Theses and Dissertations

Summer 2019

The commodification of television formats: the role of distribution in the emergence of the commodity form

Joonseok Choi

University of Iowa

Follow this and additional works at: https://ir.uiowa.edu/etd

Part of the Communication Commons

Copyright © 2019 Joonseok Choi

This dissertation is available at Iowa Research Online: https://ir.uiowa.edu/etd/6926

Recommended Citation

https://doi.org/10.17077/etd.u8xu-wtw6

Follow this and additional works at: https://ir.uiowa.edu/etd

Part of the Communication Commons
ABSTRACT

This dissertation examines the process of commodifying television formats (e.g., *Who Wants to Be a Millionaire?*, *Survivor*, *Big Brother*, and *Idol*) from television show ideas into global commodities. Instead of assuming that a format has always been a commodity, this dissertation seeks to understand the historical process of the transformation from a concept into a commodity. Specifically, it answers three questions: a) What is the process whereby a format obtains property status and becomes a copyrighted work? b) Who enables the transnational movement of a format, and how does that happen? and c) How do people recognize which formats are more valuable than others? To answer these questions, by articulating the distribution of value as a theoretical framework, this dissertation closely examines institutions of format distributions: legal frameworks for copyright, multinational corporations, and global television markets. Through historical analyses, this dissertation reveals that institutions of distribution gave rise to three aspects of the commodity form of formats: legality, functionality, and materiality. The development of these three aspects shows that a format became a commodity, rather than simply a method of copying television programs, only after 2004. This dissertation contends that the long history of copying television show ideas was punctuated by the emergence of the commodity form of formats, distinguishing the present state of global format trade from the previous one.

*Keywords*: television formats, commodification, commodity form, distribution of value, format copyright, super-indie, MIPFormats
PUBLIC ABSTRACT

This dissertation examines the process of transforming television formats (e.g., *Who Wants to Be a Millionaire?*, *Survivor*, *Big Brother*, and *Idol*) from television show ideas into global commodities. Instead of assuming that a format has always been a commodity, this dissertation seeks to understand the historical process of the transformation from a concept into a commodity. Specifically, it answers three questions: a) What is the process whereby a format obtains property status and becomes a copyrighted work? b) Who enables the transnational movement of a format, and how does that happen? and c) How do people recognize which formats are more valuable than others? To answer these questions, this dissertation closely examines institutions of format distributions: legal frameworks for copyright, multinational corporations, and global television markets. Through historical analyses, this dissertation reveals that institutions of distribution gave rise to three aspects of the commodity form of formats: legality, functionality, and materiality. The development of these three aspects shows that a format became a commodity, rather than simply a method of copying television programs, only after 2004. This dissertation contends that the long history of copying television show ideas was punctuated by the emergence of the commodity form of formats, distinguishing the present state of global format trade from the previous one.

*Keywords*: television formats, commodification, commodity form, distribution of value, format copyright, super-indie, MIPFormats
# TABLE OF CONTENTS

LIST OF TABLES .................................................................................................................. vii

LIST OF FIGURES ............................................................................................................... viii

INTRODUCTION .................................................................................................................. 1

CHAPTER 1. COMMODIFICATION ....................................................................................... 10

  Two Metaphors of Format: A Critique ............................................................................. 11

  Commodification: Theories of Value .............................................................................. 15

      Production of Value ................................................................................................. 16

      Exchange of Value ................................................................................................. 21

      Distribution of Value .............................................................................................. 24

  Value in Motion ............................................................................................................. 28

  Commodity Form: Television Format ............................................................................. 32

      Legality of Format .................................................................................................. 34

      Functionality of Format ......................................................................................... 38

      Materiality of Format ............................................................................................. 44

  Conclusion ..................................................................................................................... 48

CHAPTER 2. LEGAL DEFINITION AND INDUSTRY CONCEPTUALIZATION OF
TELEVISION FORMATS FROM 1989 TO 1994 ............................................................... 49

  Legal Definition of a Television Format (1989–1994) ................................................ 52

  Outliers or Ruptures? Action Time and Endemol Entertainment .................................. 58

  Structure Changes in the European Television Industry ................................................. 68

  The Television Without Frontiers Directive in 1989 ..................................................... 71

  TWFD and European Independent Production ............................................................. 76

  American Game Show Formats and Television Formatting ......................................... 79

  Conclusion ..................................................................................................................... 83
<table>
<thead>
<tr>
<th>CHAPTER 3. A TELEVISION FORMAT AS AN INTERNATIONALIZING STRATEGY: A CASE STUDY OF ENDEMOL FROM 1994 TO 1999</th>
<th>85</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Dutch Condition ..................................................</td>
<td>87</td>
</tr>
<tr>
<td>Liberalization of the Dutch Television Market ................</td>
<td>89</td>
</tr>
<tr>
<td>John de Mol and Joop van den Ende Form Endemol ................</td>
<td>92</td>
</tr>
<tr>
<td>Australian Connection ..................................................</td>
<td>94</td>
</tr>
<tr>
<td>Holland Media Group ....................................................</td>
<td>97</td>
</tr>
<tr>
<td>Expansion .....................................................................</td>
<td>102</td>
</tr>
<tr>
<td>Conclusion ...................................................................</td>
<td>108</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CHAPTER 4. (RE)INVENTING THE TELEVISION FORMAT BIBLE FROM 1999 TO 2006</th>
<th>111</th>
</tr>
</thead>
<tbody>
<tr>
<td>Television Format Bible ...................................................................</td>
<td>113</td>
</tr>
<tr>
<td>Structure of Format Distribution 1: Talent Agency as a Distributor ..........</td>
<td>116</td>
</tr>
<tr>
<td>Structure of Format Distribution 2: Super-Indie as a Distributor ..........</td>
<td>127</td>
</tr>
<tr>
<td>Format Bible as Codification ................................................................</td>
<td>133</td>
</tr>
<tr>
<td>Shift in the Legal Definition in the U.S., the Netherlands, and Australia</td>
<td>137</td>
</tr>
<tr>
<td>Protection of Domestic Corporations ...............................................</td>
<td>142</td>
</tr>
<tr>
<td><em>Big Brother</em> in Brazil ..................................................................</td>
<td>145</td>
</tr>
<tr>
<td>Television in Brazil .....................................................................</td>
<td>149</td>
</tr>
<tr>
<td>Gentlemen’s League ..................................................................</td>
<td>154</td>
</tr>
<tr>
<td>Conclusion .......................................................................</td>
<td>157</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CHAPTER 5. MARKETPLACES AND THE MATERIALIZATION OF FORMAT</th>
<th>159</th>
</tr>
</thead>
<tbody>
<tr>
<td>Making a Market: The Monte-Carlo Television Festival ........</td>
<td>160</td>
</tr>
<tr>
<td>Making a Market: MIPTV and MIPFormats ...........................</td>
<td>163</td>
</tr>
<tr>
<td>MIPFormats as an Institution for Social Networking .............</td>
<td>167</td>
</tr>
<tr>
<td>MIPFormats as an Institution for Gathering Intelligence ..........</td>
<td>171</td>
</tr>
</tbody>
</table>
LIST OF TABLES

Table 1. Format Exports, in Terms of Number of Formats, Number of Hours, Number of Episodes, and Revenue, 2006–2008. ................................................................. 42

Table 2. Format Copyright Infringement Dispute Cases from 1990–1994 .............................. 59
# LIST OF FIGURES

<table>
<thead>
<tr>
<th>Figure</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Two-layer test applied to a copyright infringement case.</td>
<td>55</td>
</tr>
<tr>
<td>2</td>
<td>A visual representation of the approximate reception areas for the two channels from the European direct broadcast satellite Olympus.</td>
<td>73</td>
</tr>
<tr>
<td>3</td>
<td>Revenue of Endemol from 1996 to 1999.</td>
<td>108</td>
</tr>
<tr>
<td>4</td>
<td>The distribution structure of format from Europe to the United States.</td>
<td>123</td>
</tr>
<tr>
<td>5</td>
<td>Super-indies’ format distribution structure.</td>
<td>128</td>
</tr>
<tr>
<td>6</td>
<td>Endemol’s centralized management, 2001–2004.</td>
<td>129</td>
</tr>
<tr>
<td>7</td>
<td>Endemol’s decentralized management since 2004.</td>
<td>130</td>
</tr>
<tr>
<td>8</td>
<td>The main entrance to MIPFormats in the Palais des Festivals.</td>
<td>168</td>
</tr>
<tr>
<td>9</td>
<td>The entrance to MIPDigital screenings of MIPTV in the Palais des Festivals.</td>
<td>169</td>
</tr>
<tr>
<td>10</td>
<td>Buyers’ Matchmaking.</td>
<td>170</td>
</tr>
<tr>
<td>11</td>
<td>Fresh TV: Scripted Formats, presented by Virginia Mouseler of WIT.</td>
<td>174</td>
</tr>
<tr>
<td>12</td>
<td>MIPFormats Keynotes Series with Jens Richter, CEO of FremantleMedia International</td>
<td>178</td>
</tr>
<tr>
<td>13</td>
<td>“10 Things You Should Know Before Signing a Distribution Deal,” presented by Jan Salling.</td>
<td>181</td>
</tr>
<tr>
<td>14</td>
<td>MIPFormats’s screenings library.</td>
<td>184</td>
</tr>
</tbody>
</table>
INTRODUCTION

With the global popularity of Survivor, Who Wants to Be a Millionaire?, Big Brother, and Idol in the late 1990s and early 2000s, the television format has emerged as a new way of creating entertainment for the global television market. A television format is a concept, collection of ideas, and general know-how about a program that foreign producers use to create a local version of a program that is experiencing popularity elsewhere in the world. For example, the “got talent” format, first created in 2005 in the United Kingdom as Britain’s Got Talent, has spawned 44 local versions including: America’s Got Talent, China’s Got Talent, and Das Supertalent (German version), to name a few (“Britain: Entertainers to,” 2011).

Television markets around the world have become increasingly interested in selling and buying television formats. According to a report produced by the Format Recognition and Production Association (FRAPA), the number of original formats increased from 259 (2002–2005) to 445 (2006–2008; Jäger & Behrens, 2009). These 445 formats reached 57 territories with 1,262 adaptations (Jäger & Behrens, 2009). In addition, the television format trade generated 9.3 billion XEU\(^1\) (about 13 billion USD) from 2006–2008, up from 6.4 billion XEU (about 9 billion USD) from 2002–2005 (Jäger & Behrens, 2009).

According to “TV Formats in Europe,” another report published by Essential Television Statistics, Madigan Cluff, and Digital Television Research, the value of the top 100 formats on 84 European channels was 2.93 billion USD in 2013 (Whittingham, 2014). The reports all indicate that the global trade of television formats has generated high value and allowed the formats themselves to emerge as an economically valuable product in global television markets. This growing business and its effect on the globalized media world have attracted the attention of scholars of global media and television professionals around the world. Numerous books and

\(^{1}\) European currency unit or ECU.
edited volumes have been written, special issues of academic journals (e.g., *Critical Studies in Television, International Journal of Digital Television*) have been dedicated to formats, and scholarly journal articles have explored histories and theories to understand the television format’s contribution to the globalization of television since the late 1990s and early 2000s.

Despite such analysis and attention, there is a blind spot in the research related to television formats. The players all seem to assume that formats are already commodities. However, a format is fundamentally different from a finished program (an audiovisual text). A format is simply a concept, not a full production of a program. How has this become a commodity? What are the conditions and processes that have enabled the exchange of formats between sellers and buyers? Rather than assuming the commodity status of formats, it is more productive to delve into the historical processes of how a format becomes commodified.

First, it is critical to understand *commodification*. Vincent Mosco (2009), a prominent researcher in the political economy of communication, succinctly explained that “Commodification is the process of transforming things valued for their use into marketable products that are valued for what they can bring in exchange” (p. 127). Mosco further explained that commodification is one of the main starting points of political economy research (along with spatialization and structuration). With Mosco’s explanation, studying the process of commodifying formats is a starting point from which to understand the particular organization of the global trade of formats. Despite the importance of this understanding in television format research, the question of commodification has been largely missing from the literature.

There may be several reasons for this blind spot. First, there is a view that the format has a long history focused on the continuity of the industrialized product and the practice of adapting televiusal content (Moran, 2013a). From this view, a format has been a commodity since its
conception. The only difference between the past and present format trades is the volume and scale of trade. However, this perspective does not explain the seemingly sudden explosion of format trades that came from Europe in the late 1990s and the early 2000s. What was the driving force behind that growth? Another view focuses more on the commercialization of culture, rather than the commodification. According to that perspective, the format trade is yet another indicator of the ever-expanding realm of the market exchange of cultural products on a transnational level (Quinn, 2015, p. 30). A critical political economic perspective specifically emphasizes the expansion of the intellectual property regime as the driving force of the format trade. However, although this particular view pinpoints the driving force, it cannot provide an account for the emergence of the format as a particular expression of profit-making activity on a global scale. Why formats instead of something else?

The third and most interesting view is to conceptualize the television format as a technology instead of a commodity. From this standpoint, a format is understood to be a technology of transferring local culture (Baltruschat, 2010; Moran & Malbon, 2006), a technology of reproducing televisual pleasure (E. Brennan, 2012), or an infrastructure whereby ideas, symbolic capital (i.e., the prestige of format devisors), and surplus value flow (Quinn, 2015). This view is useful for capturing the central characteristic of format trade: its movement between the global and local markets. However, it considers that a format is a fixed instrument of transferring “culture.” The logical end of studying the movement of formats based on this container-and-content model of format trade would be to analyze the symbols and ideologies in the content. A television format is a value whereby a container and content are fused through the process of commodification.
In this dissertation, while acknowledging the long history of formats, I emphasize the history has been punctuated by processes of commodification, which have transformed the television format from a technique of producing and adapting a television program to a commodity in the early 2000s. Jérôme Bourdon, a historian of French and European television, argued that the format has been transformed “from discrete adaptations to hard copies” (Bourdon, 2012). I apply a microscope to these processes of the early 2000s that put the trade of formats on a qualitatively different phase.

Transforming valuable television concepts, ideas, and know-how into a marketable commodity, however, is not easy or simple as it sounds. An intangible product such as a format must overcome several hurdles to be qualified as a commodity. Copyright law is one of the first major issues. Copyright laws define who owns what, including the flow of commodities and money in the television industry. However, in the case of formats, the definition of who owns what is fluid. How can an individual claim ownership of a television concept? In fact, the copyright laws in many countries do not grant copyright protection to a mere idea. Copyright law was the first major hurdle that television formats had to overcome (and eventually did overcome) in the process of commodification. What was the process whereby a format obtained the status of property and became a copyrighted work?

The second issue of commodifying formats is the movement from one television market to another. The essence of the value of a format is its ability to cross national borders. A television format inside its country of origin is not different from a television idea waiting to be written and produced as an audiovisual text. Without adaptation to television markets outside the country of origin, a format has no value. Therefore, the route of movement is a crucial piece
of the commodification process. How does a format move from one country to another? Who enables the transnational movement of formats? What sustains this movement?

Lastly, even if a format is copyrighted and crosses national borders, it needs to be recognized as a proper commodity among economic actors to be exchanged. Because formats themselves are ideas that have not yet been produced, they have no production value or production cost readily visible at the moment of exchange. Due to their lightness (i.e., thin content) as compared to finished programs, there is an overabundance of television formats in global television marketplaces. Presumably, any creator can enter the market with television program ideas. In the overabundance, a seller and a buyer of a format must recognize and agree that one format is more valuable than others. More important, the interaction between the two parties must be reproduced without any radical changes. Thus, stabilizing the recognition of a value is another key step in the process of commodification. How do people recognize which format is more valuable than others? Without a stable materiality of formats, the exchange of formats would be a riskier business activity with a high propensity for failure.

The goal of this dissertation is to examine the three processes that have facilitated television formats’ transformation into a global commodity. By examining the processes, I will move beyond the phenomenon of commercialization toward broader social processes that have led to the emergence of this particular commodity (Mosco, 2009). Another goal is to discover the nature of the commodification of global television products and services. The television industry is increasingly relying on the global market for success. A format is the best object of study because its real home is neither a single national market, nor a market based on geographically adjacent regions, nor a market based on the same language. It is a global market. This is precisely the fascination with format trade in the global television industry. In this dissertation, I
will argue that the interactions among multiple forces (e.g., state institutions, multinational corporations, supranational institutions like the European Community, international markets, the communities of producers and creators) must be examined. By connecting these interactions, I will attempt to discover how particular arrangements of multiple institutions have shaped particular forms of formats and helped formats overcome the abovementioned hurdles: defining the ownership of formats, enabling the movement of formats, and stabilizing the recognition that one format is more valuable than another. I will provide a framework to facilitate understanding of the seemingly chaotic circulation of global media products and services in today’s global media landscape.

Chapter 1 begins with a theoretical framework examining theories about the process of commodification. These theories are broadly called *theories of value* in the fields of political economy, sociology, and anthropology. They are the frameworks used to examine how the value of a product is produced, distributed, and exchanged. To understand how one sells and buys a television format, it must be assumed that a format has some kind of value, which is produced, distributed, and exchanged. I will emphasize that distribution is a productive sphere that shapes a commodity form. Rather than value production in the sphere of production or value realization in the sphere of exchange, this dissertation will pinpoint how the formation of a commodity in the sphere of distribution is an important part of the commodification process of a global product. The three aspects of commodity form will be addressed in Chapter 1 (legality, functionality, and materiality of formats).

Chapters 2, 3, 4 and 5 offer empirical analyses of the commodifying process of formats in a specific historical context. These sections examine how a commodity form of television formats emerged between 1989 and 2010. Chapter 2 specifically examines the emergence of
formats as a viable technique of producing television programs in European territories from 1989–1994. This chapter does not delineate the process of commodifying television formats per se; rather, it describes the conditions prior to such transformation. The conditions are described in two parts: the changing regulation of European television markets and the very subtle change in the legality of a television format as an intellectual property. Here I also examine the circumstances in which the format emerged as a viable (although not necessarily profitable or legally protectable) way of producing transnational television.

Chapter 3 examines the emergence of format production companies (e.g., Endemol), now known as large European transnational production companies (Esser, 2016), super-indies (Chalaby, 2012b), or mini-major companies (Moran, 2013a) from the European territories. I emphasize that the regulatory change (i.e., the Television Without Frontier Directive) in the European territories as described in Chapter 2 has not automatically determined the commodity form. The chapter shows the development of formatting as a profitable business strategy in relation to the development of super-indies in European territories. I use Endemol as a case study in which the development of the corporate structure of the super-indie is an outcome of the interaction among the European Community, the Dutch government, and the corporation’s business strategy. The three institutions have interacted in the form of both cooperation and conflict, resulting in the creation of particular production and distribution structures. Although Endemol had become a major European format producer by the 1990s, the format emerged as a profitable strategy of producing transnational television for the super-indie.

Chapter 4 analyzes the formation of the commodity form of television formats. By analyzing the invention of the format bible from 2000–2006, this study will shed light on two of the three aspects of its commodity form: the format’s functionality and legality. The functionality

---

2 For brevity, I will use “super-indie” instead of the other two in this dissertation.
of formats has been reinvented in the process of transforming Endemol from a European producer to a global player. Here I highlight how the process of the corporation’s structural transformation was closely related to the process of the format’s commodification. Specifically, I argue that the function of the format witnessed today was newly added by the early 2000s to solve the problem of managing the corporation’s creative projects. In the process of scaling up, the media company had to face the problem of coordinating distant local production offices. A format bible was invented to codify the transactions and collect local knowledge.

In the early 2000s, a major shift occurred in the legal definition of television formats in territories such as Australia, Brazil, the Netherlands, and the United States. The ruling of a Brazilian format copyright infringement case demarcated a new phase of the commodification process because it not only defined a format (e.g., the Big Brother format) as an intellectual property but also punished the alleged copycat. The ruling articulated that a format bible is evidence of originality of a format. After the case, entertainment lawyers and international format business associations such as FRAPA encouraged format producers to write format bibles to strengthen their copyright protection. Since 2004, format bibles have become standard practice.

Chapter 5 examines the materiality of formats by analyzing the global format community. I specifically examine the only global format conference called MIPFormats. Based on the visit to MIPFormats—a 2-day conference prior to one of the largest global television markets, Marché International des Programmes de Télévision (MIPTV), held in Cannes, France—I examine how the conference “materializes” a format in the global television marketplace. Materiality, in this case, means something other than the physicality of individual things. For the purposes of this dissertation, social materiality (Slater, 2002) is not the distinction between an object and a sign,
but between the stability and instability of things. From this perspective, I argue that MIPFormats is an institution of the global format community that materializes formats by treating this category of global television product as a tradeable item. Moreover, the conference provides stability to formats by reducing the risks for the participants at the conference, as well as those in the market, specifically super-indies, small creators, producers, and buyers. By materializing formats, MIPFormats has enabled the exchange of formats.

The conclusion summarizes the process of commodifying the television format and formation of the three aspects of the commodity form. Chapter 6 also summarizes the role of the distribution sphere in constructing the commodity form. Lastly, I suggest two areas of future research in the field of global media studies. I suggest studies on the role of digital distribution in the commodification of formats as well as studies on the capital accumulation of format business in order to understand the whole process of the commodification of formats.
CHAPTER 1. COMMODIFICATION

Chapter 1 sets forth a theoretical framework to explain the process of commodifying a television format. The point of beginning this search for an adequate theoretical framework is to understand what a format is and does. Many studies of formats open with the same questions, perhaps because no one truly has answers to the questions. Although definitions vary, a television format is often described as a structuring idea and a set of know-hows transferred from an originator in one territory that an adaptor in another territory employs to produce a local version of an original television program. Instead of using this complicated description, industry professionals and scholars concisely characterize a format using the two metaphors of a recipe and a vehicle. As Kenneth Burke (1969) taught us, a metaphor is an excellent object of study when trying to understand a perspective on an unknown thing such as a format. By examining the two metaphors, this chapter reveals two different perspectives. The recipe metaphor is a dominant way of seeing, understanding, and imagining a format in the literature of format research. By contrast, the vehicle metaphor has been neglected, if not unrecognized, in the literature. By shedding light on the perspective of the vehicle metaphor, this chapter first opens a possibility for an alternative theory of value to account for the commodification of formats. It then provides an alternative theory of value that highlights the sphere of distribution as a major site of inquiry in research into formats. Distribution is a promising sphere that organizes the domains of both production and exchange. It is a sphere where a product transforms itself into different forms. This chapter and this dissertation overall seek an alternative way of seeing, understanding, and imagining television formats.

Albert Moran and Justin Malbon (2006) described a television format as “the accumulated store of specific information and know-how . . . that provides the intelligence to reproduce an existing TV programme in another territory” (p. 26). Jean Chalaby (2016a) provided his own definition of a television format: “the structure of a show that can generate a distinctive narrative and is licensed outside its country of origin in order to be adapted to local audience” (p. 13).
Let me begin with the two metaphors.

**Two Metaphors of Format: A Critique**

The recipe metaphor conjures up an image of cooking. According to the metaphor, a television format is considered “a recipe for re-producing a successful television programme, in another territory, as a local programme” (Bodycombe, 2005, as cited in Altmeppen, Lantzsch, & Will, 2007, p. 95; Chalaby, 2016a; Moran & Malbon, 2006). The recipe metaphor emphasizes that a format is not itself an audiovisual text but rather a set of know-how's that can be repeated multiple times. A format promises local producers the ability to reproduce audio and visual elements and narrative structures of original programs in local contexts. The recipe comes in a form of a written document called a format bible, which carries detailed information about “run-through, budgets, scripts, set designs, graphics, casting procedures, host profile, the selection of contestants and every other possible aspect associated with the show’s production” (Chalaby, 2016a, p. 12). In the cooking metaphor, the know-how's and ideas in the format bible are analogous to the list of ingredients and action steps in a recipe. The particular perspective that the recipe metaphor highlights is the process of adaptation and reproduction in local television markets.

The recipe metaphor seems to be commonsensical and incontestable. In some respects, a format really is like a recipe. However, there is another aspect of the format that the recipe metaphor does not capture: the movement of formats across national borders. The vehicle metaphor precisely captures this by emphasizing that a format travel outside its country of origin. One of the industry’s founding fathers, Michel Rodrigues, pointed out that a format is a vehicle whose raison d’être “is the international market” (Chalaby, 2011, p. 295). A format can exist only as a format once it travels outside its country of origin. According to the metaphor, if a
format stays in its country of origin, it is merely a television program idea, not a format. The particularity of the format is its international movement. Whereas the recipe metaphor reveals format’s potentiality for being adapted and reproduced in another territory, the vehicle metaphor reveals the format’s mobility from one territory to another as its central characteristic. That is, the perspective that the vehicle metaphor projects is the process of distribution between local television markets.

Taken together, these metaphors reveal the two realms of industrial processes in devising a television format: the process of adaptation and reproduction and the process of distribution. To fully understand a format, one must understand both processes. However, the majority of television format research is based on the recipe metaphor. Since the introduction of the Albert Moran (1998) pie-crust model of formatting television, where pie filling represents the local culture and the crust represents global program structures, industry professionals and scholars have understood the value of a television format as a recipe for global popular television. In other words, the majority of format research conceptualizes the value of formats as their capability to localize television programs. A format has become an exemplar of the global media industry’s mantra, “think globally, program locally” (Waisbord, 2004, p. 378). The following discusses the value of a format built upon the perspective that the recipe metaphor projects upon formats.

First, because a television format is a form of a program, local producers and broadcasters can attract and satisfy their local audiences by filling in the format with local substance, such as local actors and actresses, local tastes, local language, local background, and local culture. In global media studies, it is well known that local audiences prefer domestic and regional content over foreign content (Hoskins, McFadyen, & Finn, 1997). By reducing cultural
differences and increasing cultural proximity (i.e., a given program’s closeness to an audience’s own culture (Straubhaar, 1991)), a format enables local adaptors to produce their own local, regional, and national content efficiently.

Second, local producers and broadcasters consider adapting a television format to be a risk-minimizing strategy (Keane & Moran, 2008; Oren & Shahaf, 2012; Waisbord, 2004). As a format travels from one territory to another, more knowledge about its performance becomes available. Industry veteran Sue Green explained that a format evolves by removing “the mistakes that have been made” in each territory where it is produced (Chalaby, 2011, p. 295). In the television industry, where uncertainty prevails, local producers and broadcasters tend to prefer programs that have been tested and refined in other territories in order to minimize risk. Formats are “the ultimate risk-minimizing programming strategy” (Waisbord, 2004, p. 345).

Third, a television format can bypass the quota policies of some countries (Waisbord, 2004, p. 363). Many European countries have restricted the number of broadcast hours for imported television programs as a cultural policy. However, imported formats are treated as foreign ideas, not foreign television programs. If these foreign ideas are produced domestically, they are considered domestic television programs that satisfy national quota requirements (Waisbord, 2004).

Lastly, compared with a finished program, a television format can “fill gaps in the schedule at relatively short notice” at lower cost (Esser, 2010, p. 288). According to Andrea Esser (2010), formats were widely used to stabilize the television schedule during the Writers Guild of America strike between November 5, 2007 and February 12, 2008. Part of the reason was the relatively low cost to produce a formatted program, compared with the cost to produce a finished program. In 2000, the average production cost of an episode of Who Wants to Be a
Millionaire was 750,000 USD, compared to 2 million USD for an episode of The Practice or 1.4 million USD for an episode of Law and Order (Weinraub, 2000, as cited in Waisbord, 2004, p. 365). In addition, for broadcasters who lack the financial resources to create their own programs, producing localized versions of global formats is an efficient way to fill airtime (Ndlela, 2016).

In sum, these reasons convey that the value of formats is their usefulness in the processes of adaptation and reproduction. However, this can only be a partial answer to the question posed in the introduction: how can one sell and buy television concepts, ideas, and sets of know-hows? Usefulness alone cannot create and move a commodity across national borders and territorial boundaries; it is the key to the force that pulls formats into a territory but not necessarily the force that pushes formats out from their country of origin in the first place. Friedrich Nietzsche (1887/2006), in On the Genealogy of Morality, argued that “the origin of the emergence of a thing and its ultimate usefulness, its practical application and incorporation into a system of ends, are toto caelo separate” (p. 51). For Nietzsche, the origin and the usefulness were two separate realms. In Nietzsche’s framework, the usefulness of formats as described above tells us nothing about the emergence of the commodity. That being said, the literature of format research is largely biased toward the perspective of the recipe metaphor, focusing on the process of adapting and reproducing global television in local markets. Thus, in this dissertation, I examine the emergence of formats in a particular historical context. Specifically, informed by the vehicle metaphor, it examines the development of industrial logics and motives, as well as institutional arrangements that have transformed a format into a marketable commodity. This process of transformation is commodification. The next section reviews theories of value to seek an adequate theoretical framework to understand the emergence of a format as a commodity.
Commodification: Theories of Value

*Commodification* “is the process of transforming things valued for their use into marketable products that are valued for what they can bring in exchange” (Mosco, 2009, p. 2). Despite this simple definition, many scholars from different fields of study theorize where and how a value is transformed into a marketable commodity because commodification is a complex process.

Before continuing, I suggest a simple mental map that represents the life cycle of a television format. The cycle begins with a television program idea, created by an originator. It is then transformed into a format, which is distributed from a seller to a buyer in a foreign territory. It is then produced as a formatted television program in that foreign territory. The formatted television program is produced or acquired by a broadcasting network (e.g., CBS), a cable network (e.g., MTV), or an online platform (e.g., Netflix). One cycle of the format is completed when the format owner obtains data about the program’s audience (i.e., a track record). The originator refines the format for subsequent circulation. Though this model of a format life cycle is somewhat simplified, it nevertheless captures the essence sufficiently to seek a theoretical framework.

What sustains the cycle of a television format? Economists would assert that the cycle of a format is sustained by the equilibrium between the supply of the format, which is determined by the cost of production, and the demand for that format, which is determined by its utility (see Albarran & Chan-Olmsted, 1998, pp. 6–8; Throsby, 2001, pp. 21–23). They argued that the rational economic behaviors of sellers and buyers in a market can adjust the two factors toward an equilibrium that determines products’ price and quantity, including media products (Holton, 1992, pp. 52–69).
However, this theoretical framework, which is based on neoclassical economics, has been criticized for making asocial assumptions about individuals’ economic behaviors (Block, 1990; Cunningham & Flew, 2015; Holton, 1992, pp. 70–103). In particular, it assumes that sellers and buyers simultaneously and instantly understand and measure both the utility of a television program idea and the cost of producing it. We should not assume that the circuit of television format is sustained by an infallible cognitive capability of measurement or telepathic communication on the part of the economic actors.

Instead, what creates, maintains, and changes the circuit is a complex web of social relationships woven in and around a form of commodity. Through this web of social relationships in a particular form, a commodity’s value is produced, distributed, and exchanged. A commodity’s value can be expressed in many different forms in different stages of the circuit; price (i.e., monetary value) is only one form of value.

In this chapter, I seek a theoretical framework to understand how a valued product becomes a commodity, sustaining the circuit of a television format. I first put theories of value into three large categories addressing production, exchange, or distribution of value. After reviewing each, I conclude that distribution, rather than production or exchange of value, is the crucial process for understanding the commodification of formats. It is not a mere intermediary between the production and the exchange of value; it is a site that articulates both processes by constructing a commodity form. This chapter attempts to advance a distribution-centered theory of value to explain the global circulation of formats.

**Production of Value**

In the field of political economy, the most prominent theory of value is the labor theory of value, which explicates the process of commodification in the sphere of production. The
theory is also used in media studies to understand the production of value of industrialized media products. First, I will explain the theory and its application in media studies. Second, I will argue that it is not adequate for understanding the commodification of formats.

The labor theory of value, first theorized by classical political economists such as Adam Smith, David Ricardo, and Karl Marx, directs our attention to labor as the substance of values of commodities in the sphere of production. Marx theorized, most notably in the first volume of *Capital*, that one commodity can be exchanged with another because the value of an object is the combination of its usefulness (its use value) and its expression in exchange (its exchange value). A use value emerges from human needs and wants, both individual and societal. An exchange value is a quantitative appearance, expressed as a relational form (Marx, 1867/1976, p. 126). Exchange values make possible the exchange of two qualitatively different commodities.

Marx theorized (1867/1976) formation of exchange value by seeking a common element in all commodities. For him, the common element driving formation of exchange value is labor power. In a production process, human labor is abstracted, objectified, measured, and sold for a wage to create a commodity. Marx argued that the magnitude of labor power is measured based on “the labour-time socially necessary” to produce a given commodity (p. 129). He succinctly summarized commodification such that the substance of value is labor, the measure of its magnitude is labor-time, and the form is exchange value (p. 131). The labor theory of value, therefore, invites us into the sphere of production, where labor power is transformed into an exchange value.

