

# **CASE STUDY V: THE ROLE OF AN AGGREGATOR IN VOD DISTRIBUTION IN BRAZIL AND LATIN AMERICA: THE EXPERIENCE OF SOFÁ DIGITAL**

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## Disclaimer

This study was commissioned as part of the Pilot Project on Copyright and the Distribution of Content in the Digital Environment<sup>1</sup> of the WIPO Committee on Development and Intellectual Property (CDIP). This document is not intended to reflect the opinions of Member States or the WIPO Secretariat

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### Table of Contents

I. INTRODUCTION.....	2
II. SOFÁ DIGITAL.....	3
III. AN EVOLVING MARKET: BACKGROUND ON INTELLECTUAL PROPERTY RIGHTS AND RECENT CHANGES IN THE MARKET FOR AUDIOVISUAL PRODUCTIONS.....	4
A) INTELLECTUAL PROPERTY RIGHTS HOLDERS AND OTHER STAKEHOLDERS IN VoD DISTRIBUTION.....	5
B) OTT MARKET TRENDS IMPACTING THE ROLE OF AGGREGATORS.....	6
i) Release windows' chronology .....	6
ii) Local content and the multiple actors contributing to production .....	6
iii) Decrease in public funding of audiovisual works in Brazil .....	7
iv) Using data to predict demand .....	7
IV. SOFÁ DIGITAL IN THE EVOLVING MARKET OF AUDIOVISUAL WORKS IN VOD.....	8
A) REPORTING AND REVENUES: AIMING FOR TRANSPARENCY AND AUTOMATIZATION .....	8
i) Monetization through content performance, but performance information is opaque ...	8
ii) Distribution of revenues depends on rights holders and other stakeholders' information .....	8
iii) Payment schemes are inefficient .....	9
B) FINANCING: ADDRESSING INCREASED DEMAND AND DIFFICULTIES IN FINANCING USING DATA.....	10
5. CONCLUSIONS .....	11

### I. INTRODUCTION

This case study investigates the role of a Brazilian-based aggregator, Sofá Digital,<sup>2</sup> in the evolving Video-on-Demand (“VoD”) distribution market in Latin America.

Over the last years, VoD has established itself as an important outlet for the distribution of audiovisual works. VoD has a hybrid nature that encompasses different services, such as the case of Transactional VoD (TVoD), that appears to be the successor of DVD or Subscription VoD (SVoD), that may compete more directly with pay-TV channels, for example, as analyzed in this Project's Study about Over-the-top media services (OTTs).<sup>3-4</sup>

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<sup>1</sup> Studies available at: [https://dacatalogue.wipo.int/projects/DA\\_1\\_3\\_4\\_10\\_11\\_16\\_25\\_35\\_01](https://dacatalogue.wipo.int/projects/DA_1_3_4_10_11_16_25_35_01)

<sup>2</sup> <https://sofadigital.com/>

<sup>3</sup> There are other modalities of VoD, such as Advertising AVoD, Push VoD or Near VoD, which may compete more or less directly with different media.

<sup>4</sup> KATZ, Raul. Audiovisual OTT business models in Latin America: Recent trends and future evolution

Due to this hybrid nature, there is still no consensus as to the placement of VoD within the traditional release windows chronology<sup>5</sup> of audiovisual works (cinema - VHS/DVD - pay-TV - free-to-air TV). Nevertheless, demand for VoD services (in its various modalities) has been increasing, and notably within the conditions surrounding the Covid-19 pandemic.

In the context of this growing VoD market, aggregators surfaced as intermediaries in the distribution of audiovisual works, providing technical, business and marketing expertise, and acting as gatekeepers between individual producers and local distributors, on one side, and digital platforms on the other. They work to widen the distribution of audiovisual works, maximizing revenues from VoD, beyond the traditional country-per-country, theatrical-driven release<sup>6</sup> and providing technical solutions that are specific to this type of medium.

