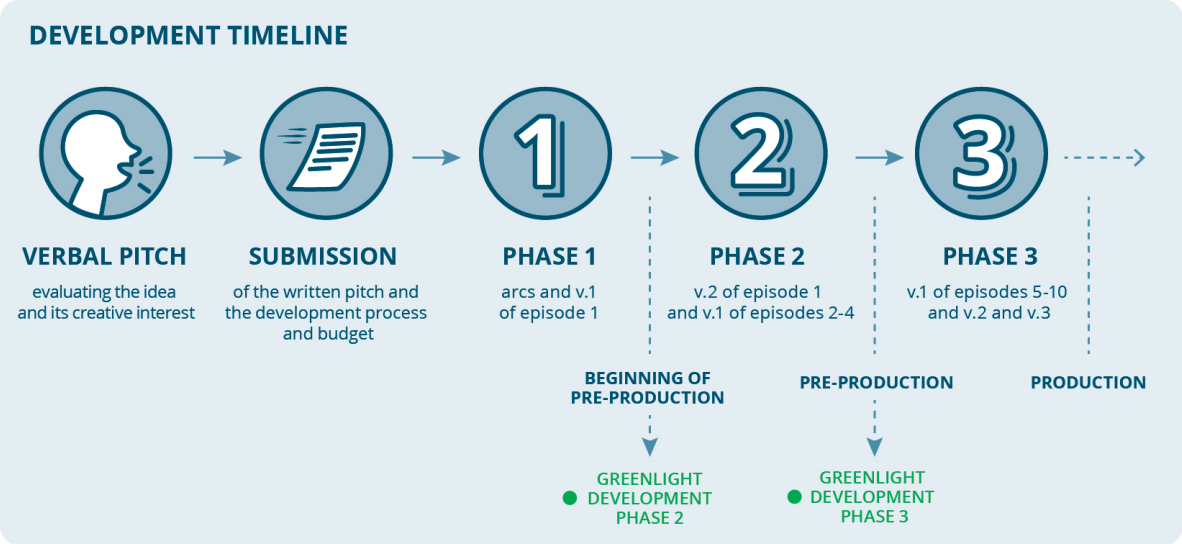
The showrunner writes the first draft of the pilot and the first season's story arcs. Once these documents have been submitted, the channel must respond with a critical opinion, expressed in detailed written notes, within a maximum of ten business days.

- **Step Four:** Phase 2 of development.

A team is chosen and approved by all. The timing for the written deliverables is validated. The goal in this phase is to turn in the v.2 of the first episode and the v.1 of the first half of the season's episodes. This is another time-sensitive phase; each screenwriter must submit his episode to the writer-producer (showrunner), whose responsibility it is to go through and harmonize all the scripts. These documents are circulated, and again, the channel must provide feedback in detailed notes within a maximum of 10 business days. At the end of this step, the channel *greenlights* (or not) the project.

- **Step Five**: Final phase of development.

In this phase, the v.2 and v.3 of the first half of the season's episodes, in addition to the v.1 of the second half of the season's episodes, are turned in. At the end of this phase, production may begin.



This method is designed to avoid certain all-too-common practices in France. You can't ask a writer to work for years on a script. Time is money, and the cost generated by the loss of time is exorbitant for writers and producers in France. Writer Fréderic Azémar says, *"French channels must stop asking for countless drafts; they slow down the process (except on already-established series like Chérif) and overstep their boundaries."*

A restructured relationship with broadcasters, one where rules and terms of discussion are established from the moment the broadcaster expresses real interest in a project, also helps accelerate the production of second and third seasons, which is a true challenge today.

As producer Thomas Anargyros explains, *"We must be able to supply Season 2 quickly. Yet, broadcasters release 6 x 52' series in the same way they'd release a one-off 90' format! There is no plan in place for a second season order on the channel's side."*

As of today, France does not have a real series industry. We continue to produce one-off prototypes, regardless of the fact that the core idea behind a TV series is broadcast regularity, episode after episode and season after season. Without this, potentially successful series may be hit with audience backlash. For example, the three years' hiatus between seasons of *The Returned* (from 2012 to 2015) is probably a deciding factor in the series' termination. The impressive initial audience figures were slashed in half by the end. Too many French series have been conceived, produced and even aired like "long films" of 6 x 52 or 8 x 52, without ever anticipating the need to produce a second season.

Here again, if we implement a mechanism for script reading by broadcasters and define feedback deadlines upfront, we will be able to produce without losing the first season audience.

Our process must therefore include a plan for recurrent production from the start - contractually, financially and marketing-wise.

D/ Rebuild the relationship between distributors, broadcasters and producers.