Based on this labor theory of value, Marxist scholars of political economy of media have examined labor processes in making industrialized media products. Mosco (2009) understood that the process of commodification of media content involves the transformation of “messages,
ranging from bits of data to systems of meaningful thought, into marketable products” (p. 133). He used newspapers as an example. Social uses of news stories are transformed into marketable products by making reporters wage laborers; reporters sell their labor power (i.e., the ability to tell and write stories) for a wage. Articles, stories, and advertising are packaged for market exchange. The value of a newspaper emerges from the labor power measured by labor time to write a news story.

However, the commodification process of cultural products, including television formats, is more complicated than Mosco’s (2009) application of the labor theory of value. Dan Schiller (2007) expanded the notion of labor for cultural products. He explained that there are more kinds of labor process than wage labor. He distinguished four possible means of commodification of cultural production: wage market (e.g., television camera operator), wage nonmarket (e.g., federal census statistician), unwaged market (e.g., bestselling author), and unwaged nonmarket (e.g., bedtime storyteller) (p. 22). Instead of a unitary notion of labor, Schiller pointed out a range of labor processes from labor for a wage market to unwaged, nonmarket labor (p. 22). He expanded the notion of labor in the production of cultural products to include both wage labor and social labor performed by such individuals as craft workers, musicians, actors, and sports figures, who “exchange their products of labor for money or the promises of money in the form of royalties” (p. 22). For Schiller and other scholars of Marxist political economy of media, the value of cultural commodities comes from a particular form of labor process.

While Mosco (2009) and Schiller (2007) characterized both wage and social labor as the substance of cultural commodity, Dallas Smythe (1977) expanded the category of labor even more to include “watching” (i.e., media consumption) as a kind of labor. By emphasizing the particularity of broadcasting, Smythe argued that an audience’s attention to media products is a
form of labor, a “work of watching” (see also Andrejevic, 2002; Jhally & Livant, 1986). He argued that the audience’s attention is crucial not only to those who produce media products but also to the advertisers who finance the media system. By shedding light on the institutional arrangement of the advertiser-supported media system, he claimed that “the commodity form of mass-produced, advertiser-supported communications under monopoly capitalism” consists of audiences and readerships (p. 3). As he claimed that “all non-sleeping time of most the population is work time” (p. 3), even reading, watching, and listening to media products constitute forms of work, which is labor toward the formation of values of commodity. The attention to a cultural product is measured in the number of copies circulated and in the numeric form of ratings by institutions such as A. C. Nielsen. This information, once gathered, is sold to advertisers in exchange for money. Scholars such as Eileen Meehan (1984, 1986) have examined how ratings become commodified via corporate strategies (see also Ang, 1991). Thus, the audience’s attention as labor constitutes the substance of value embodied in a cultural commodity.

The application of labor theory of value in media studies has a particular path. First, labor is conceptualized as the substance of value of media products. Second, the notion of labor is broadened from wage-labor and social labor to audience labor. However, applying the two points to understand the process of commodifying television formats can be problematic.

First, the most obvious problem of the labor theory of value in format research is its inadequate conceptualization of the substance of the value of formats. In other words, the labor power of producing formats or television ideas is more ambiguous and fluid than that of other media products, such as films and finished television programs. What is the labor power of coming up with creative ideas? What is the labor power of knowing how to make a popular
television program? Creativity and knowledge are the product of individual minds as well as
community cultures, and their value is too complex to understand solely in terms of labor. Even
if one conceptualizes the labor power of producing formats, empirically locating the value
creation of format as labor in space and time is challenging. Serendipitous moments, gut
instincts, and shared understanding of what can be popular are complex phenomena. Format
factories are different from pin factories.

Second, however we broaden the notion of labor, the labor process in the sphere of
production is only one side of the whole process of commodification; the process can only be
completed when a product of labor is exchanged. By focusing on the sphere of production, the
labor theory of value de-emphasizes the sphere of circulation, the role of which is to create
exchangeable forms of values (Pitts, 2015, p. 250). Without this exchangeable form, no exchange
value can be formed, and thus no value can be realized. Indeed, Meehan (1984, 1986) examined
the exchangeable form of audience labor: the ratings measured by the Nielsen company. Her
institutional approach is insightful in studying the commodification of formats. I will focus on
institutional arrangements in section 4 of this chapter; despite the approach, I argue that the
audience labor and audience measurement institutions are not the central concern of the
commodification of formats. Audience measurements are “a form of receipt which can be
negotiated within a system much like a futures market” (Meehan, 1990 as cited in Maxwell,
1991, p. 31). The central concern in this dissertation is to examine what value is being
exchanged, and how, before the audience is measured.

As anthropologists have rightly understood, a commodity is a cultural phenomenon that
is “a concomitant of the existence of transactions” (Kopytoff, 1986, p. 68). In the transaction, the
substance of value produced by labor can be exchanged. The mystery of commodity is how a
value emerges and acts in a certain way (Appadurai, 1986). We now turn our attention away from the production of value toward another sphere: the exchange of value.

**Exchange of Value**

In contrast with the labor theory of value, the sociological perspective sheds light on the process of commodification by focusing on the sphere of exchange rather than that of production (Appadurai, 1986; Moeran, 2009). Exchange of value is another sphere in media studies for understanding the value of media products. In particular, I will examine the economic sociological approach of Miège (1989) and Lacroix and Tremblay (1997), arguing that their approach is also not adequate to understand the commodification of formats.

Georg Simmel (1900/2004) argued in *The Philosophy of Money* that value is not an inherent property of products “but a judgment upon them” by subjects (p. 60). For Simmel, the judgment or the valuation of economic products transmitted “through the form of exchange, creating an intermediate realm between the desire . . . and the satisfaction of needs” (p. 77). Using Simmel’s idea, Arjun Appadurai (1986) emphasized that exchange “is not a by-product of the mutual valuation of objects, but its source” because it “sets the parameters of utility and scarcity” of a product (p. 4). Appadurai urged us to explore this realm of mutual valuation (“regimes of values”) through the form of exchange. The sphere of exchange, according to this perspective, is the site where value is realized.

In this line of thought, Bernard Miège (1989) highlighted the form of exchange of cultural products. He noted that the cultural economy, especially, has the characteristic of uncertainty in mastering the valuation of media products. Therefore, he argued that it is important to understand the conditions under which cultural use values are transformed into exchange values. He particularly focused on the reproducibility of cultural products as a limit to
commodification. Rather than technological reproducibility (cf. Benjamin, 1968), Miège focused on socioeconomic factors of reproducibility of media products. He discussed economic factors (e.g., financial resources of the eventual purchasers), social factors (e.g., “cultural codes” necessary for the use of the products by certain social classes), and cultural factors (e.g., linguistic barriers) that constrain the commodification process. Based on the degree of reproducibility, Miège categorized cultural commodities into three types (p. 26): (a) reproducible products not requiring the involvement of cultural workers in their production, (b) products that are reproducible with the involvement of cultural workers in production, and (c) semi-reproducible products. The first type refers to media technologies such as devices that receive, record, and replay images and sound. The second type refers to books, films, broadcasts, videocassettes, and other media. The third type refers to craft work and live performances. The types lead to different commodification processes, particularly the process of exchange, organized by dominant institutional forms (Miège, 1989).

Building upon Miège’s work, Jean-Guy Lacroix and Gaëtan Tremblay (1997) focused on the second type and the governing logics that organize its commodification (Miège, 1989, pp. 42–43). They argued for three logics: publishing logic, flow logic, and club logic. Forms of publishing logic are cultural products such as copies of books, records, films and videos, which are durable, reproducible, and individualized items (Lacroix & Tremblay, 1997, p. 60) that are directly sold to consumers. According to Lacoix and Tremblay, this is a direct commodification. By contrast, flow logic governs cultural products such as radio and television, which are ephemeral, diffused, and inserted into programming (p. 60). Because radio and television depend on the airwaves, a scarce public resource, government intervention is inevitable; such conditions lead to a nonmarket, bureaucratic system of commodification (Streeter, 1996). Therefore,
cultural production governed by flow logic is financed indirectly via advertising, public funding, or both (Lacroix & Tremblay, 1997, p. 56). Club logic is an integration of publishing and flow logic. With the development of digital technologies and distribution technologies (i.e., telecommunications), club logic emerges to offer radio and television programs as individualized and reproducible products for those who have access to the service. Club logic has become predominant in subscription video-on-demand services such as Netflix and Amazon, enabling “instantaneous access to a considerable inventory of programmes, products, and services” (Lacroix & Tremblay, 1997, p. 64). The commodification process of this particular cultural production is both direct and indirect, combining both subscription and advertising.

What Miège (1989) and Lacroix and Tremblay (1997) called an economic sociological approach is useful for understanding how values of media products, including television formats, are realized in particular forms of exchange by various social agents (e.g., authors, producers, distributors, exhibitors, social institutions). Unlike the labor theory of value, this economic sociological approach emphasizes the sphere of exchange whereby values are realized and transformed into monetary value. Therefore, understanding particular modes of capital accumulation is useful.

Although it is useful for analyzing media systems, the economic sociological approach does not provide the same level of insight in the case of television formats. Although a format can be categorized as the second type, determining which logic governs the exchange of formats is confusing. The three logics that Lacroix and Tremblay (1997) conceptualized are not adequately applicable to formats. They focus only on the final exchange of commodity for money. The authors are useful for understanding particular media systems and their modes of capital accumulation.
Unlike the economic sociological approach, the study of the commodification of format requires multiple exchanges between the first production and the final exchange of formats. Following the simple mental map I suggested at the beginning of section 2, the process of devising a format requires exchanges between an originator and a distributor, a distributor and a foreign producer, and a foreign producer and a broadcaster, cable system, or online platform. In other words, a format is not a final product or an output. It is rather an input of a media system to produce a finished television program in a local television market; it is a commodity that produces another commodity.

Therefore, it is important in format research to understand that multiple exchanges occur in the gap between the first production and the final exchange. The gap is the real home of the value of formats, which is not only physical but also temporal and cultural. The fundamental task of format business and scholarship is to understand this gap that a television format must traverse. In the next subsection, I seek a theoretical framework to explicate the gap between origination and adaptation of format—that is, the sphere of distribution.

**Distribution of Value**

In the literature of value, the concept of *distribution* can mean the flow of products or money. In the literature of political economy, the term often refers to the distribution of wealth in the forms of wage, surplus value, rent, and so on. Even though this is an important area of research in the field of political economy, this dissertation is silent on this matter. Instead, it focuses on the distribution of products across space and time.

The sphere of distribution sited between the production and exchange of a cultural product is a rich area of study. However, it has not been properly framed. In this subsection, I synthesize thoughts regarding the disciplines of political economy and media studies to articulate
the distribution of value as a theoretical framework. I argue that it is a promising framework with
some limitations for studying the commodification of formats.

The question of how the process of distribution shapes both production and exchange of
value is not a new one. Whereas Marx urged us to “follow the owner of the means of production
and the possessor of labor-power into the ‘hidden abode of production’” (Arrighi, 2007, p. 51),
Adam Smith (1776/1981) began The Wealth of Nations by examining the division of labor and
productivity in a pin factory and then invited us into an economic realm outside the hidden abode
of production. Smith developed his discussion of market exchange by analyzing the social
division of labor between towns and countryside; in particular, he discussed the limitation of the
“extent of market” upon labor power (p. 32). If the market is too small, workers have no
incentive to dedicate their labor power to the production of a single product (p. 31). As Smith
pointed out, markets can scale up via means of transportation (e.g., land-carriage, water-carriage,
railways) and communication (e.g., telephony), enabling the connection between markets
separated by great distance. Distribution is the process of creating, modifying, or abandoning the
connection between producers and markets for exchange (Bestor, 2001).

Based on the infrastructural connection via transportation and communication, trade, a
transfer of commodities from one place to another for sales, has been posited as one of the most
important economic and cultural activities. Trade allows the value of commodities created in
production to be realized in markets. Lewis Mumford (1934/1963) elaborated this point by
comparing production and trade.

The merchant accumulated capital by widening the scale of his operations,
quickening his turnover, and discovering new territories for exploitation: the
inventor carried on a parallel process by exploiting new methods of production
and devising new things to be produced. Sometimes trade appeared as a rival to the machine by offering greater opportunities for profit: sometimes it curbed further developments in order to increase the profit of a particular monopoly: both motives are still operative in capitalist society. From the first, there were disparities and conflicts between these two forms of exploitation: but trade was the order partner and exercised a higher authority. It was trade that gathered up new materials from the Indies and from the Americas, new foods, new cereals, tobacco, furs: it was trade that found a new market for the trash that was turned out by eighteenth century mass-production: it was trade—abetted by war—that developed the large-scale enterprises and the administrative capacity and method that made it possible to create the industrial system as a whole and weld together its various parts. (p. 26)

Along this line of thought, Harold Innis (1995) demonstrated the importance of trade and traders in his early writing on Canada’s fur trade with Europe. Innis explored how the formalized fur trade was initiated neither by indigenous people in Canada, who hunted beavers for fur, nor by potential buyers in European cities, especially London. It was fueled by French traders who formed markets for beaver hats in European markets. Trade both transfers commodities from one place to another and creates markets. From research on Canadian staple products, trade, and intercontinental markets, Innis developed his thoughts on “forms of media, time, and space, and structures of power” (Mosco, 2009, p. 157). Innis proposed that the middle is not a mere go-between but a discoverer of values in both production and exchange.

Smith (1776/1981), Mumford (1934/1963), Innis (1995), and other economic historians and anthropologists emphasized trade as an economic, political, and cultural activity of
transferring value from one place to another. In this process, they observed and analyzed that distribution is the coordination of production of value by labor power and exchange of value in markets.

In media studies, especially media industry studies, the process of distribution has been increasingly emphasized because of the particular properties of media products. Nicholas Garnham (2011) explained the importance of distribution in studies of political economy of media:

Because the value of cultural products and services is largely immaterial, they are not worn out by use. There is thus no scarcity and no inherent incentive to repeat purchase; in information and culture, economic reproduction and growth depends on the constant production of novelty. Thus, what in a normal industry is referred to as production is, in the cultural sector, closer to R and D. It is therefore better understood from the perspective of the political economy of innovation than from a classic industrial development model. This means that culture industries are systems not of production but of reproduction. Once the prototype has been produced, the marginal cost of extra copies is close to zero. When allied to the nature of cultural labor, this means that productivity gains found in economies of scale can only be found in distribution. (pp. 49–50)

Garnham emphasized that the value of a media product, unlike that of other products, depends largely on its distribution because the cost of reproducing a media product, particularly an audiovisual text, is almost zero.

However, the emphasis on distribution in media studies tends to highlight the infrastructure (Lamarre, 2015, p. 94), the technological and social condition of the movement of
commodities (Larkin, 2008, p. 219). For example, Susan Douglas (1989), Susan Smulyan (1994), Robert McChesney (1995), Thomas Streeter (1996), and Jonathan Sterne (1999) studied the construction of the American radio and television broadcasting infrastructures. The scholars attempted to reveal the material conditions and social forces that created the techno-social system of distribution.

While studies of infrastructure are important in media studies, the techno-social system of distribution cannot produce an adequate insight for format research. As Smith (1776/1981), Mumford (1934/1963), Innis (1995) showed, distribution of formats is closely related to trade that links distant markets and cultures by complex social relations. Therefore, in the next section, I seek a more general theoretical framework that can encompass both infrastructure and trade of commodities. I emphasize movement of values as the common concept for building a framework.

**Value in Motion**

Movement of products from the sphere of production to exchange seems be an obvious characteristic of the process of distribution. It is easy to assume that the means of distribution (i.e., transportation and communication) merely carry commodities. However, distribution is “not a neutral process” (Lamarre, 2015, p. 94); in fact, it shapes the form of value.

Wolfgang Schivelbusch (1979) provided useful insight into how mobility constructs values in a particular way. In the last chapter of his work *The Railway Journey* (1979), entitled “Circulation,” Schivelbusch discussed changes in the commodification process when a department store first appeared in Paris during the second half of the nineteenth century. Department stores and traditional retail stores differed in several ways. First, unlike the retail

---

4 Scholars such as Quinn (2015) metaphorically use the term “infrastructure” to conceptualize formats as a pipe that enables the movement of ideas and capital. I have purposely avoided such infrastructure-based metaphors; the movement of format is better understood in terms of trade than of infrastructure.
store, the department store’s prices were low but fixed. The department store also encouraged customers “to enter the store without any obligation to buy” (p. 180). Most important, the department store generated profit through high product turnover achieved by circulating customers around the store. Second, in this circulatory arrangement of exchange in the department store, buyers and sellers did not have to “confront one another in person” for transaction or conversation (p. 181); the communication between them was replaced by a price tag. The elimination of conversation, in turn, increased turnover of goods. Schivelbusch also argued that the department store changed the relationship between customers and products. By circulating customers around the department store, the mobility transformed the buyers’ intensive and aural relationship to products in the traditional retail store into something more evanescent and impressionistic (p. 83). In the process, Schivelbusch observed that the value of products was determined less by their visible, tangible, and intrinsic quality (i.e., the use value) and more by the price tag, a medium of exchange value. The price tag had become a “dominant part of the appearance of goods” through the advent of department stores (p. 184).  

Two of Schivelbusch’s (1979) points are worth emphasizing with regard to the process of distribution. First, movement is an important element of commodification. In some situations, as Schivelbusch analyzed, people move toward an assemblage of products; in others, products move toward people. In either case, the relationship between products and people is mobile. In this relationship, the movement is physical as well as emotional. However and more important, the mobile relationship does not occur naturally but requires techniques that construct movement. Techniques such as infrastructural technologies produce more physical and stable movements; techniques such as graphic design, advertising, and branding are also economic and

---

5 Schivelbusch (1979) argued that the radical increase in mobility in nineteenth-century Europe inaugurated a new kind of perception, which he called “panoramic perception.”
cultural activities that create people’s needs, wants, and desires (i.e., use values; see also Crawford, 1992; Huws, 2014; Rigi & Prey, 2015). A commodity can be produced and exchanged only if it provides a use value. As Marx (1867/1976) briefly mentioned, “If the thing is useless, so is the labor contained in it; the labor does not count as labor and therefore creates no value” (p. 131). Stimulation of needs, wants, and desires is nonetheless a significant part of movement.

The second point is closely related to the first one. In the movement, an exchange value appears in a particular form. Neither the labor theory of value (production of value) nor the economic sociological perspective of value (exchange of value) consider appearance as an important part of the process of commodification. On the one hand, it seems that the theorists of the labor theory of value and the economic sociological perspective consider the appearance of objects in reality as too obvious. What is not obvious to them is the emergence of a universal commodity form: the money form of value. On the other hand, it seems that they strive to transcend appearances or phenomena and make theoretical claims about commodification. In particular, the Marxist notion of fetishism of commodity form, which “masks real economic relations that goes into the production of value” (Maxwell, 1991), may render appearances unimportant. However, value is not a thing in itself. It is “rather a social relationship that appears as a tangible characteristic of a thing” (Heinrich, 2012, p. 54, emphasis in original). Appearance should not be understood in an aesthetic sense, although it plays an important role in certain cases, such as selling a fragrance. According to Brian Moeran (2007), scents are given packages and names to make their value tangible. The appearance of products in a particular form is central to understanding values in motion. Likewise, when examining television formats, which are inherently mobile and intangible, their appearances at different stages of development are crucial to the commodification process.
Let us take coffee as an example. The value of coffee originates in and moves from places whose soil and weather are suitable to grow coffee trees and the fruits. Therefore, the coffee commodities move from the tropical regions in the Global South to the rich Global North. In different stages of coffee, the value appears in different forms (e.g., green beans, roasted beans, instant coffee; Talbot, 2004). Similarly, a television format moves from its country of origin to another country of adaptation. In this movement, the value of the format appears in different forms, from a mere idea, to a format, and finally to a formatted television program. In particular, because the two commodities are industrial inputs rather than outputs, their movements and forms as they appear in the midst of movements are important in shaping their values.

Values in motion, however, are not free and random. They have their own constraints and limitations. Coffee commodities and television formats have different constraints and limitations in their movements and forms. A cultural product, such as a format, takes a certain path. The value of a cultural product lies in its uniqueness. However, if a cultural product is too idiosyncratic, then it is situated outside the “monetary calculus” (Harvey, 2002, p. 95), making the product’s trade impossible. For example, the Eiffel Tower is unique, and thus nonreplicable to the extent that it is outside the system of exchange. However, if a cultural product is not unique, no value can be formed. For example, a photographic image of Jean-François Millet’s The Gleaners on my social media site can be more easily copied and distributed than the original painting; the digital copy of the painting is not sufficiently unique to keep its value from diminishing. David Harvey (2002) called this a contradiction; Igor Kopytoff (1986) called it a paradox. Both cases demonstrate that a cultural product loses its value if it is too ordinary and replicable or if it is unique and thus nonreplicable. In both cases, no price emerges and no

---

6 Igor Kopytoff (1986) calls this “the uniquely valuable” and “the uniquely worthless” (p. 75).
exchange is possible. Harvey explained that a cultural product must somehow find a way to keep itself idiosyncratic and special enough to be distributed in competitive markets while maintaining its value (p. 96). Kopytoff noted that in the notional space between the two noncommodities that a cultural product must navigate, some kind of organization or “structure” exists (p. 70) that produces the particular movement and form of a commodity.

The formation of the value of television formats depends on their movements from one country to another and how their forms appear in the process. The value of formats can only be produced and exchanged by their movements in particular forms. In other words, the circuit of formats introduced in section 2 can be sustained by neither the production nor the exchange alone. They can be sustained by the distribution of format whereby a format is in constant movement and in a particular form, which enables the value to be more tangible.

If a television format must appear in a form, what constitutes this form? In the following review, I highlight three aspects of the form of a format.

**Commodity Form: Television Format**

As the coffee commodity demonstrated, assuming that a commodity has only one commodity form is erroneous. However, it would be equally wrong to assume that a commodity has a linear developmental path where different commodity forms appear as a metamorphosis. The form of commodity can have multiple aspects that are quite independent of one another. Kopytoff (1986) used the term “biography of things” to capture the multiplicity of various forms of a commodity. He argued a thing has many biographies; a car, for example, has physical and technical biographies as well as economic and social biographies (p. 68). Each biography is different and separate from all others. From Kopytoff’s point of view, a television format too has many biographies.
In this dissertation, I specifically examine three different aspects of format commodity form in the global community of formats: copyright, format bible, and creative project. Each aspect emerges from a particular context. A format appears as an intellectual property in a legal context as a link between global television programs and local television markets in an international business context and as a creative project whose value must be negotiated in a global television market context.

There is no a priori principle that explains commodity forms. The three contexts that I have selected to understand multiple aspects of a format were hinted at in an abstract definition of a market provided by Meehan and Torre (2012). A market, according to them,

is an economic construct that emerges from a combination of legal strictures, economic relationships between entities capable of engaging in transactions, and the structures resulting from those elements that may become institutionalized within an economy over time. (p. 65)

I reinterpret this definition at an international level and transform the three elements into the three contexts. Despite the usefulness in conceptualizing the multiplicity of forms of formats, I do not use their definition of market in this dissertation because it is too abstract to be well-suited to understanding concrete markets such as global television markets, which will be discussed in detail later in this section and in Chapter 5.

The three contexts do not necessarily correspond to the political, economic, and cultural dimensions of global television; rather, each context partakes of all three dimensions. Neither do they represent three stages of a format’s metamorphosis from the sphere of production to the sphere of exchange. In the history of formats, their developments are probably best described as semi-autonomous processes; each context is quite independent of the other two. However, the
contexts can sometimes coincide, allowing for the articulation or disarticulation of multiple aspects of the commodity form. Within and in between contexts, a format commodity form is not a fixed thing, but a temporary articulation of different aspects of the commodity’s form by collision contexts.

**Legality of Format**

A cultural product, especially a media product belonging to Miège’s (1989) second type of cultural product, reproducible products with involvement of cultural works in production (i.e. books, films, broadcasting, video cassettes, etc.), has a peculiar characteristic, namely the “public good” characteristic. A media product, like a public park, has “a high cost of creation, or ‘first copy’ cost . . . but a relatively low, or even zero, marginal cost of serving additional viewers” (Waterman, 2009, p. 29). The first copy cost of a Hollywood movie, for example, is about 60 million USD, and the costs of reproducing and distributing it are miniscule compared with the cost of that first copy. Ronald Bettig (1996) posited that because of this peculiar characteristic, markets for such media and cultural products are “prone to failure” (p. 2). To prevent the products from losing value and to ensure the successful exchange of values, Bettig noted the industries have contrived various mechanisms such as “copyright, patents, trademarks, advertising, compulsory licensing, packaging, encryption, price discrimination, and so on” (p. 3).

This first part of the format commodity form discusses the legal form of formats as an intellectual property.

What are intellectual property rights? The most discussed subcategories of intellectual property rights are patents and copyrights (May & Sell, 2006, p. 7). A patent proclaims an intellectual property right that protects an idea. A copyright proclaims an intellectual property
right for a literary or artistic intellectual property that protects an expression of an idea. In the case of distributing formats, copyright is the more relevant in this dissertation.

Copyright is a legal issue as well as an economic and political matter. Critical scholarship has noted that copyright “serves as an instrument of wealth that can be utilized in the cycle of capital accumulation to generate more wealth” by allowing ownership and control of content (Bettig, 1996, p. 2). In other words, copyright laws facilitate the total process of commodification from production and distribution to exchange of cultural values (Bettig, 1996; Edelman, 1980; May & Sell, 2006; Perelman, 2002; Streeter, 1996; Vaidhyanathan, 2001). Critical scholars argued that the laws create a monopoly on mediated communication, leading to the high barrier for entry to the market and therefore limiting the diversity of cultural works. The role of the state is to ensure the maintenance of corporate power over communication and media products (Bettig, 1996, p. 121).

The literature has critiqued this tendency of the expanding private property regime, and the contraction of the public domain as “information” and “knowledge” has been conceptualized as a crucial resource of the system of capitalist production. Siva Vaidhyanathan (2001) and Michael Perelman (2002) warned that copyright law has expanded, lengthened, and strengthened to the point that it can no longer accommodate societal changes but rather benefits a few by creating monopoly rights over information and knowledge. Critical scholars claim that these ever-expanding private rights pose a threat to creativity, science, and democracy. In short, they are a threat to our public life.

However, intellectual property rights are not invincible arms of capitalist monsters (or heroes). They have been challenged throughout the histories of media. For example, Bernard Edelman (1980) examined the ownership of photographic images in the nineteenth century. He
argued that when the camera, a technology of mechanical reproduction, was first invented, photographic images were not considered private property. The reality that the camera captured was considered common property. However, this legal conception of the ownership of photographic images threatened the film industry. A film has a use value as an artistic form; however, without intellectual property rights, its exchange value cannot be expressed in terms of money. After pressure from the film industry, the legal system began to consider production techniques as a means of creative expression, and this was and still is subject to copyright laws. The legal system was able to maintain the Lockean notion of property as a natural right that is essentially inalienable for a private individual. A photograph was reconceptualized as a product that bore the “intellectual mark of its author” (Edelman, 1980, p. 51). Edelman emphasized the role of the state and its apparatus (i.e., the legal system) to legitimize commodification by ensuring ownership of a cultural product in the process of distribution.

Thomas Streeter (1996) advanced Edelman’s thoughts by arguing that whole structure of power, including “the legal, business, and political communities” (p. 257), have repeatedly used “bureaucratic terms, institutions, and procedures as a means to enact the nineteenth-century liberal values associated with traditional private property rights and free markets” (p. 257). In his examination of the construction of the U.S. broadcasting system, especially copyright of broadcasting signals, he posited three specific ways to establish authorship in broadcasting. First, the fiction of the corporate individual was invented under law; therefore, corporations were able to become “authors’ in the framework of copyright. Second, Streeter pointed to the technique of the blanket license (an annual subscription-like fee) for content employed to simulate a market exchange of goods when no goods or payment for individual performances of works are actually exchanged. The technique employs bureaucratic systems such as the American Society of
Composers, Authors, and Publishers (ASCAP) for the exchange (Streeter, 1996, p. 262). Third, federal administrative bodies have regulated and resolved interindustry disputes over the ownership of programs to maintain smooth distribution of programs and profits.

Edelman (1980) and Streeter (1996) directed attention to the process of establishing particular forms of intellectual property such as photographic images and broadcasting signals. In the process, they highlighted the nexus of legal, business, and political communities that made the exchange possible when the difficulty of defining an intangible product arose. Following Edelman and Streeter, this dissertation focuses on the processes of forming the copyright of formats. As Chapter 2 and Chapter 4 detail, the formation of the copyright of formats can be characterized as a struggle between legal, business, and political forces for the construction of the legal definition of formats.

More important, a major part of the struggle to form the copyright of formats comes from the inherent internationality of formats. In contrast to the abovementioned cases, which are confined to nation-states, the discussion of the copyright of formats requires considering the system of intellectual property rights on an international level.

However, the international regime of intellectual property rights has never been administered by a unitary institution that harmonized various national copyright laws. There is the World Trade Organization’s (WTO) Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement. Christopher May (2004) discussed how developed states and corporations attempted to shape global governance via the TRIPS Agreement. May (2000) characterized the project as a “new enclosure,” conjuring up the image of the enclosure of land in England. He argued that the agreement left developing countries such as Indonesia and Malaysia to bear social costs. However, even the TRIPS Agreement could not directly influence domestic laws
(Macmillan, 2014). The project is not a completed one but rather an ongoing struggle for control of intellectual properties. Given that the modern system of intellectual property began with the birth of *states* in fifteenth-century Venice (Macmillan, 2008; May, 2002), the role of states, rather than international regimes, is crucial to understanding the international governance of intellectual property, including copyright.

In sum, the discussion of television format’s copyright in Chapter 2 and Chapter 4 is based on the struggle to define the copyright of formats. As in Edelman’s (1980) and Streeter’s (1996) studies, the copyright of formats can be characterized as a struggle. At first, no court was willing to grant copyright to format owners because a format was defined as a mere idea. However, in the early years of the twenty-first century, a format began to be defined as something more. In upcoming chapters, I focus on the interaction between legal, business, and political discourses regarding the copyright of formats, which ultimately led to the protection of a format as a copyrighted work. At the same time, I, unlike May (2000, 2002, 2004) and Macmillan (2008, 2014), who focused on the relationship between a global governance structure and nation-states, collect specific cases in which courts of nation-states had to formulate a legal definition of a format because a global governance structure for the format copyright simply does not exist. Specifically, I analyze format copyright infringement cases where format owners have accused and filed lawsuits against alleged copycats for infringing their copyright. By analyzing such cases, I reveal a pattern of constructing this particular aspect of format commodity form.

**Functionality of Format**

Another aspect of commodity form is *functionality*. I use this term to distinguish it from *utility*. While utility is often associated with the relationship between a commodity and its consumers, I use functionality to emphasize that a function of a commodity is shaped by a
particular industrial organization. It is important to examine and understand the function of a
television format to explain how that format has become a globalized media product.

It is often assumed in format research that a format has an innate and fixed function of
crossing national borders that makes it a globalized media product and thus a global format
business. However, such an assumption cannot explain a particular organization of global format
business. How did a format industry become an integrated form by corporations instead of a
disintegrated form of trades? How did European companies become leaders instead of American
companies? How did a format business become truly global? My answers to the questions in this
dissertation will orbit around the format’s changing functions, instead of capital’s tendency
toward centralization and concentration, which have shaped and been shaped by the organization
of format business in historical contexts. This is a particularly important point precisely because
a format is an input, a commodity to produce a finished program in a local television market,
rather than an output.

To understand the organization of the global format industry, I use a conceptual tool
called the global commodity chain (GCC) approach in this dissertation. The GCC was originally
developed by Terence Hopkins and Immanuel Wallerstein (1986), who explained that the
concept of a commodity chain “refers to a network of labor and production processes whose end
result is a finished commodity” (p. 159). The GCC assumes that the world economy is composed
of thousands of commodity chains. Instead of analyzing the whole world economy, the
framework focuses on a particular chain of a single commodity (e.g., coffee, car, television
programs). A single chain is composed of “sets of interorganizational networks clustered around
one commodity or product, linking households, enterprise, and states to one another within the
world-economy” (Gereffi, Korzeniewicz, & Korzeniewicz, 1994, p. 2). In the interorganizational
networks, the GCC approach focuses on “the acquisition, and/or organization of inputs (e.g., raw materials or semifinished products), labor power (and its provisioning), transportation, distribution (via markets or transfers), and consumption” (Gereffi et al., 1994, p. 2).

