

## Committee on Development and Intellectual Property (CDIP)

**Twenty-First Session**  
**Geneva, May 14 to 18, 2018**

### FEASIBILITY STUDY ON ENHANCING THE COLLECTION OF ECONOMIC DATA ON THE AUDIOVISUAL SECTOR IN A NUMBER OF AFRICAN COUNTRIES

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1. This document contains a *Feasibility Study on Enhancing the Collection of Economic Data on the Audiovisual Sector in a Number of African Countries* prepared in the context of the Project on Strengthening and Development of the Audiovisual Sector in Burkina Faso and Certain African Countries – Phase II (document CDIP/17/7).

2. The feasibility study has been prepared by two independent consultants, Ms. Deirdre Kevin and Ms. Sahar Ali.

*3. The CDIP is invited to take note of the information contained in this document.*

[Annex follows]

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<sup>1</sup> The views expressed in this Study are those of the authors and do not necessarily reflect those of the WIPO Secretariat or any of the Organization's Member States.

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## **EXECUTIVE SUMMARY**

- This report presents the findings of a feasibility study on enhancing the collection of economic data in the audiovisual sectors in five countries: Burkina Faso, Côte d'Ivoire, Kenya, Morocco and Senegal, which are the beneficiary countries of the World Intellectual Property Organization (WIPO) CDIP project on “*Strengthening and Development of the audiovisual sector in Burkina Faso and certain African Countries, contained in document CDIP/17/7*”. The aim of the report was to provide a set of conclusions and suggestions for potential next steps towards improving data collection in these countries. The analysis was carried out by two experts with extensive experience in the collection of audiovisual economic data in Europe, North Africa and the Middle East. In order to develop a clear understanding of the state of play in the five countries regarding current trends, obstacles and challenges, and potential opportunities, a range of interviews were carried out with national experts and with international consultants with expertise in these markets. WIPO facilitated this process by providing a list of suggested experts - focal points of the project.
- The interviews served to place the analysis in context and revealed a range of factors that limit the availability of data on the audiovisual sector and these are outlined in chapter one. Key data that is difficult to access in most countries includes the size of the production sector (companies, employees and professionals) and the amount of production (works for film and television) in each of the countries. Part of the reason for this was a lack of professionalisation and engagement of the sector and the need to encourage industry actors to register companies and works and to engage in the process of copyright registration. While the CDIP project has already begun to create awareness and use of the role of copyright for the audiovisual sector and the responsibilities of, and benefits for the producers, such activities need to be further increased to achieve tangible results for the industry.
- Other key data that is lacking includes television audience data and audience tastes and consumer trends. The collection of audience data has benefitted from the introduction of digital terrestrial television where this has taken place. However, often data is only collected by global commercial companies and is not freely available. Studies on consumer tastes and trends are rare and require additional resources of institutions.
- Chapter two provides an overview of the types of data that are necessary to map audiovisual media markets: to understand the customers, the players, production, distribution and consumption. It also looks in detail at the types of data available in each country (on the basis of desk research and the interviews), which institutions, organisations or companies collect this data and the extent to which it is publicly available, free or for payment. The chapter also provides several examples of reports, research and data that have been produced in various countries (European and African) that contribute to the understanding of the economics of the audiovisual sector.
- Chapter three looks in more detail at the types of institutions that can provide data, based on their remits and the role they play in the industry (funding production, registering companies, regulating broadcasting etc.). It emerged that there was a considerable level of collection of data on the audiovisual sector but this tended to be dispersed between actors and not seldom consolidated into an overall report on the audiovisual sectors.

- Further obstacles were noted by experts that were interviewed and these mainly concerned the frequent absence of a suitable regulatory framework. For example, there is a need to regulate the transparency of operators and companies (broadcasters, pay-TV and film distribution and exhibition companies) which would allow for a better understanding of the consumption and value of audiovisual works. In addition, the institutions that work in the sector need clear remits which will enable them to collect a range of data on production, spend on production, distribution and consumption.
- A key issue highlighted by the experts was the need for further collaboration, co-operation and sharing of resources. In addition, the various actors along the value chain of the audiovisual sector need to come together to promote the development of the sector, to develop and finance projects together, and also to establish professional business arrangements, as the producers, the authors and the performers are particularly at a disadvantage when doing business with the major players (distributors, broadcasters etc.).
- Regarding research and the gathering and provision of data, it was clear from the overview of institutions and their roles in the sector as potential sources of information (provided in chapter three), that they need to work together to enhance transparency.
- Collaboration also needs to be developed across borders on the regional, linguistic or pan-African level. In terms of the development of the sector, economies of scale can be achieved which may involve co-financing, co-productions, and funding for training and professionalisation. With regard to the enhancement of transparency, working on a broader regional basis can allow for the sharing of data and the harmonisation of research approaches. In this context, the example of the IberoAmerican Observatory in Latin America was illustrated. At the European level, the work of the European Audiovisual Observatory in providing transparency in the European markets was also briefly described: in relation to the gathering of data both inhouse and via national networks specialised in particular fields.
- The final section of this report (chapter four) provides some “food for thought” for policy-makers regarding the next steps that can be taken to enhance transparency of economic data in the markets. They are focused under four main topics. The first is the creation of an environment for the collection of data and relates mainly to the necessary legal framework whereby certain actors (industry) are required to make data available, while other actors (institutions and regulators) have the remit to collect this data, and the obligation to publish it. The second vital topic is the issue of the engagement of the production sector (authors, directors, producers) without whom it is not possible to develop the sector, and who also need to be forthcoming in registering their companies, sharing information on works, and collaborating and lobbying together. Optimising collection at the national level is the third key focus of the final section and relates to the discussion of the presence of various national institutes and the need to collaborate and share information in order to produce a regular map of the state of the market and its trends. The benefits of cross-border co-operation of researchers and institutions, or the potential development of a regional observatory (as mentioned above) is addressed in the last key topic in the conclusions.
- The current transition to digital television in Africa represents an important time to move forward with establishing a professional system of data collection. The switch-over will have a major impact on the market and hence increase the need for economic intelligence. Digitisation represents an opportunity to create a better environment for the development of new, innovative and legal services to counteract the tendency towards audiovisual and broadcasting piracy.

- Moving forward, WIPO Organisation could facilitate under the CDIP project, the completion of a feasibility study on the creation of an institute charged with gathering data on the audiovisual sector at a sub-regional or pan-African level. This would involve: in-depth assessments of the work of similar organisations, their structural, legal and governance arrangements; the minimum human resources and other financial resources needed the approaches to data collection for cinema, television video, and Internet sectors and the development of networks including at the political level with organizations such as notably the African Union, Economic Community of West African States (ECOWAS) or the West African Economic and Monetary Union (UEMOA).
- it would also be recommended that WIPO could also, in co-operation with collective management organizations and national copyright offices organise workshops or conferences where these data collection, analysis and presentation methodologies outlined in the report can be presented to all interested stakeholders (at a national or regional forum). This would provide a potential “kick-off” point for the development of a methodological expertise in the region, collaboration, sharing of resources and discussions on potential common publications, pilot reports and projects, and the possible establishment of national or regional research institutes for the collection of data on the audiovisual sector. The gathering of such intelligence on market and legal developments would also facilitate the effective licensing and management of IP rights in the audiovisual industry.

## 1. Introduction and background to the project

This feasibility study is part of a larger project being implemented by the World Intellectual Property Organization (WIPO) on “*Strengthening and Development of the audiovisual sector in Burkina Faso and certain African Countries.*” The purpose of this study is to provide suggestions for the improvement of the collection of market data in the audiovisual sectors in a number of African countries which are the main beneficiaries of this Project: Burkina Faso, Côte d'Ivoire, Kenya, Morocco and Senegal.

The structure of the report is as follows:

- Chapter 1. - Introduction outlining the methodology used, and the context of the research with regard to factors influencing the development of these audiovisual markets.
- Chapter 2. - Presentation of the types of market data in audiovisual industries that are necessary for: the development of policies; the understanding of the market; and the enhancement of the use of copyright. This chapter also addresses the situation regarding the availability of such data in the selected countries.
- Chapter 3. - Overview of the institutions and organisations necessary to support the collection and aggregation of such data.
- Chapter 4. - Conclusions and suggestions regarding how the authorities and professionals can begin, or improve, the collection of data.

### 1.1 Methodology and approach to research

On the basis of the knowledge of the researchers regarding the methodologies employed in the gathering of data, an overview is provided of the relevant types of data, and of the institutions and commercial organisations who collect and provide this data. Desk research was carried out in order to make a preliminary assessment on the overall media landscapes of the countries, the types of data collected, and the extent to which this information is available and transparent. This was followed by interviews with 15 key national and international experts familiar with trends in a range of markets.<sup>2</sup> Several studies were accessed outlining the nature of the various media landscapes, development trends, and the challenges for the audiovisual sector.<sup>3</sup>

### 1.2 Placing the research in context

At the outset, it is important to note the main obstacles to, and opportunities for, development of the audiovisual sectors which have emerged in the desk research, the analysis of reports, and most significantly in the interviews with national and international experts. The following is a brief overview of the issues raised (some noted in earlier reports for WIPO), and provides an essential background for the analysis here. References are made here to the relationships between these challenges and opportunities and the collection of market data.

