



Flash Covid-19 - IP & Digital Team

Theatrical release windows

France / USA fresh perspectives right after the adoption of the French Covid-19 Emergency Act

1. On March 22, 2020, the National Assembly adopted on second reading an emergency law to deal with the covid-19 epidemic.

Among all the measures voted by the French Parliament, Article 17 of the new law lays down exceptional modalities for adapting the release window, aka "Media chronology", here: these rules framing the order and deadlines to be complied with for the exploitation of motion picture works on the different modes of broadcasting.

It aims to protect theatres from competition from other distribution channels by reserving for them the first exploitation of works and, as such, set out a timetable for the distribution of audiovisual works.

Under the terms of Articles L. 231-1 and L. 233-1 of the French Motion Picture Code, as well as the agreement of September 6, 2018 between TV channels, rightholders and professional organizations in the film industry (extended by the agreement of January 29, 2019), several deadlines must be met in the distribution of a motion picture following its theatrical release in France:

- 4 months for fee-for-service VOD;
- 6 to 8 months for movie pay-TV services with an eligible agreement;
- 17 months for subscription VOD services (services having concluded an eligible agreement, including broadcasting and financial commitments);
- 19 to 22 months for free-to-air and other pay-TV services;
- 28 or 30 months for other subscription VOD services;
- 42 to 48 months for free VOD services.



The setting of a shorter deadline must be subject to the issue of a derogation by the "*Centre national du cinéma*", (National Centre for Cinema, CNC) taking into account, in particular, the results of the exploitation of the cinematographic work in theatres. This derogation may not, in principle, have the effect of reducing the period by more than four weeks.

Yet, on March 16, before the parliamentary debates even begin, Canal+ (a French pay-TV service) announced the immediate free broadcasting of its programs, including motion pictures, until next April 15, to show solidarity with the French population ordered to stay home. By acting this way, the paying network flouted the media chronology, placing free networks and other paying networks in a difficult position. The latter indeed paid a lot of money for the rights to broadcast movies for the first time on free-TV after the 19 to 22-month period aforementioned.

The French Audiovisual Council (CSA) limited itself to the issuance of a release last March 20 stating that such operation "*likely to alter the balance between paying and free TV-networks*", shall necessarily be limited. Canal+ hence took the decision to end its offer on March 31.

In any event, in the face of the Covid-19 epidemic that has been hitting France, and more widely the world, for several months now, article 17 of the Emergency Act aims to exceptionally break the windows by decision of the president of the CNC for motion picture works that were still being in theatres on March 14, 2020.

This exemption may therefore concern no less than sixty films released in France at that date, including US productions such as Disney-Pixar's "*Onward*", Universal's "*The Invisible Man*", or the recent films "*De Gaulle*" by Gabriel Le Bomin, or "*La Bonne Épouse*" by Martin Provost's.

As regards films intended for cinemas and not yet released on the time of the theaters shut down, the CNC announced that it had launched a consultation with the film and audiovisual industry in order to consider ways of releasing motion pictures in the form of pay-per-view VOD or DVD/Blu-Ray, without the beneficiaries of production aid being obliged to return them.

According to the CNC, this derogation will only apply to exploitation in the form of VOD on a fee-for-service basis or DVD/Blu-Ray. These newly adopted measures will therefore not concern streaming services, which will necessarily have to comply with the above-mentioned deadlines.

The President of the CNC stated on March 20 that exemption requests would be considered on a case-by-case basis. The granting of the exemption shall require a request to that effect from the rights holder and the examination of each request shall be carried out in with representatives of the film industry.

In the age of streaming and on the eve of the Disney + launching initially set on March 24 but postponed to April 7 at the request of the French government, the "*Fédération Nationale des Cinémas Français*" (National Federation of French Cinemas) stresses the need to take measures with "*discernment without ever obstructing the future of cinemas*". In this context, the FNFC stated that it will very soon be organizing a meeting with film distributors and publishers.



2. In the United States, some distributors have already begun to hasten the release of their films on VOD with the support of theatre owners in order to "offer something to watch at home during this time of crisis", according to John Fithian, President of the National Association of Theatre Owners.

The latter are facing the closure of 5,400 movie theaters in the United States, leaving 150,000 industry workers on leave. It is for this reason, among others, that movie theatre owners have ask Congress and the White House for financial aid.

While movie theatre owners understand the acceleration of digital release times, John Fithian however did not hesitate to criticize Universal's decision to publish his film "Trolls World Tour" directly in digital format, thereby breaking the windows without informing its industry partners.

However, John Fithian is confident about the future of movie theatres at the end of containment. He says the delayed release schedule will offer quality content, including films that were scheduled for release during the lockdown, and he says that when the lockdown ends, people will be looking to get out of their homes and enjoy movie theatres.

Theatre owners are therefore satisfied with the postponement of the theatrical releases of these films since they will fill the release schedule in the second half of the year 2020 and allow time for other films to complete their production and be released in theatres later. But that may be counting without the global acceleration of the pandemic and the widespread containment measures that may be taken by the U.S. President in the coming days.

In this perspective, ALTANA's IP & Digital team is naturally available to help you with any action you may want to undertake in order to benefit from a deadline exemption.

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