Gary Gereffi (1994) developed the framework by identifying three dimensions of a chain: an input-output structure, a territoriality, and a governance structure. An input-out structure refers to “a set of products and services linked together in a sequence of value-adding economic activities” (p. 97). A territoriality refers to “a geographic distribution of production, and a distribution of production among different sizes of firms” (Talbot, 2004, p. 8). A governance structure refers to “authority and power relationships that determine how financial, material, and human resources are allocated and flow within a chain” (Gereffi, 1994, p. 97). Gereffi later separated a governance structure into two: one focusing on coordination between firms and one focusing on “local, national, and international conditions and policies” in which he called “institutional frameworks” (Gereffi, 1995, p. 113). However, as John Talbot (2004) argued, such analytical separation is unnecessary. Nation-states do not just provide conditions whereby firms coordinate with each other to form a structure of a commodity chain (Talbot, 2004, p. 8). The forces of capital and state institutions actively participate to shape the structure of a chain. The inseparability of the two forces is especially pronounced in media industries because they have historically been an arena where states and firms cooperate and struggle due to the particular nature of media industries – a complex mixture of cultural and commerce.

Jean Chalaby (2015, 2016b, 2017) is one of first scholars (see also Ndlela, 2017) to have analyzed the television format commodity chain by using the GCC approach. He analyzed the three dimensions of the commodity chain. First, he examined the possible types of input-output structures of the format commodity chain. One type is a vertically integrated structure, which
owns the production, distribution and broadcasting segment of the chain. The other type is a producer-distributor structure, which owns the production and distribution segment. The last type is a distributor structure, owning just the distribution segment.

Although the vertically integrated structure does exist, the leading corporations’ input-output structure is the producer-distributor structure. They are sometimes called super-indies (Chalaby, 2012b). A super-indie “assemble[s] several production companies” in multiple territories and “develop[s] one distribution arm specializing in international sales and distribution” (Chalaby, 2010; 2012b, p. 23). For example, Endemol was established in 1994 after a merger between JE Entertainment and John de Mol Produkties. By 1998, it had acquired production companies in five major European television markets: France, Germany, Italy, Spain, and the UK. In 2000, it established a production company in the United States. Now it operates 120 production companies in 23 countries. (EndemolShineGroup, n.d.). How could this particular type of input-output structure even be possible in the global format commodity chain? I seek an answer to the question by examining the growth of European independent production companies in the second half of Chapter 2 and examining one particular production company, Endemol, in Chapters 3 and 4.

Regarding the second dimension of the GCC, territoriality or the geographical scope, Chalaby examines the geographical patterns of format trade. Unlike staple products and agricultural products, a television format, in theory, can be originated and distributed by any creators around the world. However, in reality, a format commodity has been and still is led by European producers and distributors (Bourdon, 2012; Chalaby, 2012a). As Table 1 shows, the export of formats was dominated by European countries and the United States.
Table 1. Format Exports, in Terms of Number of Formats, Number of Hours, Number of Episodes, and Revenue, 2006–2008.

<table>
<thead>
<tr>
<th></th>
<th>No. of exported formats</th>
<th>No. of exported hours</th>
<th>No. of exported episodes</th>
<th>Production costs of format adaptations</th>
<th>Country ranking by number of formats/revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>Argentina</td>
<td>55</td>
<td>7203</td>
<td>6877</td>
<td>€482 million</td>
<td>4/5</td>
</tr>
<tr>
<td>Australia</td>
<td>33</td>
<td>2510</td>
<td>3472</td>
<td>€491 million</td>
<td>8/4</td>
</tr>
<tr>
<td>Canada</td>
<td>15</td>
<td>274</td>
<td>412</td>
<td>€40 million</td>
<td>13/13</td>
</tr>
<tr>
<td>Denmark</td>
<td>20</td>
<td>386</td>
<td>339</td>
<td>€42 million</td>
<td>11/12</td>
</tr>
<tr>
<td>France</td>
<td>36</td>
<td>3252</td>
<td>4966</td>
<td>€245 million</td>
<td>7/6</td>
</tr>
<tr>
<td>Germany</td>
<td>37</td>
<td>2242</td>
<td>3340</td>
<td>€136 million</td>
<td>6/9</td>
</tr>
<tr>
<td>Italy</td>
<td>19</td>
<td>512</td>
<td>730</td>
<td>€48 million</td>
<td>12/11</td>
</tr>
<tr>
<td>Japan</td>
<td>29</td>
<td>1202</td>
<td>1470</td>
<td>€147 million</td>
<td>10/8</td>
</tr>
<tr>
<td>Netherlands</td>
<td>63</td>
<td>9677</td>
<td>9364</td>
<td>€1.1 billion</td>
<td>3/2</td>
</tr>
<tr>
<td>Norway</td>
<td>9</td>
<td>151</td>
<td>151</td>
<td>€13 million</td>
<td>14/14</td>
</tr>
<tr>
<td>Spain</td>
<td>29</td>
<td>841</td>
<td>750</td>
<td>€78 million</td>
<td>9/10</td>
</tr>
<tr>
<td>Sweden</td>
<td>41</td>
<td>1570</td>
<td>1706</td>
<td>€233 million</td>
<td>5/7</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>275</td>
<td>13,781</td>
<td>15,981</td>
<td>€2.0 billion</td>
<td>1/1</td>
</tr>
<tr>
<td>United States</td>
<td>156</td>
<td>10,783</td>
<td>13,485</td>
<td>€980 million</td>
<td>2/3</td>
</tr>
</tbody>
</table>

Note. The table is reprinted from Chalaby (2015).

By analyzing the successful countries in the format trade, such as the UK and the Netherlands, Chalaby (2015) noted three commonalities: broadcasting ecologies that cultivate competition and diversity, export-oriented media policies, and strong cultural links with the United States.

This dissertation puts Chalaby’s observation into historical context by examining how European territories have become a ground that encourages competition, export-orientation, and cultural links with the United States. I also examine the development of Endemol in the Netherlands (Chapter 2), in Europe (Chapter 3) and in the United States (Chapter 4) as a case study to understand the territoriality of the commodity chain instead of one particular nation-state because a format commodity chain is a unit of analysis, which is “bigger than [a] nation-state and smaller than the entire world-system” (Talbot, 2004, p. 6).
The third dimension of a commodity chain is a governance structure. The GCC approach asks the questions: who is most in control and who benefits most from the chain? According to Gereffi (1994), there are two types of chains: a producer-driven chain and a buyer-driven chain. Producer-driven commodity chains “refer to those industries in which transnational corporations (TNCs) or other large integrated industries enterprises play the central role in controlling the production system” (Gereffi, 1994, p. 97). The chains are characterized as “capital- and technology-intensive industries like automobiles, computers, aircraft, and electrical machinery” (Gereffi, 1994, p. 97). They have a transnational structure with international subcontracts. Buyer-driven commodity chains “refer to those industries in which large retailers, brand-named merchandisers, and trading companies play the pivotal role in setting up decentralized production networks in a variety of exporting countries, typically located in the Third world” (Gereffi, 1994, p. 97). They are common in “labor-intensive, consumer-goods industries such as garments, footwear, toys, consumer electronics, housewares, and a wide range of hand-crafted items (e.g., furniture, ornaments)” (Gereffi, 1994, p. 97).

By adopting the typology, Chalaby (2015) argued that the format commodity chain is buyer driven. He argued that the broadcasters that buy television formats are in control and are most benefited in the commodity chain. Broadcasters are able to bring down the cost of production and generate a substantial amount of advertising revenue (Chalaby, 2015, p. 465). However, he argued that sellers, including super-indies and small and medium production companies, only gain “license fees between 7% and 8%” (Chalaby, 2015, p. 465). Yet the dichotomy cannot reveal how super-indies become leading companies in the format trade.

Rather than the producer-driven or buyer-driven governance structure, I use what Peter Gibbon (2001) proposed as a third type of governance structure. Gibbon highlighted the role of
international traders as an important organizer of a chain. He called it a *trader-driven chain*. The traders, which often are multinational corporations, “obtain supplies of commodities from all over the world for other firms that process them into final form for sale to consumers” (Talbot, 2004, p. 10). Although Gibbon studied “traditional” primary commodities such as cotton, cocoa and coffee, I find his theoretical insight useful in understanding the television format commodity chain’s “coordinating agent(s), its form(s) of coordination and the historical dynamic which this embodies” (Gibbon, 2001, p. 350). In this dissertation, I precisely examine the format chain’s coordinating agents and forms of coordination in the first half of Chapter 4. By using Endemol as a case study, Chapter 4 examines the development of it as a coordinating agent and of its coordinating logic in order to control the commodity chain.

In sum, from the second half of Chapter 2 to the first half of Chapter 4, I examine the development of the television format commodity chain in its input-output structure, geographical scope, and governance structure. As I argued above, the functionality of formats as an aspect of commodity form can never be separated from the organization of the commodity chain because a format is not a final commodity but an input. As the organization of the chain changes, different functions of formats are demanded and invented. By examining the development of Endemol in different historical periods, I argue that different functions of formats appeared: a format as a capability of crossing national borders, a format as a capability of linking local production companies in multiple territories, and a format as a capability of coordinating intrafirm trades of super-indices.

**Materiality of Format**

Lastly, an important aspect of the commodity form is the materiality of a format, which has not been extensively studied. However, the materiality of a format is radically different from
that of a finished program because one is an idea and the other is an audiovisual text. What is the difference between the materiality of idea and the materiality of audiovisual text? The distinction must be first clearly explained.

Don Slater (2002) proposed a useful framework to conceptualize materiality. He explained that materiality does not consist of physicality, but what he called “social thingness” (p. 96). Slater argued that social thingness, rather than being a quality of being able to distinguish objects and signs, is about social stability:

[W]e cannot look to the a priori physicality of things to guarantee their social materiality; nor does the meaningfulness of things necessarily render them unstable or immaterial. To the contrary, this question points us to the social processes and conditions through which things are stabilised as social materialities, or destabilised, reconfigured, problematised. (p. 96)

From this perspective, the materiality of the television format and the materiality of the finished program do not depend upon the presence of the object. The difference lies in the stability of the two. Just as any other products, formats and finished programs can gain stability once they pass through “the narrow gate into the marketplace” to acquire “exchange value” (Braudel, 1977, p. 17). Therefore, a market is a container that stabilizes commodity values.7

There are many ways of understanding a market. A market refers to a place where people sell and buy commodities (e.g., the global television marketplace), an actual assemblage of people (e.g., the American television market), or an abstract assemblage of people “whose transactions involve a single commodity” (e.g., the global market for television formats; (Meehan & Torre, 2012).

---

7 This is fundamentally different from market stability, which is more related to the degree of shift in price.
First, despite the various definitions of a market, my use of the term in this dissertation, especially in Chapter 5, is closer to the idea of a marketplace, a place where people go to sell or buy goods and services. Rather than an abstract entity, a market must be understood as an entity in actual space and time, as Harold Innis (1995), Karl Polanyi (1957), and various anthropological perspectives (see Moeran & Pedersen, 2009) have emphasized. Innis defined a market as a social space constituted by “sets of opposite and competing characteristics: competitive or monopolistic; open or closed; fragmentary or unified; regional, national, or global; public or private; regulated or unregulated; symbolic or real; stable or highly volatile” (p. xxxiv). It is a complex social space that constantly organizes and reorganizes itself, never reaching the equilibrium that economics textbooks promise, based on cooperation and competition among actors (Krippner et al., 2004, p. 126).

My use of market is also informed by Polanyi (1957), who famously defined a market as an institutional process. Polanyi emphasized that a market functions by both economic and noneconomic elements (e.g., government, religion, technology). A market for television is also an institutional process. Within a national border, the use of natural resources (i.e., the electromagnetic spectrum) made necessary the formation of government agencies such as the Federal Communications Commission. However, this is not the only category of institutional process of media market. As Meehan and Torre (2012) noted, a market for television is also institutionalized “when the process of demand and supply becomes a matter of routine” (2012, p. 69). The routinization of the process of exchange between sellers and buyers stabilizes the production, distribution, and exchange of commodity values. However, it does not happen automatically. As
Raymond Williams (1968) taught us, the making of institutions is based on our communication models:

[M]any of our communication models become, in themselves, social institutions. Certain attitudes to others, certain forms of address, certain tones and styles become embodied in institutions which are then very powerful in social effect. . . These arguable assumptions are often embodied in solid, practical institutions which then teach the models from which they start. (pp. 19–20)

Considering Polanyi and Williams together, I argue that what is important in studying a market from the perspective of communication studies is to examine how a model of communication about a thing at hand in a particular community is developed.

In sum, in this dissertation, a market is conceptualized as a complex social space constructed via an institution which has a particular way of communicating about products or categories of product. Through a market process, a product gains permanent or temporary stability in its materiality. In this dissertation, I study the materiality of formats by examining ways in which the content and form of communication practices of the format community provide the format with stability.

The specific institutionalized social space for the global distribution of both finished programs and formats is that of global television markets. There are three major markets for global television products: MIPTV (Marché International des Programmes de Télévision), MIPCOM (Marché International des Films et des Programmes pour la Télévision, la Vidéo, le Cable et le Satellite) and NATPE (National Association of Television Programming Executives) (Bielby & Harrington, 2008, 2010; Havens, 2003, 2006, 2011; Moran & Keane, 2006). Creators,
producers, distributors, broadcasters, financial agents, and others from various countries participate in the markets. They buy and sell both finished programs and formats and make co-production deals. Moreover, they build social networks and gather market intelligence about global television trends. These markets are important institutions that enable the interfirm exchange of formats.

For the community of formats, MIPTV launched a conference called MIPFormats in 2010 held 2 days before MIPTV. MIPFormats provides a place for a smaller and more specific community within the larger community of global television. Despite the growing importance of MIPFormats, the role of the conference in distributing formats—more specifically, its role in materializing formats—has not received sufficient attention. Chapter 5 will examine how the materiality of formats has emerged via this particular institution.

**Conclusion**

Chapter 1 of this dissertation laid a theoretical foundation for studying the process of commodifying formats. I argue that the sphere of distribution, which lies in between the spheres of production and exchange, is the key to understanding the process. The sphere of distribution constructs the form of value as opposed to the substance of value as it moves in the physical, temporal, and cultural gap between the production and the exchange. I lay out three aspects of the commodity form of formats: legality, functionality, and materiality. In the following chapters, I examine the historical development of these three aspects. The four chapters are not organized categorically but historically.
CHAPTER 2. LEGAL DEFINITION AND INDUSTRY CONCEPTUALIZATION OF TELEVISION FORMATS FROM 1989 TO 1994

Copying and imitating program ideas has long been a widespread practice in response to the imperative to “fill a growing number of hours of broadcasting service” since the 1940s and the 1950s (Moran, 2013a, p. 5). However, trading a television format for a fee had not naturally come as a business practice; rather, such a notion was invented. The issue of having contracts between format licensers and licensees first emerged in the trade between an American television rights holder, Maurice Winnick, and the British Broadcasting Corporation (BBC) in the 1940s and the 1950s (Chalaby, 2012a). In this period, the BBC adapted three American shows from Winnick. In 1946, the BBC first adapted an American radio comedy show, *It Pays to Be Ignorant* (Columbia Broadcasting System or CBS), and titled it *Ignorance Is Bliss*. The second format was an American radio quiz show, *Twenty Questions* (National Broadcasting Company or NBC), which aired in the United Kingdom on February 26, 1947. On February 2, 1951, the BBC adapted the American television show, *What’s My Line?* (CBS).

Despite the long relationship between the British and American broadcasting systems (Hilmes, 2012; Moran, 2013a), paying a fee for copying the concept of a show (i.e., a television format license fee) was a strange idea to the BBC. The BBC refused to pay license fees to Winnick, although it felt comfortable paying a fee for the scripts of *It Pays to Be Ignorant* and a labor fee for obtaining the American recordings. The BBC did not recognize any copyright protection of those formats. The corporation stated in a letter to Winnick, “There is no copyright recognized either by English or American law in the title, idea, plan, or form of this programme” (Chalaby, 2012a, p. 39). Meanwhile, Wellington, the American format owner of *Twenty Questions*, distinguished a format from a mere idea and argued that a format can be recognized
by copyright laws because it is “a person’s particular method or expression of portrayal” (Chalaby, 2012a, p. 40). To avoid any possible lawsuit by the American corporation, the BBC decided to settle the dispute with a 1,000 GBP payment. Finally, on June 29, 1951, the BBC and Winnick agreed to sign a contract for licensing the format of *What’s My Line*?

By recounting the story of the dispute between the BBC and Winnick, Chalaby (2012a) highlighted the origin of television format trade. He argued that the dispute established the recognition of format’s copyright by the traders, which remains the same (p. 40). However, contrary to his assertion, the copyright of formats had been put to the question in actual legal dispute cases in the late 1980s and the 1990s. What remained the same in all cases was the question of whether a television format is a mere idea or an expression of ideas.

Until the late 2000s, the global community of formats, including corporations, professionals, lawyers, and scholars, had known that formats were protected in some countries but not in all (Singh & Nagpal, 2011). The copyright protection of formats had not been guaranteed; neither had the legal framework regarding copyright and its infringement been internationally harmonized. The World Intellectual Property Organization (WIPO) stated, “Television formats . . . have not been discussed at WIPO as subject of a separate international protection” (WIPO FAQs as cited in Meehan & Torre, 2012, p. 75). Industry professionals were distressed by different rulings by different courts. Professionals, organizations, and corporations heavily criticized not only plagiarism and but also the lack of certainty in punishing those who infringed copyright.

A contradiction began to emerge. Despite the uncertainty in protecting television formats by national copyright laws and the lack of unified copyright law on an international level, a format is now considered and treated as a valuable commodity that can be bought and sold in the
global trade. It is puzzling that a product has been exchanged globally, generating billions of dollars, without a certain legal basis. Is not the global trade of television format a “house on sand,” destined to crash?

In this chapter, I analyze the beginning of this contradiction. First, I analyze four format copyright infringement cases: Green v. the Broadcasting Corporation of New Zealand (BCNZ; 1989), Hutton v. the Canadian Broadcasting Corporation (CBC; 1989), Action Time v. Danmarks Radio & Television (1992), and Endemol Entertainment v. Antena 3 (1994). I show that a subtle change occurred between the two former cases and the latter two. Although even the latter two cases did not demonstrate the construction of the legality of formats, they signaled a kind of change in the European media landscape. It was European independent production companies, notably Action Time and Endemol, that drove the change in the early 1990s by challenging the existing legal conception of formats.

In the second part of this chapter, by contextualizing the latter two cases, I examine conditions that made challenges arise against the existing framework of the legality of formats. Specifically, this chapter focuses on the changing European media landscape due to the introduction of a European-level policy, the Television Without Frontiers Directive (TWFD), that promotes a single-television market among member states of the European Community (EC). This chapter is about the conditions, particularly the European conditions, that made the new era of global format trade possible in the early 2000s. While the existing format research conceives the practice of formatting has long existed in television industries (Moran, 2013a), it cannot explain how independent production companies chose to use formats, particularly in Europe in the 1980s and the 1990s. By focusing on newly formed commercial-business

---

8The same sense of puzzlement is shared with legal scholars such as Stefan Bechtold (2013, p. 455) and Neta-li E. Gottlieb (2011, p. 212).
relationships among domestic broadcasters and foreign independent production companies such as Action Time and Endemol, I argue that formatting was a particularly attractive practice for European independent production companies.


The legal definition of a television format is most visible in copyright dispute cases. Among the disputes (Moran & Malbon, 2006; Singh & Nagpal, 2011), the first case often discussed by scholars is a legal dispute between Hugh Green, a British producer, and the BCNZ in 1989. Hugh Green produced a talent show called *Opportunity Knocks* in the United Kingdom from 1956–1978 on Independent Television (ITV). The BCNZ broadcast a similar television program with the same title, *Opportunity Knocks*, from 1975–1978 in New Zealand. Green claimed that the BCNZ copied his work without his permission, thus infringing on his copyright. He argued that the BCNZ copied specific elements such as the form of introduction for each competitor, the use of catchphrases (e.g., “This is your show, folks, and I do mean you,” “It’s make-your-mind-up time”), and the use of a “clapometer” for measuring the volume of audience’s applause to performances (Moran & Malbon, 2006, p. 131). He claimed that the scripts of *Opportunity Knocks* that contained those elements qualified as a literary work.

Green took the case to the High Court of New Zealand, but the court dismissed the claim in 1983. Green appealed to the Court of Appeal of New Zealand, but this appeal was also dismissed in 1988. The courts of New Zealand argued that the scripts “did not themselves do more than express a general idea or concept for a talent quest and hence were not the subject of copyright” and that the combination of the three elements themselves had no recognizable framework or structure that “impose[d] a shape upon the other constituent parts of the show produced within it” (Green v. the BCNZ, 1989). According to the courts, the claimed elements
were not essential to the show but rather general ideas. The court asserted that a copyright protection of a general idea must be avoided because copyrighting a general idea would create a monopoly. Moreover, the court considered that Green’s scripts were “fairly rudimentary outlines for the series” that could not properly be called scripts (Moran & Malbon, 2006, p. 131). After the court decisions were made in New Zealand, Green again appealed to the Privy Council in the United Kingdom, but in vain; in 1989, the Privy Council upheld the New Zealand courts’ decisions.

The case Green v. the BCNZ (1989), when mapped onto the arguments exchanged by the BBC and Winnick, leaves us with an interesting discussion point about the legal definition of a television format. First, copyright laws do not protect a general idea but an expression of ideas. Justice Casey of the Court of Appeal of New Zealand argued, “Any extension of the defined breadth of copyright protection must be approached with caution” for “the overall interests of society in maintaining the free exchange and ability to develop ideas” (Green v. the BCNZ, 1989, p. 15). The courts were reluctant to expand the definition of copyrighted work for public interest. Second, a combination of ideas presented in a format must be the essence of a television show to be protected as a literary, dramatic, musical, or artistic work. *Essence* here refers to something that gives a literary, dramatic, musical, or artistic work a performance unity. This is the point of contention. The American rights holders in 1951 and Green in 1989 would argue their formats were the essence of the television shows (e.g., *Twenty Questions* and *Opportunity Knocks*). However, the New Zealand courts and the UK Privy Council argued that the elements presented by Green were “unrelated to each other except as accessories” and thus lacked essential characteristics (Green v. the BCNZ, 1989). Third, a material form of a literary, dramatic, musical, or artistic work must exist for copyright protection. A tangible, material form
of a work was not limited to a script. A tangible material form of a work is a proof that an idea is actually expressed. In media industries, it usually is, but is not limited to, a script. The courts of New Zealand emphasized that “copyright can exist in material forms other than writing (such as video tapes)” (Green v. the BCNZ, 1989, p. 2).

Another format copyright infringement dispute occurred between Hutton, a producer, and the CBC (1989). In 1980, Talbot, a production and distribution company, approached Hutton because Talbot wanted to produce a popular music television show for the U.S. market. The proposed television show would rank the week’s top hits and would be based on the British program *Top of the Pops* and the Canadian program *Hot Pops*. After Hutton produced a pilot called *Star Track*, he created a Canadian version of the show (*Star Chart*) with the CBC. After 19 shows in 1980, the CBC cancelled the show. Three years after the cancellation of *Star Chart*, the CBC produced *Good Rockin’ Tonite*, which was a similar chart-based music television show. Hutton claimed that the CBC copied his concept and creative elements without permission and argued that the two shows were similar in their structures, scripts, and hosts.

The Alberta Court of Queen’s Bench, which made a decision on the dispute, also made a comment on the difference between a mere idea or a concept and an expression of ideas (Hutton v. the CBC, 1989). What is interesting about the case, however, is not the conclusion that Hutton’s format was not protected by copyright, but the way the court developed an argument. Justice MacCallum, in a brief discussion of the origin of the dispute, listed television shows that had influenced the creation of *Star Chart* and argued that those music shows had generic similarities in their structures, scripts, and hosts. MacCallum acknowledged that the shows were similar; however, the similarities were based on the genre of the television shows, in which a presenter plays music videos. According to the court, generic similarities were not considered
“substantial similarities,” which should be the criterion for examination (Hutton v. the CBC, 1989). The court ruled that *Star Chart* and *Good Rockin’ Tonite* were different in structure and feel.

This Canadian case revealed another important layer of the legality of television format copyright infringement disputes. First, even if a court decides that a format is an expression of ideas in a tangible form and thus is subject to copyright, the court must examine whether the copyright of the format is infringed upon by the alleged copycat. In the language of the Canadian court, a judge decides if the two shows meet the test of “substantial similarities.” As the ruling emphasizes, to meet the test, a literary, dramatic, musical, or artistic work must possess not an original idea but an original expression. Figure 1 summarizes a test applied to a copyright infringement dispute.

![Two-layer test applied to a copyright infringement case.](image)

*Figure 1. Two-layer test applied to a copyright infringement case. Adopted from Understanding the Global TV Format, by Moran and Malbon, 2006. Copyright 2006 by Intellect Books.*
The legal definition of a television format must be based on the two-layer test. People can claim copyright of their formats if and only if the formats pass both tests.

Second, if we juxtapose the Canadian case with the New Zealand case, we find a strange point of contradiction in conceptualizing the copyright of a television format. Green v. the BCNZ (1989) stated that the television format did not have copyright because the textual elements did not possess any essential characteristics of the television show. To gain copyright protection, according to the New Zealand courts and the UK Privy Council, format owners must prove that their format possesses a structure that gives a unity to the television program’s performance. Did the judges look for generic components in a format? At the same time, Hutton v. the CBC (1989) exhibited that owners must prove that their format possesses specific rather than generic textual elements. Did the judge look for specific components in a format? Even in 1989, there was no uniform understanding about what constitutes a format. Is a format something specific enough to distinguish itself from generic characteristics of a television program, or is it something broad enough to unify a television program?

I do not analyze the two format copyright dispute cases in 1989 to seek a uniform definition of a television format; neither did the courts in New Zealand, the United Kingdom, and Canada attempt to find one. In short, the two cases reveal that in 1989 there was no shared understanding of a television format in legal systems. Although the first format emerged in the 1950s and the trade of format had been active (Talbot obtained licenses of Mark Goodson’s American popular game shows in 1978 (Chalaby, 2012a)), a television format had not been recognized as a property by copyright laws. As a result, it was not easy to recognize a television format as a subject of copyright and actually prove that another party copied originality. The
cases signaled to international markets and participants (i.e., producers and international distributors) the difficulty of protecting a television format.

Indeed, there was an effort to change the existing legal framework to grant copyright to a format in the United Kingdom. The Privy Council’s decision, upholding the rulings of the New Zealand courts, shocked the UK television market because producers felt the BCNZ’s Opportunity Knocks was a blatant copy of Green’s program. They expected a ruling for the copyright protection of a television format. As a result, public lectures and publications in law reviews and trade journals attempted to raise awareness of the matter (Lane, 1992).

More important, an effort to reform copyright legislation ensued, mobilized by Green. The industry, including “ITVA, Thames Television, Equity, BECTU (the largest broadcasting trade union), and well-known producers representing CTV, Phi TV, VATV, and Regent Productions” (Lane, 1992), supported this effort. The BBC was not a part of the group; it decided not to take a stance on the issue even though it “had a contract to broadcast Opportunity Knocks at the time of the Privy Council decision” (Lane, 1992, p. 35).

Green also gathered political support from the House of Commons and the House of Lords. For the reform, they decided to use the existing Broadcasting Bill, which primarily addressed the “anti-competitive aspects of the BBC’s and ITV’s copyright monopolies in their television listings” (Lane, 1992, p. 46). This eventually became the Broadcasting Act of 1990. The amendment was brought forward by two Labour peers: Lords Willis, the author of television series, and Lords Peston, Emeritus Professor of Economics and a Front Bench Treasury spokesman (Lane, 1992). They had to negotiate with the Home Office, which was responsible for the Broadcasting Bill, and the Department of Trade and Industry (DTI) about copyright law. The amendment was debated on July 26, 1990, and October 16, 1991, but eventually defeated by
the DTI; however, MP Roger Gale, a member of Parliament, again put the issue in the Commons with support from 109 members from different parties (Lane, 1992). Despite the supporters’ concern for the inability of the system to adequately protect what was already a significant property (Lane, 1992, p. 46), the DTI refused to change the copyright regulation.

The DTI refused for two reasons. First, the department feared that the United Kingdom might be obliged to protect foreign formats imported into the country (Lane, 1992). Second, the department did realize that foreign copyright laws were still uncertain about the copyright of television formats (Lane, 1992). In short, driven by national interest, the DTI was reluctant to protect foreign format owners in the United Kingdom.

**Outliers or Ruptures? Action Time and Endemol Entertainment**

Despite the difficulty of protecting a television format as a copyrighted work in the early 1990s, it is possible to observe some outlying cases. Table 2 shows a number of cases that I choose from a format rights dispute database made by Sukhpreet Singh (2010, pp. 102–105). Singh is one of the authors of the 2011 FRAPA report (Singh & Nagpal, 2011), which particularly analyzes the available protection of formats. He collected 59 format rights dispute cases, both court cases and reported cases, from 1987–2007.

For the purpose of this dissertation, I choose cases from 1990–1994 to show the difference between cases before 1994 and those in 1994, the year when Endemol was established. As Table 2 shows, the number of format copyright infringement disputes dramatically increased in 1994. At the same time, plaintiffs of cases before 1994, with Action Time as an exception, did not take any legal actions against the defendants. In this trend, I attempt to read the meaning of the Endemol case in 1994, the first format copyright infringement case where the court ruled in favor of the plaintiff. Is Endemol an outlier or a milestone case that
signaled the beginning of change? I also analyze the Action Time case in 1992, which was resolved in favor of the plaintiff without a judgment of the court. By analyzing the two cases together, I articulate a changing climate in the industry by highlighting the role of European independent production companies.

Table 2. Format Copyright Infringement Dispute Cases from 1990–1994

<table>
<thead>
<tr>
<th>Year</th>
<th>Jurisdiction</th>
<th>Plaintiff</th>
<th>Defendant</th>
<th>Grounds of Disputes</th>
<th>Actual Legal Action?</th>
<th>Judgment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1990</td>
<td>United Kingdom</td>
<td>Diverse Productions</td>
<td>London Weekend Television, an ITV contractor (for their series Sex Now)</td>
<td>Copyright on “treatment of an idea”; nonpayment of development fee</td>
<td>No, threatened but not filed</td>
<td>Settled out of court. LWT paid Diverse Productions an undisclosed sum of money; Diverse accepted LWT’s moral and legal rights in Sex Now.</td>
</tr>
</tbody>
</table>
Table 2—continued

<table>
<thead>
<tr>
<th>Year</th>
<th>Country</th>
<th>Company 1</th>
<th>Company 2</th>
<th>Copyright Issue</th>
<th>Settled Out of Court</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>1991</td>
<td>United Kingdom</td>
<td>Darlow Smithson</td>
<td>Lagan Television</td>
<td>Copyright on the series idea</td>
<td>No. Only disagreed</td>
<td>Settled out of court. Lagan told the press that the matter had been resolved. Lagan was labeled a “legal row.”</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(untitled “programme series suggestion”)</td>
<td>(Malpractice series)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1992</td>
<td>Sweden</td>
<td>Action Time</td>
<td>Danmarks Radio</td>
<td>Copyright infringement</td>
<td>Yes</td>
<td>Settled out of court, undisclosed sum paid by Danmarks Radio to Action Time</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(Love at First Sight) &amp; Television</td>
<td>(Hjeter Pa Spi [Heart Game])</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1993</td>
<td>France</td>
<td>BBC Enterprises</td>
<td>TF1</td>
<td>Copyright on their popular hidden camera format</td>
<td>No, only threatened</td>
<td>Communication between the companies led the program to be taken down from TF1’s schedules.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(Extraordinaire)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>France</td>
<td>Plaisance Films</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>(Noel’s House Party)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

60
<table>
<thead>
<tr>
<th>Year</th>
<th>Country</th>
<th>Production Company</th>
<th>Production</th>
<th>Copyright Infringement</th>
<th>Legal Action</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>1994</td>
<td>United Kingdom</td>
<td>Fremantle International</td>
<td>Communications and Technology</td>
<td>High court writ, claiming</td>
<td>100,000 USD</td>
<td>Not known</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Let’s Make a Deal, Password, Shop till You Drop, Supermarket</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Fremantle</td>
<td>Guernsey (for the respective Turkish language versions of Fremantle’s game shows)</td>
<td>Copyright infringement</td>
<td>8% interest until it is not paid</td>
<td></td>
</tr>
<tr>
<td>1994</td>
<td>United Kingdom</td>
<td>David and Kathy Rose (independent)</td>
<td>C4 (for “Superfan” quiz in Don’t Forget Your Toothbrush show)</td>
<td>Copyright infringement</td>
<td>“began legal action”</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>WDR</td>
<td>Endemol Entertainment and RTL (Medisch Centrum West) (Stadtklink drama series)</td>
<td>Copyright infringement</td>
<td>Yes copying</td>
<td>Not known</td>
</tr>
</tbody>
</table>

61
<table>
<thead>
<tr>
<th>Year</th>
<th>Country</th>
<th>Company 1</th>
<th>Company 2</th>
<th>Copyright Infringement</th>
<th>Company 1 Action</th>
<th>Company 2 Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>1994</td>
<td>Spain</td>
<td>Endemol</td>
<td>Antena 3</td>
<td>Endemol sued Antena in a Madrid Court, won the case. Antena 3 was barred from making and broadcasting similar show.</td>
<td>Endemol in favor of Endemol;</td>
<td>Endemol;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(Spanish broadcaster’s to-be-broadcast show)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Entertain-ment (Love Letters)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1994</td>
<td>United Kingdom</td>
<td>Thomas Murphy</td>
<td>C4 and Planet 24 Productions</td>
<td>Thomas Murphy (independent) for “Stop the Alarm” quiz in The Big Breakfast Show)</td>
<td>High Court claiming damages</td>
<td>Not known</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Copyright infringement, “stealing game show format”</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Table 2—continued

<table>
<thead>
<tr>
<th>Year</th>
<th>Country</th>
<th>Name</th>
<th>Channel</th>
<th>Copyright,</th>
<th>Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>1994</td>
<td>United Kingdom</td>
<td>Gary Nash (independent)</td>
<td>BBC (Good Fortune)</td>
<td>“Plagiarising show idea”</td>
<td>No, but long and expensive fight by complaints to the BBC, finally taking the matter to the board, Settled for undisclosed measures in 1995</td>
</tr>
</tbody>
</table>

Note. The table is adopted from Singh, S. (2010).