Thus, aggregators can provide different services, such as:

(a) technology services: content digitisation, encoding, delivery, metadata management, text localisation and master quality control;

(b) administration services: streamline the administrative pipeline; diminishing administrative burden by platforms and allowing rights holders to make content available across multiple VoD platforms without negotiating with each individually; consulting and managing rights;

(c) content curation services: providing digital distribution strategy across different platforms and countries, providing advice on editorial and curatorial aspects, helping clients integrate regulatory constraints into catalogues;

(d) marketing services: digital marketing and public relations servicing (e.g. buying Google ads); advising on digital marketing campaigns (social media); or

(e) other services: developing VoD platforms for various devices; creating subtitles, close captions, synopses, artworks; assembling and packaging together short clips so that the contents fit the YouTube model or other.<sup>7</sup>

The type of services an aggregator provides depends on its business strategy and the demands of the market where it conducts its activities. This case study explains how Sofá Digital, the leading aggregator in Latin America, responds to the current Over-the-Top (OTT) market in Brazil and Latin America as a whole. For this, section II presents a brief introduction of Sofá Digital and its main activities, section III provides background to the intellectual property structure and main changes regarding the market for audiovisual production and VoD distribution in Latin America, in order to, in section IV, identify the issues driving the changes in the Sofá Digital's business strategy and describe the solutions and the role it is developing in the market, and present conclusions in section V.

The methodology for this work was a semi-structured interview, held by teleconference with Fabio Lima, Executive Partner of Sofá Digital, in December 2020.

## **II. SOFÁ DIGITAL**

Sofá Digital was created in 2013 and has 30-50 employees ranging from film, legal and technology experts and is the leading VoD aggregator in Latin America.<sup>8</sup> Sofá Digital works on

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<sup>5</sup> FONTAINE, Giles, SIMONE, Patrizia. VoD distribution and the role of aggregators. A publication of the European Audiovisual Observatory, May 2017, p. 7

<sup>6</sup> Idem, p. 7

<sup>7</sup> Idem.

<sup>8</sup> According to Fabio Lima, there are only two active aggregators in Latin America today: Sofá Digital and Encripta.

the distribution of content through international platforms such as AppleTV, Google Play, Amazon, Mubi and Netflix but also local platforms as Now, Claro Video, Vivo Play, Sky Play, Cinépolis Klic, and others.

Sofá Digital today offers the following main services:

(a) Technology: technical services, delivery of content to platforms, quality control, specification and standardization of audiovisual works for multiple platforms (film, trailer, audio, subtitle, metadata, SDH/closed caption, dubbing and artwork, translation services, synchronization, forced subtitles for multi-languages, transcription), DCP mastering of DCI standard films and trailers for preferred territories, anti-piracy services and backup cloud.

(b) Distribution, strategy and content management for main global and local platforms: management of all types of audiovisual works, for multi-regions and platforms, communication strategy to increase exposure of works in VoD platforms (including Filmelier – see below), pricing strategy to maximize revenues from VoD.

(c) Financing: providing different financing solutions for VoD audiovisual productions, in partnership with a management fund, including a private credit fund, prepayment of receivables and pre-sale rights contracts.

(d) Optimization of client assets' performance: online report technology that provides access to the performance of the client's audiovisual works, sorted by platform, title and region; digitization of all contracts with Sofá Digital; and "split payment", which is Sofá Digital's scheme of paying directly to each film's stakeholders across many territories, and providing financial reports to each of them, thus diminishing the burden and costs associated with having local distributors or sales agents to pay all stakeholders in their territories and increasing transparency.

Within its strategy to increase exposure and performance of audiovisual works in VoD platforms, Sofá Digital also created Filmelier<sup>9</sup>. Filmelier is an online movie portal, where a user can find a list of movies, sorted by genre, thematic lists, awards and other criteria, as well as availability on different VoD platforms, decreasing the time a user takes to select a movie before watching it and exposing the user to different content.

As will be seen below, the data from Filmelier and from the performance of clients' assets gathered and used by Sofá Digital is a major competitive advantage and the distinctive feature that allows it to build a differentiated role in Latin America<sup>10</sup>.

### **III. AN EVOLVING MARKET: BACKGROUND ON INTELLECTUAL PROPERTY RIGHTS AND RECENT CHANGES IN THE MARKET FOR AUDIOVISUAL PRODUCTIONS**

In the interview conducted for this article, Fabio Lima, the Executive Partner of Sofá Digital, identified two main issues in the Latin-American market for audiovisual works: the processing and payment of licensing agreements and the financing of audiovisual works<sup>11</sup>. These main issues relate to the general structure of the intellectual property regarding audiovisual works and to recent changes in the relevant market. As will be seen below, these issues greatly affect Sofá

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<sup>9</sup> <https://www.filmelier.com/>

<sup>10</sup> TV Time is also a digital platform dedicated to engaging audiences with content available through various platforms and to gather data from users ([www.tvtime.com](http://www.tvtime.com)). Data collected by TV Time is then processed and analyzed by Whip Media ([www.whipmedia.com](http://www.whipmedia.com)), which offers analytics and insights for companies across the value chain, in a global context, with no specific focus in Latin America.