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<sup>2</sup> The researchers would like to extend their gratitude to all who took the time to discuss the issues with us.

<sup>3</sup> These included reports written by these experts, other national reports and multi-country or pan-African reports.

### **1.2.1 Professionalisation, collaboration and advocacy**

The stakeholders have stressed that there is a lack of basic data on the players in the audiovisual production sector, and also on data on the economic contribution of the audiovisual sector to the national economy. According to the majority of interviewees, both of these “data needs” can be enhanced via the professionalisation of the actors and their companies in terms of registration and sharing of their data (employees, audiovisual works, budgets) with the appropriate organisations (primarily film institutes or commissions). This brings both a legitimacy to the individual professionals and their business dealings, and enhances the potential to produce statistics on the market and its contribution to the economy. Such market data is necessary in order to engage other investors including banks. Alongside business training, the production sector also needs understanding of the audiovisual rights. At least one element of training for the audiovisual sector should focus on business and financing. In addition, while the audiovisual production sector is, of course, by nature, competitive, the various actors and stakeholders need to collaborate and attempt to speak with one voice in the area of advocacy for improvements in the policy and regulatory sector, and also in the push for regulation/ negotiation of the terms of commissioning contracts in the broadcasting sector. This can be achieved via various professional associations at the national, but also regional and pan-African levels.

### **1.2.2 Policy development, regulatory framework, implementation and monitoring**

While the remit of this brief report has not been to examine the legislative frameworks, the policies and strategies, or the regulatory frameworks that structure the sector, it has been noted by stakeholders that “the legislative framework is key”. The adoption of the 2017 Communications Bill of Senegal (Code de la Presse) provides a relevant example of updated regulation for the audiovisual framework<sup>4</sup>. It was not possible to review or understand the nature of remits and obligations of the public broadcasting sector, or the obligations placed within licencing regimes in relation to audiovisual production, local production and commissioning of independent work (quotas). However, the existence of these fundamental cornerstones is key to the construction of a healthy production sector in a vast range of countries.<sup>5</sup> The legislative framework for copyright for the audiovisual sector is also crucial, alongside the need for experts in the field and a promotion of awareness among professionals. Several stakeholders who were interviewed also stressed the need for the legislation (update or completion) of the mandates for the various institutions in order for them to efficiently manage their roles and to formalise the gathering of statistics. In addition, the need for regulation of transparency of economic data was highlighted.

The role of data collection in the development of policies, strategies and regulatory tools is vital. Policy-makers need to understand the markets and they also need to understand consumer trends and media use. A successful implementation of policy or regulation also needs data to assess the impact of policies, to provide a transparency on the use of funding, and to monitor the compliance of various actors with regard to their obligations. This implies the provision of regular comparable (over time) data on market developments, and the gathering of data by appropriate regulatory bodies and funding institutes with regard to the impact of policies on the sector, and with regard to the performance of regulated entities in terms of their obligations (quotas, contributions etc.).

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<sup>4</sup> Loi 14/02017 full text available at <https://www.pressafrik.com/attachment/870207/>

<sup>5</sup> Regulated to a minimum standard with regard to production quotas at the level of the European Union via the Audiovisual Media Services Directive. Regulated in Australia, Brazil, Canada the USA, Venezuela, and others.

### **1.2.3 Funding, finance, remuneration of rights, and the weak position of producers**

The remit of this study did not include examining the situation with regard to public funding and support for audiovisual projects. However, the issue has been raised by many of the experts interviewed in the course of the study. Where funding sources exist, data needs to be created with regard to the use of, and distribution of funding. Likewise, in the management of the rights attached to audiovisual works where there is a reported<sup>6</sup> lack of knowledge on the part of the production sector regarding their benefit and management, data needs to be gathered and published by the relevant authorities (copyright collection societies) on the revenues earned, their distribution and growth over time. Also, vital in the recoupment of revenues is the data on cinema admissions and structural data on the cinema sector. The issue of piracy was underlined as being a major problem with regard to the economics of the audiovisual sector. The availability of black market DVDs has advanced in the digital age to the sharing of films on USB drives and via social networks and online streaming services.

Several interviewees stressed the difficulties for producers to earn money from their work and receive a return on investment. The very weak position of the producers *vis-à-vis* the broadcasters has been highlighted by many experts. Where producers agree the sale of a TV programme or film – at best they will receive a very low price for their work. They may have to pay for the broadcast time or source advertising spots within the broadcast time and share this revenue with the broadcaster. While this situation may be improving, there is a need to change the nature of business negotiations with distributors and potential financial partners.

### **1.2.4 Digitisation and new media developments**

From the interviews with experts and the various reports that were reviewed, it was clear that a reliance on the release of audiovisual works in cinema theatres only, was not feasible. Theatres have closed, or the numbers have been reduced and the audience culture of film watching needs to be developed. Some initiatives to revitalise this sector are taking place.

The development of digital broadcasting, specifically the digitisation of platforms (such as digital terrestrial) has been heralded by several experts as presenting opportunities for the sector. As regards the switchover to digital television, none of the countries studied had achieved the transition as of the date of completion of this report. An exponential growth in TV channels has taken place in certain countries and is expected in others. It is anticipated that this will increase the demand for content. Given these developments it is more important than ever to have an inventory of market players, their audience shares and the share of households (subscriptions) that the various delivery platforms have. As in all other markets, the transformation of communications and in particular the delivery of audiovisual content has been accelerated by the rise of the Internet. Although the development is slower than in other world regions – and differs country by country – the assumption is that Internet access and broadband access will continue to develop.

The high level of the ownership and use of mobile phones in the countries under review (and indeed throughout Africa) places these countries on a par with other global regions.<sup>7</sup> The provision of data regarding household and individual access to new technologies, equipment, and the rate of ICT development and broadband access are vital to understanding market developments and future trends. The digitization of the media brings great opportunities but also significant challenges, particularly as regards protection of copyright and the proliferation of privacy.

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<sup>6</sup> Expert interviews and industry and expert reports

<sup>7</sup> ITU statistics based on data from national governments and telecommunications market regulators



### **1.2.5 Co-operation across sectors, regions, linguistic areas, and the African continent**

The desk research, the review of various reports and the interviews with key experts reveal a broad range of initiatives to enhance the development of the audiovisual sector.<sup>8</sup> Increasingly this involves the promotion of co-operation along the audiovisual value chain. Initiatives are also focused on the potential for co-operation along linguistic lines allowing for an expansion of funding sources and potential audiences. Several experts called for a more intensified collaboration across linguistic zones. The value of such collaborations and exchanges has not been fully exploited. It was mentioned by one expert that the producers tend to look towards Europe for collaboration and funding rather than working with each other. At the same time, the issue of linguistic diversity within countries may be an impediment to developing the market. The example of Senegal (where Wolof is the most spoken dialect) was noted in this regard.

The potential co-operation via regional economic entities and via the African Union should increase the strength of policy, and allow for sharing of expertise and for maximisation of resources. The newly launched African Audiovisual and Cinema Commission<sup>9</sup> should provide a framework for pan-African co-operation in the development of the audiovisual sectors of its member states. Collaboration, co-operation, the sharing of resources, expertise and information also has a very valuable role to play in the collection of data, the elaboration of statistics and the analysis of market trends. Hence, the potential to utilise these co-operative structures to enhance the collection of data will also be addressed in this brief (chapter 3).

## **2. Audiovisual market data**

The main purpose of this chapter is to focus on the **types of economic data** on audiovisual industries necessary for the development of policies and the understanding of the market, and that are also of relevance to copyright. However, market data needs to be placed in context by understanding other important trends such as **access to media by households and individuals, and media use**. The types of relevant data include that which indicates **market power**: audiences of broadcasters, subscribers of distribution platforms, share of advertising markets and pay TV markets. Also of relevance are economic indicators such as the financial data of operators, and economic trends (such as advertising revenues and growth).

In addition, digital developments (broadband, digital television platforms and homes), consumer trends and the ownership and use of media, and data relating to the production sector (funding, production, programme trends, distribution and audiences) are of significance. These types of data, their relevance and value for the audiovisual industry and policy makers will be referred to in the analysis. The availability of such data in the five countries is examined. Table 2 on page 17 provides a comprehensive overview of the data relevant to these markets, the sources (and potential sources) and the access to available data (whether for free or for pay).

### **2.1 Mapping the market**

The mapping of the audiovisual media sector in a country is essential as a first step in understanding the market. The following outlines the range of useful indicators for this exercise.