The first outlier case is a dispute between Action Time and Danmarks Radio & Television in 1992. Action Time was a British game show production company owned by Zenith Television. It created a game show called *Love at First Sight*, broadcast on Sky One in the United Kingdom. In 1992, with its Swedish partner, Wegelius Television, Action Time decided to make a Danish version of the show with Danmarks Radio & Television; however, the broadcaster rejected the offer. Stephen Leahy, CEO of Action Time, instead granted the license to TV4 in Sweden. Meanwhile, the Danish broadcaster created a similar show named *Hjerter På Spil*, or *Heart Game* (Baker, 1992). Leahy claimed that the Danish show was a copy of his format and sued Danmarks Radio & Television in a Swedish court for copyright infringement. Leahy went to the Swedish court rather than a Danish court because the programs that Danmarks Radio & Television broadcast were watchable in the Scandinavian region, including Sweden.
In the end, Action Time and Danmarks Radio & Television were able to reach an out-of-court settlement with an undisclosed payment to Action Time by the Danish. Leahy claimed that the settlement was the company’s triumph, which “reaffirmed [its] right to market [its] show and protect [its] own ideas” (Baker, 1992, p. 2).

The first case in which a legal institution ruled to protect a television format was Endemol Entertainment v. Antena 3 in Spain (1994). Endemol, a Dutch independent production company, licensed the format of *Love Letters* to Tele 5, a Spanish broadcaster. The format had already been successful for other European broadcasters such as Radio Télévision Luxembourg (RTL) in Germany, TROS in the Netherlands, VTM in Belgium, TV3 in Norway, TV3 in Denmark, and TV4 in Sweden (Singh & Nagpal, 2011, p. 16). While *Love Letters* was in preproduction, Antena 3, the largest broadcaster in Spain, started to make a similar show, *Si Quiero*. Endemol claimed that Antena 3 copied its format without permission and sued the broadcaster for copyright infringement. Surprisingly, a court in Alcobendas, near Madrid, upheld Endemol’s claim and protected its format as a copyrighted work (Fuller, 1994). The judge stated that the key elements of *Si Quiero* had copied those of *Love Letters* (Singh & Nagpal, 2011, p. 16). Although even Endemol’s Vice President of International Sales and Business Development Monica Galer was surprised by the ruling and claimed that the case established a television format as “a viable property” for the first time in Spain (Fuller, 1994).

However, soon after the Endemol case in Spain, the Spanish legal system made a contradictory ruling for Antena 3 and TVE 1, another Spanish broadcaster. Antena 3 claimed that TVE 1’s *No Me Lo Puedo Creer* was a copy of its program *Ta Tacao* (Johnson, 1995). A Madrid court ruled that mere ideas could not be protected by the Spanish copyright law. The ruling in
this case was quite similar to that of Green’s cases in New Zealand and the United Kingdom and Hutton’s case in Canada.

Were the two cases in Sweden and Spain a deviation? Were the two cases a sign of change in international television production and trade? While it is difficult to conclusively answer these questions, it is possible to pinpoint meaningful differences between the 1989 cases and the 1992 and 1994 cases. By juxtaposing the two case groups, I will clarify the nature of these struggles in terms of the legality of formats.

First, the plaintiffs, who struggled to claim they had copyright of their formats and that their rights were infringed, of the two case groups are different. Plaintiffs in Green’s case and Hutton’s case were individual producers. Green and Hutton complained that their copyrights were infringed upon by the broadcasters (the BCNZ and the CBC, respectively); however, the plaintiffs in Action Time’s case and Endemol’s case were production companies. Action Time was a British independent production company that specialized in game shows and was founded in 1988 by Stephen Leahy (Deans, 2001); it was a part of Zenith TV, a large independent UK production company. Endemol was a Dutch independent production company established in 1994 by the merger between two Dutch independent production companies, JE Entertainment and John de Mol Produkties (Henley, 1994). They were the first companies, as indicated in Table 2, that had taken legal action to protect their formats. European independent production companies were the most active in protecting their format copyrights due to the growing European television markets. Particularly, due to the liberalization of European television markets by EC’s TWFD in 1989, independents that concentrated their business on cross-border ventures and trades were absorbed in gaining the legal protection of their formats.
Action Time’s and Endemol’s triumphant claims foreshadowed the fact that one of the major actors commodifying a television format would be independent production companies. As the film industry was in the struggle for controlling photographic images and broadcasting networks in the struggle for controlling the electromagnetic spectrum, independent production companies were the heroes (or villains) in the struggle for controlling formats. They were the ones who attempted to create the fiction of a corporate individual (i.e., a company owns a television program’s ideas and know-hows) to enact the dream of “the disparate goals and values of individual creative freedom, commerce, and information dissemination” (Streeter, 1996, p. 258). To independent production companies, their ideas were assets on which their business model was dependent. As Galer of Endemol also mentioned in the interview, if the decision were not in favor of the independent production company, it would easily be in jeopardy not only in Spain but also in other countries (Fuller, 1994). Independent production companies increasingly began to recognize a format as their properties, their natural right. Action Time’s and Endemol Entertainment’s claims indicated the beginning, not the end, of struggling for protecting formats as copyrights. As Chapter 4 will demonstrate, the dream came true only in the early 2000s.

However, the nature of struggle for inventing the copyright of television formats is not a simple battle between producers and broadcasters. The earlier cases in 1989 show a battle between producers (Green and Hutton) and broadcasters (the BCNZ and CBC); however, the dynamics of the dispute became more complex in the 1990s. In Action Time’s case and Endemol’s case, the parties who desired the protection of a television format as a copyrighted work are not only producers but also broadcasters (i.e., TV4 of Sweden and Tele 5 of Spain) that were licensed to produce the formatted television programs (i.e., *Love at First Sight* and *Love Letters*). TV4 of Sweden treated Action Time’s *Love at First Sight* as a competitive advantage
for ratings and thus more advertising revenue. Danmarks Radio & Television’s *Hjerter På Spil* (*Heart Game*), which was available in some parts of Sweden, possibly damaged the uniqueness of the television show. Tele 5 of Spain used Endemol Entertainment’s *Love Letters* to compete against Antena 3, which was the largest broadcaster. From Tele 5’s point of view, Endemol Entertainment’s format must be protected as a copyrighted work to force *Si Quiero* out of the market and retain the uniqueness of the program. The copyright of the format was also crucial to broadcasters to survive and dominate the national television market. The latter two cases show that a shared belief about format’s copyright began to emerge from the production and broadcasting sectors. The shared belief began to expand (Johnson, 1995). Moreover, a popular press, *The Guardian*, and a trade journal, *Broadcast, Broadcasting & Cable*, reverberated the two companies’ triumphal claims to create a shared belief and confidence among television executives, especially those in Europe.

In sum, by juxtaposing Green’s and Hutton’s cases in 1989 alongside Action Time’s 1992 case and Endemol Entertainment’s 1994 case, it is easy to see that the value of television formats has become recognized among European production companies and European broadcasting corporations. The shared belief that a television format has value as an intellectual property became valid, and thus copyright protection expanded from an individual producer to production companies to broadcasting corporations; however, the belief was not shared by legal systems such as the New Zealand, Canadian, and UK courts. Even the Spanish courts made contradictory rulings, demonstrating the ambivalent attitude toward the format’s copyright in Europe.

In the next section, I examine the conditions of the possibility of shared belief in television industries, especially European production and broadcasting sectors. I specifically
answer the question: what were the motives for European independent production companies (such as Action Time and Endemol Entertainment) and the licensed broadcasting corporations (such as TV4 and Tele 5) for becoming actively involved in conceptualizing a format as an intellectual property that deserved copyright protection? I argue that the latter two cases were the beginning of a crack in the existing knowledge about the copyright of formats. They anticipated a bigger rupture in the structure of European television industries, signaling the possibility of a “redistribution of the episteme” (Best & Kellner, 1991, p. 44; Foucault, 1966/2002) and of a new direction in the commodification of the television format. Rather than a gradual transformation, the sudden growth of the European independent production sector in a relatively short period of time led to a relative discontinuous way of seeing, understanding, and imagining formats’ copyright. The major force that led to the rupture was the implementation of the TWFD, a European-level policy that mandated member states of the EC to liberalize their national media markets to create a single European television market (now audiovisual and digital markets).

**Structure Changes in the European Television Industry**

From 1973–1985, global television markets experienced shrinkage (Havens, 2006, pp. 24–26). Due to the decline in international revenue, U.S. syndicators paid more attention to domestic buyers, but even this situation did not give European production industries a chance to enlarge themselves (Dupagne, 1992b, p. 9). On the contrary, they experienced a decline from 1975–1985. Belgium’s RTBF, France’s TF1, Italy’s RAI1, and Spain’s RTVE suffered from the fall in the volume of national drama production, while France’s A2 and the UK’s BBC and ITV remained unchanged (Lange & Renaud, 1989 cited in Dupagne, 1992b, p. 15). Experts projected the European television market would import more American programs to survive. Due to the dominance of the United States in the trade and the resulting trade imbalance between imports
and European productions, there was a shared concern and anxiety within European supranational institutions (Dupagne, 1992b, p. 15). This concern was articulated with the dream of a unified Europe in the 1980s, leading to the implementation of the TWFD by the EC in 1989.

Historically, European broadcasting systems have been characterized as public services, whereas American broadcasting has been characterized as a commercial industry (Paulu, 1967, p. 328). Before the implementation of the TWFD in 1989, the European television markets could be characterized as monopolies of broadcasters by public institutions (Donders, Pauwels, & Loisen, 2013; Michalis, 2013; Noam, 1991). Two or three television channels were “usually run not under direct government control, but through a semi-independent board appointed directly or indirectly by the government or, more frequently, by the national legislature (i.e., by the major political parties)” (Noam, 1991, p. 3). This was the basic theme with variations depending on different national contexts. For example, in Germany, federal states were able to control broadcasting. The United Kingdom allowed two commercial television channels. France and Sweden made their public broadcasting channels semi-independent. Switzerland and Belgium had separate national broadcasting institutions for different language groups. The broadcasting system of the Netherlands had been composed of a number of broadcasters representing particular political or religious viewpoints or ideological pillars of society under an umbrella of single broadcasting authority. There was an exception with Luxembourg’s broadcasting system, which has always been private (Noam, 1991). Except for Luxembourg, European broadcasting systems were highly coordinated and well financed by the state institutions.

However, the old structures of European television began to change. The monopolies of state institutions in European television markets were challenged by a series of events. First, political factors led to the introduction of commercial television systems in European nation-
states. The political right that came to power increasingly supported the liberalization and commercialization of media in spite of the dilemma between choosing their economic ideologies and protecting their political control over television (Noam, 1991). In addition to economic rationale, these right-wing parties perceived the public broadcasting systems as politically biased against them. For example, the conservative UK government led by Margaret Thatcher and the German Christian Democratic–Liberal coalition led by Helmut Kohl perceived their public broadcasting systems as politically biased (Humphreys, 1991, p. 203). The political left was also interested in the commercialization of media. For example, Social Democrats in Germany accepted private television to “protect the future of the traditional media city of Hamburg” (Noam, 1991, p. 6). In France, the socialist government under François Mitterrand embraced the liberalization “to assure that the new channels would be controlled by sympathetic rather than hostile interests” (Noam, 1991, p. 6). Commercial interests not only in Europe but outside the continent, especially the American “commercial media players, big electronic manufacturers, and content producers” (Michalis, 2013, p. 40), supported the liberalization policies in Europe.

Second, consistently rising operation costs put financial pressure on public broadcast institutions. The broadcasters were able to “absorb their increasing cost of operation through the steady and effortless increase in license-fee revenues” (Noam, 1991, p. 7). However, the demand for high license-fee-generated public debates did not solve the problem; moreover, the public debates often “revealed examples of feather-bedding and mismanagement” of public broadcasting systems (Noam, 1991, p. 7).

A final factor that influenced the introduction of commercial television in Europe was the emergence of new technologies (e.g., video cassettes, cable television, satellite transmission). Noam (1991) disagreed that the emergence of new technologies led to the liberalization of
European broadcasting systems. He argued that opening the national markets to commercial
systems did not require new inventions; neither did new technologies of distribution (e.g., cable
television, direct-broadcast satellite) need private program producers. He argued that the
distribution technologies “made it easier to transform television from a public good, in economic
terms, paid for only indirectly, into a private good with buyers and sellers, thus radically altering
the economic foundation of the medium” (p. 8). I agree with Noam on the acceleration in the
transformation of the economic foundation of television in Europe via new technologies;
however, the fundamental role that new technologies played in this period was less functional
and more cultural. The new distribution technologies conjured up the dream of a unified Europe
in the EC, which I will discuss further in the next section.

In sum, even before the TWFD in 1989, the European television markets experienced the
demand for and the introduction of commercial television systems. State monopolies on
broadcasting began to crumble, embracing “the potential of (albeit controlled) competition” in
television markets (Donders et al., 2013, p. 12). The liberalization of European television was
further accelerated by the 1989 TWFD.

The Television Without Frontiers Directive in 1989

The TWFD was an expression of an old dream of a unified Europe, similar to the United
States of America. The dream began with the European Economic Community (EEC) created by
the Treaty of Rome in 1957 (Bourdon, 2007, p. 264). In 1957, the EC agreed to create a
European single market by gradually abolishing the barriers against the free movement of goods,
capital, services, and people within the community. However, the plan had been delayed due to
an economic recession and the member states’ tendency toward protecting national markets
(Commission of the European Communities, 1985). After reaching the agreement among the
heads of the member states and the European Council to accept an effort to create a European single market in 1982, the EC proposed a plan in 1985 to complete the unification by 1992 (Commission of the European Communities, 1985). The EC believed that the community’s unity was the only way to achieve economic and social progress.

The discussion of a single market for television started with the publication of a green paper, *Television Without Frontiers*, in 1984. The green paper argued:

> Information is a decisive, perhaps the most decisive, factor in European unification. . . . European unification will only be achieved if Europeans want it. Europeans will only want it if there is such a thing as European identity. A European identity will only develop if Europeans are adequately informed.

(Commission of the European communities, 1984, p. 2)

Television was considered an important tool to create European identity. New technologies made a unified Europe seem particularly feasible in the 1980s. The ability of satellite signals to cross national borders inspired the EC. Figure 2 illustrates “approximate reception areas for the two channels from the European direct broadcast satellite Olympus,” according to the document *Toward a Large European Audio-Visual Market*, produced by Commission of the European Communities in 1988 (p. 2).
Figure 2. A visual representation of the approximate reception areas for the two channels from the European direct broadcast satellite Olympus. Reprinted from *Toward a large European audio-visual market*, by Commission of the European Communities, 1988. Copyright 1988 by Office for official publications of the European Communities.

On October 3, 1989, the EC decided to implement the TWFD in member states to create a single market of communication industries. The TWFD promoted the free movement of broadcasting services within the internal market and at the same time [worked] to preserve certain public interest objectives, such as cultural diversity, the right of reply, consumer protection, and the protection of minors. It
was also intended to promote the distribution and production of European audiovisual programmes, for example by ensuring that they were given a majority position in television channels’ programme schedules. (Council of the EU, 1989)

The cultural logic of creating a European identity by the free flow of information and ideas via new technologies was embedded in the TWFD, yet the implementation of the TWFD was also driven by economic logic. The EC desired to create “European” media companies within the European single market of 320 million potential audience members (Flint, 1989, p. 90) and to compete with American media companies, which were the dominant exporter of television programs (Commission of the European Communities, 1988; Wheeler, 2004). The development of European audiovisual industries was also a strong motive, correcting the trade imbalance and protecting the European markets from “U.S. imports for fictional programming such as dramas and situation comedies” (Wheeler, 2004, p. 351).

The TWFD addressed provisions in three areas of broadcasting: broadcasting and production quotas, television advertising and sponsorship, and protection of minors (Council of the EU, 1989). Regarding the production and distribution of formats, there are two main points (i.e., Article 4 and 5) under “the broadcasting and production quotas.” First, the directive stipulated that member states ensure broadcasters reserve their transmission time for European works. Second, it also addressed that member states ensure broadcasters reserve at least 10% of their transmission time or at least 10% of their budget European works of independent producers.

One obstacle in creating a single market for television was that European media markets and regulations were fragmented. Media markets in European territories were regulated by their
states. The Bangemann 1995 White Paper showed the ways in which the EC thought about national media regulations. According to the white paper, national media regulations were a patchwork of inconsistency which tended to distort and fragment the market. They impeded companies from taking advantage of the opportunities offered by the internal market, especially in multimedia, and could put them in jeopardy vis-à-vis non-European competitors. (Harcourt, 2005, p. 11)

Thus, to reduce inconsistency and harmonize regulations, the TWFD recommended that all member states deregulate their national communication industries. The EC suggested the member states remove “national forms of protectionism” (Wheeler, 2004, p. 351). The TWFD, in fact, enforced them, via the European Court of Justice (ECJ), to accept a “concept of mutual recognition . . . as long as minimal regulatory rulings were met by the provision of the originating member state” (Wheeler, 2004, p. 355). This meant that a broadcaster “could only be regulated by the country of origin and not by the country of reception—a principle that was derived from the ECJ rulings in the 1970s and early 1980s” (Harcourt, 2005, p. 9).

Regarding media production and distribution, the TWFD also suggested minimal rules (Wilkins, 1991, p. 200). It required member states to reserve “a majority proportion of their transmission time” for European works (Council of the EU, 1989); originally, it suggested 60% of airtime for European works, but this percent was reduced to 50.1% (Wilkins, 1991, p. 201). The TWFD also recommended “a 10 percent quota either on airtime or the budgets of independent producers” (Bourdon, 2007, p. 269) to strengthen European independent producers and, therefore, the television industries.

The TWFD is often interpreted as a part of the force that led to commercialization and deregulation in the European media landscape. It made commercial television stations proliferate
in the European territories. Because the commercial channels needed content, preferably cheap programming, exchanging television formats became an economic transaction (Moran, 2013a). Format researchers such as Moran (2013a) have argued that this was the decisive moment for the rise of independent production companies in the territories in the 1990s; some of those independent production companies produced the most popular formats, such as *Who Wants to Be a Millionaire?*, *Survivor*, *Big Brother*, and *Idol*.

It is undeniable that the TWFD led to the proliferation of channels and growth in the demand for cheap programs. However, this cannot explain why and how independent production companies chose as a primary strategy to use television formats out of different available options that can be considered European production (i.e., coproduction) in the 1990s. How has formatting become a popular strategy to take advantage of market conditions? The TWFD and commercialization of European media should be the beginning of the story rather than the end. Commercialization is a narrow process of making money. In this case, it is the process of forming relationships between audiences and advertisers (Mosco, 2009, pp. 132–133). However, it is unable to shed light on the making of a thing as a commodity that lures audiences. Commercialization gives a motive to the process of commodification but does not determine it. Format copyright dispute cases are prime examples. The following sections go in depth as to how commercial motives led European independent production companies to rise and become format producers, an important agent that drove the commodification process of formats since the 1990s.

**TWFD and European Independent Production**

While the TWFD stimulated the EC’s dream of unifying and strengthening European communication industries, the TWFD stirred the communities of television broadcasters and
independent production companies in Europe. The TWFD opened a door to international
television markets, but no one knew what those markets would look like or how independent
producers would adapt to the new environments. Some television broadcasters and producers did
not believe that the TWFD would bring changes in the playing field where the United States had
dominated, whereas others anticipated that the TWFD would bring a substantial change in
television trading patterns. Some production companies such as the UK’s Granada Television
welcomed the TWFD because Granada Television expected it to create better grounds for
coproduction and competition for European territories with the Americans (“Europe 1992:
W.K.”, 1989, p. 91). Broadcasters and producers in other countries such as France (Nayeri,
1989), West Germany (Kindred, 1989), and Scandinavian countries (Keller, 1989) thought about
the possibility of coproduction as a primary strategy to adjust to the TWFD’s single-market
proposition.

The notion of coproduction was not new. Although it had been discussed as a strategy
since the 1960s, it emerged as a powerful programming strategy in the 1980s (Dupagne, 1992b,
p. 5). It attracted both American and European producers because both sought ways to “cover the
increasing cost of production” (Dupagne, 1992b, p. 5). European producers expected
coproductions to soar in the 1990s (Coopman, 1990) due to the need for additional funding, the
development of pan-European projects, the introduction of quotas on non-EC productions, and
the creation of consortia by “Europe’s commercial players such as Silvio Berlusconi
Communication (Italy), TF-1 (France) and Leo Kirch’s Beta Film (Germany)” (Coopman, 1990,
p. M2).

The problem of a common language, however, was a major issue for coproduction as a
possible strategy for European broadcasters and producers. Broadcasters and producers surely
understood that the European territories do not have a common language. Some executives in 1989 thought the dominant language would be English (Thomas, 1989). U.S. and UK producers seemed to be less concerned with language. In non-English-speaking countries (such as Scandinavian countries and West Germany), executives and producers recognized that national languages and national identities did play an important role in television business. They argued that a film or a television program was a cultural product that possessed “public significance” (Kindred, 1989, p. 93). They added that coproduction would less likely be successful without a national identity, especially through a national language (Keller, 1989, p. 92). Helge Strunk, a chief aid at the Danish Film Institute, highlighted this in his comment on this issue of language and the dilemma of European executives and producers:

There is no way that national state agencies can be swayed from subsidizing national language productions in favor of any common-language productions. There will be more coproductions across borders but they will be mostly of a financial kind. A film shot in English on an Italian theme with a French cast would be as unlikely as it would be preposterous. But offshore distribution will be helped immeasurably via single market organizations and support. (Keller, 1989, p. 92)

Therefore, on the very ground level where European executives and producers actually worked, the TWFD revealed the practical problem of a common language. A contradiction exists between language barriers and territorial integration. For executives and producers, coproduction was certainly one strategy but not the “best practice” to make global television; however, as Roger Laughton (head of coproduction at the BBC) argued, coproduction would work on “a language basis rather than territory” (“Europe 1992: W.K.”, 1989, p. 91).
In sum, the TWFD galvanized European television executives and producers to seek ways to coproduce television programs to meet the high demand for cheap and attractive programs. At the same time, it uncovered the uniquely European problem of using a common language, especially in television coproduction.

American Game Show Formats and Television Formatting

Television formats were considered neither a viable or profitable strategy for international production in the early 1990s. Neither were they intended to solve the problem of a common language. As discussed earlier in this chapter, formatting television programs was an Anglo-American invention, a particular form of trade between the United Kingdom and the United States (Chalaby, 2012a). At its origin, the problem of a common language was not a problem at all; however, the practice of formatting television had begun to be used as a means to overcome language barriers and meet the high demand of programs for commercial broadcasters in European territories.

In the early 1990s, despite their ability to overcome language barriers, producers considered television formats as one practice of making television, but far from “the best practice” of making television programs. Distributors thought formats would not replace sales of finished programs but create an additional market (Coopman, 1992a). One major reason was that formatting was not always the cheapest way of producing television content, especially for genres like sitcom and drama. Robin Carr, the head of comedy at London Weekend Television, mentioned that an independent production company who bought a format from the United States had “to pay the show’s original creators and writers and then pay someone to adapt the scripts” (Cassidy, 1991, p. C11).
As a result, television formats were limited mainly to one particular genre: game shows. European broadcasters and independent production companies localized formats of U.S. game shows. Chalaby (2012a) argued that the U.S. game shows distributed by Fremantle/Talbot and Grundy⁹ “formed the core of the first wave of international formats post-1950” (p. 44). Programs such as Wheel of Fortune, The Price is Right, The Dating Game, Family Feud, and Jeopardy became very popular in the European territories (Cooper-Chen, 1994, p. 146). Wheel of Fortune broke “a record with 23 local productions” (Chalaby, 2012a, p. 44). Tony Gruner, the then-chairman of Fremantle/Talbot, explained that the advantage of classic American game shows was their flexibility. He said, “The Dating Game and The Price Is Right can be stripped, day in and day out, for five years, rested, then returned, refreshed, to battle again. They’re tested; they work” (Bazalgette, 2005, pp. 21–22; Hardy, 1992, p. 37). The success of a television format depended on two factors: cost of producing formatted programs and flexibility of formatted programs to fit in the schedules; these were licensees’ and broadcasters’ concerns.

The classic American game show formats adapted by local broadcasters in Europe have “delivered large audiences to competing European broadcasters” (Hardy, 1992, p. 37). In France, French versions of Wheel of Fortune, Family Feud, and The Dating Game aired via TF1 as it prepared for privatization in 1987 (M. Williams, 1992, p. 38). The success of Wheel of Fortune (aired in January 1987) led other broadcasters to seek out American game shows. In 1992, about 12 game shows based on American ideas were broadcast (M. Williams, 1992, p. 40). In Germany, Westdeutscher Rundfunk (WDR) produced and Arbeitsgemeinschaft der öffentlich-rechtlichen Rundfunkanstalten der Bundesrepublik Deutschland (ARD), a public broadcaster, broadcast Herzblatt—a spinoff of Blind Date, which was the British version of The Dating Game (Lieb, 1992, p. 38). In Italy, the most popular game shows were The Price Is Right, Hollywood

---

⁹Later, Fremantle/Talbot and Grundy became parts of FremantleMedia.
Squares, The Dating Game, and Wheel of Fortune; Silvio Berlusconi’s private networks broadcast these shows (Clark, 1992, p. 40). In Spain, La Primera (TVE1, now La1) broadcast El Precio Justo, the Spanish version of The Price Is Right; it was one of 1991’s biggest hits, bringing over 200 million USD in advertising revenue in 18 months from 1990–1991 (Moore, 1992, p. 42). TVE1 also broadcast Videos de Primera, the Spanish version of America’s Funniest Home Videos, with a 21% rating and a 48.6% market share (Moore, 1992, p. 42). Tele Cinco had VIP Noche, based on a segment from Hollywood Squares, and Antena 3 had advertisement game shows, such as La Ruleta de Fortuna, the Spanish version of Wheel of Fortune (Moore, 1992, p. 42). In the United Kingdom, Strike It Lucky, based on the American television show of the same name, and Wheel of Fortune were the key game shows on the Monday 8 p.m. time slot (Coopman, 1992c, p. 37).

The popularity of the game show genre in all five major European television markets (France, Germany, Italy, Spain, and the United Kingdom) compelled European producers, both in-house producers and independent production companies, to produce their own game shows. They also wanted to export the formats to exploit the European single market as the TWFD forced member states’ broadcasters to reserve the majority of airtime for television programs of European origin. In France, JAC produced its own game show, Fort Boyard, which earned an average 13% rating and a 27% market share in 1992. JAC sold the show in Germany, Sweden, the Netherlands, and French-speaking Belgium. UK’s Channel 4 bought the format and produced Crystal Maze (M. Williams, 1992). A successful German game show was ARD’s Flitterabend, produced by its Cologne member WDR (Lieb, 1992). Italy’s Fininvest exported its homegrown game show, C’Eravamo Tanto Amati (We Loved Each Other So Much), to the United States
(Clark, 1992, p. 42). In Spain, *Uno, Dos, Tres (One, Two, Three)*, TVE1’s own variety/game show, became the top game show with a 24% rating and a 57.2% market share (Moore, 1992).

The most conspicuous players were British and Dutch independent production companies. They produced their own television programs and exported the formats to broadcasters in Europe. In the United Kingdom, Action Time was one of the most active players. Action Time produced two game shows for British Sky Broadcasting, a satellite channel owned by Rupert Murdoch: *One False Move* and *Love at First Sight*. Action Time sold *Love at First Sight* to seven countries in Europe (Coopman, 1992c). In Germany, Zweites Deutsches Fernsehen (ZDF), a competitor of ARD, bought the format and produced the German version, *Liebe auf den Ersten Blick*; it was a success with a 37% market share. In the Netherlands, two Dutch independent production companies, JE Entertainment and John de Mol Produkties, were active players that sold popular television formats. John de Mol Produkties’s *Love Letters* was a hugely successful show in the Netherlands, broadcasted via Nederland 2, and it earned a 25.3% market share in 1992 (Fuller, 1992, p. 38). The format of the show was sold to RTL-Plus, one of the leading private broadcasters in Germany, under the title *Traumhochzeit*. The German version was able to garner 5.6 million viewers (Lieb, 1992, p. 38). The two companies later merged to form Endemol, which became one of the most influential players in the international trade of television formats. I will discuss the formation of Endemol in detail in the next two chapters in this dissertation.

Indeed, Action Time and Endemol, the two successful independent production companies, were the ones that challenged the existing copyright frameworks, as discussed in the first part of this chapter. Their growth by trading formats in the European territories was the motive to launch legal actions, contributing to the belief that a format has copyright.
Conclusion

As scholars such as Chalaby (2012a), Moran (2013a), and Bourdon (2012) have noticed, copying, borrowing, and adapting television programs have been practiced even before the emergence of international trade for television formats. At the same time, I argue that the international trade for formats as a commodity is qualitatively different from copying, borrowing, and adapting formats. These scholars pinpointed the late 1980s and the early 1990s as the moment when the present form of format trade began to take shape. This chapter delineated the process in detail.

This chapter set the stage for the emergence of a commodity form of television formats in European territories. Specifically, it examines the legal definition and the industry conceptualization of a format as a copyrighted work. Contrary to Chalaby’s (2012a) claims, the legal definition of a format had not been constructed in the 1950s as a result of the trade between the BBC and the American license holders. The legal definition of a format should be understood as an arena of struggle. The major force in this struggle was composed of European independent production companies—encouraged by the commercialization and liberalization policies—in the European territories.

What was the value of a television format in the late 1980s and the early 1990s? The substance of format value was the creative work of American game show producers. However, a format did not appear in a concrete form (the evidence that Green presented to the New Zealand courts was not considered a concrete form of expression) but as a practice embedded in newly formed commercial–business relationships among domestic broadcasters and foreign independent production companies such as Action Time and Endemol.
The dynamics of the struggle for the legality of formats is not the struggle between state and capital. The process of commodifying formats became much more complex as the supranational institution became involved. The relationship between independent production companies, nation-states, and the EC really shaped the particular format commodity chain. The next chapter examines how this complex relationship has unfolded; it particularly uses Endemol as a case study for examining how the relationship produced another commodity form of a format: functionality.
CHAPTER 3. A TELEVISION FORMAT AS AN INTERNATIONALIZING STRATEGY: A CASE STUDY OF ENDEMOL FROM 1994 TO 1999

While the legal definition of television formats was still in the process of being formed by courts and European independent production companies, the functionality of a format was constructed by the corporate structures of European independent production companies, which later grew and became large European independent production companies (Esser, 2016), super-indies (Chalaby, 2012b), or mini major companies (Moran, 2013a).