<sup>11</sup> Fabio Lima points out that there are other issues and possibilities in the VoD market, and the strategy of its competitors may differ according to their interests and possibilities. As will be discussed in the text, Sofá Digital is working with financing solutions. That is not the case of its competitor in Latin America, Encripta.

Digital's business strategy, that aims to address the challenges posed by them in Brazil and Latin America by creating products and services that aim to resolve them.

## A) INTELLECTUAL PROPERTY RIGHTS HOLDERS AND OTHER STAKEHOLDERS IN VOD DISTRIBUTION

Audiovisual works are developed in an industrial process because they require substantial planning, investments and technology for the work to be completed and offered to the public.<sup>12</sup> They are generally created through the participation of a large group of people, comprising different categories of creative work professionals (authors of the script, directors, composers and performers of the music, actors, set and costume designers etc.). Additionally, financing audiovisual production is a risky business. Capital is usually obtained through other stakeholders within the value chain, such as distributors, sales agents, cable tv channels, studios, platforms and specific investors that act in the audiovisual market against a share in the film's revenues. It is very common for a film to have multiple financing sources, possibly from more than one territory, in order to dilute the risk and make its production viable.

As seen in other parts of this study,<sup>13</sup> different copyright laws recognize different levels of patrimonial rights to authors, performers, producers of phonogram and producers of audiovisual fixations including, in some cases, a right to obtain remuneration, usually managed through collective management organizations. Additionally, contracts can also include payments that take place according to the success of the content (for example, proportionally to the number of views in the first 30 days). Some of the professionals indicate earlier are entitled to intellectual property rights and others, such as investors and distributors, that are bound contractually to the development of the work, may be entitled to receive a revenue share of the exploitation of the work for their participation in the process.

Therefore, by law or by contract, there are many stakeholders who may be entitled to exercise rights or to receive remuneration derived from exploring an audiovisual work<sup>14</sup>. This is particularly difficult to manage in the audiovisual market because there are no international patterns or standards to attach the information on the rights holders and on other stakeholders into the product as metadata, as it was described in this Project's study about Audiovisual works identification and the use of metadata.<sup>15</sup> It is common that this information be lacking, and remuneration be distributed inefficiently or inadequately. Additionally, managing the flow of payments in the OTT world, indeed in the long tail, has been increasingly a heavy burden. An audiovisual work involves a large number of stakeholders, and the amounts due to each are small, which makes the payment process, and its reporting, costly and non-reliable if the appropriate technology and information are missing. Also, payments can be cross-border transactions, as the more international a film is in terms of talents and financing, more chances are it will perform well beyond the territory it is produced, increasing its financial gains in benefit of all stakeholders. The combination of small amounts, various beneficiaries, complex financing structures, and international transactions makes the calculations and reports difficult to manage without the appropriate technology.

In this scenario, aggregators are well positioned to provide the technological tools needed to make viable dealings with enormous amount of content, each content having a large number of revenue share beneficiaries, including intellectual property rights holders and investors from various

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<sup>12</sup> SALINAS, Rodrigo. O contrato de coprodução audiovisual: uma operação econômica em rede, 2016, p. 11.

<sup>13</sup> LEON, Marta Garcia. Legal Study on the Digital Audiovisual Legal Framework in Latin America

<sup>14</sup> We use the term "stakeholder" in this article as referring to both IP rights holders in an audiovisual work and its investors, i.e., distributors, sales-agents and other agents entitled to a share on the film's revenues.

<sup>15</sup> See SCHÖTZ, Gustavo. La identificación y el uso de metadatos en las obras audiovisuales.

territories. This administrative burden requires accurate information from each film and its stakeholders, and the more standardized this information is the more efficient will be the payment and reporting processes across multiple platforms.

## B) OTT MARKET TRENDS IMPACTING THE ROLE OF AGGREGATORS

According to Fabio Lima, there are changes in the market for audiovisual works that impact the VoD distribution in different ways.