French fiction is at a turning point. To adapt to this new world, distributors, media groups and all broadcasters must rethink their roles and assume their responsibilities.

For starters, we need powerful distributors. The strength of these parties is twofold: they sell, and they finance. Mediawan, Banijay or Federation Entertainment, who were set up during the past decade, currently offer a model initiated by Newen, Lagardère and Gaumont. They are the new bankers-salesmen for series. Without the courage of Pascal Breton, who runs Federation Entertainment and who gave TOP-The Oligarchs Productions the opportunity to develop *The Bureau,* this series would never have been made. Federation wholly financed the series' development in the new structure we initiated. It was a winning bet.

Finally, we must redefine how rights are split between producers, distributors and broadcasters.

Broadcasters and distributors, like the platforms, are currently looking to accrue a maximum of rights. This trend sometimes turns the Executive Producer into a simple manufacturer with few short or long term rights on the work created. In the United States, as I explained in the first part of this report, studios and broadcasters pay the producers in *fees,* which increase according to the series' success and the profitability of services. A producer usually is paid 135% of the series' budget, while at the same time giving up 25 to 35% of sales revenues, known as the back-end. This works fine when the production is resold in the market. However, with the platforms, there is no secondary payment or resale. In this case, the producers give up their rights and simply work as the service providers who initiated the project, or line producers. Payment is made to individuals – the creators, writers and producers - as opposed to companies. Production companies then become *servicing companies.*

The integration of a "back-end", a payment based on potential future sales, if the buyout isn't perpetual (worldwide exclusivity for Netflix/Amazon, for example) works in the US because future sales can be forecasted based on *output deals* (bulk pre-purchase). French broadcasters should follow this lead, which allows the producer to supply quality work during the series' creative phase while generating fair margins for all. To achieve this, media groups must change their habits. They cannot continue to fund 50-90% of a series budget and demand 100% of the rights. Once again, we need to establish clear, transparent guidelines that encourage innovation and risk-taking… and add asset value.

To initiate this thought process, we could consider the following rules:

- If a broadcaster or distributor becomes a coproducer or initiating producer and/or creator of the original idea and therefore holds the rights, the Executive Producer must be allowed to increase his margins to compensate for lost future revenues.
- The central element of this equation is to distinguish broadcast rights from back-end rights,

within the series' budget. 70% of the budget represents first broadcast cycle rights, 50% for the second cycle and 25% thereafter. The periods and exploitation cycles are determined based on simple criteria: series recurrence, ratings, territories…

- Any distributor who is connected to a broadcaster (in the same group) should reduce its commission to 20% for the first exploitation cycle (46 months).
- In the delinearized, digital world we live in, and in order to clarify revenue bases, we need to measure our "click" audience. This is a show's "real" audience, once at least 50% of an episode has been streamed. To maintain transparency, monthly or biannual audience *reporting*, show by show, must be submitted to the French regulator, the CSA (Conseil Supérieur de l'Audiovisuel) and the SACD (Society of Dramatic Authors and Composers)**.** This information must also be annexed to the production contract.
- The moment a broadcaster or distributor breaks the rules, they must pay a flat fee to cover rights, based on the total number of subscribers in France. An additional flat fee based on the number of worldwide subscribers will also be tagged on.

  Again, we must continue to ensure that American platforms operating in France integrate into this ecosystem, through financial contribution for creation and by accepting the French concept of copyright, authors' rights and independent production.

3/ Finance the creation of ongoing series.

In 2018, Netflix invested 8 billion dollars on content production. At the same time, HBO invested 13 million dollars per episode of *Game of Thrones,* and Netflix paid 11 million euros per episode of *The Crown.* On French series *Call my Agent!,* the average per episode budget was 1.2 million euros. The Season 4 budget for *The Bureau* was 20 million euros*,* which amounts to nearly 2 million per episode. This is a lot, but it's never enough. There are two main obstacles to French series production today: the absence of clear rules and process, and the inadequate structural funding, particularly with regards to writing. To confront this, we must ask ourselves two questions: how can we find new financing sources, and how do we prioritize where this financing goes?

New financing sources and priorities.

Today's CNC has a major role to play in:

- Teaching new, extra-European players about the French system. The Americans, who have always been fearful of the French system, do everything possible to avoid signing and playing by our rules. Explaining these rules and ensuring their application is crucial, in compliance

with the principal of equal treatment for all players.

● Getting involved in French productions upfront, especially during the most delicate, risky part: development. The more French productions are present in the global market, the more imperative financing the structured writers' rooms will become. To make this system mainstream (it is an estimated 40% more costly than the development of a classic series), a structured CNC intervention, to finance the gap between what first broadcasters, producers and distributors invest, would be both efficient and beneficial. The CNC should create a Development Fund for Writers' Rooms.