As I discussed in Chapter 1, a commodity form depends on the commodity’s functionality in organizing the corporate structure. The function of a television format has been known as its capability to cross national borders and make a relationship between a producer and a broadcaster. However, the capability alone cannot explain how a super-indie rose in Europe and became a dominant format producer in the early 2000s. Thus, in this chapter I examine the development of super-indies to shed light on how the function of format has been constructed.

Chapter 3 specifically uses the development of Endemol as a case study to reveal the complexity of such relationships. Since its creation by a merger between two Dutch independent production companies in 1994, the company used the format as a corporate strategy to link production companies in different, mostly European, countries.

Endemol is an interesting and important object of study. While Fremantle/Talbot and Grundy were actively trading formats and producing formatted programs, two format producers emerged from Europe: Action Time in the United Kingdom and Endemol in the Netherlands (Chalaby, 2012a). Endemol, as one of the first European independent production companies involved in trading formats, has been an active agent in shaping the function of formats as a link
between local production companies in multiple territories and going beyond a mere capability of crossing national borders.

This case study describes and examines the formation of Endemol in its early stage from the late 1980s until 1999. By the year 2000, the company had gone through major changes; it was bought by Telefónica, a Spanish telecommunications company, and entered the U.S. television market by licensing the Big Brother format to CBS. Since 2000, Endemol has been known as a super-indie and one of the most responsible players distributing global formats. In Chapter 4, I will discuss in detail Endemol’s development after 2000. Here I focus on the birth and rising prominence of Endemol in Europe, specifically in the Netherlands, and its relationship to the emergence of a format as a corporate strategy.

The story of Endemol’s evolution is divided into three sections. First, Endemol, as any other corporation, has its roots in a specific geopolitical and national context. The particularity of the Dutch condition with respect to the seismic changes in the European territories, commercialization and liberalization, enabled Endemol to rise. Second, the EC hindered Endemol from becoming a producer–broadcaster in the Netherlands. Third, Endemol then quickly expanded by integrating production companies in European markets.

It may be difficult to generalize the development of the super-indie by studying only one case; however, Endemol was a European pioneer and leader in the global trade of formats, and many other companies have imitated its structure and strategy. The story of Endemol’s development reveals the process of commodifying formats, particularly how this process shaped the functionality of the format in the 1990s, an underexplored period in format research.
The Dutch Condition

The Dutch media landscape before the enforcement of the TWFD, which enacted the 1991 Media Act in the country, could be characterized as a complex public system. The umbrella of the Nederlandse Omroep Stichting (NOS or Dutch Broadcast Foundation) covered more than 30 broadcasters: Veronica, Algemene Vereniging Radio Omroep (AVRO), Evangelische Omroep (EO), Katholieke Radio Omroep (KRO), Nederlandse Christelijke Radio Vereniging (NCRV), Televisie Radio Omroep Stichting (TROS), Omroepvereniging (VARA), Vrijzinnig Protestantse Radio Omroep (VPRO), and NOS (Noam, 1991). Each broadcaster was an embodiment of religious and political ideologies. This particular broadcasting system was the outcome of the Dutch value of maintaining “pluralism through public service broadcasting” and fearing “the neglect of minority interest in the media” (Harcourt, 2005, p. 137).

In the Netherlands, the government prohibited any independent commercial television companies because the sole purpose of radio and television programming was public service (Harcourt, 2005). Dutch producers had no option but to work with the broadcasters that were organized by ideologies or pillars.

Dutch society traditionally has four pillars: Protestantism, Catholicism, socialism, and liberalism. These pillars organize the political and social lives of the Dutch, and the Dutch broadcasting system took shape around them (Noam, 1991, p. 165). For example, in 1924, Catholics formed their own broadcasting organization, the KRO, and fundamentalist Protestants formed the NCRV. Liberal Protestants and socialists formed the VPRO and the VARA, respectively. In 1928, the neutral-conservatives formed the AVRO, which succeeded the original organization, the Hilversum Broadcasting Organization (HDO; Noam, 1991).
The Dutch television broadcasting system, which started in 1951, also based its organization on the pillar model (Noam, 1991, p. 167). However, not all people were satisfied with the public system for television; there had been constant challenges against it. In the 1960s, due to the lack of comprehensive broadcasting laws, battles began between the state and stations that sought commercial possibilities for a second channel. In 1964, the government shut down TV North Sea, a commercial station. The 1967 Broadcasting Act, an outcome of a battle won by liberals who supported the broadcasting reform against socialists and religious opponents, introduced a second television channel with limited advertising. The Broadcasting Act created three categories of broadcasting organizations that depended on the number of members: Category A required 450,000 members; Category B required from 300,000 to 450,000 members; and Category C required a minimum of 150,000 members. Broadcasting time was also allocated according to the categories: Category A received nine hours of broadcasting time in a week; Category B received five and a half hours; and Category C received two and a half hours (Noam, 1991, p. 167). Since 1967, three new broadcasters have entered into the system: Protestant fundamentalists established EO; Veronica, a pirate station, evolved into Veronica Omroep Organisatie (VOO); and TV North Sea transformed into TROS.

The Dutch government restricted commercial broadcasting. Private television companies had to be “contracted to provide public service programming” because “private television companies were not permitted to broadcast independently” (Harcourt, 2005, p. 166). To the Dutch government, broadcasters must provide “programs that satisfy the cultural, religious, or spiritual needs of the population” (Noam, 1991, p. 168) rather than pursue commercial interests. From the perspective of Dutch independent television producers, the domestic market was too limited. Instead of competing with the in-house production of the public broadcasters, the
independent producers were compelled to seek a more lucrative path in international markets. Joop van den Ende and John de Mol, the founders of Endemol, were prime examples of such producers.

**Liberalization of the Dutch Television Market**

However, the Dutch condition, the state’s commitment to public broadcasting and distaste for commercial television, began to change due to the introduction of multichannel transmission media such as cable and satellite systems in the 1970s and 1980s. The policy question regarding the transmission of cable signals appeared in 1971 (Noam, 1991, p. 172). That year, the cable transmission restricted programs except for some experimental local programs (Noam, 1991, p. 171). In 1984, however, the government liberalized the cable system to allow “local programming, pay cable, cable text, and signals from telecommunications satellites” (Noam, 1991, p. 171). In 1988, it further liberalized cable channels by removing the advertising restriction (Noam, 1991, p. 171). Due to the size of the country, the cable and satellite systems reached maturity relatively quickly. This introduced foreign commercial satellite channels (e.g., Rupert Murdoch’s Sky Channel, Music Box) carried by Dutch cable television (Noam, 1991, p. 172). Fearing the transmission of commercial television into the country, the government proposed a bill in 1984 to stop foreign commercial programs on cable. However, this action was met with resistance from the Commission of the European Communities. The Dutch government’s attempt to control the national media market came up against the EC’s commitment to “free flow of information,” (p. 4) as stated in the green paper *Television Without Frontiers*. In the legal battle between the two parties, the Hague Appeals Court ruled that “restriction of satellite television violated the freedom of expression section of the Dutch Constitution” but simultaneously ruled that “the prohibition against advertising
messages aimed at Dutch viewers was constitutional” (Noam, 1991, p. 172). In addition, in 1984, the courts required royalty payments to foreign program suppliers of cable television (p. 172). To exploit a loophole in the Dutch law, Joop van den Ende, a Dutch independent producer, attempted to set up a commercial channel (TV10) transmitted from Luxembourg to the Netherlands via the Dutch cable system. Luxembourg was an ideal place because, unlike other media markets of member states, the country did not have any media regulations before 1991 (Harcourt, 2007, p. 301). In the Dutch government, Commissariaat voor de Media challenged TV10 in the national court, which referred the case to the ECJ. This time, unlike the 1985 dispute between the EC and the Dutch government, the ECJ decided that “the Commissariaat voor de Media had legitimately prevented TV10” although the ECJ, after this case, “recognized the right of broadcasters to relocate abroad” (Harcourt, 2005, p. 167).

After failing to convince the Dutch government that TV10 was a foreign-owned channel outside the jurisdiction of the Dutch government, van den Ende decided to make Dutch-language programs for RTL-Véronique, a Luxembourg commercial broadcaster operated by RTL and owned by the Compagnie Luxembourgeoise de Télédiffusion (CLT), now controlled by Bertelsmann (Versteeg and Stuart, 1989, p. 34 as cited in Noam, 1991, p. 173). RTL-Véronique changed its name to RTL-4 when the Dutch government fined VOO (formerly Veronica), which was indirectly related to RTL-Véronique, for violating “the non-commerciality” of the Dutch broadcasting associations (Noam, 1991, p. 173). RTL-4, then, successfully reached the Dutch television market via the Astra satellite and Dutch cable systems.

10 Even after the creation of Luxembourg’s first media law, the Electronic Media Law of 27 July 1991, the country barely regulated “companies based in Luxembourg to broadcast abroad” such as Astra, Europe’s first partly privately owned satellite television system, and CLT’s RTL-4 (Harcourt, 2007, p. 301).
The impact of RTL-4 was drastic. When programs such as *Wheel of Fortune, The Surprise Show, The Mini-Playback Show*, and *Ron's Honeymoon Quiz*, owned by Joop van den Ende’s independent production company, JE Entertainment (Fuller, 1991b, p. 38), gained enormous popularity, RTL-4 grew to become the leading broadcaster in the Netherlands (Fuller, 1992, p. 38). By 1991, after only 2 years of broadcasting in the Netherlands, it gained a 27.6% share, whereas Nederland 2 had 21.9%, Nederland 1 had 20.8%, and Nederland 3 had 11.4% (Fuller, 1991a, p. 42). Three public channels (Nederland 1, 2, and 3) lost 30% of their rating and advertising revenue due to RTL-4 (Fuller, 1991a, p. 37). At the same time, two of the most popular broadcasters, Veronica and TROS, decided to leave the public system and become commercial (Fuller, 1991a, p. 37). RTL-4 shocked the Dutch government and the public system, leading them to restructure the broadcasting system; it really had “torn apart the complex, half-century-old Dutch public broadcasting system” (Alderman, 1991, p. 37).

In short, the deregulation of the Dutch television market had to incorporate the role of the producer, especially that of JE Entertainment. Media policy scholars such as Humphreys (1996) commented that the deregulation of the Dutch public broadcasting system was “imported deregulation” (pp. 189–190). Humphreys emphasized that an outside force (i.e., the TWFD) restructured the system rather than the political, economic changes within the country. Harcourt (2007) also emphasized that the deregulation of European media markets was engineered by European institutions such as the EC and the ECJ. Harcourt demonstrated how the European institutions formally and informally pressured the member states to comply with the TWFD by October 3, 1991, despite the reluctance of many states11 (Clark, 1991; Wilkins, 1991).

---
11The resistant countries such as Germany and Spain especially objected to the broadcasting and production quotas policy of the TWFD (Clark, 1991). As a result, by January 1991, only six member states had notified the EC of the transposition of the directive into national law: Belgium (the Francophone community), Ireland, Italy, Luxembourg, the United Kingdom, and Portugal (Clover, 1992, p. 26 as cited in Dupagne, 1992a, pp. 115–116).
Undoubtedly, European institutions dismantled the national media system; however, the Dutch story reveals that the top-down European force coincided with the bottom-up force of the Dutch producers via the foreign channel. One can even argue that the success of RTL-4 allowed the European institutions to take “advantage of Luxembourg’s liberal policy vis-à-vis foreign broadcasters to open up media markets in other Member States” (Harcourt, 2005, p. 175).

Therefore, the growth of the Dutch independent production company is related to, but not an outcome of, the project of a single European television market. It is important to note that the independent production companies did not passively take on the conditions; they were active agents who participated to change them. This is an important point in examining the relationship between the rise of Endemol and the rise of television formats in European territories. The motive and the experience of producing transnational television with foreign broadcasters had been there even before the implementation of the TWFD. I am therefore tempted to view the rise of formats in the territory as an outcome of transnational production companies attempting to rearrange geography and redefine European media markets, rather than the other way around.

**John de Mol and Joop van den Ende Form Endemol**

Joop van den Ende started his career in 1976 as a program producer for the Dutch public broadcasters (Fuller, 1991b, p. 38). van den Ende’s independent production company, JE Entertainment, was headquartered in Aalsmeer, a city near Amsterdam. He also had “a group of companies encompassing theater (including the Dutch staging of Les Misérables, Cabaret, and Barnum), artist management, classical-music promotion, and . . . a festivities division” (Fuller, 1991b, p. 38).

John de Mol, Jr., was another famous independent producer in the country. The son of “the Dutch Sinatra,” John de Mol, Sr., he was also active in producing television programs. de
Mol started his career as a producer of TROS; he became a senior executive producer of TROS at the age of 23 (Bazalgette, 2005, p. 10). However, out of frustration with the Dutch public broadcasting system (as felt by other Dutch producers at the time), he left TROS and in 1979 established his own independent production company, John de Mol Produkties (Bazalgette, 2005). The production company initially was a music-programming company. Then it expanded to other television genres (Fuller, 1992, p. 38). de Mol produced the Dutch version of Mark Goodson’s Family Feud and What’s My Line?, which were very successful (Bazalgette, 2005). The Dutch version of Family Feud was broadcast via VARA, a Dutch public broadcaster, and lasted 6 years (Bazalgette, 2005, p. 20). John de Mol created All You Need Is Love and Love Letters in 1990; the two shows were very successful throughout the 1990s. He also produced successful programs such as Love Letters, Does He or Does He Not?, and the 100,000 Guilder Show (Fuller, 1992, p. 38). In 1991, Love Letters, broadcast via Nederland 2, achieved 25.3% of the market share; Does He or Does He Not? via Nederland 2 achieved 17.7%; and the 100,000 Guilder Show achieved 13.3%.

Both JE Entertainment and John de Mol Produkties had the ambition to sell their formats to foreign producers and to produce (or coproduce) programs for foreign broadcasters (Fuller, 1992, p. 38). JE Entertainment opened production offices in the United Kingdom and Germany (Fuller, 1991b) and held contracts with WDR and RTL-Plus in Germany for game shows, soap operas, and comedy series (Fuller, 1992). John de Mol Produkties also produced a German version of Love Letters on RTL-Plus (Fuller, 1992, p. 38).

van den Ende and de Mol were competitors in the international market, but at the same time closely discussed “the state of the market and how to extract better deals from the broadcasters” (Bazalgette, 2005, p. 23). After the success of RTL-4 in transmitting commercial
channels in the Netherlands, the competition between the two production companies intensified (Henley, 1994, p. A19).

In 1994, van den Ende and de Mol decided to merge to form Endemol Entertainment, becoming, as one journalist noted, “Europe’s largest independent TV producer” (Dawtrey, 1994, p. 155). Rather than competing with one other, they decided to cooperate to “fully exploit both companies’ international potential” (Fuller, 1993, p. 46). Thus, Endemol at its very beginning located its identity in the international market, especially European markets. Following the merger, Endemol’s strategy focused not only on international trade but also on multi-territorial production.

**Australian Connection**

Endemol’s particular development model was not its own innovation. The corporate structure in which Endemol developed in the 1990s was modeled after Grundy, an Australian television production company.

Reg Grundy, CEO of Grundy, was an Australian pioneer in game shows (Harris, 1992, p. 42). Grundy first “began to adapt U.S. game shows for the Australian market in the late 1950s” (Chalaby, 2012a, p. 43; Moran, 2013b). After it obtained rights to produce Mark Goodson’s American game shows outside Australia in the late 1970s and established Grundy Worldwide (Chalaby, 2012a), it progressively became an international player.

After establishing local offices in Europe in 1985, Grundy had a major corporate reorganization in 1988. First, it incorporated business offshore by “basing its parent body in Bermuda” while registering copyright ownership of its television formats in the nearby colony of Antigua and handling legal and financial matters in Monaco (Moran, 2013b, p. 162). Grundy in

---

12 Grundy Worldwide later was sold to Pearson TV, which merged with CLT-Ufa to form FremantleMedia (Moran, 2013b).
Australia transformed from a headquarters into a local branch. By 1991, Grundy had established local offices in Australia, New Zealand, the United States, the United Kingdom, France, Germany, the Netherlands, Belgium, and Hong Kong (Moran, 2013b, p. 194). Second, Grundy Worldwide set up its own distribution, Grundy International Distribution, in 1989 (Moran, 2013b, p. 166).

Since the 1980s, Grundy has employed three different strategies to exploit the international markets via its corporate structures. First, it established its presence as a producer and distributor in local markets. Second, it sold formats, or licensed formats to be exact, that it owned and distributed. Grundy, however, desired to be a producer in local markets rather than a mere exporter of formats (Coopman, 1992b, p. 161). Reg Grundy called this a strategy of “parochial internationalism,” referring to the strategy of “leaving Australia rather than exporting in isolation from relevant industrial, taste, and regulatory framework” (Coopman, 1992a; Cunningham & Jack, 1996; Miller & Leger, 2001, p. 105). Third, the company made joint-venture arrangements with other local producers. Grundy and JE Entertainment in the Netherlands and Grundy and Ufa in Germany joined to reproduce Grundy’s soap operas for local broadcasters (Coopman, 1992b; Moran, 2013b, p. 163). These joint ventures, however, were not always successful, such as a joint venture in France that failed (Moran, 2013b, p. 194).

Grundy produced programs in local languages based on Australian formats. In particular, it successfully syndicated Paradise Beach, originally produced by Nine Network (an Australian commercial broadcaster) and Village Roadshow (an independent production company), in the United States via its local office in Los Angeles. Grundy established the Los Angeles office in 1978 and closed it in 1995. In 1994, Grundy owned offices in 17 countries, specializing in “high-volume genres,” and “key properties included game shows such as Hot Streak, Going for Gold,

The format of The Restless Years, in particular, became an important link between Grundy and JE Entertainment, which foreshadowed Endemol’s international strategy. JE Entertainment and Grundy decided to produce the Dutch version of the Australian soap opera in the early 1990s. Because no soap opera had existed before in the Netherlands, JE Entertainment needed Grundy’s know-how to save development time and expenses (Cunningham & Jack, 1996, p. 163). JE Entertainment bought the scripts and translated them into Dutch. It kept the plots and situations but made some adjustments to the dialogue (Cunningham & Jack, 1996, p. 162). In addition, the title was changed to Goede Tijden, Slechte Tijden (Good Times, Bad Times) in the Netherlands (Cunningham & Jack, 1996, p. 162); it took about 8 to 9 months to develop the show, and it was eventually broadcast via RTL-4 and was successful. Based on its success in the Dutch market, JE Entertainment again formatted the show for the German market; it again became a success, achieving a market share of 35% (Cunningham & Jack, 1996, p. 163).

Due to the experience of formatting with Grundy, van den Ende and de Mol, even before their merger in 1994, were familiar with Grundy’s model of expansion by creating a “network of owned and operated companies” (Chalaby, 2012b, p. 21). Endemol was the first European company that adopted this kind of network production model. Grundy’s parochial internationalism could have been especially attractive to Endemol because Grundy had relied mostly on “the cheapness, popularity, and international transparency of its preferred formats and genres” rather than state funding (Cunningham & Jack, 1996, p. 84). Given the reluctance of the
Dutch government to support commercial television production, Endemol’s international strategy looked similar to Grundy’s to “generate material in quantity and maintain a healthy cash flow” (Cunningham & Jack, 1996, p. 84).

However, Endemol had to make some adjustments due to differences between it and Grundy. Grundy, unlike Endemol, already had the Goodson–Todman’s American quiz shows, while Endemol needed to keep searching for quality television programs from the United States and Canada (Edmunds, 1998b). van den Ende and de Mol claimed that their programs were game shows and quiz programs once “shown on daytime American television in the 1950s,” and that those old American shows were packaged with “glitter, glamour, and cringeworthy moments” so they looked like “a million dollars,” whereas the actual production costs were about 200,000 USD (Henley, 1994, p. A19).

**Holland Media Group**

Endemol’s pursuit of the corporate structure that Grundy pioneered began in 1995 after the breakup of the existing relationship between Endemol and RTL-4. In late 1994, Endemol and RTL-4 expressed dissatisfaction with each other. Endemol decided not to renew its output deal with RTL-4, which had paid 200 million DEM per year for 3 years (Bazalgette, 2005, p. 39), because it felt the network “cherry-pick[ed] only the highest-rated shows” and did not allow any room for new programs (Dawtrey, 1994, p. 155). RTL-4, meanwhile, was unhappy with Endemol’s drama serials (Dawtrey, 1994, p. 155). Instead of maintaining their output deal, Endemol proposed a joint venture with RTL-4, its sister network RTL-5, and Veronica to create the HMG; it was to be headquartered in Luxembourg, with the editorial decisions in the Netherlands (Katsirea, 2014, p. 299). Endemol attempted to establish a firm base in the Netherlands by vertical integration to ensure the supply of its own programs.
The Dutch government, however, was not in favor of the joint venture. Despite its discontent, the government did not have the power to stop the joint venture because the nation-state did not have adequate legislation on merger regulations. In such cases, the EC was able to investigate mergers, acquisitions, and joint ventures on behalf of the Dutch government, known as the Dutch clause (Article 23[3]) in the EC Merger Regulation (Cini & McGowan, 2009, p. 134). The case was sent to the EC and reviewed by the Directorate-General (DG) for Competition.

A DG, comparable to a ministry in a nation-state (Donders, Loisen, & Pauwels, 2014, p. 6), plays an important role in driving European media policies. Currently, there are 31 DGs in the European Commission (European Commission, n.d.). For European media policy, six DGs are important: DG Communications Networks, Content and Technology; DG Competition; DG Education, Youth, Sport and Culture; DG Internal Market, Industry, Entrepreneurship, and SMEs; DG Research and Innovation; and DG Trade (Donders et al., 2014, pp. 6-7).

In 1995, the number and the names of some DGs were different; however, the basic logics of the organizations were the same. Concerning media ownership policy in 1995, six DGs were responsible: DG I, external relations; DG III, industry; DG IV, competition; DG X, culture; DG XIII, information society; and DG XV, internal market (Harcourt, 1998, p. 376). DGs have their own policy frames or frames of interpretations of policy problems (Baumgartner & Jones, 2009; Harcourt, 1998; Rein & Schon, 1993). DGs are linked to different “societal interests,  

13DG Agriculture and Rural Development; DG Budget; DG Climate Action; DG Communication; DG Communications Networks, Content, and Technology; DG Competition; DG Economic and Financial Affairs; DG Education, Youth, Sport, and Culture; DG Employment, Social Affairs, and Inclusion; DG Energy; DG Environment; DG European Civil Protection and Humanitarian Aid Operations; DG European Neighbourhood Policy and Enlargement Negotiations; DG Eurostat–European Statistics; DG Financial Stability, Financial Services, and Capital Markets Union; DG Health and Food Safety; DG Human Resources and Security; DG Informatics; DG Internal Market, Industry, Entrepreneurship, and SMEs; DG International Cooperation and Development; DG Interpretation; DG Joint Research Centre; DG Justice and Consumers; DG Maritime Affairs and Fisheries; DG Migration and Home Affairs; DG Mobility and Transport; DG Regional and Urban Policy; DG Research and Innovation; DG Taxation and Customs Union; DG Trade; DG Translation.
economic industries, public administrations and even different Weltanshauungen” (Harcourt, 1998, p. 372). The organization of the EC is not unitary, but politically complex. Particular worldviews formed as policy frames (single-market frame, pluralism frame, etc.) coexist in this supranational institution. On a policy problem, DGs compete for frames within the EC. Depending on policy frames of “winning” DGs, a political decision is made, sometimes for and sometimes against the member states.

DG Competition, which reviews joint ventures, particularly “has some direct decision-making power” and has no need of the approval of the Council of Ministers or the European Parliament (Harcourt, 1998, p. 384; McGowan & Wilks, 1995). In 1995, DG Competition reviewed the HMG case and disapproved the joint venture (Harcourt, 2005, p. 51); it explained that HMG “would lead to the creation of a dominant position in the Dutch advertising market and strengthen Endemol’s dominant position for independent Dutch-language television production” (Harcourt, 2005, p. 51). It recommended that Endemol reduce its shareholding from 23% to 7.5% to be approved by the directorate (“Merger control,” 1995). The Commissioner of DG Competition, Karel van Miert (1993–1999), argued the ruling was an “example of the Commission’s commitment to protect competitive market structures in media sector [and to maintain] plurality in this sensitive sector” (Lang, 1997, p. 42 as cited in Harcourt, 2005, p. 51). The decision eventually prevented vertical integration, which could have allowed Endemol to become a producer–broadcaster.

HMG was not the first venture the EC prevented; in 1994, Bertelsmann AG, Taurus Beteiligungs GmbH (which belonged to Kirch), and Deutsche Bundespost Telekom (which was the public telecommunications group) proposed a joint venture to create Media Service GmbH (MSG), a pay-TV service (Harcourt, 2005, p. 50). The EC disapproved the venture, claiming that
it could create a dominant position for pay-TV cable distribution and pay-TV in markets for technical and administrative services (Harcourt, 2005, p. 50).

However, the 1995 HMG case is particularly interesting and important for three reasons. First, Harcourt (2005) argued that “DG Competition would have had no jurisdiction to judge [the joint venture] as the turnover thresholds were below those required by the Merger Regulation” (p. 51). Since 1989, proposed mergers “with global sales revenues of over [5 billion] ECU” must notify the Merger Task Force within DG Competition (Harcourt, 1998, p. 373). Despite the fact that the venture entities’ global sales revenues were under 5 billion ECU, the DG reviewed the joint venture only because the Dutch government requested it. Thus, the DG’s conclusion was not based on technical calculation but rather a political decision (Majone, 2000 as cited in Harcourt, 2005, p. 44). The case represented the Dutch government’s struggle to retain its jurisdiction over the national media market and the EC’s cooperation in such efforts.

Second, DG Competition applied a narrow definition of a media market in the ruling. The HMG case demonstrated that the definition of media market was restricted to a national market. Harcourt argued that the narrow definition of media markets functioned “as a means by which recommendations and decision[s], made for pluralist reasons, are justified by economic rationales” (2005, p. 46). DG Competition argued that Endemol’s participation in HMG would only further enhance its dominance and hinder competition in the Dutch production market. By defending the argument, DG Competition used a concept of market share that was measured not by the volume of hours produced by Endemol but by the value of programs (Commission Decision, 1995). The assumption was that the production value was closely linked to the advertising market. Based on the value of programs, the DG argued that Endemol had more than 50% of the Dutch market share. Thus, based on this particular definition of market share, the
ruling established that Endemol already had “a dominant position on the market for Dutch language independent TV productions in the Netherlands” (Commission Decision, 1995, para. 97).

The third point is the most interesting in that it demonstrates how the DG understood Endemol’s business model. At the end of the ruling, DG Competition cited Endemol’s argument that its participation in HMG was “necessary to improve its market position for TV production outside the Netherlands” (Commission Decision, 1995, para. 108). The DG’s response to the argument was simple; it stated that “the concentration increases further the capacity for Endemol to purchase foreign formats, given its preferential access to the biggest commercial broadcaster in the Netherlands” (para. 108). The DG understood that Endemol imported foreign formats that could eventually dominate the Dutch production market. Endemol’s business model as understood in 1995 is radically different from its model as a super-indie now.

The HMG case demonstrated the many forces that influenced Endemol’s development. The nation-state, despite having its power diminished by European institutions, still played an important role in shaping the corporate structure. The Dutch government, with the help of the EC, was able to prevent Endemol’s vertical integration. The EC also made an important impact by complying with the request of its member state; particularly, its definition of a media market was strictly based on a nation-state. The following section demonstrates how Endemol developed to bypass the EC’s regulations. Finally, by 1995, Endemol, though considered Europe’s largest independent TV producer, focused on the Dutch market. Parochial internationalism was not yet fully developed. Endemol’s major concern was to exploit the commercial opportunity newly introduced to the Dutch television market; it used formatting to build its firm base in the Netherlands. After the joint venture’s denial, Endemol’s developmental path shifted.
Expansion

Endemol decided to leave the HMG joint venture in 1996 (Edmunds, 1996b, p. 71). From 1996–1999 (before Big Brother’s huge success in the Netherlands), Endemol rigorously pursued its goal of becoming a strong international player and followed three main strategies to achieve this goal. First, it became a publicly traded company. Second, it acquired shares of production companies in major European markets such as the Spanish, Italian, French, German, and British markets. Third, it strengthened international distribution of finished programs and formats.

After leaving HMG, Endemol made a contract with HMG (the joint venture without Endemol) in 1996. HMG agreed to spend 65 million XEU (about 74 million USD) per year on Endemol’s programs until 2006 (Edmunds, 2003). Instead of creating a structural link, Endemol created a relational link to the broadcaster. Based on this 10-year contract with HMG, Endemol was able to take the company to the Amsterdam stock exchange (AEX) on November 1, 1996 (Dinerman, 1998; Edmunds, 1996a; Rutten, 2000).

In fact, taking companies to stock markets was a strategy widely shared by European media companies to increase cash flow in the 1990s. The stock exchange of media companies in Europe became increasingly active while the internet bubble was growing in the United States (Foreman, 1999, p. 25). Bazalgette (2005), a British television executive, commented that media companies in 1996 were “sexy” (p. 67). In Germany, ProSieben TV was the first German media company to list itself on the stock exchange. Since Germany’s New Market (equivalent to the U.S. NASDAQ stock market) was launched in October 1997, Germany’s smaller media companies have been able to go public (Foreman, 1999, p. 25). For example, EM.TV, a Munich-based producer–distributor of children’s programs, was one of the most successful companies in

---

14Peter Bazalgette was the founder of Bazal, a British production company that was acquired by Broadcast Communications, which was then acquired by Endemol. He was the former chairman of Endemol U.K. and is now chairman of ITV (and a knight).
the market whose prices increased 16,000% from 1997 to 1999 (Foreman, 1999, p. 25). The first German film distributor, Kinowelt, also experienced a drastic increase in its revenue, rising from 2.64 million USD in 1993 to 211 million USD in 1999, after becoming a publicly traded company (Foreman, 1999, p. 25). Spanish media companies also began to transform themselves into publicly traded companies. In 1999, Sogecable became Spain’s first media company to take 25% of its share to the stock market (de Pablos & Hopewell, 1999, p. 25). In the late 1990s, media companies, professionals, and market analysts highly anticipated growth in European media markets. In the Dutch market, media companies such as Scandinavia Broadcasting Systems (SBS) and United Pan-European Communication (UPC) launched onto AEX (Edmunds, 1999a, p. 25).

The primary reason for European media companies, including Endemol, to transform into publicly traded companies was to gather funds from European investors (Foreman, 1999; Fuller, 1996). Despite de Mol’s “resent[ing] the disciplines of the public market” (Bazalgette, 2005, p. 70), Endemol too needed financial means to pursue its expansionary strategy of establishing offices in European territories (Fuller, 1996, p. 13). Through the stock exchange, Endemol was able to raise its value. The initial stock price was about 12.26 USD (Edmunds, 1999a). When news reported that Endemol would sell its live-entertainment division to van den Ende to focus solely on the television business, the stock price went up to 29.23 USD in October 1998 (“Sale enlivens Endemol,” 1998); by December 1999, the stock price was about 57.53 USD (“Dutch shares,” 1999).

The second strategy was to rigorously expand in the European territories (Edmunds, 1996a). The U.S. market was not the priority at the time because de Mol felt that entering the U.S. market was too risky (van der Leij, 1999b). According to Fuller (1997), Endemol “would
rather be a big European player than a small fish in America,” but this does not mean that Endemol completely neglected the U.S. market (Fuller, 1997, p. 31). In 1997, it began plans to infiltrate the U.S. market by hiring Matthew Ody, a former vice president of International Sales at NBC (Edmunds, 1997a, p. 223). At this moment in corporate history, however, Endemol was concentrated on acquiring production companies in five major European markets: France, Germany, Italy, Spain, and the United Kingdom. The company avoided establishing new production companies in these markets. Instead, Endemol acquired shares of existing production companies. It preferred to take minority stakes in them and maintain the creative workforces of the production companies in these markets (Edmunds, 1998a, p. 93) and then planned to increase the shares of local production companies.

In 1995, Endemol acquired a third of Gestmusic, a Spanish production company based in Barcelona (Koranteng, 1995). It increased its share of the company up to 60% in 1996 (Moody's Investors Service & Mergent FIS, 1999). In 1997, it also acquired a 45% share of Zeppelin, a Madrid-based production company, to form Gestmusic Zeppelin (Fuller, 1997, p. 31). Gestmusic was famous for entertainment programs, while Zeppelin was known for dramas such as El Super and comedies such as Inocente, Inocente and Los Cañete. By acquiring the two Spanish production companies’ stakes, Endemol was able to establish itself as the largest independent production company in Spain by 1997 (Edmunds, 1997c, p. 74). The Spanish television market was particularly important for Endemol because of its cultural and business proximity to Latin American television markets.