### i) Release windows' chronology

The release windows chronology for audiovisual works was established so that a work could be explored within different markets in different periods of time (especially considering the traditional vertical structure of production whereby the same economic group would have activities in all levels of the value and distribution chain). Traditionally, the work would be explored in the theatres, then on VHS/DVD, then on pay-TV and lastly on free-to-air TV.

The emergence of VoD, especially considering its hybrid nature that can provide different services and therefore compete within different markets, brought up questions as to the position of the release on VoD of a work, a situation which was only accelerated by the conditions derived by the Covid-19 pandemic. The number of different possibilities of the SVOD and AVOD window with regard to time and exclusivity adds another level of complexity to the licensing schemes in the audiovisual market. This also adds complexity to the role of the aggregator in building up a catalogue for distribution as each content might have different licensing conditions according to the territory, media and time. In this context, exclusive or bundled exploitation of different windows may provide different incentives to financing and to the organization of the distribution chain, including as regards the role of aggregators.

### ii) Local content and the multiple actors contributing to production

According to Fabio Lima, there has been a decrease in verticalization regarding the production of audiovisual works in the global context, which by its turn, provided incentives for private and direct financing.

In the digital environment there is an almost unlimited capacity regarding the catalogue of digital platforms, which need to provide their clients with an attractive variety of titles – including of local content. At the same time OTT platforms do not possess the structure to produce all such content. This creates market opportunities for licensing audiovisual content already produced elsewhere, as well as for outsourcing both production and financing of new content. These opportunities are even more important regarding the platforms' need for local content in many countries worldwide. Demand for local content is continuously growing in the OTT platforms and neither verticalized groups nor global platforms are able to meet this demand autonomously.

Still according to Fabio Lima, in this scenario, the producer, distributor, platform, studio are increasingly separate companies or groups, instead of large conglomerates acting in all levels of the production and distribution chain. According to him, there may be gaps – or different opportunities – for pulverized financing (partial or total financing of works) especially regarding the production of local content. As there will be more companies that will be able to profit from the

exploitation of the works, there may be different agents that would like to finance such productions and focus their efforts on different sizes and sophistication levels of audiovisual productions.

### iii) Decrease in public funding of audiovisual works in Brazil

Audiovisual production for digital distribution in Brazil comes at a time of transition from a financing model focused on independent production that was mainly based on tax incentives and public subsidies. The market scenario based on public financing (running from 1993 until at least 2016) shifted to a model of heterogeneous financing, in which there are independent productions that are still financed with public resources but more productions that are fully financed with private resources. This private financing model is led by streaming platforms, cable television programmers, and other agents in the sector that contract with Brazilian producers to produce films or series created and produced locally, destined for the first exhibition on their platforms.<sup>16</sup>

There is, however, a very low or inexistent use of bank funding in these productions, mainly because producers and other companies engaged in the audiovisual market are small and cannot provide sufficient guarantees, and because banks consider the market to be very high-risk and low transparency.<sup>17</sup>

### iv) Using data to predict demand

The audiovisual market is (or at least was) considered to be a very high-risk business as there are few indicators that could predict the success of the exploitation of a work. The performance of a work highly depends on the reaction of the public, which is mainly unknown. Usually, companies estimate the potential revenues for an audiovisual work considering the economic results of previous works that adopted the same theme and format, as well as the ticket office earned by previous films that had the same members of the artistic cast, from authors and directors to actors.

However, recent data gathering tools enable market actors to identify market demand more easily and more assertively. Filmelier and other platforms, such as TV Time<sup>18</sup>, gathers data on the search history of users as well as indicate the types or genres (and other criteria) of works most desired by consumers. These data, gathered throughout a certain period of time and comprising a very large number of users, as well as the performance of similar titles in the recent past, allow market actors to detect niche and other demands from consumers and help shape financing of future productions.

With Filmelier, Sofá Digital is exploring the possibility of using data to predict demand, and using prediction to shape financing, as part of its activities of an aggregator. Fabio Lima was not aware of other aggregators using the same strategy.

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<sup>16</sup> Refer to another article of this publication: SALINAS, Rodrigo Kopke. Case Study 1: The experience of a Brazilian independent producer with online distribution of audiovisual content.