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<sup>8</sup> WIPO project and other initiatives

<sup>9</sup> Africa business communities, 20-09-2017: African Union member states endorse draft statute of the African Audiovisual and Cinema Commission to boost cinema industry

### **2.1.1 Understanding the households: media access**

An understanding of the access of the citizen to media services is necessary in order to place economic data in context. It ranges from the levels of electrification of markets, to television and radio ownership, mobile phone use and Internet access, including also broadband access which is relevant for the reception of audiovisual media services. Such data is generally gathered by national statistics bodies. Data on mobile and Internet use can be provided by regulators of the telecommunications sector, or relevant ministries. The research revealed that the telecommunications regulators in all five countries are regularly providing data on mobile phone ownership and use, and on Internet access, including also broadband Internet access. This data is aggregated by the International Telecommunications Union (ITU). The ITU has also included data on television ownership (but no data is recorded for any of the countries in the ITU statistics study). As such figures were referred to by several national experts, it can be assumed that they exist, perhaps in National statistics office reports. Monitoring the development of household equipment (using DTT, cable, satellite, MMDS) and the digitisation of these the main distribution platforms by one of the regulatory bodies allows the analysis of trends regarding the growth of TV channel choices for the consumer.

### **2.1.2 Understanding the players: audiovisual media services - national and foreign**

The knowledge of the audiovisual services (TV and on-demand services) that are established on the market is important, particularly in markets where a larger number of services may exist. Such lists are generally provided by the authority that licences broadcasters, which may be a regulatory body and/or a ministry. Maintaining an inventory of on-demand services may be more complex. They may or may not be obliged to register with the regulator. However, significant SVOD (subscription video on-demand) services may be well known to the audiovisual experts.

A list of television operators (channels and distributors) is available on the websites of four of the five broadcast regulatory authorities: the *Conseil Supérieur de la Communication* (CSC) in Burkina Faso; *La Haute Autorité de la Communication Audiovisuelle* (HACA), Côte d'Ivoire; the Kenya Communications Authority; and *La Haute Autorité de la Communication Audiovisuelle* (HACA, Maroc). The *Conseil National de Régulation de l'Audiovisuel* (Senegal) provides a brief written overview of the market but no detailed lists were found. No particular lists of on-demand services were noted in any of the countries. A range of services were mentioned by one Kenyan interviewee which included services such as Zuku (Multichoice) and pan-African service iflix.

It is also important to map the foreign TV services present on the market, such as those available over cable, satellite or IPTV networks. These may have significant viewership, or may insert local advertising blocks in their programming. It may also be the case that they are potential investors in local programming. The impact of foreign services, or pan-African services (television or on-demand) is an area of research not carried out in a specific fashion in the countries, although the services seem to be well known to many of the experts.

### **2.1.3 Distribution platforms for audiovisual services**

As noted above, it is important to have data on the main distribution platforms in the market delivering content to the home. These platforms are assessed according to the number of TV households that rely on them for reception of television services. They may be free (free to air digital terrestrial television – DTT – or free satellite), or they may be pay television services

(cable, satellite or IPTV subscription packages, or a Pay DTT service). Data is frequently based on aggregating the figures on subscribers that are held by each operator in the market (summing the subscriber numbers for all cable operators, for example, to get the total number of cable homes). This is possible only where the companies publish or make available information on their numbers of subscribers. Data on the importance of various platforms for the delivery of television services may also be gathered via household surveys. Often this data is available from regulatory authorities. For example, the regulatory authority for telecommunications may include information on homes receiving IPTV (such is the case with the ARCEP in France). Several regulatory authorities provide regular updates on the breakdown of household use of various platforms (for example the Ofcom in the UK).

For the most part the broadcast regulators noted above in the five countries, also provide lists of the national operators delivering audiovisual services via terrestrial, MMDs, cable or satellite. No indication was found of the percentage share of such operators as regards TV households. In Kenya, the authority for telecommunications regulation provides data on DTT homes on the basis of set-top boxes sold. It would be particularly useful to assess this situation by aggregating the figures on subscribers that are held by each operator in the market, if and when they publish or make available information on their numbers of subscribers.

The significance of this data is two-fold for the copyright holders related to audiovisual works. The distribution platform is in many cases obliged to provide remuneration for copyright holders for the re-transmission of broadcast content,<sup>10</sup> as is the case in Kenya under copyright regulations.<sup>11</sup> It was noted by one expert from Senegal that the development of the new copyright collection society (see more below) should play an important role in increasing awareness of operators both national and foreign (specifically mentioning players such Canal+) of the importance of implementing a system of copyright and neighbouring rights, and the implementation of the law. Distribution platforms also increasingly have their own channels, and may produce or commission audiovisual content for their channels. In this way, they become potential partners in the pre-financing of audiovisual works. In a range of European countries, important distribution platforms (cable, satellite or IPTV) are also under obligation to make direct contributions to the funding of audiovisual production in their countries. This is the case in, for example, Belgium, Spain, France, the Czech Republic, Croatia and Poland.<sup>12</sup>

The introduction of digital terrestrial television has, as noted above, presented opportunities for producers: increasing numbers of channels and an increasing demand for content. In Kenya, this provided an opportunity for the Communications Authority to draft new policies regarding the operation and licensing of channels as well as local content requirements.<sup>13</sup>

## 2.2 Market power and revenues

There are two main market share indicators for free to air broadcasting: the first is audience share; and the second, which is largely dependent on the first, is the share of advertising revenue that a broadcaster will hold in the market.

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<sup>10</sup> European Union (EU) regulation - CabSat Directive: cable retransmission and collective management organization rights management

<sup>11</sup> Kenya Copyright Board/ Kenya Film Commission/ WIPO: Copyright and the Audiovisual Industry in Kenya. A Practical Guide on Copyright for Film makers.

<sup>12</sup> See European Audiovisual Observatory (2015): The development of the European market for on-demand audiovisual services

<sup>13</sup> R. Aft: The effect of digital distribution including broadcast and SVOD on the evolving Market for African Films

### **2.2.1 Audience shares**

Audience data is usually collected via a system of people metering (installing boxes for measuring channel shares in a representative sample of homes). Where this is not possible, surveys are used in order to estimate the relative popularity of the channels. Linking audience data to the audiovisual services provides the indicator of which services are most popular, likely to have the largest earnings from advertising, and may be the most appropriate for the purchase, commissioning or funding of the production of content.

Some audience data is available for free in a range of countries – specifically larger European countries (published by BARB in the UK, Médiamétrie in France with free monthly reports on the audience share for the TV channels, and published by the AGF in Germany). In general, the free data may show the reach of individual channels, and in sometimes also the average daily share per channel. Data for primetime shares is less often available. Audience data that indicates the most popular programming is also less easy to access for free.

In Morocco, Ciaumed (Macrometrie)<sup>14</sup> (publishes regular free (online) summaries of the audience share of channels, and of the top programming of the main channels. There are several commercial vendors on the Kenyan market, with Kantar GeoPoll publishing quarterly audience share data for free online.<sup>15</sup> But data on the top programmes is not available. One audience research company provides data on Burkina Faso, Côte d'Ivoire, and Senegal (among others) via the Kantar Africascope reports.<sup>16</sup> This data is not free but has been accessed by the researchers via the Canal+ advertising brochure.<sup>17</sup> The data appears to be based on surveys rather than people metering. Surveys may reveal the popularity or reach of specific TV channels but they do not (unlike people metering) allow for the possibility to indicate shares for individual programmes, or the creation of a list of top programmes by views/ audience shares.

In order to try and fill in the gaps and better understand the markets, national organisations commission reports on an irregular basis to try and understand audience behaviour and consumer tastes. The CNRA in Senegal has carried out several surveys into media access and audience tastes (in 2013), and uses and attitudes of media by young people (2014).<sup>18</sup> The Kenyan Film Commission (KFC) has also carried out commissioned research into audience tastes in 2012, which indicated a strong interest of the audience in local content.<sup>19</sup> This data has been very useful as it is claimed that broadcasters have recognized the significance of local content for the audience and hence are commissioning more local content. Experts have noted that the introduction of digital terrestrial television has aided the collection of audience data.

### **2.2.2 Advertising data**

The breakdown of the share of advertising between different media sectors (television, radio, print, magazines, cinema, outdoor and Internet) is an important indicator of the growth or decline of revenue overall and the state of the market. It also reveals changes in the significance of media sectors, such as the recent significant growth of Internet advertising and the decline in advertising revenues for the print sector in many markets. However, such data is not generally provided on an “outlet by outlet” basis with the possibility of assigning direct power

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<sup>14</sup> Website of Ciaumed Macrometrie

<sup>15</sup> Kenya quarterly Media Measurement: Radio and TV Audience Ratings

<sup>16</sup> Kantar TNS AFRICASCOPE

<sup>17</sup> Canal+ Advertising

<sup>18</sup> CNRA (2015) *Vers une nouvelle société médiatique, Les grands chantiers*

<sup>19</sup> Kenya Film Commission (2012): Audience Consumer Trends Survey.

in the advertising market to particular companies. Assumptions can be made in relation to audience shares, as the audience dictates the value of the advertising slot.