In Italy, January 1998, Endemol took a 45% stake in Aran, which was one of the largest independent production companies based in Rome (Edmunds, 1998a, p. 93; 1998b, p. 47). Aran produced successful dramas such as Caro Maestro (Edmunds, 1998a, p. 93).
In Germany, December 1997, Endemol acquired 51% of Non Fiction, a Cologne, Germany-based production company (Farrow, 1998, p. 1). In 1998, it bought 51% of Helkon, which owned distributor Nil Film with 500 titles (Farrow, 1998, p. 1). In August of the same year, it bought 51% of Flamingo, a Berlin-based production company (“Flamingo majority files,” 1998, p. 59); it also bought 49% of G.A.T., a Munich-based television group (Edmunds, 1998b, p. 47).

In July 1998, Endemol also acquired a 50% stake in a French production company, Group ASP (Gapper, 1998). Group ASP had a subsidiary production company, Case Production, which produced popular French shows such as *La Fureur*, a variety show formatted for several markets, and *Les Enfants de la Télé* (Gapper, 1998, p. 23).

Finally, in 1998, Endemol finally broke into the U.K. market. For quite a while, the UK market had been known as “a highly insular television market” because the United Kingdom was “suspicious of international production alliances that might compromise the style and quality of its domestic output” (Fry, 1998, p. 74). Despite the difficulty, the United Kingdom was the most important market for Endemol to enter. As Ruud Hendriks (Endemol’s then-director of international and corporate affairs) argued, “A U.K. presence will help [Endemol] in expanding internationally, such as long-term into the U.S.” because “English versions of formats travel more easily than Dutch or Danish versions” (Fuller, 1997, p. 31). The English language would give media products a higher chance of entering into the U.S. television market. The most developed television markets were the U.S. and the U.K. The English language added value to products by making the movement between the two lucrative markets possible. More important, there has been a shared belief among television producers that television programs in English travel well to non-English speaking countries. Endemol acquired a 50% stake in Broadcast
Communications (BC), which was a television arm of the Guardian Media Group (GMG). Thus, it could operate one of the largest independent production companies in the United Kingdom by controlling BC’s independent production companies, Bazal and Initial (Plunkett, 1998, p. 11).

Outside the five major markets, Endemol acquired a South African television production company, IFC Toron (“Dutch Endemol buys,” 1996) but sold it in 1999. In 1997, Endemol and Central European Media Enterprise (CME) combined to create a Polish joint venture called Endemol–Neovision (Edmunds, 1997d, p. 40). Endemol gained access to Eastern European markets such as the Czech and Slovak Republics, Hungary, Romania, and Slovenia where CME’s channels were located (Edmunds, 1997d, p. 40). In the Norwegian market, Endemol took a 35% share of “Schibsted’s Metronome Film & Television, the largest TV production outfit in the Nordic territories” (Edmunds, 1998b, p. 47). When the companies made the deal in 1998, Endemol had a plan to set up subsidiaries in Denmark and Sweden (“Endemol expansion continues,” 1998). In addition, it also acquired WIN TV in the Dutch market and increased its stake from 49 to 100% (“Endemol completes purchase,” 1998, p. 75); in May of 1999, it took a 50% stake in Rene Stokvis Productions (Endemol, 2007, p. 8; “Endemol takes,” 1999).

Endemol aggressively acquired production companies in the five major markets as well as other European markets, establishing itself as a European producer. In 1999, it even received a subsidy of 1 million XEU from the EE to produce a pan-European television show (“Endemol seeks finance,” 1999). While it created its new identity, it began to restructure its corporate structure. First, John de Mol became sole CEO of Endemol in 1998 after Joop van den Ende’s resignation in December 1997 (Edmunds, 1997b, p. 56). Second, as mentioned earlier, Endemol sold its live entertainment activities; it completed the sale in 1999 (“Endemol completes live,” 1999). The live entertainment was a part of Joop van den Ende’s business and by selling it,
Endemol could focus its operation solely on television business. Third, the company “restructured its international division into three different units: international distribution, international subsidiaries, and international projects” (Dinerman, 1998). The international distribution unit was responsible for buying English-language products from the United States, Canada, and South Africa. The international subsidiaries unit provided Endemol’s foreign production companies with sales and marketing support, legal and financial support, and quality control. Finally, the international projects unit pursued multinational production projects.

By the late 1990s, Endemol had become a major player that formatted its own popular programs in European territories. However, the success of the distribution division strengthened Endemol’s economic position chiefly by distributing and repurposing television shows from the United States and other English-speaking countries. Sales from television distribution grew from three million NLG (1.45 million USD) in the 1997–1998 fiscal year to 39 million NLG (18.9 million USD) in the first half of the 1998–1999 fiscal year (“Endemol H2 distribution,” 1999). Endemol’s “distribution margins average around 15–20 percent, outperforming average production margins of some 12 percent” (van der Leij, 1999a). One key to the growth lay in the fact that Endemol bought the rights of Celador’s Who Wants to Be a Millionaire? to distribute the format in Germany, the Netherlands, Belgium, and Portugal (Poulter, 1999).

European territories and obtained a large volume of English-titled programs from North America. Although the company grew, it was still smaller than major American and European distributors such as CLT-Ufa. It envisioned its role in the global television industry as an “European port of entry for quality English-lingo product from the U.S. and Canada” (Edmunds, 1998b, p. 47). As a pan-European player, its priority was to serve European clients rather than global clients. Of course, underneath the surface, the company kept knocking on the doors of the U.S. broadcast networks, but in vain.

As a result of the distribution of a large volume of English-titled programs, Endemol continued its economic growth, as Figure 3 indicates.

![Figure 3](image)

*Figure 3*. Revenue of Endemol from 1996 to 1999. Data from Moody’s Investors Service & Mergent FIS, Inc. (1999, 2000).

The company’s revenue grew from 642,366 NLG (about 369 million USD) in 1996 to 962,504 NLG (about 452 million USD) in 1999.

**Conclusion**

This chapter captures the development of Endemol from a small television trader from the Netherlands to a pan-European producer-distributor. I demonstrate that the development was not only determined by economic conditions, but also non-economic conditions such as political
and cultural conditions. It challenges the bias in television format research that the growth of super-indies such as FremantleMedia and Endemol was caused by economic conditions alone. Albert Moran and Krina Aveyard (2016), in their study of the development of FremantleMedia, argue that the market imperative of capital accumulation is the most important “determinant that compels television format culture” rather than any other factors such as state policies (p. 154) by showing how FremantleMedia made a series of acquisition of production companies without any regulations. This chapter complicates Moran and Aveyard’s account by arguing that there are more players, notably a nation-state and a supranational institution, involved in the process of forming the corporate structure of Endemol in the 1990s.

The relationship between the EC, the Dutch government, and Endemol is ultimately ironic. At one time, the EC pressured the Dutch government to liberalize its television market by implementing the TWFD. The supranational institution aimed to cultivate European independent production companies as a European champion in the global television market (Iosifidis, Steemers, & Wheeler, 2005), while JE Entertainment helped the EC strengthen the liberal policy. However, at another time, the EC also pressured Endemol for the favor of the Dutch government by preventing the company from joining HMG. Consequently, instead of becoming a producer–broadcaster, Endemol transformed itself into a producer–distributor and European player rather than a Dutch producer. Endemol was a product of the EC’s goal of cultivating a regional champion in television production and, at the same time, was a product of the EC’s inherent tension between the supranational institution and its member states.

Maneuvering between the opportunity to be an European champion and the constraints placed on a vertically integrated corporation in one territory, Endemol pursued the strategy of horizontal integration, imitating Grundy’s expansionary strategy, by taking shares of existing

109
local production companies in five major European markets. Local production companies saw an opportunity in becoming a part of Endemol and utilizing its formats as well as English-titled programs. They were able to exploit the distribution route Endemol possessed, and in return Endemol was able to act as a top production company in each local television market. Endemol and local production companies had synergic relationships.

The television format functioned as a linkage between local production companies and Endemol’s headquarters in the Netherlands to produce John de Mol’s ideas in other European markets. The value of Endemol’s formats resided within Endemol’s relationships with local production companies. No external commodity form was needed in the 1990s.

The story of the development of Endemol in the 1990s shows the relationship between commodity form, commodity’s function, and corporate structure. A commodity form is dependent on its function; and the function is dependent on a corporate structure which is shaped by economic, political, and cultural conditions. The function of formats as a linkage between multiple local television markets continued until 2003 and 2004, when Endemol began to change its corporate structure and management of its creative projects. As a result, a new function of formats emerged in the shape of a format bible.
Endemol’s *Big Brother* was launched on Veronica on September 17, 1999, and was a huge success in the Netherlands. Even though the show was met with criticism and outrage (Bazalgette, 2005), it attracted an average of one million viewers per episode in a country of 15 million (Edmunds, 1999b). *Big Brother* has been reproduced in multiple territories. Since the franchise began, the process of commodifying formats has accelerated.

This chapter examines the global franchising of formats after 1999. It is the most important process in developing the distribution structure of formats. On the one hand, Endemol finally linked its pan-European network of local production companies with the U.S. television market and South American territories. The link to the United States, which was the most important market for Endemol as well as any other television producers, had been controlled by U.S. talent agencies. It was a great leap in Endemol’s history when the corporation established a local production company, Endemol USA, to bypass the talent agencies and take control of the distribution structure to the market. By establishing the local production company, the corporation was finally able to transform itself from a pan-European production company to a global network of production companies.

As Endemol transformed into a true global player, the function of formats changed. As discussed in Chapter 3, the formats functioned as a linkage between local production companies. However, the linking function produced inefficiency as the corporation grew. By the early 2000s, a “format bible” had been reinvented to solve this problem by organizing the management structure of creative projects. It codified intrafirm trade, enabling the creation of formats and, therefore, sustaining Endemol’s large-scale corporate structure.
Meanwhile, Endemol’s attempts to protect its formats using the copyright laws of adopting territories intensified. In the early 2000s, a new legal interpretation of formats as a compilation of ideas began to emerge, expanding the possibility to claim the copyright of a format. In an effort to take advantage of this possibility, Endemol launched copyright infringement disputes in courts and won a case in Brazil that cemented the contemporary legal thinking about formats. At the same time, the ruling decisively accepted a format bible as an expression of ideas, which deserves copyright protection.

The two seemingly unrelated lines of development converged to a point where a format commodity form, a television format bible, emerged. Since 2004, a “format bible” has been widely used in industry discourses, emphasizing its role as a form that contains both artistic and business information to preserve the integrity of format brands. At the same time, the term first appeared in the legal discourse of a copyright infringement case in Brazil. The court emphasized the importance of a format bible to prove the expressive form of ideas and the originality of the work in the legal system. Since 2004, the format bible has become a commodity form through the marriage between organizational logic and legal rights. Then, it has become legitimized by the efforts of various industry bodies such as the Format Recognition and Protection Association (FRAPA), the World Information Tracking (WIT), and C21 Media. In alliance, they reinforced and normalized the practice of writing a format bible as a best practice in the global trade of formats.

In this chapter, I will discuss the three-tier process of inventing a format bible as a commodity form. Writing a bible is not a new practice; a production bible had existed long before the global trade of formats in the 2000s. Before the 1990s, however, a systematic commitment to documentation of the full set of codified elements had not emerged (Moran &
Malbon, 2006, pp. 43-44). Only when the awareness arose that the documentation of instruction was “for the future rather than for the present” (Moran & Malbon, 2006, p. 43), did a format bible begin to take shape. While I agree with Moran and Malbon’s assessment, I zoom in on the process, examining how the practice of codification has been integrated with the construction of the sphere of format distribution. This coincided with the precise moment when a legal institution granted a specific form to the value of a format.

**Television Format Bible**

Before examining the emergence of the television format bible as a commodity form, I will first discuss what a television format bible is. As I noted in the introduction, a bible is not a new concept in the television industry. The logic of documenting televisual elements has long existed in the form of production bibles. However, what I want to emphasize in this chapter is that a format bible is different than a production bible. A format bible does derive from a production bible; however, the former displays a qualitative difference from the latter.

In their book *Understanding the Global TV Format*, published in 2006, Moran and Malbon examined format bibles produced in the 1990s. One is the bible of *Room 101*, a light entertainment series produced by and broadcast on BBC2 in the United Kingdom in 1994 (Moran & Malbon, 2006, p. 60). The other is the bible of *In the Dark*, a game show developed by Fundamental Entertainment Television and Fuji International Productions and aired on ITV in 1996 (Moran & Malbon, 2006, pp. 62-63).

Moran and Malbon described what elements were contained in those two format bibles. They found that the *Room 101* bible included notes on “the host, the guest, the ‘rules’ of the show, the set and the individuals that made up the production team” (Moran & Malbon, 2006, pp. 60-61). It also contained information on “how an episode is researched, how choices are
finalized, scripting, timetabling the studio day,” and floor plans (Moran & Malbon, 2006, p. 61). It also included information about the budgets and the audience profile, as well as a sample post-production script.

The In the Dark bible was composed of 196 pages with six major parts: overview, the see-in-the-dark technology (the central technology for the show), preproduction, production, and how the show was to be played. Although the bible also contained “additional matters including rating, demographics, marketing and published feature articles,” the authors explained that it “devotes most space and attention to the actual making of the programme” (Moran & Malbon, 2006, p. 64).

The bibles Moran and Malbon examined were closer to production bibles than the present notion of format bibles. The present notion of the format bible can be found in a white paper entitled “How to Create a Hit Format in 10 Lessons,” produced by industry bodies such as Marché International des Programmes de Télévision (MIPTV), MIPFormats, and the World Information Tracking (WIT)\(^\text{15}\) in 2016. The paper provides a template for a format bible. The template contains elements similar to those identified by Moran and Malbon in their analysis of production bibles. The template consists of nine areas: the show concept, the series overview, the format’s track record, the description of the format, the proposal for a special show, the multiplatform, and the production bible with technical specifics (TheWit, 2016, pp. 15-19).

It is notable in the white paper that a format bible is a large package that contains a smaller production bible. While the bibles Moran and Malbon examined have the specific function of guiding the adaptation in a particular territory, the format bible plays a more

---

\(^{15}\) MIPTV is one of the largest global television programming markets. MIPFormats is a subsidiary conference of MIPTV. The WIT is an information service company that collects information regarding television programming, including formats around the world. These industry bodies will be discussed in detail in Chapter 5.
expansive role in creating a franchise. The template suggests three additional elements lacking in the bibles of the 1990s: proposals for special shows, multiplatform, and track records.

“Proposals for special shows” refers to a format’s potential for special editions and spin-offs. The template asks creators and producers to demonstrate that the format is “scalable” (TheWit, 2016, p. 18).

“Multiplatform” emphasizes that creators and producers need to include a format’s extension to other media platforms, such as applications for live voting and online participation (TheWit, 2016, p. 18). The white paper argued that such applications can add more value to a format and prevent local producers and broadcasters from “building [a format’s brand] with their own ideas to create a revenue stream for their own benefit” (TheWit, 2016, p. 18).

Last, the template establishes an important notion about format bibles in the section explaining “format’s track record.” In this section, the white paper explained that besides the quality of the format, the determining factor for its price is its track record (TheWit, 2016, p. 16). The authors note that selling a format is “selling a track record and know-how” (TheWit, 2016, p. 26). Whereas bibles written in the 1990s only stressed know-how, the template for format bibles emphasizes the format’s scalability, extensibility, and international adaptability as important elements for sales. In other words, the former emphasized the useful elements to be adapted in a foreign territory, whereas the latter contains the elements necessary to build a global brand and franchise.

The difference between the two kinds of bible seems miniscule at first glance. On a deeper level, however, the two bibles are different in their roles. The format bibles Moran and Malbon examined are closer to a production bible, whose function is to reproduce a television show. A production bible is truly a recipe. The format bible template that the white paper
provides is more than instruction. It emphasizes a format’s capacity to become a global brand. When and how did the latter notion emerge? I will answer that question in the remainder of this chapter. Using Endemol from 2000 to 2006 as a case study, I will examine how the development of its distribution structures led to the creation of the “format bible” as a commodity form.

**Structure of Format Distribution 1: Talent Agency as a Distributor**

As discussed in Chapter 3, formats were generally distributed throughout Europe by large European independent production companies. One of the most notable international players, Grundy Worldwide, was sold to Pearson TV in 1995 (Moran & Aveyard, 2016). Pearson TV later acquired All-American Fremantle International in 1997 and merged it with CLT-Ufa under RTL Group in 2000, forming FremantleMedia, which changed its name to Fremantle. Super-indies such as Endemol and FremantleMedia emerged in Europe and were major players on the continent. Their next goal was to break into the U.S. market. Needless to say, the U.S. television market is important because it was and still is the biggest television market. However, for super-indies such as Endemol, the U.S. market was important in another sense. In an interview in 2000, John de Mol, cofounder of Endemol and its CEO until 2003, described the importance of the U.S. market:

> If you have a program in Europe, and you have success in Holland, it’s fine, but nobody knows about it. If you have success in Spain, well maybe a few more countries will start asking about it. If you have success in Germany, it becomes interesting. But if *Big Brother* becomes a hit in the U.S., then the whole world will hear it. (Schlosser, 2000b, p. 18)

David Lyle, who was the head of light entertainment for Pearson Television (now Fremantle) in 2000, similarly argued that, “When the States get excited about this variety of show in all its
forms, all of a sudden it gets fed back into Europe, and [Europeans] get more excited about it” (Carter, 2000a, p. C1). In summary, the U.S. market was important for super-indies because they believed it added value to their formats. The U.S. market was not the end of the distribution of television formats; it was a starting point for producers who wanted to become global players.

However, it was well-known among European producers that the U.S. television market was tough to enter. As de Mol reminisced, the first time he tried to access the U.S. market, no American executive “was really that interested in what [Endemol was] doing” even though it had “over 400 proven formats that have worked all over Europe” (Schlosser, 2000a, p. 8).

The U.S. market could even be dangerous for European producers. David Frank, who was a managing director of RDF, a British production company, argued in 2002 that producers would “get eaten alive” by the U.S. broadcast networks if they did not have knowledge of the market (Tyreel, 2002 as cited in Moran & Malbon, 2006, p. 71). Due to the difficulty of getting the attention of networks and the risk of losing control in the United States, European producers sought help to enter the market in the 1990s. One group of players upon whom they relied was American talent agencies.

Talent agencies have historically played an important and powerful role in the American film and television industry. A talent agency is “a state-licensed employment agency” that traditionally finds film or television projects for their clients, who include writers, actors, and directors, among others (W. T. Bielby & Bielby, 1999, p. 66). In return for representation, an agency receives 10% of the clients’ contracted earnings (Roussel, 2016, p. 74). This is why they are often called “ten percenters” in the industry.

There are currently four major talent agencies in the United States: William Morris Endeavor (WME after a merger between William Morris Agency [WMA] and Endeavor in
2009), Creative Artist Agency (CAA), United Talent Agency (UTA), and International Creative Management (ICM). There are also a few midsized agencies such as Gersh, Paradigm, and Verve (Roussel, 2015, p. 104). In addition, there are many small agencies that interact with casting directors of smaller projects and represent “emerging artists or artists who have fallen out of favor” (Roussel, 2015, p. 104).

In the 1980s, a new practice called “packaging” emerged. Instead of representing individual clients, an agency “assembles an entire writing, producing, directing, and acting team for a project and presents it to a studio or network as a package” (W. T. Bielby & Bielby, 1999, p. 67). This new practice of packaging was successfully implemented by CAA and emulated by other major agencies. However, more important, the packaging practice has been appropriated to create hybrid models of agenting in different contexts (Roussel, 2016, p. 76).

Especially in television, due to deficit financing, U.S. independent production companies had to bear a loss that could only be recovered by staying on the network schedule long enough for syndication (Bielby & Bielby, 1999). As the deficit that the indies had to bear kept rising, their economic position in the industry became weakened by the 1990s. To take advantage of the situation, WMA developed a new arrangement with producers that other agencies soon emulated. The agency waived “commissions on clients’ salaries and receive[d] instead a packaging fee ranging from 3 percent to 5 percent of the licensing fee paid by the networks to the series’ producer” (Bielby & Bielby, 1999, p. 68). They also received 10% of syndication sales (Bielby & Bielby, 1999).

By the 1990s, talent agencies had positioned themselves as powerful players in Hollywood. For example, CAA was “responsible for packaging about one-third of all prime-time series on the network schedule” (Bielby & Bielby, 1999, p. 68). One director described the

---

16 Production companies receive license fees from the broadcast networks that are less than the cost of production.
power of agencies: “When I’m putting together a project, the only ‘yes’ I need is from one of seven or eight agents. If I get their support, I know I can set up a deal anywhere in town” (Bielby & Bielby, 1999, p. 67). The major talent agencies were “more than just brokers and go-betweens” (Roussel & Bielby, 2015, p. 8). They were able to add value to projects.

The talent agencies, nevertheless, had mostly exercised their power within the American market. That is why studies on global media industries have not paid enough attention to the role of talent agencies in shaping global television or even the transatlantic trade of television. U.S. talent agencies have been marginal to the scholarship of global media industries. Most studies on talent agencies focus on industry professionals in Hollywood and the U.S. entertainment labor market from the perspectives of sociology, cultural studies, and legal studies.

In the late 1990s, American talent agencies began to seek talent and projects abroad, especially from the United Kingdom and other European countries. WMA was the most aggressive in expanding its operation of packaging European talent and projects. In 1995, WMA appointed Benjamin Silverman, a 26-year-old American, as an international packaging agent for films and television in its London office (Bateman, 1995). He held the position until 1999.

Silverman, who had started his career as a drama development coordinator for international program development at CBS Entertainment in 1992, had the knowledge and experience to create a bridge between European producers and U.S. broadcast networks. He moved to London in 1996, and his job was to put a bridge, or “a runway,” as one executive of Granada called it, between European producers and the U.S. television market (Atkinson, 1997, p. 23). The agency provided European producers with resources, knowledge, and social networks to break into one of the toughest television markets in the world. With his proactive approach to international packaging, from 1996–1999, Silverman and his team, including Mark Itkin and Greg Lipston,
who worked in the U.S. office, packaged Guinness Publishing’s *Guinness World Records: Primetime* for Fox, Granada Entertainment’s *Cracker* for ABC, Carlton Broadcasting’s *Neighbors from Hell* and *Babes in the Woods* for ABC, and Endemol’s *Your Big Break* for Buena Vista Television (Spring, 1999). This effort for cross-pollination persisted even before the big hit of *Who Wants to Be a Millionaire*? in 1999.

Talent agencies had knowledge that European television producers did not. They knew U.S. broadcast networks wanted game show formats and reality formats, especially after the success of *Who Wants to Be a Millionaire*? The primary reason was not that the networks found game show and reality television show formats to be aesthetically attractive or able to yield high ratings. The primary reason was that they were able to easily replace scripted dramas in the schedule in case of strikes by unionized writers.


Chad Raphael (2009) and Miranda Banks (2015) pinpointed the 1988 WGA strike as the historical moment from which reality television shows emerged as a “writer-proof” strategy. Reality television shows did not rely on union writers and actors as did scripted dramas.
(Freeman, 2000). When network executives anticipated a writers’ strike in 2001 (Schlosser, 2000c), they “ordered more Reali-TV series in part to prepare for potential strikes” (Raphael, 2009, p. 130). NBC ordered two reality series, Weakest Link and On the Cover, from Endemol (Freeman, 2001; Huff, 2000). CBS had already launched Survivor and Big Brother in 2000. UPN launched Chains of Love from Endemol (Huff, 2000). ABC expected programs such as Whose Line Is It Anyway? and Who Wants to Be a Millionaire? to minimize the impact of possible strikes (Huff, 2000).

It should be noted that the Reali-TV, including game shows, that networks imported and scheduled were not just reality television shows but reality television show formats from European producers. At that time, when there was a surge of demand for that particular format, U.S. talent agencies such as WMA had an advantage by packaging European formats through their European offices. Michel Rodrigue, CEO of Distraction, a Canadian format distributor, argued that the networks took European formats not because of the producers or distributors but because of the talent agencies that “gave the format business credibility” and “put a lot of pressure on” the networks (“Agents’ multi-tier model,” 2006). European formats were able to enter the U.S. television market not because they were edgy, but because they were delivered by agencies that had insight into the networks’ need to control labor unions. Talent agencies seized the moment and played matchmaker between European producers and the networks.

Talent agencies, however, did not just carry European formats to the U.S. broadcast networks. By using their knowledge of the market and strong relationships with the networks, talent agencies were able to help producers negotiate with the powerful U.S. networks (“NAPTE special: Interview,” 2002). The operational strategy of the talent agencies was to “try to put projects together by doing a lot of work in-house to marry ideas and talent then negotiating
stronger deals” (Marlow, 1998, p. 20). Once talent agencies obtained European formats, they
looked for U.S. producers for the networks, cable networks, or syndicators (Hazelton, 2001b).
Mark Itkin, one of the WMA agents who played an important part in carrying formats,
emphasized the agencies’ role in packaging ideas and talents:

If you’re licensing a format or the producer doesn’t have the credibility [in the
U.S. television market] yet, it’s a matter of finding the right producer, the
producer who understands the project, has the right sensibility and, obviously, is
somebody that the networks, cable networks or syndicators want to be in business
with. (Hazelton, 2001b, p. 1)

Talent agencies argued that they added value to formats by selecting fresh and new formats,
finding foreign producer right production companies, directing them to the right channels (e.g.,
broadcast network, cable channel), assisting them in negotiations with American giants, and
giving them information about what the buyers want. With their inside knowledge and contact,
they emphasized that they performed these creative, marketing, deal-making, and strategy
functions to add value to formats (Hazelton, 2001b). In return, they took a fee that was between 5% and 10% of a show’s budget or license fee.

While emphasizing the presence of talent agencies, they had taught European producers
dos and don’ts when approaching agencies. Agencies stressed that it was not necessarily better to
bring preexisting formats. A format could be “something that’s been on the air, it could be a
paper format” (Hazelton, 2001b, p. 1). Even if a format had not been produced previously,
agencies argued that they could sell it, as WMA had sold Public Property to ABC.

Moreover, talent agencies did not like a format that already had a partnership with U.S.
producers. Agencies explained that the existing partnership could be a hindrance because it
complicated deal making with U.S. broadcast networks, which increasingly wanted to produce their own shows. Agencies suggested “it is better if nobody’s attached,” allowing them to “find the best producer for the project” (Hazelton, 2001b, p. 1). Talent agencies also did not like a format attached to an international distributor. Talent agencies did not tolerate format producers who bypassed them and negotiated directly with the U.S. broadcast networks.

Figure 4 illustrates a format distribution that linked European producers and the U.S. television market in the late 1990s and early 2000s. A format flowed from European producers, through talent agencies, to the U.S. broadcast networks. The U.S. talent agencies acted as an intermediary, “operating between the format owner and those who would license [the] formats” (Moran & Malbon, 2006, p. 71). However, the agencies were not mere bridges; they were meddling matchmakers, exercising power by controlling the distribution of television formats from Europe to the United States. They were the ones that structured the distribution in a particular way so that a format packaged by agencies added more value.

Figure 4. The distribution structure of format from Europe to the United States.

It is important to recognize two aspects of the early structure of format distribution into the U.S. market. First, the distribution structure that talent agencies wished to construct was dependent on relationships. Violaine Roussel’s (2015) research on Hollywood talent agencies emphasized that agents define their own work as “a relationship business” (Roussel, 2015, p.
As Roussel discovered in her 2013 interview with an agent, this relational work is based on “history, experience and trust” (p. 103). The agenting in the format exchange is no different. For European producers, agencies add value to their formats by allowing them to get access to the social network of the U.S. broadcast networks.

Second, the structure does not require a format bible. As discussed above, detailed information about a format was controlled and embedded in the relationships between producers and talent agencies and between talent agencies and the networks. The know-how could not be and did not need to be documented. Talent agencies knew how to make an European idea successful by matching it with the demand of the networks and combining it with American talents of their choice. Talent agencies were not just intermediaries; they were active international distributors that validated the value of formats.

The structure of the format distribution into the American television market seemed to be based upon a cooperative relationship between American talent agencies, European producers, and U.S. broadcast networks. Agencies helped the other two to find each other. However, the relational structure did not guarantee the television show’s success. For one thing, the relationship between European producers and talent agencies was not stable. Because of the close relationship between talent agencies and U.S. broadcast networks, European producers felt that they lost control over their formats. For example, Celador, the British production company that sold *Who Wants to Be a Millionaire?*, was not satisfied with talent agencies. The company “felt it lost important controls on [the show’s format]” because “the deal, brokered by an agent, allowed the broadcaster to control the number of episodes being produced” (Moran & Malbon, 2006, pp. 72-73). Also, the relationship between talent agencies and U.S. broadcast networks was not stable either. The networks attempted to reduce their expenditures by cutting package fees. For
example, in 2001, ABC attempted to reduce the package fee to WMA from 5% of the production budget to 3% (Adalian, 2001). ABC was the first broadcast network to try to implement a companywide policy against talent agencies’ packaging fees (Adalian, 2001). Agencies wanted WMA to hold the line, whereas networks wanted ABC to set a new packaging standard.

The two examples illustrate the tension in the format distribution structure in the early 2000s. I did not present the examples to argue that the structure, organized by talent agencies, was unsustainable, but to point out that there was a high level of uncertainty in the relationships among European producers, talent agencies, and U.S. broadcast networks.

This is also evident in the case of the Big Brother format imported into the U.S. television market. Despite high demand for formats from U.S. broadcast networks, the ability of Europeans to fit their proven formats into networks’ schedules, and the presence of a powerful talent agency (e.g., WMA) as a distributor, the U.S. version of Big Brother could not reach the level of expectation in its first season in 2000. Both Endemol and CBS expected an immediate and huge hit. The story of the Big Brother format’s entry into the U.S. television market illustrates the uncertainty in this particular distribution structure.

After Big Brother became a massive hit in the Netherlands in 1999, Endemol brought the format to the United States. Unlike its attempt in the mid-1990s, when Endemol could not get the attention of American television executives (Schlosser, 2000a), the Big Brother format, brokered by WMA in 2000, was fiercely desired. There was a bidding war between CBS, ABC, and Fox to purchase the format (Bazalgette, 2005; Carter, 2000c). CBS won the format license, paying 20 million USD for it (S. Brennan & Turner, 2000). Although CBS already had Survivor, it did not want its rivals to have Big Brother (Bazalgette, 2005, p. 168). CBS was also a better channel for Endemol because it could use CBS’s image as a family-oriented channel to defend its
controversial program, which depicted violence, obscene language, bullying, and so on (Bazalgette, 2005, p. 168). In the process of creating the U.S. version of *Big Brother*, Endemol sent a Dutch executive producer, Paul Romer, to guide American producers (Schlosser, 2000a). Endemol also insisted that the show needed a daily version, scheduling the program for 100 consecutive days during the summer of 2000 (Schlosser, 2000b).

When the American version of *Big Brother* went on air on July 5, 2000, both Endemol and CBS anticipated another hit like Endemol had experienced in the Netherlands and as CBS had experienced with *Survivor* (Schlosser, 2000b). Although the network gained a 3.8 rating and 14 share of adult viewers 18–34 and a 3.9 rating and 13 share in adults 18–49 on average, which were a 131% and 80% increase in the rating and share, respectively, from 1999’s scores (Littleton, Brennan, Turner, & Rolfe, 2000), the show was not a media event. Both Endemol and CBS were disappointed. de Mol blamed the cast, whereas CBS and other broadcast networks blamed producers who did not understand American audiences (Adalian, 2000). CBS decided to bring a veteran producer, Arnold Shapiro, who was known for producing *Rescue 911*, to fix the creative elements of the format for the second season of *Big Brother* (Littleton, 2001).

The disappointment had an influence on Endemol’s position in the market. When Endemol attempted to license another format, *Chain of Love*, to NBC, NBC wanted to take more control over the format (Carter, 2000b). It argued that the network would be more vulnerable to producers if the program were not successful, as the *Big Brother* fiasco had illustrated. In the end, the deal between Endemol and NBC was not completed.

Unlike *Who Wants to Be a Millionaire?* and *Survivor*, *Big Brother* had a bumpy ride into the U.S. market. As this case illustrates, the nature of the relationship between European producers

---

17 This was a docudrama television series on CBS from 1989 until 1996, with William Shatner telling stories about the heroism of emergency medical technicians and firefighters.
and the U.S. networks could be characterized as a struggle rather than stable cooperation. The American version of Big Brother was a signal to industry professionals that the formula of a European format plus a talent agency plus a broadcast network might not always yield the best result for producers and the networks.