<sup>17</sup> "Film production is a capital intensive process, with film producers hardly ever possessing the vast financial resources to finance their projects with their own money, relying instead on investors outside the company or subsidies for upfront financing. Raising this finance is therefore a continuous and central issue for film producers, as banks are not willing to finance films because of the high industry uncertainty, most companies are undercapitalized and cannot draw on retained earnings, and risk averse investors are generally not attracted to an industry where 'nobody knows anything'. A longstanding history of failed investment endeavors into the film industry (see Phillips, 2004) further aggravates the situation, as investment into the industry has gained the reputation of being 'casino money' or 'silly money'". MORAWETZ, Norbert. Finance, Policy and Industrial Dynamics: the rise of co-productions in the film industry. In: *DRUID Summer Conference*. Copenhagen: CBS Denmark, June 18- 20, 2007, p. 56.

<sup>18</sup> See our comment in note 10 above.

## IV. SOFÁ DIGITAL IN THE EVOLVING MARKET OF AUDIOVISUAL WORKS IN VOD

As indicated above, in the interview conducted for this article, Fabio Lima, the Executive Partner of Sofá Digital, identified two main issues for aggregators in the digital market for audiovisual works: the management of films' revenues and the financing of audiovisual works.

### A) REPORTING AND REVENUES: AIMING FOR TRANSPARENCY AND AUTOMATIZATION

As described above, the management of films' revenues can be very difficult because of the large number of actors involved as well as the lack of standards to identify the works and its stakeholders and the small amounts of payments due. As such, there is a big asymmetry between different market players and between such market players and the creators of the works and a lack of transparency as to the relevant information on rights holders and stakeholders regarding the exploitation of audiovisual works.

#### i) Monetization through content performance, but performance information is opaque

With the possible exception of the amounts regarding ticket offices in theatres, there are no model reports or publicly available data on the performance on audiovisual works within the distribution system. This is particularly relevant in VoD platforms, especially regarding works that are not directly produced by the platforms themselves (i.e., no "platform originals") and that should receive remuneration based on the work exploitation. This is also important for intellectual property rights collected through Collective Management Organizations (CMO), in which the royalty's distribution depends on information about the audiovisual works performance – indeed in case of AVOD platforms.

VoD exhibitors and platforms tend to withhold information on the performance of audiovisual works or produce unstandardized reports that do not segregate data, because of a lack of technology or interest in doing so. Thus, rights holders and other stakeholders have a major difficulty in enforcing their rights and demanding remuneration.

To address this problem, Sofá Digital developed a technology that creates reports on the performance of its clients' assets segregated by platform, title and region. These reports are easily and quickly available to clients through Sofá Digital web interface and represent an important tool for market actors to enforce their rights and assess their assets' performance.

#### ii) Distribution of revenues depends on rights holders and other stakeholders' information

There is no international pattern on the data of rights holders and other stakeholders – that can be many - on audiovisual works.<sup>19</sup> Thus, a VoD platform that explores an audiovisual work may do so without adequately clearing intellectual property rights and without knowing which rights holders or stakeholders participate in the revenue sharing derived from the exploitation of such work. The volume of transactions in VoD platforms is high, and payments due in the long tail are of small amounts, so having accurate information is crucial. We note also that the metadata with information on the stakeholders has to be included in the audiovisual work before it is uploaded to the platform. So nowadays, there is a need for a proper technology in order to attach metadata to audiovisual works currently available in digital platforms worldwide.

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<sup>19</sup> See SCHÖTZ, Gustavo. La identificación y el uso de metadatos en las obras audiovisuales.



Lacking these data, the distribution of such revenues does not occur efficiently or ultimately does not occur. Therefore, intellectual property rights and contractual rights and obligations are not properly enforced.

Aggregators have been working to address this problem by organizing and structuring such data to the best of their abilities when they distribute audiovisual works. However, these efforts still do not suffice, partly because of the lack of an international standard that would simplify exchanges (each platform uses a different format and requires different data), and partly because of a lack of technology or adequate tools to include these data as metadata.

To address these issues, Sofá Digital has been working on (i) digitizing all of its contracts with clients and making them easily available and consultable within their web interface; (ii) working on technology to include the data of rights holders and other stakeholders of an audiovisual work as metadata<sup>20</sup>; (iii) providing very detailed reports on the performance of clients' assets sorted by platform, title and region, with information on revenues, discounts and other relevant information. By doing all of this, Sofá Digital is attaching information that can trace the chain of title of the works as well as information on all its stakeholders and is trying to address the large asymmetry and lack of transparency when it comes to the information on performance and revenues derived from the exploitation of audiovisual works in VoD platforms.