Here are a few basic guidelines:

- The national/international distributor must contribute at least 40% to development funding.
- The lead broadcaster must agree to fund a minimum of 35% of the project.
- The CNC's contribution cannot exceed 25% of development costs.
- The independent Executive Producer cannot be entitled to less than half the equity / the back-end rights.
- Global platform rights payments must be indexed to the exploitations and their durations (as mentioned in the previous section, 70% of the budget represents the first cycle rights, etc.).

The French series system that benefits all should be fueled by all those who are in the business of selling French fiction content in French territories. With this in mind, I will list several new sources that we could turn to, to fund series production in our country.

Opening up to brands is one option. Not just through sponsorship *(brought to you by…),* but by allowing them in as proper investors, or even potential coproducers. Brands need to target young audiences; one way of achieving this is by partnering on series that convey their values. In the United States, Asia, and other European countries, soft drink, luxury and sports brands are already producing original series. France too should allow this. Sponsoring or backing from brands should be permitted, especially for public broadcasters, just like PBS in the United States.

Brands can make investments and be on-air sponsors in exchange for using the shows identity outside of the broadcast world and online. For certain long-running series, this brand financing is a huge step forward. This should not be confused with product placement; it is proper financing.

Gaumont's Christophe Riandee states, *"There is a lot of money running around the French audiovisual ecosystem, but it is poorly allocated. France's case is quite unique: we have fewer talents available for our TV production, because many go to work in the film industry. We don't have enough screenwriters. The strength of the platforms is pushing us to question how we work. With the arrival of massive competition here, the ecosystem can evolve. We need to have international series produced*

here in France. We cannot lock ourselves up within borders that no longer exist; we must adapt to the market reality and to the needs of young viewers."

In the past, the French fiction ecosystem has proved itself capable of evolving along with the creative and industrial changes in the audiovisual space. Going forward, the whole chain must take a new turn and invent transparent processes that are applied to and respected by all. The industry must be restructured to empower and protect talent, and enable a fair structure for all market players, in order to best adapt to what is now a global competition.

CONCLUSION

"France is a land of series, and I would like this trend to continue and grow."
Franck Riester, French Minister of Culture, Séries Mania Festival, Lille, March 27, 2019.

No one can be expected to achieve the impossible.
Changing, modernizing, and updating the system is possible.
France is a wonderful country, full of endless creative resources, talents, artists, technicians, bold and committed professionals, a system that feeds an industry – all within the "cultural exception" that sets the country apart.
Yet, France is a very conservative country. For decades now, we have established habits and customs, monopolies, annuities, ways of functioning and working that are no longer adapted to the current context.
Today, the challenge is a simple one: to give France the means to step up onto the international podium of series creation, reinforce our talents, enhance our savoir-faire, and above all, safeguard the uniqueness of our "cultural exception".
It is possible. We just need to evolve and update our methods, especially in the area of serial scripted drama and fiction. The two keywords here are **process** and **transparency**.

Between the moment I began writing this report, during Season 4 of The Bureau (2018) and the moment you will be reading it, some progress has been made.
Firstly, the European Parliament voted in Article 13 pertaining to copyright and more generally neighboring rights covered in Article 11. From now on, rights agreements will undoubtedly be negotiated with greater transparency, which every professional in the industry has been hoping for.

Next, France's Minister of Culture, Franck Riester, announced during Séries Mania's 2019 edition in Lille some very concrete measures which include integrating precious funding into the CNC's series plan. As stated by Frédérique Bredin, at the time President of the CNC, *"Series have become a true societal phenomenon. They are new major art form, at the heart of the success of content platforms, and their flagship product. The challenge we face is to distinguish ourselves in a very competitive global market, and the key lies in project originality. We want to support the most original and creative series, those that take risks. The most appealing format, especially for the younger generations, is the 20-30 minute program."*
In short, three important initiatives were announced in favor of ongoing series. I am particularly honored to have been given the opportunity to demonstrate the importance of these measures within our ecosystem:

1- **Encourage the development of new formats**, to adapt production to new consumer habits and international demand.
2- **Shorten the hiatus between the broadcast of a first and second season.** To achieve this, the CNC plans to increase its financial support for second seasons by 25%, even before the broadcast of the first season. The long term goal is to be aligned with international standards, thus producing one season per year.
3- **If a series receives significant pre-financing from abroad, the CNC's backing will be increased by an additional 25%.**

To amplify the impact of these major decisions, it is time to introduce a comprehensible, practical process with clear rules that will become the framework for the entire industry, from the beginning of a project through to its exploitation.