**Structure of Format Distribution 2: Super-Indie as a Distributor**

A direct relationship between European producers and U.S. networks has become more important to make formats successful. European producers became more reluctant to pay agency fees, especially as the cost of production increased and the advertising revenues decreased ("Agents’ multi-tier model," 2006). As a result, European producers, especially super-indices, began to establish local U.S. offices (Hazelton, 2001a). Establishing local production companies was, in fact, the primary strategy of expansion for super-indices, as I described in Chapter 3. While Endemol focused on creating a network structure mainly in Europe in the 1990s, it attempted to expand its network by establishing a U.S. production company.

Endemol was the first super-indie to open an office in Los Angeles. It opened its American office in 2000 and named David Goldberg, a former Telepictures executive, as CEO of Endemol USA ("Goldber named Endemol," 2000; Littleton, 2000). This became the sixth local production company for Endemol, joining its outposts in the United Kingdom, Spain, Germany, France, and Italy. After the disappointment of Big Brother, Endemol USA needed to establish strong roots in the market. It could do so by developing closer relationships with U.S. broadcast networks.

As Figure 5 shows, super-indices attempted to create a format chain that would enable a direct relationship with U.S. broadcast networks. The difference between this structure and the one illustrated in Figure 4 is the presence (or lack) of talent agencies. Super-indices that can
establish a local U.S. office can bypass talent agencies. This can save companies from paying package fees to talent agencies. At the same time, it can yield a better chance of making successful formatted programs by working directly with the networks in the desired market.

![Diagram](image)

Figure 5. Super-indies’ format distribution structure.

As opposed to the indirect linkage that talent agencies provide, the local office provides a direct link between super-indies and U.S. broadcast networks. Through this direct linkage, Endemol strengthened its local office and its overall presence in the market.

After successfully breaking into the American television market, Endemol had evolved from a European corporation into a truly global one. The corporation had local offices in various territories while maintaining its headquarters in Amsterdam. Local offices brought and adapted formats that had been developed and proven successful in other territories to produce formatted television shows. Local offices functioned as extensions of the headquarters. Endemol USA served this function by creating *Big Brother USA* (Hazelton, 2001a).

To keep feeding creative television formats to local production companies, de Mol created a creative network called the Central Creative Unit (CCU) in 2001 (Edmunds, 2004). This was a way to centralize the development of creative projects and formats at the headquarters and then distribute them to their local production companies. de Mol’s ideas were developed in the center, and then distributed throughout the local offices. While de Mol guided the engine of
Endemol’s creativity, local offices merely sold broadcasters on the format (Marlow, 2005). It was a top-down organization of format distribution within the corporation, as illustrated in Figure 6.

![Figure 6. Endemol’s centralized management, 2001–2004.](image)

However, the centralized management of creative projects was not sufficient to manage the entire corporate structure because local offices, rather than the hub in Amsterdam, were better positioned to manage the creative process in the local markets. The local offices in the United Kingdom, the United States, Spain, France, Germany, Italy, and the Netherlands had local knowledge. They (Endemol UK, Endemol USA, Gestmusic Endemol, Endemol France, Endemol Germany, Endemol Italy, and Endemol Holland) had to become more involved in developing and producing formats. de Mol’s CCU was too rigid to exploit Endemol’s multiterritorial structure.

As a result, Endemol’s corporate structure began to change. The headquarters in Amsterdam stopped serving as a hub. The Dutch unit cut 270 full-time jobs in 2002 ("Endemol
to cut jobs,” 2002). Local offices began to emerge as regional hubs. Endemol USA began to develop its own projects for the U.S. market (Hazelton, 2001a). In 2002, Endemol USA began to acquire and make alliances with smaller production companies (Littleton, 2002). It created popular formats such as Fear Factor, Deal or No Deal, and Extreme Makeover: Home Edition. Formats developed by Endemol USA could also be distributed through Endemol’s production companies in other territories.

In 2003, Endemol USA and Endemol UK sought a way to codevelop television shows for both markets (Hughes, 2003). Formats developed by the two offices could be distributed to multiple territories. The corporate structure began to transform into a decentralized and networked structure to increase flexibility. By giving local production companies more freedom in their operations, Endemol began to look more like the structure illustrated in Figure 7.

![Figure 7. Endemol's decentralized management since 2004.](image)
Figure 7 represents a theoretical model of Endemol’s decentralized management. In reality, all local production companies were not equal in size and importance within the corporation. Endemol UK and Endemol USA were more important than others. According to Endemol’s 2006 annual report, Endemol UK made the largest turnover in both 2005 and 2006, whereas Endemol USA showed the strongest growth from 2005–2006 (Endemol, 2007). In addition, the headquarters did not entirely disappear; it was still located in Amsterdam, even though its function as a creative hub ended in 2004.

The growth of local offices led to the formation of a network structure. The decentralization of Endemol, however, brought a new organizational problem: coordination between local offices. As the super-indie increased the number of local offices and their freedom to develop formats in each television market, the group as a whole experienced an increase in the complexity of organizing creative projects. From a corporate perspective, what would be the most efficient way of executing a format developed by a local production company in another territory? What ensures the quality (e.g., adaptability, scalability, extensibility) of a format as a brand that a corporation owns? What is the best way to coordinate creative projects among local offices without central control? The CCU was becoming obsolete because it failed to generate knowledge of local markets (Edmunds, 2004; MIPTV, 2012, pp. 3-4). With the CCU’s demise on the horizon, Endemol sought an alternative.

Instead of using a top-down model of managing creativity, Endemol started using a bottom-up model and established the Global Creative Team in 2004. The team’s purpose has been to bring together top creative and commercial executives of Endemol’s key territories: the United Kingdom, the United States, France, Spain, Germany, Italy, and the Netherlands (Edmunds, 2004; "Endemol pools global creative talent," 2004). Executives and directors bring
pilots and ideas developed by the local offices and sales records (MIPTV, 2012, p. 4). Six times a year, the execs from the local offices continue to have a 2-day meeting to discuss their format ideas, sales records, and best practices. After the meeting, they go back to their home markets and work to get the formats on the air (MIPTV, 2012, p. 4). The system has encouraged local production companies to develop their own ideas, which they can then share with other local production companies. Endemol also has the Creative Fund to invest in a local office with an interesting idea that has international potential (MIPTV, 2012, p. 5).

Endemol’s bottom-up model for managing creative projects is not unique. Rob Clark, director of global entertainment development at FremantleMedia, discussed at MIPTV in 2012 how their company also uses a bottom-up model. Similar to Endemol, it implemented a creative meeting. It is an annual meeting in London in which head creatives and sales personnel of its territories participate (MIPTV, 2012, p. 8). Super-indies have argued that centralized management of their creative projects cannot sustain the networked corporate structure (MIPTV, 2012).

In summary, the void made by the absence of talent agencies was filled by Endemol’s local office. However, for local offices to be successful, Endemol had to internalize the process of developing formats for multiple territories to replace the cross-pollination that talent agencies had done for several years for the U.S. market. In the case of Endemol, the creation of the Global Creative Team was a way to increase its control over the format distribution by increasing coordination among local offices. As Iris Boelhouwer, a managing director of creative operation at Endemol, stated, the Global Creative Team “makes [Endemol] . . . far less dependent on [its] broadcasters” (MIPTV, 2012, p. 5).
Format Bible as Codification

Although the networked structure and the decentralized management of creative projects were able to provide adaptability, scalability, and extensibility to the corporation, they do have a problem of their own: coordination.

Figures 6 and 7 represent the degree of complexity in the corporation by the lines drawn between the headquarters and local offices. Figure 6 shows a simple coordination between the CCU in Amsterdam and local production companies. Compared to Figure 6, Figure 7 shows much more complex interactions between the seven local offices.

Of course, the numbers of lines in the figures, especially Figure 7, are only theoretical. The mutual and reciprocal relationships among local offices assumed in the diagram are not realistic. Endemol UK and Endemol USA have relatively more power than other local offices. Moreover, with the method used in this dissertation, it is not easy to find actual evidence demonstrating that the increased complexity in the corporation has created a coordination problem. For one thing, the struggle for coordination might be an inside story.

Nevertheless, while complexity yields unexpected discoveries of creative ideas, it also produces unpredictability in the business. An organization requires “a capacity to cope with unpredictable and volatile environments and ‘noisier’ information environments, and to bring order and responsiveness to variables within the organization” (Mulgan, 1991, p. 16). Super-indies’ creative meetings (e.g., FremantleMedia’s annual meetings) are an attempt to reduce complexity and increase coordination. As network theorists have argued, “trust, reputation, and mutual dependence dampen opportunistic behavior, and in so doing they make possible more complex interfirm divisions of labor and interdependence” (Gereffi, Humphrey, & Sturgeon, 2005, p. 81).
Simultaneously, interpersonal relationships require a systematic codification of transactions, a standardized way to record information and knowledge. In this process of reducing complexity, the format bible has emerged as a standardized way to codify transactions between Endemol’s local offices and thus record knowledge of local markets. As one industry professional stated, a format is constantly updated to prove that it removes “the mistakes that have been made that won’t be made again” (Green, as cited in Chalaby, 2011, p. 295). In other words, to maintain and improve its brand quality, the corporation requires the accumulation of local knowledge of multiple territories in a format bible. Codifying information and transactions among local offices regarding knowledge of local markets is really the essence of a format bible. A format bible is an expression of this particular logic developed by super-indies in the early 2000s. Thus, a format bible reduces the complexity embedded in the networked structure and the decentralized management of super-indies’ creative projects.

WIT’s (2016) white paper explains the origin of a format bible in this way:

The biggest international format groups (ESG, FremantleMedia, etc.) exchange different versions between producers, build idea boxes, organise international brainstorms, collect databases of challenge rules and twists, and so on.

In such cases, format bibles become collaborative pieces of work, and thus a global format bible emerges. (p. 42)

A format bible is not the same as a production bible. It was originally devised not as instructions for a television program, but as a container of knowledge to communicate between local production companies and to manage creative projects within the corporation. The best way to look at a format bible is not as a product of international trade, but as a product of intrafirm trade across borders.
This is a radical shift from the distribution structure being controlled by talent agencies or managed by a central unit. In the case of Endemol, the knowledge of local markets was contained and controlled by the talent agencies, especially by agents such as Silverman, Mark Itkin and Greg Lipston. They were the ones who knew how to create a hit formatted program. At the same time, the production and distribution of creative projects all depended upon de Mol. He knew how to create a hit format. In these two cases, the distribution structure of a format was organized by the relationship between de Mol and the agents. The knowledge resided in the relationship between de Mol and the agents; no external form of knowledge like a format bible was needed. However, in the case of the decentralized management of creative projects (e.g., Endemol’s Global Creative Team), knowledge must be stored in an external medium. Using Harold Innis’s idea, a format bible enables the coordination of super-indies’ distribution structure, just like paper and printing enabled the administration of an empire (Innis, 1950).

The format bible, in one sense, is a derivative of the production bible. In another sense, it is a reinvention. It performs a different function under a different logic of organization, coordination, and administration. The logic of systematically collecting and storing knowledge in an external medium, however, was not new at all. It was a part of a larger shift in the conceptualization of creativity in developed countries in the late 1990s and early 2000s. During that period, creativity had more to do with economic resources and less to do with individuals’ creative minds.

This new conceptualization of creativity stemmed from the rise of creative industries and later the creative economy, which had already emerged in industries and policy arenas in the late 1990s and early 2000s. The term creative industries first came to prominence in a policy arena in 1998 when the UK Department of Culture, Media, and Sport published Creative Industries
Mapping Document (Hartley et al., 2013, pp. 58–62). The document, revised in 2001, defined creative industries as “those industries which have their origin in individual creativity, skill and talent and which have a potential for wealth and job creation through the generation and exploitation of intellectual property” (Department of Culture Media and Sport, 2001, p. 5). The articulation on economic resources, as Garnham (2005) argued, was very much in line with “economic analyses and policy arguments that have referred to the ‘information society’” (2005, p. 20). Garnham explained that there is “a vision of the information or knowledge economy as a new stage in the development of capitalism . . . and bringing major social and cultural changes in its wake that justify the term ‘information society’” (p. 21).

We already witnessed this vision unfold in the Television Without Frontiers Directive in Chapter 2 when the vision was met with territorial governance, the dream of a unified Europe had its specific form galvanized by new technologies, such as satellite and cable. When the vision was met with capitalist logic, a new economic sector emerged as a crucial part of the national economy. Soon, combining “creative” and countries’ names became a fad (e.g., Creative France, Creative Korea, Creative Australia). Even the United Nations produced two reports, Creative Economy Report 2008 and Creative Economy Report 2010, both of which framed creative industries and the creative economy as a new engine of national wealth and, therefore, an important policy agenda for economic development (United Nations Conference on Trade and Development, 2008, 2010).

In the middle of this larger shift, Mike Morley, the head of Endemol’s Global Creative Team in 2004, argued that “creativity is not magic” but “a resource that has to be properly minded” from “a two-decade track record” (Edmunds, 2004, p. 17). Morley’s short comment embodied the new conception of creativity, which moved away from being a product of an
individual’s genius. And writing a format bible is the very technique that collects creative elements buried in a creative reservoir spread across multiple local markets.

Thus, the format bible emerged as a response to super-indies’ need to coordinate network structure and management and was effectively justified by the new cultural and economic notion of creativity. However, this does not mean that the format bible emerged as a physical form of the format. I must emphasize that a format bible appeared not as an object but as a function, a logic of coordinating a corporation’s local subsidiaries. It is my contention that the format bible was fully invented when the legal definition constructed format bibles as a crucial part of the format business. Now, we turn to the formation of the legality of formats in the early 2000s, a period when the legal definition of formats drastically changed.

**Shift in the Legal Definition in the U.S., the Netherlands, and Australia**

Previous sections of this chapter focus on the emergence of the format bible from the intrafirm relationships of super-indies. Now, we leave these intrafirm relationships and return to the interfirm relationships on the international level, where format’s copyright has been an ongoing issue. In the following sections, I examine how the format bible entered into the legal definition of a format, enabling the legality of formats.

Chapter 2 of this dissertation examined different courts’ similar attitudes toward the legal definition of television formats as intellectual property in the late 1980s and 1990s. Cases in Sweden and Spain were anomalies, as courts in general did not recognize the copyright of formats. Such an attitude continued in the early 2000s despite the popularity of the television format in the global television industry.

For example, Germany’s Federal Supreme Court, Bundesgerichtshof, made a decision in the 2003 case TV-Design v. Südwestrundfunk (SWR). TV-Design first produced a program
called *L’école des Fans* in France in 1977. TV-Design offered the format to SWR. SWR declined the offer, but produced a show called *Kinderquatsch mit Michael*, which was similar to the French program. TV-Design claimed that SWR infringed upon its copyright and created confusion in the market. The court, however, rejected TV-Design’s argument because a format is “not susceptible to copyright protection” (35 IIC. 987). It defined a format as “a mere set of instructions . . . on putting together other similar materials,” differentiating it from “the result of creative forming of a certain material,” which could only be protected by copyright law (TV-Design v. Südwestrundfunk, 2003).

Another example is a dispute case in Denmark in 1999. Celador Productions, the owner of the *Who Wants to Be a Millionaire?* format, accused Danmarks Radio of copying its format and producing *Kvit eller Dobbelf* (*Double or Quits*) without permission. It sought an injunction against the Danish broadcaster for violating copyright law and the Marketing Practices Act. The Court of Gladsaxe argued that the *Who Wants to Be a Millionaire?* format was not a copyright-protected work. However, the courts agreed that Danmarks Radio violated the Marketing Practices Act and ordered the cessation of *Kvit eller Dobbelf* (Celador Productions Ltd. v. Danmarks Radio, 1999). Although Danmarks Radio appealed, the appeals court, the High Court of the Easter Circuit, upheld the lower court’s decision.

In the case of Celador Productions ltd. v. Danmarks Radio in 1999, Denmark’s courts offered a definition of a format different from those offered by the courts of New Zealand, Canada, and the United Kingdom. The court stated that it allowed “the defendant’s claim that a TV format is a collection of ideas and principles which—viewed in isolation—are not subject to copyright protection” (Celador Productions ltd. V. Danmarks Radio, 1999, p. 169). Although the focus of the definition was ideas and principles, a collection was a new concept introduced in the
legal discourse. Four years later, the term was interpreted in a radically different way in the United States.

In 2003, in the United States, Survivor Productions and CBS, which produced Survivor USA by adapting the Survivor format, argued that the U.S. version of I’m a Celebrity . . . Get Me Out of Here!, whose format was produced by Granada and aired on ABC, infringed on the copyright of the Survivor format (Singh & Nagpal, 2011). They claimed that Survivor and I’m a Celebrity . . . Get Me Out of Here! were similar and that they both “featured individuals in remote locations, living off the land and being subjected to elimination one-by-one based on viewers’ telephone votes” (Singh & Nagpal, 2011, p. 20). The plaintiffs asked the court to stop ABC from airing I’m a Celebrity. Granada and ABC argued that they were different. Finally, the dispute was resolved in U.S. District Court for the Southern District of New York on January 13, 2003. That court ruled that I’m a Celebrity was different from Survivor.

More important than the decision itself is the reasoning behind it. The court referred to Section 102(b) of the Copyright Act to make a distinction between mere ideas and the expression of ideas. However, it soon addressed the elusive character of the distinction. It discussed the protectability of the collection of generic ideas. It referred to a precedent case in a 1991 Supreme Court ruling on Feist Publications, Inc., v. Rural Telephone Serv. Co. and it quoted Justice O’Connor’s opinion:

When a compilation author has no written expression, but rather lets the facts speak for themselves, the expressive element is more elusive. The only conceivable expression is the manner in which the compiler has selected and arranged the facts. Thus, if the selection and arrangement are original, these elements of the work are eligible for copyright protection. No matter how original
the format, however, the facts themselves do not become original through
association (as cited in Survivor Productions LLC & CBS Broadcasting Inc. v.

The protectability of compilation is “thin” and “limited” because the purpose of copyright law is
not to reward the effort of simple collecting. Judge Preska reaffirmed that a compilation of facts
nevertheless has copyright protection and that a television format is a compilation of facts. The
courts pinpointed that the manner of compiling, including selecting and arranging facts, is an
expression of ideas. Compared to the cases in New Zealand, Canada, the United Kingdom, and
Denmark, this case gave authorship to format owners as compilers. Thus, a new conception of a
format as “a compilation of ideas” entered the legal discourse, challenging the dichotomy of “a
mere idea” and “an expression of ideas.”

This shift in the legal definition of a television format was also presented in the Dutch
case Castaway Television Productions Ltd & Planet 24 Productions Ltd v. Endemol
Entertainment & John De Mol Productions. In 1999, Castaway Television Productions, which
owned the Survive! format claimed that Endemol’s Big Brother was an infringement upon
Survive! In June 2000, the District Court of Amsterdam argued that the Survive! format was a
copyrighted work. After this decision, subsequent courts, the Dutch Court of Appeal in 2002 and
the Supreme Court of the Netherlands in 2004, allowed Castaway’s definition of a format as “a
combination of unprotected elements” and affirmed that a format has copyright protection
(Castaway Television Productions Ltd & Planet 24 Productions Ltd v. Endemol Entertainment &

This definition of a television format can also be found in an Australian case, Nine Films
and Television Pty Ltd v. Ninox Television Ltd (2005). Ninox is the New Zealand creator of a
competition reality program called *Dream Home*, as well as its format. Nine, an Australian company, had a negotiation with Ninox to license the *Dream Home* format for one season in 2000. Nine, then, decided not to renew the license and produced its own competition reality program called *The Block*. As a response, Ninox threatened Nine for copyright infringement. Nine filed a lawsuit against Ninox for “groundless threats.” The Federal Court of Australia made a similar definition of a format. It stated:

> In general, there is no copyright in the central idea or theme of a story or play, however original it may be; copyright subsists in the combination of situations, events and scenes which constitute the particular working out or expression of the idea or theme. (Nine Films and Television Pty Ltd v. Ninox Television Ltd, 2005)

The three courts (American, Dutch, and Australian) recognized that a compilation or combination of mere ideas can be protected by the copyright laws, whereas a mere idea cannot be protected. They carved an area for formats in the idea–expression dichotomy in understanding copyright protections.

> The expansion of the definition of a format depended upon the notion of originality. As illustrated in Chapter 2, the New Zealand and Canada cases conceptualize originality as something that is fixed in authors’ expressions. However, the originality in the U.S., Dutch, and Australian cases became a rather loose concept. According to those rulings, an original work can be found in both an author’s expression and an author’s manner of putting unprotected ideas together. As the Federal Court of Australia aptly stated, copyright law protects “the work and skill embodied in the expression of an idea” (Nine Films and Television Pty Ltd v. Ninox Television Ltd, 2005). As a result of loosening the tie between originality and expression, the copyright of formats shifted the focus of copyright laws away from balancing authors’ rights and
public interest for “the free exchange and ability to develop ideas” (Green v. the BCNZ, 1989). After all, the purpose of the idea-expression dichotomy was to limit the private ownership of ideas and protect the public domain of free use and exchange of ideas. By broadening the notion of originality, the judgment of whether one work is an infringement upon another has become a technical matter because a judge also needs to examine the originality of skills of compiling unprotected elements rather than make a moral judgment of protecting the public domain.

Protection of Domestic Corporations

Despite the shift in the legal definition of a television format in the United States, the Netherlands, and Australia, it was still not easy to pass the infringement test, which examines whether an infringement actually has occurred. Without the recognition of infringement by the courts, meaningful winning is not possible. In the United States, the Netherlands, and Australia, the plaintiffs (Survivor Productions and CBS, Castaway Television Productions and Planet 24 Productions, and Nine) failed to win the cases or to ban the alleged copies of their formats. The U.S. District Court, the courts of the Netherlands, and Federal Court of Australia denied that the alleged copies of the formats infringed on the copyright.

The U.S. District Court did not find substantial similarities between Survivor and I’m a Celebrity. The judge, instead of examining each of the elements that were claimed to be copied, used the method of “total concept and feel” to analyze the two formats. By referring to the decision made by the United States Court of Appeals in a 1995 case called Knitwaves, Inc. v. Lollytogs Ltd., Judge Preska argued that examining individual elements that make up the compiled whole would be a flawed way to judge the originality of a work:

If we took this argument to its logical conclusion, we might have to decide that there can be no originality in a painting, because all colors of paint have been

The Supreme Court of the Netherlands gave a similar statement:

An infringement can only be involved if a similar selection of several of these elements have been copied in an identifiable way. If all the elements have been copied, there is no doubt. In that case copyright infringement is involved. If only one (unprotected) element has been copied, the situation is also clear: in that case no infringement is involved. A general answer to the question of how many elements must have been copied for infringement to be involved cannot be given; this depends on the circumstances of the case. (Castaway Television Productions Ltd & Planet 24 Productions Ltd v. Endemol Entertainment & John De Mol Productions, 2004 as cited in Challis & Coad, 2004)

In addition, the Federal Court of Australia examined whether there was any “sufficient resemblance in mood, tone, portrayal, structure, visual and aural impact” (Nine Films and Television Pty Ltd v. Ninox Television Ltd, 2005). The sufficient resemblance was determined by “the whole of the series and the importance of the relevant parts in that context” (Nine Films and Television Pty Ltd v. Ninox Television Ltd, 2005).

Rather than examining each element that was claimed to be copied without permission, the courts chose to compare and contrast the total feel of the two formats in dispute. However, the “total concept and feel,” the “overall impression,” or the “sufficient resemblance” had little to do with technical standards. The standards were too broad to be driven by scientific judgment; instead, they were driven by political and economic judgment. This is not to say that the courts
consciously disregarded the evidence and made biased decisions. Rather, the decisions made by the courts were vulnerable to political and economic conditions.

The political and economic decisions were driven by two factors. First, due to the international nature of a format (i.e., a format can be called a format only once it is adapted outside its country of origin), an international format copyright infringement dispute is composed of the owner of a format and an alleged copycat from another country. In other words, the nationality of the plaintiff is different from that of the defendant. Second, a format copyright infringement dispute is ruled by the court of the territories of adaptation. In other words, the jurisdiction of the format infringement dispute is the country of domicile or habitual residence of the defendant (Xalabarder, 2002). Under these two conditions, national courts face foreign plaintiffs and domestic defendants.

For example, all cases discussed in Chapter 2 and this chapter (Green v. BCNZ, Hutton v. CBC, TV-Design v. SWR, Castaway Television Productions & Planet 24 Productions v. Endemol Entertainment & John de Mol Productions, Nine Films and Television v. Ninox Television) were ruled by the courts in the territories of the defendants. The courts protected the defendants. Celador Productions v. Danmarks Radio, ruled by the Court of Gladsaxe and the High Court of the Easter Circuit, is an anomaly because the courts did not ultimately protect the domestic broadcasting corporation. However, regarding the issue of copyright, the courts did not necessarily rule in favor of the foreign plaintiff, Celador Productions. Therefore, I argue that the nature of the dispute and the mechanism of resolution often led to a protectionist tendency. The courts tended to protect the companies of their territories.

When domestic companies are involved as both plaintiffs and defendants, the protectionist tendency of courts is more visible. In the case of Survivor Productions & CBS
Broadcasting v. Granada, Granada Entertainment USA & ABC Inc. in 2003, such tendency was hinted at in the conclusion made by the U.S. District Court. In the conclusion, Judge Preska used “the balance of hardship test.” It is a test to weigh the harm suffered by the plaintiff if an injunction is not given and the harm suffered by the defendant if an injunction is granted. The court argued:

If a preliminary injunction were issued . . . defendants would be unable to proceed with the scheduled production and broadcast of a program that is to be the centerpiece of ABC’s February 2003 sweeps offering. In turn, this would affect ABC’s programming and ratings for months ahead and interfere with its relationships with its affiliates . . . More damaging, however, I am persuaded that prohibiting Celebrity from airing will bring to a screeching halt the momentum ABC has generated in regaining its ratings. (CBS Broad., Inc. v. ABC, 2003)

The District Court was concerned about the economic impact its decision would have on ABC’s programming and ratings (Meehan & Torre, 2012).

Broader definitions of a television format and methods of testing the resemblance between two formats in dispute produced decisions that tended to benefit or protect domestic media corporations. Thus, the American, Dutch, and Australian courts recognized the copyright of the formats without acknowledging the infringement.

**Big Brother in Brazil**

However, in 2003, a court ruling on a format copyright infringement case in Brazil broke from the tendency of protecting domestic corporations. In this case, the plaintiffs were TV Globo and Endemol, and the defendant was TV Sistema Brasileiro de Televisao (SBT; TV Globo & Endemol v. TV SBT). The story begins with a negotiation between Endemol and SBT, the
second-largest Brazilian broadcaster, to produce a Brazilian version of *Big Brother*. After 3 months of discussion, TV SBT chose not to acquire the license of the format. Endemol then had a negotiation with TV Globo, the biggest television network in Brazil, and decided to launch *Big Brother Brazil* in 2002. Meanwhile, TV SBT launched a similar program called *Casa dos Artistas* before *Big Brother Brazil* in 2001. *Casa dos Artistas* was a big hit, beating Globo on Sunday nights. The last episode of *Casa dos Artistas* gained an average 46.4% of audience share in the São Paulo region (Cajueiro, 2002a). Although *Big Brother Brazil* later beat *Casa dos Artistas* in the ratings (Cajueiro, 2002d), TV Globo and Endemol claimed that there was an unfair competition due to plagiarism. The two corporations filed a suit against TV SBT for infringing on the *Big Brother* format.

A municipal court of São Paulo recognized the copyright protection of a television format. More important, it ruled that *Casa dos Artistas* was an infringement on the *Big Brother* format. The court ordered TV SBT to cease broadcasting *Casa dos Artistas* and awarded damages of 2.25 million BRL (about 1.3 million USD) to Endemol and 6 million BRL (about 3.5 million USD) to TV Globo. Even though TV SBT appealed, the Fifth Private Law Division of the Court of Appeals of the State of São Paulo upheld the municipal court’s rulings in 2010 (TV Globo & Endemol v. TV SBT, 2010).

TV SBT made a similar argument to the BCNZ in its dispute with Hugh Green in 1989. It argued that the *Big Brother* format could not enjoy copyright protection because it was a mere idea that did not have any “predetermined scripts, lines and dialogues” (TV Globo & Endemol v. TV SBT, 2010). However, contrary to the ruling of the courts in New Zealand, the Brazilian court argued that a format is more than a mere idea. First, the court emphasized that the details of a format are key, and require protection.
The format of the program *Big Brother* is not limited to spying on these people locked up in a house, period; it goes far beyond that. The format contemplates a program with a beginning, a middle and an end, with minute description not only of the rooms in which the people will temporarily reside, but also of the places in which the cameras are placed. The format contains details such as the use of microphones attached to the participants’ bodies, connected around the clock, the kind of music, the way by which the participants will have contact with the outside world, the activities, among others. (TV Globo & Endemol v. TV SBT, 2010)

The ruling established the uniqueness of the *Big Brother* format, distinguishing it from other formats in the genre of reality television.

Second, and more important, the court established the format bible as an expressed form of ideas. In the prevailing opinion, Judge Silvério Ribeiro stated the importance of the format bible when defining a format:

Contrary to what is intended to be believed, the format of the program *Big Brother*, known as *Bible*, is not a mere conception, is not only in the field of the ideas, but, rather, it stands out in a vivified work, since it combines a series of elements that characterize it *de per se*, as unique and particular in its composition, an inventive fruit of the human spirit. (TV Globo & Endemol v. TV SBT, 2010)

In the cases discussed in the previous sections, no court conceptualized the format bible as an expression of a format. Those courts assumed that scripts and produced audiovisual texts were the only expressions of a format. However, the Brazilian court granted the format bible as a form
that contains a compilation of ideas. The format bible became a “fruit of the human spirit.” This ruling changed how a format is imagined in the global community.

Regarding the originality of the Big Brother format, Judge Silvédio Ribeiro did not just consider Big Brother Brazil alone. He wrote:

There is originality in its creation, when the program is compared to others already launched by the television stations worldwide. So much so that, in the other countries where the model Big Brother was produced, the respective stations obtained the authorization of the appropriate party. (TV Globo & Endemol v. TV SBT, 2010)

The court compared Big Brother Brazil with other versions of Big Brother already produced in other countries, and argued that there is “Big-Brother-ness” common to all versions. This quality is identifiable even in the preproduction stage. It legitimized a prototypical model as a work of “human spirit.” This is a peculiar way of testing originality. Courts, as discussed in previous sections, only examined formatted programs that have been actually produced; they did not really care about versions produced in other countries.

Indeed, there was a dissenting opinion regarding the originality in the ruling. Judge James Siano asserted that one can compare the idea of Big Brother, which is having people locked up in a confined space under surveillance, to other literary works such as Jean Paul Sartre’s Huis Clos, George Orwell’s 1984, and even Jeremy Bentham’s concept of the Panopticon (TV Globo & Endemol v. TV SBT, 2010). Thus, Judge Siano concluded that Endemol’s Big Brother is not original but old, containing ideas that have already been widely exploited; thus, he argued that the format failed to pass the originality test. However, the majority opinion instead limited the scope of comparison to “reality television shows” and concluded that Big Brother was original.
In a more precise sense, the ruling legitimized the originality of *Big Brother Brazil* and the business model of Endemol.

Moreover, the ruling demonstrated how the court concluded that there was in fact an infringement. It is always hard to prove there is a copyright infringement. However, the courts pointed out that TV SBT registered *Casa dos Artistas* at the Copyright Office of the National Library Foundation on August 15, 2001, which was after the date of access to the *Big Brother* format bible during its negotiations with Endemol on September 4, 2000 (TV Globo & Endemol v. TV SBT, 2010). On the one hand, the court undermined the independence of *Casa dos Artistas*. On the other hand, the court validated the value of information in the bible by emphasizing its significance as “technical, economic, commercial and operational guidelines” (TV Globo & Endemol v. TV SBT, 2010).

To summarize, the Brazilian case is analytically significant because it granted copyright protection to a format. More importantly, it established the legality of formats by conceptualizing a format bible as a literary work, just like a script. Contrary to rulings of courts in other countries, the Brazilian courts legitimized the business strategy that Endemol pursued. Finally, contrary to rulings of courts in other countries, the Brazilian ruling deviated from the protectionist tendency as discussed in the previous section. It is peculiar that the court took out an injunction against a domestic media corporation. It could have taken an action, similar to that of the U.S. District Court. In order to understand the peculiarity, I will next examine the political and economic conditions of the Brazilian television industry in the early 2000s.