Data on advertising revenues and their shares in the sector (in the case of the European markets) are seldom available for free unless published in governmental or institutional reports. Such data is gathered on a global scale by companies such as WARC<sup>20</sup> who commercialise and sell the data. A brief examination of the WARC website revealed that there appears to be some data collection on Kenya, Morocco and Côte d'Ivoire by WARC. In Kenya, the company Reelforge was identified as a commercial company collecting data on the advertising sector in Kenya, with no data available for free. In the Moroccan publication of the *Cour des comptes* (outlining the financing of public institutions) data was provided on advertising and revealed that in 2014, advertising represented 93 per cent of the resources of the public broadcaster (SOREAD-2M) and 10% of the resources of the public broadcaster (SNRT).<sup>21</sup> In Côte d'Ivoire, the *conseil national de la publicité* (CNP) collects data on advertising.

### 2.2.3 The pay TV market

As noted above, the power of operators in the pay TV market can be measured according to the number of homes that subscribe to their services (satellite, cable, IPTV etc.). Such data may be published by a regulator, and may also be accessible in the company reports of the operators. Several international commercial companies<sup>22</sup> aggregate this and other data via surveys or reviews of company reports in order to assess: the homes subscribed to various platforms; the consumer spend on pay TV services; and/or the earnings of companies from subscriptions. According to one interviewee, this data is a new area being addressed by the regulator in Côte d'Ivoire (HACA). While researching the five countries it was noted that there are several major pan-African pay-TV operators present in almost all of these countries.<sup>23</sup> Table 1 (below) indicates many of the important players.

Table 1: Pan African Pay TV operators

Company	Ownership	Countries
DStv	Multi-choice, South Africa	Burkina Faso, Côte d'Ivoire, Kenya and Senegal
Canal Plus	Canal+, France	Burkina Faso, Côte d'Ivoire and Senegal (among others)
Starsat (SA)	StarTimes, China	Burkina Faso, Côte d'Ivoire, Kenya and Senegal
StarTimes	StarTimes, China	Côte d'Ivoire and Kenya
Zuku	Wannachi Group	Kenya, (Uganda and Tanzania)
GOtv	Multichoice and KBS	Kenya
Orange	Orange, France	Senegal

Only Morocco had a distinctive range of pay-TV operators (OSN, AL Jazeera Sports, Abu Dhabi Sports –all multi-country services in North Africa and the Middle East). Regarding data on subscriptions to pay TV, in some cases, reports provided by operators provide an indication of the number of homes reached by their services. One example is Canal+ which publishes the reach of the advertising on its channels (based on the Africascope surveys mentioned above). For Burkina Faso, Canal+ claimed an audience share of 33 per cent in 2017. For Côte d'Ivoire, Canal+ claimed an audience share of 51% in 2017. For Senegal, Canal+ claimed an audience

<sup>20</sup> The homepage of WARC: <https://www.warc.com/Welcome>.

<sup>21</sup> *Cour des comptes au Maroc : Rapport 2015 sur le paysage audiovisuel national*

<sup>22</sup> For example: IHS, Digital TV Research

<sup>23</sup> Source: Digital TV Research: Sub-Saharan Africa Pay TV Forecasts (Extract)

share of 25 per cent for all of its channels in 2017.<sup>24</sup> This indicates that the operator is in a very powerful position in several countries and particularly in Côte d'Ivoire. It also highlights the necessity to gather data on important pan-African players and their channels and to consider how to engage them in also supporting and distributing local content produced in the national audiovisual sectors.

## 2.3 Media ownership

The ownership of both the audiovisual services and the distribution services may also be a key indicator of market power. When possible, it is useful to examine ownership at several levels, for example the company with licence to broadcast or company with licence to distribute content, the owner of the company, media group (or link to another media group). It is frequently the case that there are links between different levels of the value chain in the audiovisual sector. Broadcasting companies may be producers of content or have ownership of production companies. Distribution companies such as satellite or cable operators may have developed a range of TV channels and may also have ownership in production companies. A knowledge of the major distribution companies for film and their links to other actors in the audiovisual sector is also an essential for understanding market dynamics. Concentration of media ownership and cross-media ownership increases market power and may lead to abuse of other players.<sup>25</sup>

## 2.4 Data on production and distribution of audiovisual content

### 2.4.1 Audiovisual content production – film

Several of the experts interviewed stressed that the most essential data concerns the number of audiovisual productions produced per year in a country. Film data is generally collected by national film agencies or institutes and offices collecting authors rights. As a significant example, the French *Centre national du cinéma et de l'image animée (CNC)* presents annual reports on production, funding, distribution, cinema attendance, box office revenues among other data. The website of the CNC presents a database of statistics on all audiovisual sectors covering funding, production, distribution, audiences and revenues (includes data up to 2012).<sup>26</sup>

Extensive data is gathered on the film market in Morocco and presented in an annual report produced by the *Centre Cinématographique Marocain*.<sup>27</sup> The report includes data on production – national feature films, short films, including details on directors and production companies, and in many cases the budgets spent on the production, based on the number of works recorded in the Moroccan public cinematography register and on the number of shooting permits granted. The same data is produced for foreign productions shot in the country. In addition, the centre provides data over time on the number of Professional Identity Cards that have been awarded to professionals. It also includes the data on funding per project that has been awarded to productions (by genre) and with total funding. According to a Kenyan expert, there still remains a gap in the knowledge as to how many films are being produced in the market, and how much money is being spent. National films and foreign productions have to apply for a production licence,<sup>28</sup> which should facilitate a census of films to be produced, including by genre and target audience. The Kenyan Film Commission mandate has recently

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<sup>24</sup> Canal+ Advertising

<sup>25</sup> Regarding Pan-European players, see: EAO (2016): Media Ownership: Towards Pan-European Groups?

<sup>26</sup> Statistics database of the CNC

<sup>27</sup> See for example: Bilan Cinématographique 2016

<sup>28</sup> By the Department of Film Services (DFS)

been expanded to include film certification activity whereby production companies must register each year with the KFC, providing information on various practitioners and professionals.

Regarding data on the film industry in Côte d'Ivoire, the interview with the expert from ONAC reveals that considerable efforts are being made to complete a census of films produced. The ONAC also has data on the funds invested via the FONSIC (*Fonds de Soutien à l'Industrie Cinématographique*) since 2012. They also monitor data on cinema attendance. An important indicator of productions is the obtaining of an authorisation for shooting an audiovisual project. However, as this law has not been put in place (several decrees implementing 2014 legislation have not been signed),<sup>29</sup> there are producers who shoot without authorisation and hence are not counted in statistics.

#### **2.4.2 Cinema distribution sector and audiences**

As was noted in the introduction, the traditions of cinema going is weak and the number of cinema venues in decline. Data on cinema screen development (growth and decline) is provided by both the Kenyan Film Commission (ad hoc report), by the Moroccan *Centre Cinématographique* and the *Office National du Cinéma de Côte d'Ivoire*. The *Bilan Cinématographique* produced by the Moroccan film centre includes data on admission figures and box office figures for all films, and for Moroccan films. It also includes data on distribution and the market share of film distributors (on the basis of number of films distributed). Regarding box office figures in Kenya, the Film Commission receives these from the film theatres. However, the audience culture is not well developed and the Commission also works to promote a screening culture. In Côte d'Ivoire, the ONAC has noted that there are certain legislative processes that need to be concluded (see above), which will enhance the data received regarding cinema attendance and box office figures. Theatres will be required to declare attendance figures to the ONAC. The data on admission figures, Box Office and share of film distribution companies should then be accessible.

Several interviewees mentioned also the gathering of data on film exports. This requires access to data on screenings admissions and Box office for a range of countries. An interesting report from the European Audiovisual Observatory examined the circulation of European co-productions and purely national films in Europe using data from the LUMIERE database.<sup>30</sup> The research revealed that co-productions circulate better than purely national films.<sup>31</sup>

#### **2.4.3 Audiovisual content production – television**

Data on television content production is generally less easy to access (also in European countries). On a country by country level, this may be available in the annual reports of broadcasters. With regard to the television sector, the French CNC also provides detail (as with the film sector) on the television production sector. As outlined above under film production, *Centre Cinématographique Marocain* provides an annual report – *Bilan Cinématographique*.<sup>32</sup> This also includes data on production in the TV sector – TV films TV series and advertising spots, including length of production, directors and production companies, and the budgets spent on the production. The same data is produced for foreign productions shot in the country – TV films TV series and advertising spots.

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<sup>29</sup> The law on the film industry in Côte d'Ivoire: law n 2014-426 of July 14, 2014

<sup>30</sup> European Audiovisual Observatory (EAO) database on admissions to films in Europe: Lumiere

<sup>31</sup> EAO (2008): The circulation of European co-productions and entirely national films in Europe

<sup>32</sup> Bilan Cinématographique 2016

The content production and spend should be available in the company reports of broadcasters. In particular, public service broadcasters should report on the section of the budget spent on original programming. Ideally the spend with a breakdown per genre would allow an assessment of TV films, drama, fiction and documentary produced. The hours of works and the costs may also be useful for establishing the average costs of production of an hour (and the costs per genre per hour). One interviewee noted that there was an absence of an economic model that would allow for regulation of the relationship between broadcasters and producers. An example of the information provided by the public broadcaster of Côte d'Ivoire - RTI includes an online catalogue of works produced although not of their budgets.<sup>33</sup>

Where local quotas for production exist, it should be possible to have a reporting process on the production, the spend and the production companies used. Part of the regulation at the European level includes the outsourcing of 10 per cent of production of television content for broadcasters by independent producers. A report for the British media regulator looking at TV production outlined the three-pronged approach to stimulating the production sector: the quotas of European content (50 per cent; the commissioning of independent broadcasters 10%; for public service broadcasters commissioning is 25 per cent; and finally, the development of a system of fair terms of trade between broadcasters and producers (see more under 2.5 below).<sup>34</sup>

#### **2.4.4 Programming trends**

The main measure of popularity of programming can be understood from audience ratings, where a system of people metering has been applied. It was noted that the introduction of digital terrestrial television in Kenya had allowed for audience measurement (people metering via set top boxes) and this has enhanced the knowledge on the market.

