

**Opinion no. 2025-A-03 of 30 April 2025
on the draft country law concerning the exhibition of cinematographic works in
cinema establishments in New Caledonia**

**Only the French version is authentic and it prevails in the event of its
differing from the translated version**

Summary¹

The *Autorité de la concurrence de la Nouvelle-Calédonie* (hereinafter "the *Autorité*") was requested by the Congress to issue an opinion on the draft country law concerning the exhibition of cinematographic works in cinema establishments in New Caledonia, pursuant to Article Lp. 462-2 of the Commercial Code. This draft law aims to regulate contractual relationships between distributors and exhibitors by establishing a remuneration system based on a share of box office revenue, ranging from 20% to 35%, for feature films whose screening visa is less than five years old.

The proposal comes in an economic context still affected by the aftermath of the COVID-19 crisis and the 2024 riots, which have significantly weakened the local film industry. In New Caledonia, this sector is concentrated around two private local exhibitors located in the Greater Nouméa area: SECH (part of the Hickson Group), which operates the Cinécité multiplex, and KTR, which operates the Origin multiplex. These two players have adopted different strategies, one working with a regional sub-distributor (TIE), the other dealing directly with national distributors. A public cinema offer also exists in the *Brousse* (rural areas), but it remains marginal in volume and relies on agreements with SECH.

The draft country law draws inspiration from Law No. 2023-1177 applicable in the overseas departments, but it does not proceed to a full transposition. It introduces a proportional remuneration mechanism with a floor of 20% and a ceiling of 35%, and includes an exception allowing for flat-rate remuneration in the case of very limited screenings. This system aims to provide legal and economic security to exhibitors, who face declining profitability and are generally unable to negotiate on equal terms with powerful distributors, especially major American studios.

The *Autorité* notes that, in principle, establishing a mandatory pricing framework constitutes a restriction on free competition, as it limits contractual freedom and freedom to set prices. However, such a restriction may be justified if it contributes to a better economic balance within the market, supports cultural diversity, and promotes cinema accessibility for the public. The *Autorité* considers that the current proposal maintains a degree of flexibility, by allowing negotiations within set limits and preserving programming freedom for local exhibitors. It also notes that the

¹ This summary is strictly for information purposes. Only the numbered reasons of the opinion are authentic.

system, which has already been implemented in the French overseas territories, has not led to a major withdrawal of distributors or a decline in programming quality.

Nonetheless, the *Autorité* identifies several competition-related risks. Three legal uncertainties may undermine the system's effectiveness: the lack of explicit inclusion of drive-in cinemas in the scope of the law, the omission of unlimited subscription schemes from revenue calculations, and an exception for limited-release films whose wording needs to be reviewed.

The *Autorité* also makes a more general observation about the law-making process, noting the absence of broad stakeholder consultation, particularly with distributors. Furthermore, it highlights that New Caledonia currently lacks a coherent legislative framework for the film industry, coherently aligned with local economic regulation.

The *Autorité* made the following recommendations:

Recommendation No. 1: Introduce a monitoring mechanism to assess the competitive impact of the measures set out in the draft country law on the cinema sector.

Recommendation No. 2: Define cinema subscription schemes and set out the procedure for their approval in the draft law, to ensure their proper inclusion in distributor revenue calculations.

Recommendation No. 3: Clearly define the legal status of drive-in cinemas, to ensure that outdoor operations such as the Pont-des-Français drive-in fall within the scope of the law.

Recommendation No. 4: In order to meet the objective of the exception, namely, to promote the screening of low-audience content (e.g., art-house films, concert films, thematic events), the *Autorité* recommends :

- Revising the frequency limit by clearly defining the maximum number of screenings over the total exploitation period beyond which the exception ceases to apply;
- Determining the remuneration modality negotiated between local exhibitors and distributors in return for licensing rights.

Recommendation No. 5: Include a glossary in the draft law, defining key terms such as “feature-length cinematographic work” and “cinema establishment”.

Recommendation No. 6: Either clarify the concept of “screening visa” in the glossary or remove any reference to it. If retained, it should be specified whether films that do not have a French visa under the *Code du cinéma et de l’image animée* fall within the law’s scope. To also target foreign-distributed works, the wording could be supplemented by a phrase such as “cinematographic screening visa of more than five years or any equivalent certification offering similar guarantees”.

Recommendation No. 7: In the medium term, initiate a broader reform of the legal framework applicable to the film sector in New Caledonia.