This new model and its rules must integrate the following aspects:

- **put writing back at the heart of every project;**
- **empower all the players in the production ecosystem and remove the barriers between writing and production;**
- **encourage training writers/screenwriters to work within the structure of the Writers' Room;**
- **empower the writers and screenwriters within the production process (from initial writing stages through to shooting);**
- **clarify and contractualize upfront a framework for minimum fees and collaboration mechanisms between writers, producers and broadcasters, to structure the industry;**
- **on one hand, define minimum wages and rights, and standardize functions, hierarchy, and work conditions (presence, calendar, deliverables, etc.). On the other, determine the rights split upfront, via interprofessional agreements that are updated every 5 years, signed by all players in the French market and in the foreign markets that wish to work with French screenwriters, directors, technicians, infrastructures and institutions;**
- **specify in every contract the exact value of the exclusivity share, the production budget, the rights pertaining to the first exploitation cycle and to each subsequent broadcast, the length of each exploitation, all additional revenues and other associated rights, as well as the acquisition value of mandates;**
- **extend the transparency rules to PMDC budgets (Promotion-Marketing-Digital-Communication) between broadcasters and producers for every series;**
- **establish a minimum and a maximum for each production's acquired or sold rights and assets, which are variable depending on the verticality of broadcast/distribution;**

- **require foreign broadcasters to comply with the established standards and rules, both domestic and European;**
- **find new sources of funding and open the market to brand partnerships and advertising, which have been limited or prohibited until now;**
- **organize the recurring interaction between production/broadcast/distribution and writers-screenwriters-directors-actors via their agents/lawyers, and globalize payment directly with these representatives, who in turn remunerate the clients they represent;**
- **work towards the merger of Unifrance and TVFI, to establish a strong advocate for French fiction worldwide;**
- **campaign for a stronger soft-power of French culture by providing the Alliance Française and French embassies around the world with ongoing series that received public funding.**

Needless to say, in order to be a winner in the global competition and tackle the American market, we need to find new sources of funding; without money, we won't get very far. But it is crucial to understand that money alone isn't sufficient. What we really need is a true cultural revolution.

The example of *The Bureau* is a case in point. Each episode costs on the average two million euros, which is a significant amount in France, but far behind the per episode cost of US productions. Yet, by importing new methods, thanks to the outstanding involvement of Éric Rochant, Canal+, Arielle Saracco, Fabrice de la Patellière, Pierre Saint-André, and Pascal Breton of Federation Entertainment, we managed to convince those who hesitated and succeeded in creating a series of the utmost quality. I firmly believe that our experience can serve as a valuable example and a motivating factor in terms of the ambition and high standards essential to moving France up among the global frontrunners of serial fiction.

We no longer have any other choice but to shake up our work habits, to challenge certain privileges and interests, and to clarify the relations and rules that structure our model. We must be faster, more reactive, more innovative… and more confident. We must stop limiting ourselves to borders that no longer exist, but rather adapt to the realities of the market and to the transformed viewing habits of a new generation of consumers. It's now up to us, industry professionals, to be daring and courageous. The time has come.

We want to be reactive, not passive. This means trying to anticipate tomorrow's trends and implement the transparent rules that will allow us to adapt to the shifts and changes in our industry's paradigms, to work faster and more efficiently. This framework must be put into place as

a matter of urgency, or the market leaders' rules will be imposed upon us, just as the inventors-leaders in the digital space have imposed their rules and business models to this day. By hosting our data on servers located mainly in the US, we have lost a precious source of proper analysis, which we will likely never recover. So, let's inject French content into the global market.

Is this a problem?

Today, early 2019, the newcomers are imposing their model in exchange for compensation. This is a fact. Our traditional French players have partially adapted to this verticality and extension of exploitation rights. France Télévisions does this via l'Alliance and Salto, Canal+ has myCanal, and Orange has an original creation product offer. But this comes at a cost. The implication is that all industry players must be holding the same cards in their hand (from writers to producers to distributors to broadcasters). New transparent standards will reestablish an equilibrium, and the rest will be determined by the market and the audience.

In the years to come, the volume, the ubiquitous nature of consumption, the more demographically targeted demand, the parallel exploitations that stem from an original work, the variety of entertainment experiences – immersive content, augmented reality, fiction spinned off into games, multimedia, multidimensional products, nano-payment, programmatic search engines based on artificial intelligence - technology, broadcast on a global scale, and ever-increasing bandwidth will all be game changers. We are continually forced to modify our laws, rules, processes, and teaching methods. Time speeds up as the world gets smaller. But the fundamentals remain the same: people like stories, and we must give ourselves the means to tell great stories.

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