As noted earlier, national organisations often commission reports to try and understand audience behaviour and consumer tastes, such as the CNRA in Senegal and the Kenyan Film Commission (KFC). The KFC commissioned research into audience tastes in 2012, which indicated a strong interest of the audience in local content.<sup>35</sup> This data led to broadcasters recognizing the significance of local content for the audience and hence are commissioning more local content. This also impacted the strategies of foreign players such as the satellite operator Pay TV player Multichoice and VOD operator Iflix. In the Kenyan market, quotas exist (in the licensing regime) for the airing of local content by free-to-air broadcasters requiring 60% local content by 2018 (not including news, but drama, fiction, and documentaries). The implementation of local content quotas is the subject of reports by the Government and the regulator.<sup>36</sup> In addition, the KFC claims that it works with broadcasters to encourage outsourcing to the independent sector for content.

Some programming trends can be interpreted from the data of the Canal+ Advertising brochure.<sup>37</sup> For example in Senegal, the TFM is the most popular channel, followed by the Canal+ channel Novelas TV. In Côte d'Ivoire, the Novelas TV channel is listed as the most popular channel in the country, while in Burkina Faso it is placed third with a 9 per cent audience share. Another channel in the Pay-TV package is Nollywood TV earning between 3.7 per cent (Senegal) and 7 per cent (Côte d'Ivoire) of audience share in these countries. This indicates the popularity of African films but also the necessity to have national productions aired on channels. Telenovelas represent a genre that travels well and dramatizes universal themes of love and family, and suggests the need for production of local soap operas and telenovelas.

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<sup>33</sup> [Catalogue of productions RTI](#)

<sup>34</sup> Oliver & Ohlbaum (2015): [Tends in TV Production](#). Produced for the Ofcom.

<sup>35</sup> Kenya Film Commission (2012): [Audience Consumer Trends Survey](#).

<sup>36</sup> For example in the [Kenya Communications Authority Annual Report 2015-2016](#)

<sup>37</sup> [Canal+ Advertising](#)



There are indications that this is happening in Senegal with the production of many local TV series, although exact data on this is not available. As stressed by experts, the global trends show that “TV is taking over from film”, and TV should be “pivotal” in the development of the sector.

## **2.5 Assessing the economic value and contribution of the audiovisual sector**

### **2.5.1 Examples of studies**

A range of studies have been produced which attempt to assess the economic value and economic contribution of the audiovisual sector. The work of the WIPO has been important in this regard in establishing frameworks for the evaluation of the copyright sectors of the economy.<sup>38</sup> In the United Kingdom, this research has been regularly carried out in relation to the creative industries.<sup>39</sup> Hence studies rarely look at the contribution of the film sector in isolation but rather “creative,” “cultural,” “audiovisual” or “copyright” industries as a whole, reflecting the interconnections between the various players. Also of interest is the research carried out by the South African National Film and Video Foundation (NFVF), which followed the economics of the entire value chain of the film industry.<sup>40</sup> This study was based on an online survey of industry stakeholders, data from the Department of Trade and Industry Film Incentive, and other interviews and desk research. Many of these studies whether based on industry statistics from registered companies or on industry surveys tend to use multipliers to indicate the benefits of investment in the sector.

### **2.5.2 Financial data of operators in the media sector**

In order to carry out these studies it is necessary to cooperate with statistics institutes. Financial data on the media operators is generally available via the national company registers and/or national bureaus of statistics. Data may be limited to the financial turnover of the companies, and it may also include the number of employees. The ability to extract data on the audiovisual media sector is dependent on the categorisation of the companies in the databases held by these organisations. Relevant industry sectors need to be properly categorised.

Several experts stated that there is a need for a professionalisation of the sector: the establishing, registering and categorisation of companies. The benefits of this are two-fold: as the producers need to be in the system in order to benefit from subsidies and to deal with financial institutions; while on the other hand, the registration and categorisation of the companies can feed into market statistics: those that indicate the role that the audiovisual sector can play in the market. The Kenyan Film Commission is working on an initiative with the National Bureau of Statistics to include audiovisual sector statistics to be included in national economic statistics as a separate category. It is important that companies are registered in order to be counted in these statistics. Registration also has the benefits of enabling companies to benefit from any grants or subsidies that may be available.

In Côte d'Ivoire, the pending decrees to implement the 2014 legislation will enhance the information on the producers and their productions and allow the ONAC to produce statistics on the production houses, number of films, audiovisual productions and turnover. In particular, a

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<sup>38</sup> For example, the work of Dimiter Gantchev of the Creative Industries Division of WIPO. See also the WIPO (2009): *The Economic Contribution of Copyright-Based Industries in Kenya*

<sup>39</sup> See British Council (2010): *Mapping the Creative Industries / A toolkit*.

<sup>40</sup> National Film and Video Foundation (NFVF) (2013): *South African Film Industry Economic Baseline Study*

decree introducing tax rebates for the production companies will enhance the levels of registration. Hence, incentives such as tax rebates and access to funding appear to be useful tools to encourage registration of companies and projects leading to better structural data collection.

At the national level, it should be possible to access the company reports if most players as an alternative approach to gathering data. In particular, this may be useful for understanding the spend on audiovisual production of broadcasters (and distributors/pay TV platforms). This relies on the extent to which broadcasters, and in particular public service broadcasters are obliged to be transparent about the spend of the public money (see also above).

### **2.5.3 Understanding the contribution of sale of rights, and the value of copyright remuneration/ content monetization**

Gathering data on the role of intellectual property rights (IPR) in the financing of production and/or the contribution to company revenues is a complex process in Africa because it is new, but one that was indicated as important by several experts. Two examples were uncovered in the research. The French CNC in its annual report showed that French films were financed around 38 per cent by the production companies themselves. TV channels contributed 25 per cent to the financing of films (via commissioning or pre-sales of rights), and authorization agreements (cinema theatres, videos, DVDs and foreign markets) contributed 20 per cent. The data for television fiction shows that production companies contributed 10 per cent of financing, while broadcasters contributed more than 70 per cent. Pre-sales in France and abroad accounted for less than 5 per cent.<sup>41</sup> Research carried out on behalf of British regulator, Ofcom, by Oliver & Ohlbaum looked at the economics of TV production in the UK, including the revenues of the independent production sector in 2014: 58,5 per cent from UK primary rights (the broadcasters and their catch-up services); 26,6 per cent from foreign TV commissions and international rights sales; 6,8 per cent from UK secondary rights (UK secondary sales, publishing, formats, DVD sales etc.) and 6,6 per cent from international sales of finished programmes.<sup>42</sup>

This shows that there are differences between markets. The extent of broadcaster obligations to commission independent production, or contribute to funds, can reduce the reliance on pre-sales. There are different methodologies between the countries and data is difficult to compare between countries. An approach to assessing the value of rights in the market will depend on the market structure and the regulation in place. An important factor is the way in which this data is collected. In the case of the UK study a major source was a survey of the industry via PACT (Producers Alliance for Cinema and Television) and data from the regulator Ofcom (broadcaster returns). In the French case, such data is gathered annually on the basis of productions that received some financing from the CNC. At the European level, data was presented at a recent workshop in Brussels based on the reporting of collective rights management agencies. One European association (GESAC-European Grouping of Societies of Authors and Composers) claimed that the aggregated revenues for broadcasting and retransmission together represented 37 per cent of rights collection in 2015.<sup>43</sup>

The development of the Internet as a means of distribution and consumption of audiovisual content, brings challenges with regard to remuneration of rights. In the UK, alongside quotas, there has a development of a system of fair terms of trade between public broadcasters and independent producers (see more under 2.5 below). The terms of trade agreement defines:

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<sup>41</sup> CNC reports: in English Results 2016; in French Bilan 2016

<sup>42</sup> Oliver & Ohlbaum (2015): Tends in TV Production. Produced for the Ofcom.