Considering that this technological advancement could greatly improve the enforcement of rights and obligations regarding audiovisual works, the work of aggregators could theoretically apply pressure for a more efficient work on the part of CMO acting in the audiovisual sector. Many countries in Latin America have only more recently passed laws establishing remuneration rights for audiovisual authors and performers.

With their expertise on data, aggregators could partly do the work of a CMO as regards their clients. However, an aggregator and a CMO have different business strategies and goals, which should be taken into account: theoretically, a CMO represents all rights holders equally and should also seek the best deals for all rights holders, without that changing their incentives. But an aggregator, such as Sofá Digital, has an immediate interest in the sale and exploitation of a work that may not always align with the interests of the rights holders, as commissions and compensation schemes may vary in negotiations with platforms and other market agents. Even though an aggregator may receive a higher commission from a better deal for the rights holders and other stakeholders, the market structure creates a paradox between competing and cooperating: parties need to act in an integrated and harmonious way with the interests of several other economic agents in order to achieve an end common to all of them.

### iii) Payment schemes are inefficient

Fabio Lima also pointed out that, in the market for audiovisual works, payment/distribution of revenues is inefficient. There may be several intermediaries (sales agent, distributor etc.) and the traditional payment flow would follow a route where the income derived from the final consumer would be passed on from intermediary to intermediary. This is costly and may incur in unnecessary and/or unverified deductions - also because of the lack of transparency regarding the performance of audiovisual works and of intermediaries' costs.

Additionally, there is a gap as to where revenues and payments are generated. Payments by global platforms are usually made through the United States even though revenues are generated

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<sup>20</sup> Fabio Lima indicated the best solution would be to use a public blockchain gathering information on the work's chain of title and other stakeholders involved.

elsewhere, as in the case of Latin America. Also, VoD sales for Latin America are usually made combined, i.e., for the continent and not in a country-by-country basis, whereas the revenues break-down requires a split in a country-by-country basis because distributors operate locally. In the case of Sofá Digital, the aggregator acquires VoD rights for the region locally, sells those rights bundled, receives payment in the United States and then has to pay compensation again locally.

To address this, Sofá Digital uses, whenever possible, a “split payment” scheme. This is structured to reduce the payment route and make direct payments to the rights holders and stakeholders in each country: instead of paying to each local distributor, who will then pay the producers, Sofá Digital pays them directly what is due to each. This would be facilitated if the market systematically used, for example, ISAN (International Standard Audiovisual Number), which is a voluntary numbering system and metadata schema for the identification of audiovisual works – as Sofá Digital envisions to do soon for all works it exploits.

## B) FINANCING: ADDRESSING INCREASED DEMAND AND DIFFICULTIES IN FINANCING USING DATA

Worldwide, the financing of independent audiovisual production (the one which occurs by companies not vertically integrated in the audiovisual economic chain) comes from various business modalities and also, fundamentally, from state financing, through direct or indirect subsidies, such as tax incentives.

The financing of audiovisual production normally has as a counterpart the future income from the economic exploitation of the work by distributors and exhibitors and is not characterized as loans or other banking operations that include the guarantee of return on capital.

In fact, investment contracts usually provide, in return for the investment, a percentage share in the financial revenues generated from the commercialization of the copyright on the work, and that percentage is determined based on a proportion between the investment made and the production budget, except that this percentage share may observe a degree of seniority (priority of return until recovery of capital, if any) according to each specific negotiation.

The business modalities by which the necessary capital for the financing of audiovisual production is channeled often correspond to complementary stages in the commercialization circuit of the future audiovisual work. For this reason, the investors will normally be companies operating in the audiovisual economic chain. The exceptions will be the investor operating through an investment fund, and the public investment fund. Investors, even if not exercising production, distribution or consumption, will also be linked to the best possible success of the future audiovisual work<sup>21</sup>.

The following are examples of the various methods of financing independent audiovisual production, especially available in the United States and Europe: (a) anticipation of future remuneration by audiovisual distributors to co-producers; (b) acquisition of exhibition rights by television networks before the film is ready; (c) bank loans through discount operations of previous contracts mentioned; (d) co-production between foreign companies; (e) public aid.

Considering the Brazilian and Latin American reality and the changes described in section 3(B), Sofá Digital realized that it could participate and address the gap in financing of audiovisual works, notably because of its expertise in predicting demand on the market using data gathering.