<sup>43</sup> Online (re)transmission of TV programmes, Summary of the EAO workshop, Brussels 21 June 2017

*“the scope of rights, duration, extended use payments (e.g. catch-up) and revenue sharing arrangements between both parties in the primary licence window; the revenue sharing obligations for trade in the associated programme rights across secondary windows. Both commissioning broadcaster and original producer share in the revenues associated with the exploitation of programme rights in secondary rights markets.”*<sup>44</sup> Recent research on the changing windowing strategies in the UK suggest this consensus is being eroded in the on-demand world where SVOD services tend to insist on owning exclusive rights to the programming.<sup>45</sup>

It would appear that the most important issue in several of the countries researched in this report is encouraging the creative professionals to further engage with, and be educated in copyright issues. Copyright only plays a limited role in the financing and exploitation of audiovisual works produced in Burkina Faso, Kenya and Senegal. This includes raising awareness of the role of copyright, the responsibilities and the rights of producers of audiovisual content, and the potential to increase revenues via sales of rights and collection of remuneration. In this context, more needs to be done to persuade producers and directors to register with the copyright offices and file contracts for collection of their rights. The more companies engaged in this process, the more economic data will be available. According to the *Bureau Burkinabe du Droit d’Auteur* (BBDA), statistics about the audiovisual sector in Burkina Faso and its utilization of copyright are not readily available. A number of stakeholders called for the generation of such data in support of the strengthening of the sector and to allow the evaluation of policies over time<sup>46</sup>

A major reform has taken place in the field of copyright and neighbouring rights in Senegal with the establishment of a new collective management society of copyright and neighbouring rights in 2013 which aims at managing rights in the audiovisual sector for authors and performers. The creation of the new entity aims to be able to redistribute the rights of authors, performers, producers and publishers in a transparent way, according to the use of their works. The society provides for a control mechanism for the associated companies, which includes an obligation to inform and regularly monitor the society’s activities (auditing and reporting to the relevant ministry, the National Assembly and the General Assembly of the society). This process of reporting should provide transparency on the number of companies and audiovisual works registered, and on the remuneration collected and distributed to the audiovisual sector.

Table 2 (overleaf) provides an overview of the availability of data on the audiovisual markets in the five countries addressed in this study. The data marked in green was found freely available on the Internet websites of a variety of institutions and organisations. The data marked in pink was found on the internet but is available for a commercial fee only. This data was identified during the preliminary desk research carried out by the authors. Additional available, or potentially available data has been identified by the national and international experts interviewed in the course of the study.

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<sup>44</sup> Oliver & Ohlbaum (2015): [Tends in TV Production](#). Produced for the Ofcom. See page 55.

<sup>45</sup> Doyle, G (2016): [Digitisation and Changing Windowing strategies in the Television Industry: Negotiating New Windows on the World](#)

<sup>46</sup> Scoping Study on Strengthening and Development of the Audiovisual Sector in Burkina Faso and Certain African Countries, CDIP 12/Inf/3

**Table 2: Overview of data available, potential data, sources and access**

	Burkina Faso	Côte d'Ivoire	Kenya	Morocco	Senegal
National AV services	CSC	HACA CI	CA KE	HACA MA	CNRA
National AV distributors	CSC	HACA CI	CA KE		
Audience shares TV	Kantar/Africascope	Kantar/Africascope	Kantar-GeoPoll	Ciaumed	Kantar/Africascope
Audience Foreign TV	Kantar/Africascope	Kantar/Africascope		Ciaumed	Kantar/Africascope
Audience programmes				Ciaumed	
Audience trends		Knowdys	2012 report, KFC		CNRA, 2013 Knowdys
Advertising shares		SCP	Reelforge Media	SNRT	
Foreign TV available	Pay TV bouquets	Pay TV bouquets	Pay TV bouquets	Pay TV bouquets	Pay TV bouquets
DTT/cab/sat/IPTV/MMDS			CA KE (For DTT)		
Subscribers to Pay TV	DTV Research	DTV Research	DTV Research		DTV Research
TV Production works	broadcasters	Public broadcaster	broadcasters	broadcasters	broadcasters
TV Production spend	broadcasters	broadcasters	broadcasters	FPPAN, TPPAN	FOPICA
Production no. of films		ONAC	Certification (KFC)	CMM	DCI, FOPICA
Film funding and spend		ONAC (FONSIC)	MOSCA	CMM	FOPICA
Admissions and Box Office		ONAC	KFC	CMM	FOPICA
No. cinema screens		ONAC-CI	KFC	CMM	FOPICA
Copyright registered works	BBDA	BURIDA	KECOBO	BMDA	SODAV
Copyright remuneration	BBDA	BURIDA		BMDA	SODAV
TV ownership/ access			CA/KNBS		CNRA, 2013
Mobile phone ownership	ARCEP	ARTCI	CA/ KNBS	ANRT reports	ARTP
Internet access/use	ARCEP	ARTCI	CA/ KNBS	ANRT reports	ARTP
<i>Regular and free to access found online</i>					
<i>Irregular/ ad hoc reports and free to access found online</i>					
<i>Regular and pay access found online</i>					
<i>Irregular / ad hoc reports and pay for access found online</i>					

**ANRT:** Agence Nationale de Réglementation des Télécommunications (MA)

**ARCEP:** Autorité de régulation des communications électroniques et des Postes, (BF)

**ARTCI:** Autorité de régulation des Télécommunications (CI)

**ARTP:** Autorité de régulation des Télécommunications et des Postes (SEN)

**BBDA:** Le Bureau Burkinabé des Droits d'Auteurs (BF)

**BURIDA:** Bureau Ivoirien du Droit d'Auteur et des droits voisins (CI)

**CA:** Communications Authority of Kenya (KE)

**CCM:** Centre Cinématographique Marocain (MA)

**CNRA:** Conseil National de Régulation de l'Audiovisuel (SEN)

**CSC:** Conseil Supérieur de la Communication (BF)

**CSP:** Conseil Supérieur de la Publicité (CI)

**FONSIC:** Fonds de Soutien à l'Industrie Cinématographique (CI)

**FOPICA:** Fonds de Promotion de l'Industrie Cinématographique et Audiovisuelle (SEN)

**FPPAN:** Fonds pour la promotion du paysage audiovisuel et des annonces et de l'édition publique (MA)

**HACA CI:** Haute Autorité de la Communication Audiovisuelle (CI)

**HACA MA:** La Haute Autorité de la Communication Audiovisuelle (MA)

**KECOBO:** Kenya Copyright Board (KE)

**KFC:** Kenya Film Commission (KE)

**KNBS:** Kenya National Bureau of Statistics (KE)

**MOSCA:** Ministry of Sports, Culture and the Arts (KE)

**ONAC-CI:** Office National du Cinéma de Côte d'Ivoire (CI)

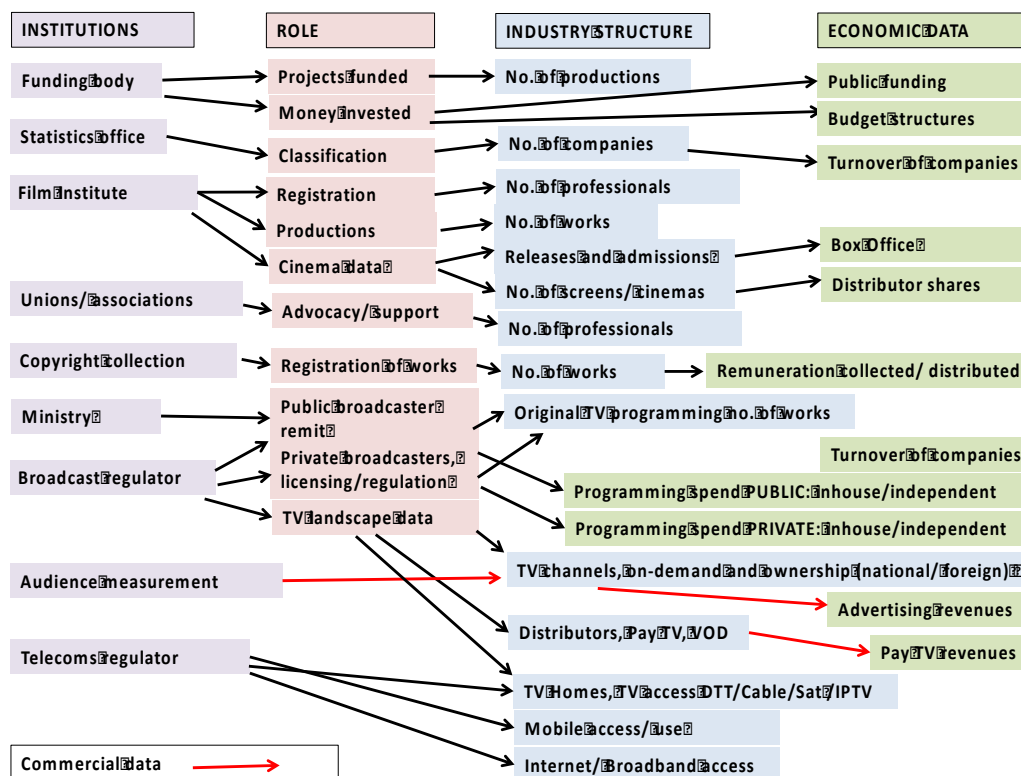
**SODAV:** La Sénégalaise du droit d'auteur et des droits voisins (SEN)

**TPPAN:** Taxe pour la promotion du paysage audiovisuel national (MA)

### 3. Institutions, organisations and commercial companies collecting data

There are a range of potential actors, institutions, organisations, and commercial companies who may gather or hold data on the audiovisual sector. Many of these have already been referenced earlier in chapter two. Fig 1. (below) illustrates the institutions, their general role in the industry, their potential contribution to data collection, and also the potential outcome of their data collection. The first row (lilac) lists the main relevant institutions that should be able to provide data.<sup>47</sup> The second row (pink) links to the role that these institutions play which can lead to the provision of data (for example the broadcasting regulator that licences TV channels should provide a list of TV channels licensed and their ownership). The third row (blue) outlines the kind of data that should be made available by these institutions that illustrate the structure of the industry (for example, the number of companies in the production sector, or the number of households subscribed to satellite TV). The final row (green) then indicates the types of economic data that ideally should be available from a range of institutions (for example, the amount of money granted by funding organisations for film and/or TV, or the money spent by the public service broadcaster on original programming). Some data are rarely made available completely for free. These are indicated with red arrows (advertising shares, audience ratings, Pay TV revenues).

Fig 1. Institutions and their role in the collection and provision of data



Kevin 2017

The mandates and remits (role) of each institution should allow them to gather certain types of data and to make this public. Any data that may be considered confidential (particularly financial or commercial data) can always be aggregated and presented in a way that protects the confidentiality of individual companies.

<sup>47</sup> In some countries, there may be additional institutions (for example more than one dealing with film) but it was not possible to cover all the options in the graphic.

### 3.1 National institutions

Government ministries play a role in the supervision of public broadcasters, their remits, their budgets and their cultural contribution. Broadcast regulators may also supervise public TV but generally regulate the private sector with regard to licensing obligations and other regulations that may impact on production (quotas) and production funding. Data and reports on the broadcasting sector could emanate from (or be commissioned by) the government ministries and/or the regulator. The specific government ministries may also (alongside film institutes) collect data on film productions or production companies.

National statistics institutes and national company registration offices will be the main sources for economic data on the audiovisual sectors – turnover and employment. As mentioned earlier, the extraction of this data is dependent upon the correct classification of companies – and the registration of companies. Statistics offices could also potentially collect ICT and media access data in their surveys. The tax/ revenue offices may also be a source of data regarding company financials. Film commissions and the agencies providing funding to the audiovisual sector should also be able to provide data on certain aspects of the sector – namely public financing, projects supported and money invested. Unions and associations that represent professionals in the audiovisual sector can be useful sources of data regarding professionals and companies, and also a starting point for industry surveys. The Copyright Registration Offices and Copyright Collection Societies can also provide data on the number of works registered and in the case of the latter on the revenues earned, their distribution and also trends over time.

### 3.2 Regional or transnational institutions

Two other specialised agencies of the United Nations are collecting data at the international level. Data on television ownership, mobile phone ownership and use, and on Internet access, including also broadband Internet access is aggregated by the International Telecommunications Union (ITU). The United Nations Educational, Scientific and Cultural Organization (UNESCO) Institute for Statistics gathers data and publishes reports on the cultural sectors.

As noted earlier, there is a need for regional co-operation across the entire spectrum of activities in audiovisual production. This is also the case with regard to the enhancing of the transparency of data on the audiovisual markets. It is worth considering how the regional economic communities in Africa could cooperate to improve the collection. One project is under way to collect data on eight Francophone countries and has been initiated by the UEMOA - *Commission de l'Union Economique et Monétaire ouest-africaine*. Examples of regional audiovisual research institutes are provided below. A compulsory audiovisual legal deposit is about to be installed for UEMOA countries.

#### 3.2.1 European Audiovisual Observatory – transparency on the sector

The European Audiovisual Observatory is a public service organisation, and part of the Council of Europe in Strasbourg, France. It was created in order to collect and distribute information about the audiovisual industries in Europe, promote greater transparency and a clearer understanding of the ways in which the audiovisual industries in Europe function, both from an economic and legal point of view. It is funded by direct contributions from its member states (41) and the European Union (European Commission).<sup>48</sup> Part of the data

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<sup>48</sup> Home page of the [European Audiovisual Observatory](#)

collection is reliant on the sharing of data from networks (national film institutes, national media regulators, national media law experts). Certain types of data are purchased from pan-European commercial companies: audience data from Eurodata TV (Médiamétrie); company financial data from Bureau Van Dyke (who aggregates this information from a wide range of European markets); data on household access to TV, the Pay TV subscribers and revenues, and VOD revenues (Ampere Analysis and IHS); and other data that may be required for specific ad hoc research projects. The data is purchased at a lower price than the industry level, but only as agreements are concluded regarding the dates of publication of the data – usually after the commercial value has been fully exploited.

### **3.2.2 Ibero-American Audiovisual Observatory**

The Ibero-American Audiovisual Observatory (Observatório Ibero-Americano do Audiovisual — OIA) is a repository of key statistic information about films, cinema and audiovisual production in the Ibero-American countries. The OIA was established by the Conference of Ibero-American Cinematographic Authorities (CACI). The CACI was created in 1989 (Ibero-American Cinematography Integration Agreement - Convênio de Integração Cinematográfica Ibero-americana). Members (21 countries) are committed to: *Supporting initiatives for the cultural development of the people of the region, within the cinematographic and audiovisual sphere; Harmonising the national policies of its members on cinematographic and audiovisual production; Searching for solutions to the problems of production, distribution and exhibition in the region; Preserving of regional cinematographic heritage; Enlarging the market for cinematographic products in whichever means of delivery, through the adoption in each country of norms tending to the constitution of a common Ibero-American cinematographic market.*<sup>49</sup> The Observatory provides an online database of statistics on the sector covering the 21 countries.

### **3.3 Commercial Companies, stakeholders and data transparency**

In the course of the research, a large number of reports and databases providing analysis and statistics on African markets were discovered.<sup>50</sup> This indicates a global interest in developments in the African audiovisual media sector. Intelligence is being gathered for the benefit of the strategic approach of global companies wishing to enter or expand in the African audiovisual markets. Companies such as Digital TV Research, Balancing Act, Kantar TNS, M&M Global are producing reports or providing access to data (including the five countries in this study).<sup>51</sup> The average costs for such reports are around GB£1000, while costs of subscriber access to databases range from GB£500 to GB£5000 per year.

The issue of transparency is also relevant with regard to the financial and operating data of broadcasters, Pay TV and the new players in the on-demand world. There is a need to regulate the transparency of data, but there is no access to data on consumption of audiovisual works in the on-demand world: “*access to some data will remain difficult, if not impossible, even if the will to cooperate exists.*”<sup>52</sup> The importance of commercial sources of data (to complement public sources) was highlighted at a recent UNESCO symposium. It

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<sup>49</sup> Website of the Ibero-American Audiovisual Observatory

<sup>50</sup> Sometimes this is the only data available to national actors, according to Myriam Habil (CI)

<sup>51</sup> Examples include Digital TV Research - Sub-Saharan Africa Pay TV Forecasts; Balancing Act – VOD and Africa; Kantar TNS – Africascope.

<sup>52</sup> André Lange, former Head of Department for Market Information, European Audiovisual Observatory (cited in UNESCO (2016))



was noted that: *"to better exploit data on cultural content, it seems necessary to explore new approaches by developing partnerships and collaborating with private enterprise."*<sup>53</sup>

#### **4. Conclusions and suggestions for enhancing the transparency of data**

From the interviews with national and international experts there was an overall message of positivity regarding the potential for the audiovisual production in these countries in particular in the light of the ongoing digital switch over from analogue terrestrial to digital terrestrial television. Reference was made to the tremendous talent and motivation of the professionals and to the wealth of potential stories and heritage that can contribute to film, TV drama and documentaries. The presence of pan-African players and the production of intelligence on the markets by commercial companies indicates that they perceive the economic potential of these markets.

It is clear that the role of market data collection in the development of policies, strategies and regulatory tools is vital. Policy-makers need to understand the markets and they also need to understand consumer trends and media use in order to develop strategies. A successful implementation of policy or regulation also needs data to assess the impact of policies, to provide transparency on the use of funding, and to monitor the compliance of various actors with regard to their obligations. The following outlines some potential steps forward:

##### **4.1 Creating an environment for data collection**

- The legal framework should require reporting from broadcasters on their programming, original production and independent commissioning of programming. In addition, the financial details on spend per hour and per genre would enhance an understanding of the economics of the sector. The film distribution market and cinema theatres also need an obligation to deliver data on admissions and box office.
- Any improvement of the collection of data requires a culture of transparency which may need a legal framework with regard to companies releasing their data. Such data can be aggregated in reports for the purpose of protecting business interests.
- There should be some benefits and incentives for these players to co-operate. The development of digital terrestrial television is a good opportunity to introduce regulation for the channels as they benefit from digitisation, and potentially an audience measurement infrastructure. Incentives to develop the cinema distribution sector can also be an opportunity to regulate the delivery of data on admissions.
- The remits of the various institutes should be clear and harmonised in the film and audiovisual (and other relevant) laws to enable them to collect this data.