Sofá Digital offers the following:

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<sup>21</sup> SALINAS, Rodrigo O contrato de coprodução audiovisual: uma operação econômica em rede, 2016, p. 76/84.

(a) In a partnership with a management fund, Sofá Digital created and offers the first private credit fund for the VoD market in Brazil. This is a private credit fund, not traded in public markets, whereby investors profit from the performance of audiovisual works funded. Sofá Digital finances, partially or entirely, the production of audiovisual works and commits to market the work for VoD platforms. In return, Sofá Digital is entitled to distribution rights on the film. In this type of financing strategy, Sofá Digital can also pay the authors and other people involved in the making of the audiovisual work by advancing a smaller compensation and then defining a share on producer's net profits to these people as well, thus tying producers and above-the-line agents to the work's commercial success, diminishing the production budget and reducing the risk of the investment. This is not common in Brazil thus far, but, according to Fabio Lima, it has been successfully working for smaller productions.

(b) Prepayment of receivables for VoD contracts (*antecipação de recebíveis*): Sofá Digital anticipates, partially or entirely, the financing for production of audiovisual works with its own capital, having as a guarantee a pre-license agreement with a VoD platform. In this type of contract, Sofá Digital usually participates in the financing of the production, thus it also will be entitled to a share in the film's intellectual property rights.

In order to select which projects to work on, Sofá Digital takes into account a combination of data: data gathered from Filmelior, clients and what platforms are looking for. In deciding which platform to pre-sell projects to, Sofá Digital considers the extent of the rights it will have once production is over (i.e., how the platforms negotiate exclusivity of exhibition, rights regarding sequels/prequels, products, etc.). Sofá Digital will usually decide for the platform which accepts that the aggregator has more rights: its ability to contribute to the financing of the production independently depends on Sofá Digital having as many rights as possible in order to maximize monetization.

There are nuances between these two models, the specifics of each project will determine the final structure. Through these types of contracts, and all of its work with existing productions, Sofá Digital has been very successful: in 2019, Sofá Digital was able to market between 600-800 productions.

## **5. CONCLUSIONS**

The market for VoD distribution is an evolving market that is continuously developing different services that compete with different media. In the context of this increasing VoD market, aggregators surfaced as intermediaries in the distribution of audiovisual works, providing technical, business and marketing expertise.

The business strategy and role of aggregators are highly linked to the state of play of the VoD market and intellectual property structure in a specific region (not necessarily a country, but a region, such as the case of Latin America).

In Brazil/Latin American, at the moment, there have been changes in the market reality (decrease in public funding, different organizational structure of market actors, understanding of the gaps in enforcement of intellectual property rights, the rise of data as a very important market element) that are the main drivers of change for the development of the aggregators' businesses. For Sofá Digital, the most influential issues are the difficulties encountered in managing intellectual property rights and rights of other stakeholders in the production and distribution of audiovisual works in VoD, as well as difficulties in financing for independent productions.

These issues are addressed by Sofá Digital in offering services relying on technology and, very importantly, data.

The work Sofá Digital has been developing with the gathering and organizing/structuring aims to contribute to:

(a) increasing transparency in the distribution chain of audiovisual works, allowing for the identification and structuring of the data of intellectual property holders as well as other stakeholders that need to be credited and compensated;

(b) increasing automation and decreasing unnecessary expenditure and transactions regarding payment to these rights holders and other stakeholders;

(c) pressuring the market for a more efficient organization of data and distribution of revenues;

(d) shaping the financing of audiovisual works by producing market demand reports, based on the data gathered on the performance of audiovisual works marketed by Sofá Digital and also the data on the search history of users on Filmelir; and

(e) financing the production of audiovisual works in exchange for a share on the revenues after recouping the investment, in exchange for distribution rights or by anticipating receivables from pre-license agreements with digital platforms. The investment decisions are grounded on data collected by Sofá Digital from users and the performance of its clients' assets.

Financing of audiovisual works has been difficult in Brazil and Latin America considering the high risk of the investment, as discussed above. The use of data to identify market demand and to better enforce rights and obligations throughout the audiovisual chain is the key element for the success of Sofá Digital and the development of its role as an aggregator in Brazil and Latin America.

Sofá Digital is responding to a specific local reality, where the role of the aggregator is increasingly dependent on data and also increasingly more assertive because of the same data.