##### **4.2 Engaging the stake-holders**

- The lack of registration of production companies and their works is an impediment to the elaboration of statistics on the market, to the professionalization of the sector, and also to the work of the collective management organization. In a global sense, it also makes it difficult for governments and other agencies to develop strategies and policies without a clear picture of market trends. This issue has been signalled by

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<sup>53</sup> UNESCO (2016): Proceedings of the international symposium on the measurement of digital cultural products

many professionals. It has also been noted that without such data and effective chain of titles as regards copyright documentation it is difficult to encourage investors and banks to become involved in audiovisual production.

- Producers need to be made aware of the benefits of registering their companies and works: to enhance statistics, to benefit from funding, to be registered for tax rebates, and to be registered for earnings from rights collection. Hence, a continued dialogue between stakeholders is required. They need to engage with and strengthen their own associations and unions. More workshops, training, discussions and conferences are needed to bring together the actors along the entire value chain from writers, directors and producers to broadcasters, distributors, pay TV operators and VOD operators.

#### **4.3 Optimising data collection: collaboration, co-operation at national level**

- It was noted that data is dispersed between a range of institutional actors which makes sense given the particular mandates that they have, and the sectors that they work with. Several interviewees agreed with the suggestion of the researchers that there is a need to consolidate this data and consider the publication of one annual compilation of data that can be used by a range of stakeholders in the industry.
- Inter-institutional workshops could bring together researchers and experts from the fields of broadcast regulation, telecommunications regulation, film institutes and funding bodies, copyright agencies, government ministries and other academic and research institutions to present and share their knowledge – and begin to discuss collaboration.
- This could lead to the production of a compilation of data – in a hand book or yearbook, which requires co-operation between the various relevant institutions (potentially a joint publication or one produced by a separate organisation). The decision on what organisation should be responsible for the production of such a compilation may vary from country to country. Perhaps the film institutes, where they exist, are best placed to do this, or the relevant ministries or CMO'. Or perhaps a dedicated agency or observatory should be established to provide data on the sector, as suggested by several experts.
- A handbook of national data is of greatest value when its key aim is to provide transparency on the market in a form that can be used by all actors in their analysis, their policy-making and their advocacy. Hence this data should be presented in a transparent and neutral manner which can then be utilised by various actors.
- Resources are required to enhance the collection of data. Individual organisations may not be equipped to use their own resources to compile data. However, a requirement to report on companies registered, audiovisual works funded, or copyright remuneration collected would ensure a basic set of data that could be compiled by researchers in a designated institute, or in a co-operative approach between several organisations.

#### **4.4 Sharing of expertise, best practice and resources: collaboration and co-operation at regional and pan-African levels**

- There are many examples of good practice in the five countries under review that emerged in the research. For example, the collection of data on film and audiovisual production in Morocco; the establishment of a private collective management

organization in Senegal; the availability of tax rebates (which act as an incentive to company registration) in Côte d'Ivoire; the introduction of local production quotas in Kenya: working with statistics institutes to improve the categorisation of companies in the audiovisual sector. All of these enhance the activity in the sector, and improve the collection of data. They are based on the establishment of a film or an audiovisual policy, and on the implementation of regulation of the sector.

- This feasibility study represents a first step in assessing the availability of data on the audiovisual sectors in the five countries. It would be useful to consider a broader study of reports on each country compiling all available data. Such a study could comprise a collaboration between international experts and local experts in the field of audiovisual sector data collection and provide a report or a first set of statistics to be presented online. Working with a network of national experts can facilitate a harmonisation of approaches and exchange of expertise.
- It has been illustrated above, the importance of pan-African pay-TV operators providing services in a range of countries in Africa. Hence there is logic in taking a regional and/or pan-African approach to describing the markets. Where major international players from Europe, China etc. are earning money on the national markets (advertising, subscribers), they also need to be encouraged or obliged to play some role in the enhancement of the local production sector.
- The current transition to digital television, taking place in all of the countries, represents an important time to move forward with establishing a professional system of data collection. The switch-over will have a major impact on the market and hence increase the need for economic intelligence. There is an opportunity to create a better environment for the development of new, innovative and legal services to counteract the tendency towards piracy.
- Two examples of regional audiovisual observatories have been described in the research, which could be used as models to develop a research institute either at the level of regional economic communities, or on a wider level via the newly established African Audiovisual and Cinema Commission. The production of data on the markets will compliment efforts of the African Audiovisual and Cinema Commission to promote development of the industry.
- Regional and pan-African databases can be developed that publish information on production of film and admissions to film. The Ibero-American Audiovisual Observatory provides such a database on the audiovisual production sector. The European Audiovisual Observatory provides a database on European film admissions (Lumiere) and another on the TV and on-demand services established and available throughout Europe, the various TV platforms and Pay TV players and their ownership (MAVISE). The development of such databases can be more easily achieved by the pooling of resources between countries and the development of networks of national information points.
- A regional observatory of the audiovisual sector will need the financial support of the members. For example, the European Audiovisual Observatory is funded by direct contributions from its member states and also by a direct contribution from an institutional member in the form of the European Union (European Commission). Hence an agreement could be reached at the level of intergovernmental organisations such as the African Union or at the level of the Regional Economic Communities.

- For the African Union, the support of such an initiative will feed into policies relating to trade and industry and employment, and also in relation to the promotion of local content creation and cultural diversity. A full feasibility study on the establishment of such an Observatory should be carried out in order to assess the potential financial and human resource needs.
- WIPO could facilitate the implementation of this feasibility study which would involve more in depth assessments of the work of these organisations, their structural, legal and governance arrangements. WIPO itself may become a partner/ governor or observer of advisory bodies for such an institute. The research should assess the minimum human resources and other financial resources needed, and the approaches to data collection, data purchase, data sharing, and the development of networks. In addition, the approach to encouraging the cooperation of commercial data collection companies in the enhancement of transparency needs to be fully explored.
- Working on a regional level allows for a sharing of expertise, resources and data. It can facilitate the purchase of data on a range of countries by one organisation – to be published for the benefit of all members. It can be operated via the establishment of a range of networks of experts and institutions at the national level.
- Knowledge of the audiovisual sector, its business models the role of broadcasters and distribution companies, and of new media players in the online world is vital for the successful implementation of copyright frameworks and policies, and for the future viability of the audiovisual sectors. Data on potential audiences and viewers of audiovisual content is fundamental to enhancing the negotiating power of the creative industry. Data on the actual success of an audiovisual work is vital for the assessment of the value of intellectual property remunerations due to the creators. WIPO could also, in co-operation with national collective management organisations and copyright offices organise workshops or conferences where these data collection, analysis and presentation methodologies outlined in the report can be presented to all interested stakeholders (at a national or regional forum). This would provide a potential “kick-off” point for collaboration, sharing of resources and discussions on potential common publications, pilot reports and projects, and the possible establishment of national or regional research institutes for the collection of data on the audiovisual sector.

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**Table 3: List of interviewees**

<b>Name</b>	<b>Organisation</b>
Rob Aft	Compliance consulting, Los Angeles, USA
Désiré Begro	Office National du Cinéma de Côte d'Ivoire
René Denis	Audiovisual Attaché for Eastern Africa, Kenya
Abdoul Aziz Dieng	Conseiller, Ministre de la Culture et de la Communication Senegal
Myriam Habil	Attachée audiovisuelle régionale / Ambassade de France, Côte d'Ivoire
Aminata Lo Paye	Chargée des Affaires Culturelles, UEMOA, Burkina Faso
Romain Masson	Audiovisual Expert, Senegal
Alain Modot	CEO; Media Consulting Group, France
Bertrand Moullier	Narval Media, United Kingdom
Jean-Hubert Nankam	Producteur, MARTIKA Productions, Côte d'Ivoire
Timothy Owase	Director, Development. Kenya Film Commission (KFC) Kenya
Marta JimenezPumares	Audiovisual Consultant, Cuicui Films, Spain
Oumar Sall	Producer, Cinekap Productions, Senegal
Edward Sigei	Executive Director, Kenya Copyright Board KECOBO, Kenya
Béatrice Damiba	President, Association Convergences, Burkina Faso
Irène A Vieira	Director general, Bureau Ivoirien du Droit d'Auteur et des droits voisins Côte d'Ivoire
	HACA, Maroc

### **About the authors**

Deirdre Kevin, an Irish national, is a media consultant, who previously worked for eight years in the Department for Information on Markets at the European Audiovisual Observatory in Strasbourg researching media markets, compiling data for the Observatory's publications and drafting reports on market issues for the European Commission funded projects of the Observatory. She has also worked at the Stirling Media Research Institute in the UK and the European Institute for the Media in Germany. She has an MA in European Economic and Public Affairs, and a Post Graduate Diploma in European Law.

Sahar Ali is an Egyptian media consultant and journalist. She has previously worked on the EU funded Euromed Audiovisual III project on collection of information on Film and Audiovisual Markets in 6 South-Mediterranean Countries: Egypt, Morocco, Lebanon, Palestine, Jordan and Algeria. She is an experienced journalist in print, radio and television, and has a PhD from the University of Montreal in Cinema and Television.

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