**Television in Brazil**

From the viewpoint of a political economist, the significance of the Brazilian case really lies in the political and economic forces that led to the shift in the definition of a television
format. The case requires a look at political and economic history to fully understand the argument developed by the court (May, 1998, p. 76). In this sense, the ruling made by the Brazilian court was not a neutral argument, but a reflection of the political and economic conditions of Brazil in the early 2000s. This ruling coincided with the rise of Brazil on the international scene.

The Brazilian economy became integrated into the global economy in the late 1990s and early 2000s during the presidencies of Fernando Henrique Cardoso (1995–2002) and Luiz Inácio Lula da Silva (2003–2010; Cervo, 2010). Cardoso, with a neoliberal political philosophy, had a plan to develop the country’s economy through foreign direct investment (FDI). FDI would, as the government believed, “finance balance-of-payment deficits, modernize industrial structures, develop advanced technology, promote productivity and boost the international competitiveness of Brazilian exports” (Rocha, 2002, p. 7). To increase the flow of FDI into the country, the Cardoso government opened its markets to foreign capital by eliminating barriers for foreign companies to privatize resources and infrastructures (Rocha, 2002). However, Cardoso’s liberalization plan caused the collapse of currency in 1999, due to the rise in U.S. interest rates (Sader, 2005). The economic crisis swept over much of Latin America: Mexico in 1994, Brazil in 1999, and Argentina in 2001 (Sader, 2005). Cervo (2010) posited that the neoliberal plan made the country powerless and more obedient to global governance led by the First World.

This economic crisis damaged the Brazilian television industry, including its broadcast networks (Paxman & Cajueiro, 1999). The industry had been dominated by TV Globo, a Brazilian television network founded and owned by the Marinho family. It had been the most dominant television network, a virtual monopoly, in the domestic market since the 1960s (de Lima, 1988). In the 1990s, TV Globo was still dominant even though a few competitors (e.g., TV
SBT, TV Manchete, and TV Bandeirantes) emerged (Marques de Melo, 1991, as cited in Sinclair & Straubhaar, 2013, p. 79). It was also a dominant exporter of telenovelas in Latin American markets (Sinclair & Straubhaar, 2013, p. 81).

In the 1990s, TV Globo’s dominance began to decline as it encountered more competition, particularly TV SBT. TV Globo had to constantly compete with TV SBT for audience share. In addition, TV Globo had strong competition in the subscription TV business (Sinclair, 1999, p. 72). The first subscription service was not offered by TV Globo, but by Televisão Abril (TVA). To catch up, TV Globo committed to providing a subscription service. However, its investment in cable and the internet resulted in an inadequate return, which led to a financial crisis in the late 1990s (Wilkin, 2008, p. 107). The corporation’s financial crisis was exacerbated by the devaluation of the country’s currency against the dollar. In 2002, the corporation had to “file for bankruptcy protection to rid itself of its $US1,500 m debt” (Wilkin, 2008, p. 111).

Policymakers attempted to support the television industry by attracting foreign investment. In February 2002, Brazil’s House of Representatives passed a bill to amend the country’s constitution to allow foreign companies to own up to 30% of the total share of Brazilian media companies in hope of attracting foreign investment (Wilkin, 2008, p. 111). Before this amendment, only Brazilian citizens could own media companies (Penteado, 2002). In addition, Brazil changed its law to allow naturalized persons as well as legal entities to manage print and broadcast media outlets (Wilkin, 2008). There was a shared understanding among the government, the congress, and the industry that foreign investment was the solution to the struggling industry. TV Globo had long been a supporter of a protectionist policy before its financial crisis, believing that a barrier to foreign capital would “improve and sustain its own
position as a big producer of national content” (da Silva, 2008, p. 40). However, the broadcasting corporation, out of desperation, changed its stance on foreign investment and supported the amendments. In October 2002, the legislation on foreign ownership was published by a presidential decree rather than a congressional bill to speed up the process (Cajueiro, 2002b). The industry’s attitude and the government’s impatience demonstrated the desperate need for foreign investment in the industry or, to be exact, the desperate belief that foreign investment was the sole cure.

The amendments to the constitution could not automatically attract foreign investment, even though Brazil possessed a large television market (DeJuana, 2002). Corporations were pressured to make changes to become more agile and balanced (Penteado, 2002). TV Globo restructured its business by laying off staff and selling assets (Cajueiro, 2002c; Penteado, 2002). However, as Carlos Eduardo Lins da Silva (2008) explained, only a few investors “have moved into the market and these largely related to the print media” (2008, p. 37).

During this turbulence within the Brazilian media industry, in 2001 Endemol established a 50-50 joint venture with TV Globo called Endemol Globo to produce and distribute formats such as Big Brother (Hecht, 2001). This venture lasted until 2017 (Middleton, 2017). While the joint venture gave Endemol access to a large Latin American television market, it also gave Globo an exclusive right to exploit Endemol’s formats, including the Big Brother format (Moran & Malbon, 2006, p. 94). The joint venture was important for TV Globo and Endemol, as well as for the Brazilian state. Through this joint-venture form of foreign investment, the state could demonstrate how their media industry had become modernized, moving it closer to the American standard.
This is precisely the historical context in which the *Big Brother* format infringement case must be read. That is, it was the state’s obligation and desire to demonstrate that its markets and legal frameworks were modernized to meet the standards of the more developed countries where foreign investments often originate. Copyright was not an exception. When TV Globo and Endemol claimed that their *Big Brother* format was being infringed upon, the Brazilian broadcaster framed the matter in developmental discourse. It claimed that “a country that does not respect intellectual rights will never become ‘developed’” (Penteado, 2001, para. 59). The possibility that such infringement would hurt Brazil’s national reputation and undermine potential foreign investment were fears of both the state and the industry. Modernization of the legal framework to provide investors with market confidence was and still is an important mission of states. Modernizing the legal framework was especially in line with Lula’s plan to globalize Brazil. Although Lula’s government criticized Cardoso’s neoliberal plan, it did not make an immediate change in its economic policy in 2003 (Sader, 2005). It instead employed “an economic policy of transition” to gain “confidence of the market” (Sader, 2005, p. 70). The liberal economic plan that Lula’s government pursued was a path to become a globalist state rather than “a passive spectator of market forces and hegemonic power” (Cervo, 2010, p. 10). Therefore, regardless of the government’s political stance, it was the state’s mission to modernize the legal framework to provide foreign investors with confidence and fairness in the market (Halliday & Carruthers, 2003, as cited in Schwartzman, 2006, p. 281).

The *Big Brother* case in Brazil must be read in this political and economic context. For the television industry and the state, the decision made by the court was a political decision to secure investments and a diplomatic decision to give foreign investors confidence. Unlike other courts, the Brazilian court expressed its recognition of the present form of global format business
and the business strategies of multinational corporations such as Endemol. It also noted in the ruling that Brazil was a signatory to the Bern Convention (Challis & Coad, 2004). It means that Brazilian courts give basic protections to a work from another territory and equal treatment regardless of nationalities. While the other courts had treated format copyright infringement disputes as a domestic issue, the Brazilian court expressed a clear understanding of international agreements and its willingness to meet international standards.

There are some implications of the Brazilian format copyright infringement case regarding the commodification of formats. First, the legal definition of format copyright was the product of the interaction between national politics and the global economy. The commodity value of the format was legitimized by courts’ rulings made in countries such as the United States, the Netherlands, Australia, and Brazil. Second and more important, the format bible as a commodity form was validated not by the international regime of intellectual property rights, but by the Brazilian state, whose prime concern was to attract foreign capital to revive the economy. Borrowing Tomlinson’s (1991) idea of globalization, the legitimacy of formats as a global commodity was established as the result of states’ governance via judiciary institutions which did not aim to commodify the format per se but “nonetheless produced it” (p. 175).

**Gentlemen’s League**

The legal basis of formats established in Brazil did not directly influence other jurisdictions. It did directly affect the television format community: corporations, industry professionals, lawyers, and so on. The decision gave an especially pleasant surprise to the Format Recognition and Production Association (FRAPA), an international alliance of producers and broadcasters “to combat the growing problem of TV-format piracy” (FRAPA, n.d.-b).
FRAPA claimed that the Brazilian case was a landmark ruling that set a precedent for future cases (Hecht, 2003).

This international alliance of producers and broadcasters was established in April 2000 during MIPTV, where international producers and broadcasters pledged their support to combat copyright theft (Dams, 2000). The creation of FRAPA was led by David Lyle, who was then the head of light entertainment, development, acquisitions, and resources for Pearson Television (Dams, 2000). Due to legal uncertainty on the issue of a format’s copyright, industry leaders attempted to contrive “a more TV-savvy way of resolving disputes, without having to resort to legal cases” (Dams, 2000, p. 5). At first, there were eight members on an advisory board. Now, FRAPA has about 124 companies registered as members (FRAPA, n.d.-c). Initially, FRAPA was headquartered in Monte Carlo (Waugh, 2001); it moved to Cologne, Germany, and then Naarden, Netherlands.

One of FRAPA’s major methods for ensuring that formats are protected as intellectual property has been mediation (FRAPA, n.d.-b; Lyle, 2002). FRAPA guides discussions between parties involved in disputes to draw a satisfactory outcome for both parties outside of court (Lyle, 2002). Another mission was to lobby local legislators to strengthen laws for the protection of formats (Lyle, 2002).

More important, FRAPA published documents that helped the global community form a shared meaning of formats and format bibles. It has so far published three reports for its members: FRAPA Report 2009, FRAPA Report 2011, and Backer McKenzie Report 2017. FRAPA Report 2011 specifically deals with the protection of format rights. In the report, as

---

18 King World International President Fred Cohen, Columbia TriStar VP Format Sales Paul Gilbert, Endemol Executive Director of Program Affairs Gary Carter, Canada’s Distraction CEO Michel Roderigue, Mentorn International Managing Director Mark Rowland, Pearson Television Head of Legal and Business Affairs Alex Lee, Argentina’s Telefe International General Manager Cesar Diaz, and Expand Images President Denis Mermet (Turner, 2000).
learned from the Brazilian case, the organization emphasized the significance of having a format bible as a shield to protect producers from copycats:

In an attempt to demonstrate that a format is a protectable copyright work, the industry relies upon the format bible. The format bible should set out as much detail about the content and structure of the format. Information about the constituent parts (e.g. the rounds in a game show) should be included as well as details about the music, opening sequence, introduction, lighting, stage design, production know-how and camera layout, to evidence the skill and labour invested in creating a television format. (Singh & Nagpal, 2011, p. 12)

The documents functioned as a narrative to establish a shared meaning of formats and a shared notion of best practice in the industry.

The narrative also has been reproduced by industry documents such as “Copyright is Creativity” (2012) by RTL Group, the parent company of FremantleMedia. The document uses the Brazilian case to represent the epitome of legal thinking in format trade and industry. The WIT (2016) also emphasized the importance of writing a format bible:

The more detailed the blueprint is, the easier it is to demonstrate when it has been copied. The format bible shows you are its author, the owner of this intellectual property, and will help you secure (and protect) your revenues. (p. 15)

In addition, major trade journals such as C21 Media, Variety, and The Hollywood Reporter circulated the news to their global audiences. The trade journals shaped the discourse about formats for those in English-speaking countries as well as those who participate in the global trade of finished television programs and formats. In fact, English is the only language that “people use whenever they wish to communicate with others outside their own linguistic
community” (Moran & Keane, 2006, p. 82). Moreover, given the fact that the leading producers of formats were and still are located in the United Kingdom and the United States, the trade journals published in those major locations inevitably become more prestigious and valuable for the global format community. These trade journals were the apostles that spread the word about the importance of the format bible within the format community. In fact, the specific term “format bible” had not been used before the Brazilian case. It was the trade journals that caused the term to be widely used. A format bible has become a commodity form that has made the global format business community able to conveniently discuss and imagine their business.

Interestingly, FRAPA created a service in 2012 called Bible Generator, a “tool specially designed by The Format People Group to help FRAPA members to build a production or format bible” (FRAPA, n.d.-a). The service provides members with a template for game shows, reality shows, and scripted formats, showing them what a format should look like (Stephens, 2012). One board member even commented that “it’s scandalous to allow people to sell formatted shows with either no bible attached, or with bibles that are so inadequate as to be useless” (Stephens, 2012, para. 3). FRAPA legitimized and popularized the format bible as a commodity form. Simultaneously, the format bible legitimized FRAPA as well as the whole alliance, composed of the WIT, trade journals, and corporations. This reciprocal legitimation allowed a format bible as a commodity form, creating a standard in the practice of format production and distribution.

**Conclusion**

In this chapter, I attempted to capture the complex history of inventing the television format bible as a commodity form. While Chalaby (2011) and industry professionals put more emphasis on four super-formats, *Who Wants to Be a Millionaire?*, *Survivor*, *Big Brother*, and
Pop Idol, as the agents that opened the new era of global format trade by creating the demand for formats, I focused on the condition from which the commodity form of formats emerged.

I articulated in this chapter that a format bible did not first emerge as a recipe for the reproduction and adaptation of global television shows in local television markets. Although a production bible had long been used in Hollywood, a format bible had not been conceived before 2003. The function of the format bible emerged from the need to maximize the coordination of creative works in the networked corporate structure of super-indies. Recording production processes and track records have become the value of television formats. However, the value of formats was not sufficient for it to become a commodity without a form that is protected by law. Only after the copyright infringement case in Brazil in 2003, in which a format bible played the role of a commodity form, has it been legitimized as something more than a document of television concepts or mere ideas. This local decision was circulated by an alliance of industry professionals, their publications, and trade journals to form a shared meaning of format trade and format bibles.

This complex story of inventing the format bible reveals three forces operating in global television. First, the format bible is an innovation in balancing capital’s centripetal and centrifugal tendencies. Second, it is a product of the state’s politics in response to the global economy. Third, a gentlemen’s league interpreted the meaning of format trade. The three forces operated independently yet converged, and as a result the format bible has become validated and legitimized as a commodity form. There was not a singular force that had a global project of creating a new commodity and market. However, that does not mean that the invention of the format bible demonstrates a pure historical chance or a simple “market mechanism.” This chapter demonstrated the complex emergence of a commodity form via oddly intersected forces.
CHAPTER 5. MARKETPLACES AND THE MATERIALIZATION OF FORMAT

Since 2004, a global format community has grown with the help of the industry alliance. The community invited creators and producers from around the world to participate in developing the community. It began to build a global market for formats to facilitate exchanges of formats. This chapter is about the role of the marketplace in the process of commodifying the formats.

At first, this may sound odd. Is it not the role of a marketplace to facilitate the exchange of products that have already been commodified? Despite the formation of the format’s legality and functionality, one question remains: how can sellers and buyers exchange ideas, television program concepts, and know-how? For them to exchange ideas, concepts, and know-how, they must recognize that one format is more valuable than another and, therefore, more capable of traveling across national borders. The ability to recognize the value of the format does not come naturally. Sellers and buyers need help; otherwise, the business of exchanging ideas, concepts, and know-how is prone to failure.

In this chapter, I will examine how a market as an institution organizes the exchange of formats between sellers and buyers in marketplaces (Polanyi, 1957). In other words, a market equips sellers and buyers to recognize and differentiate commodities. Rather than training them for a new set of practices, the market materializes the formats as if they exchange finished programs.

I argue that a market constructs the materiality of a format as one aspect of a commodity form to organize the exchange. By materiality, I do not mean the physicality of objects. This chapter takes the notion of materiality that Don Slater (2002) used to highlight the stability of things. He argues that an object “oscillates wildly between an absolute, pre-given ‘thingness’ and
an equally absolute indeterminacy, when it is treated as a sign” (pp. 96–97). Slater then directed our attention to social processes whereby a thing becomes “durable, stable, and external to individuals” (p. 96)—or materialization. For example, a car is materialized in a stable form by “categories of things” (e.g., a means of transportation) and “systems of provision” (e.g., roads), not just by its physicality. Therefore, materialization or making things stable is understood as “a conceptual and practical strategy” rather than the attainment or loss of physicality (Slater, 2002, p. 98).

Advised by anthropologists, economic sociologists, and cultural studies scholars, in 2015 I attended MIPTV, one of the largest marketplaces for global television. In particular, I focused on the role of MIPFormats, MIPTV’s subsidiary conference for the format community. I claim that the conference is not merely an additional event to a global market for television, as some scholars assume (e.g., Chalaby, 2016a, p. 70). I argue that the conference plays an important role in materializing formats in the marketplace. Then, I examine MIPFormat’s three major strategies to make the exchange format more stable.

**Making a Market: The Monte-Carlo Television Festival**

A global market for formats did not appear suddenly. To build a global market for a format, one requires crowds of people who supply and demand formats. In other words, there must first be a community of people interested in formats who share information, values, and cultures to form a market. After the construction of the legality and the functionality of the format in 2003 and 2004, the formation of a global format community has accelerated. On the one hand, a series of publications has appeared since 2005, signaling to industry professionals that the trade of formats is viable and growing. In addition, the publications shared the state of the art in the format business. In 2005, Screen Digest published *The Global Trade in Television*
Formats by Daniel Schmitt, Guy Bisson, and Christopher Fey (Jäger & Behrens, 2009). In 2005, European Broadcasting Union (EBU) published Trading TV Formats: The EBU Guide to the International Television Format Trade (Fey & Willard, 2005). In 2009, FRAPA published its first report to examine format trades from 2006 to 2008 (Jäger & Behrens, 2009). These publications contained statistical data to inform industry professionals about the number of exported and imported formats, the total revenue of the format trade, and the performance of these formats in each territory.

These publications have transformed the format as a general category of commodity. By making a format a quantitatively measurable thing, they can present the exchange of formats as a business activity undifferentiated from trading finished television programs or any other commodity, such as steel and aluminum. Quantification is nothing new in the television business; television programs have long been thought of as quantifiable commodities (e.g., the number of programs, the number of exports, the number of imports, etc.). In the case of format trade, these publications finally presented the business entirely by collecting and quantifying various formats. Rather than being associated with individual global brands such as Big Brother, Who Wants to Be a Millionaire?, Idol, or Survivor, the publications have created an image of the format as an ensemble displayed in a marketplace. This image has been maintained and enlarged by more trade publications and academic journals, reproducing some of the statistical data from the original ones, such as global total revenue or regional total revenue of a format in a given period. The publications have allowed the global television community to see a format as a thing upon which an industry is built, and a global format community has started to form.

However, perhaps, a more difficult and crucial task was to construct a physical space for the community. The first attempt was made by the Monte-Carlo Television Festival in 2003. The
television festival was established in 1961 in Monaco for the global television community (Monte-Carlo Television Festival, n.d.). This festival launched a conference called Formats Forum, “a three-day block of conferences dedicated to the business of buying and selling formats” (“Monte-Carlo TV,” 2003, p. 1). It invited panelists from Europe and the United States for five 1-hour sessions at the conference. It also offered Formats Video Library Screenings, “where buyers from around the world had the opportunity to screen the latest international formats productions” (Monte-Carlo Television Festival, 2003). The major services (e.g., conference sessions and the format video library) offered by the conference were reproduced in MIPFormats, which will be analyzed later in this chapter. In 2004, at the second Formats Forum, the festival created three new awards for formats: best reality show, best game show, and best scripted format (Waller, 2004).

The Monte-Carlo Television Festival’s Formats Forum did not last long. After the second conference in 2004, the organizer of the festival decided to end it. Although David Tomatis, then-executive vice president of the festival, boasted about the quality of the conference before the second Formats Forum, saying that “what counts is not the numbers but the caliber of the people attending” (James, 2004, p. 20), the reason to end the conference was that the number of participants was not “up to expectations” (“Monte Carlo TV Fest,” 2005, p. 6). Format Forum was unable to attract enough participants to sustain itself.

The Monte-Carlo Television Festival’s Formats Forum, with the benefit of hindsight, had a limitation. The Monte-Carlo Television Festival has been a smaller event held in February between two major television markets: NATPE (National Association of Television Programming Executives) in January and MIPTV in April (Johnsen, 2000). As NATPE and MIPTV have become more international markets, major Hollywood studios chose to attend the
big markets instead of the Monte-Carlo Television Festival. In addition, the mergers of major television companies exacerbated poor attendance at the festival (“Monte-Carlo TV,” 2003). The consolidation in the television industry led to a struggle among global television markets to compete for participants. Therefore, as an effort to avoid the pressure applied to the large markets, the Monte-Carlo Television Festival was moved from February to July (“Monte Carlo TV Fest,” 2005) and, more importantly, it decided to drop the market part of the event (“Monte-Carlo TV,” 2003). The festival transformed itself into something “more like a networking venue for the executives” (“Monte-Carlo TV,” 2003, p. 1). To underscore the importance of networking, the festival launched the Formats Forum for the format community. Starting Formats Forum was a strategic decision, made to adapt to structural changes in the programming markets. However, the strategy was largely a failure, leading to the forum’s quick dissolution. As a networking site without a market attached, Formats Forum was not sufficient to form and sustain a format community, hindering the emergence of the stability in the form of a format. However, the desire for stability still remained, leading format creators and producers to demand that MIPTV create a format community within the larger community of global television.

**Making a Market: MIPTV and MIPFormats**

While a space for the format community was formed and dissolved at the Monte-Carlo Television Festival, global brands of format business (e.g., *Fear Factor*, *Yo Soy Betty*, *La Fea*, etc.) entered global television markets. There are three major markets: MIPTV, MIPCOM (Marché International des Films et des Programmes pour la Télévision, la Vidéo, le câble et le Satellite), and NATPE (Bielby & Harrington, 2008; Havens, 2011). Creators, producers, distributors, broadcasters, financial agents, and others from various countries participate in these markets. They buy and sell both finished programs and formats and make coproduction deals.
Moreover, they build social networks and gather market intelligence about global television trends.

Global brands such as *Deal or No Deal* and *Fear Factor*, made by super-indies, generated buzz, here defined as “business-related word-of-mouth that circulates year-round, but becomes more intense and concentrated” in the global television programming markets (Havens, 2003, p. 28). Expressions such as “waves of reality formats” (Guider, 2004, p. 1) and “explosion” (James & Tasca, 2004) were used to reflect, as well as to generate excitement about popular formats in the markets.

In addition to the global brands, since 2005, many participants from peripheral countries of global television have emerged to trade formats in the markets. Companies from France (Sidhva, 2005), Latin America (Roxborough, 2005), and Scandinavia (“Scandinavia to the World,” 2007) have brought formats to the market. Formats especially flooded into the global television programming market when the demand for formats expanded in the United States as American networks anticipated another strike by the Writers Guild of America (Esser, 2010; Turner, 2007). For format producers from other countries, the American strike gave them an opportunity to pitch their formats to the networks, who again sought a cost-effective way to dampen the strike (“Despite all, still,” 2008). In addition, digitization, including mobile content (Meza, 2004), made more buzz in the market, galvanizing the thought of exploiting finished programs as well as formats for multiple platforms (Guider & Turner, 2007).

With this inertia of growing attention to formats, despite the global financial crisis in 2008 and 2009, there was a demand for the creation of another community of formats. In response to the demand, in 2010, MIPTV created a subsidiary conference for formats called MIPFormats to provide “a critical platform and rendezvous point for the format community to
anticipate new format trends as well as uncover new creative talent from across the globe” (“Reed MIDEM,” 2009, p. 126). However, MIPFormats was not the only pre-MIPTV conference. The market already successfully launched a conference for the community of documentary programming, called MIPDoc, in 1998. Both conferences have been held prior to the opening of the main market.

According to Reed Midem, the organizer of MIPTV and MIPCOM, MIPFormats offers a range of activities, such as presentations, workshops, keynote series, networking events, a pitching session, and a format pitch competition. MIPFormats provides a place for a smaller but more specific community within the larger community of global television. This pre-MIPTV conference has expanded from a 1-day event in 2010 to a weekend event since 2011 (“MIPFormats 2011 expands,” 2010).

Unlike the Monte-Carlo Television Festival, MIPFormats is structurally associated with the market, which has made the conference sustainable. However, in global media studies, there has not been sufficient attention to the role of conferences, let alone global television programming markets, in the process of commodifying formats. In the literature of global media studies, only a few works have examined the global television markets. Havens’ studies (2003, 2006, 2011) are valuable for revealing market processes whereby cultural values are transcoded into economic values. He focused on negotiations via “tournaments of values” and shared narratives among industry professionals that construct the particular form of the value of finished television programs. Havens’ conceptualization of global television markets as ritual spaces is valuable to a conception of the role of MIPFormats in constructing the form of value of formats.

However, Havens’ works cannot be readily applied to examining the commodification of formats because they focus on finished programs. Although some scholars, such as Bielby and
Harrington (2008), have studied the distribution of television products in global television programming markets, they did not make a distinction between finished programs and formats. This chapter contends that a format is a peculiar commodity that requires a separate analysis. The mechanism of commodifying formats is different from that of commodifying finished programs.

Moran and Keane (2006) were the first scholars to recognize the distinctiveness of the format trade. They examined the structural pattern of imbalance in the global media flow—that the flow is dominated by U.S. and European products—already operating in the global television programming markets. They argued that the global markets were an Anglo-American-European-dominant institution. They were correct in their ethnographic observation. However, they focused solely on the macro-level phenomenon while overlooking the contradictory and competing characteristics of markets, which are important factors in the commodification process.

The first scholarly work to demonstrate MIPFormats as an institution is Chalaby’s (2016) *The Format Age: Television’s Entertainment Revolution*. Chalaby asserted that the conference is a new international event that is supplementary to “the format trading system” led by British super-indies (pp. 71–72). However, Chalaby did not examine the conference as an institution operating in tandem with the markets. This chapter empirically examines the conference and argues that it plays a crucial role in the process of commodification, particularly in the process of materializing formats. It refines Chalaby’s conceptualization of MIPFormats and reveals the complexity of the process of commodification, which Moran and Keane overlooked by using Havens’s ritual approach.

My empirical research is based on a visit to 2015 MIPFormats, held from April 11 to April 12, 2015 in Cannes, France, to observe how MIPFormats constructs the value of television
formats. I also use supplementary sources such as transcripts of MIPFormats and MIPTV sessions from previous years available through the MIP online database and secondary sources such as trade journal articles. I analyze the roles of MIPFormats as an institution that organizes the commodification of the format. I am not interested in searching for particular cultural codes and textual elements that are translated into economic values. Although that is in itself an interesting question for buyers and sellers and cultural scholars, this chapter focuses on ways that the institution stabilizes this volatile product. I delineate three roles of MIPFormats to organize different forces in a way that makes values of formats negotiable. First, it provides a site for social networking. Second, it also helps its participants to gather intelligence. Third, it acts as a site for managing risk for its participants. The first and second roles are crucial for sales but not unique to MIPFormats. In fact, MIPTV and other markets also provide their participants with places and times for social networking and gathering intelligence in the market (Havens, 2006, 2011). The uniqueness of MIPFormats lies in the third role mentioned above.

**MIPFormats as an Institution for Social Networking**

From April 13 to April 16 in Cannes, France, 2015 MIPTV was attended by business people, journalists, and receptionists hired by the organizer; the event also featured numerous sales stands, trade journal stands, and promotional giveaways. Posters, teasers, and company logos filled the air both inside and outside the two major buildings of the market—the Palais des Festivals and the Espace Riviera—and the croisette. And, of course, the Mediterranean breeze and sunshine perfected the bustling market scenery.

MIPFormats, a pre-MIPTV conference, opened 2 days prior to this vibrant market. Compared with the market, the conference is spatially smaller, using only some parts of the Palais des Festivals. The conference used the Grand Auditorium, Auditorium A, Auditorium K,
the Digital Screening Library, the MIPFormats/Matchmaking Lounge, and a coffee bar. During the conference, the rest of the Palais and the entire Riviera were under construction to prepare for the market: employees were setting up stands, putting logos on stairs and walls, attaching electronic devices to the walls, fixing electric cords on the floors, and so on. The conference gave off a feeling of plainness due to the absence of extravagance. The lack of extravagance could also be observed in the participants’ casual clothing. Compared with the business attire of market participants, conference attendees were more casual and relaxed. Lastly, the conference had purple carpets, purple logos inside and outside the Palais, and purple graphics on presentation screens to distinguish itself from the market, which had a red-colored theme.

*Figure 8.* The main entrance to MIPFormats in the Palais des Festivals.
Despite temporal, spatial, and thematic differences, MIPFormats, similar to MIPTV (See Havens, 2006, 2011), serves primarily as a site for social networking. Before the conference, participants are given a list of attendees to facilitate conversations with other participants via the MIP online platform. Participants were able to easily email each other and book meetings via the application. Apart from such arranged meetings, participants constantly had casual and enthusiastic conversations with each other in the coffee bar, in the MIPFormats lounge, and outside the Palais, from the beginning of the conference until its adjournment in the evening. Especially during more formal networking times such as Matchmakings and Snacks & Networking, attendees had conversations about topics such as pitching ideas, listening to what buyers want, coproduction, and global television trends.

In MIPFormats, there are two 45-minute networking sessions called Buyers’ Matchmaking, both held in the lounge. In each session, nine buyers—distributors and
broadcasters from various countries—sat at stationary tables as format creators queued up to quickly pitch their ideas. A creator could have as many meetings as time allows. According to a representative of Midem Korea, MIPFormats holds these special networking sessions to help buyers and sellers minimize the time and effort necessary to find each other in the large and busy market. During the sessions, she said, “buyers can concentrate on projects of their interest” (S. Kim, personal communication, April 19, 2015), hoping to accelerate decision-making processes.

Figure 10. Buyers’ Matchmaking.

In addition, the MIPFormats Networking Cocktail is an annual cocktail party for the format community. It offers participants an additional opportunity to network during the first evening of the conference. This event is sponsored by government agencies such as the Argentine National Film Board (INCAA) and ProMexico in 2013 and 2014, respectively, as well as corporations such as Jiangsu Broadcasting Corporation (JSBC) in 2015 and 2016 and
Shanghai Media Group in 2017. Two other Chinese corporations, Carft and iFormats, sponsored the party with Shanghai Media Group in 2018.

Through this face-to-face communication, participants establish and renew relationships (Havens, 2006). This activity of building interpersonal relationships “cannot easily be quantified due to the complexity of purchasing decisions and the variety of other sales efforts” (Havens, 2006, p. 71). Nevertheless, it is crucial to build a reputation as a good partner, which feeds directly into future decision-making. One veteran German buyer I met during the conference said that he did not attend conference sessions. Instead, he made appointments and constantly talked to people who participated in the conference. From his experiences attending MIPTV, MIPCOM, and MIPFormats since 2001, he informed me that the essence of attending the markets and the conferences is to build relationships with participants over time. The interpersonal relationships enable the negotiation of values of formats and, eventually, the exchanges.

**MIPFormats as an Institution for Gathering Intelligence**

MIPFormats also provides a site for gathering intelligence about new formats, market trends, and new techniques and technologies. This is important for the community of finished programs (Bielby & Harrington, 2008; Havens, 2006, 2011) as well as for the format community, to keep up with new scripted and nonscripted television format trends. Compared with MIPTV, the process of gathering intelligence at MIPFormats is direct and intense because the conference focuses solely on a more specific community. In the conference, World Information Tracking (WIT), based in Switzerland, provides such information. Virginia Mouseler, CEO of WIT, with her French-accented English, presented the “Fresh TV” series: Entertainment and Game Show Pilots, Scripted Formats, and Factual Entertainment and Reality Shows. When she presented Fresh TV: Scripted Formats, she presented new scripted formats,
territories of origin, territories of adaptation, and their distributors. In addition, the presentations provided statistics about the biggest markets, the biggest exporters, the top distributors, and the top genres. In another session, C21 Media, a publishing company for the international entertainment community, also presented in-depth market analysis to give participants a sense of the present market as well as the future market.

In addition, MIPFormats also produces special issues of trade magazines and publications such as MIPFormats Preview, Worldscreen’s TV Formats for MIPFormats and MIPTV edition, and C21’s Format Report. On the first day of MIPTV, MipTV News, a publication for the market, also presented news from MIPFormats. Participants can obtain the latest information and gain insights from these official publications.

The intelligence gathered by the conference embeds and circulates discourses, presenting participants with the knowledge that certain formats are more valuable than others in the community. This, in turn, helps participants in the MIPTV market and future global television markets make decisions. Havens (2011) comments that, because the global markets of television programs and formats are based on “persistent turnover of series, stars and genres,” it is crucial for buyers and sellers to keep up with new programming trends (p. 163).

**MIPFormats as an Institution for Managing Risk**

The two roles of MIPFormats—social networking and gathering intelligence—are critical to the process of commodifying formats in the marketplace. The relationships built and information gathered in the conference shape formats’ values for improved exchange in the markets. Although these are important roles, they are not unique to MIPFormats. MIPTV and other markets continue to provide a site for those activities. The uniqueness of the conference
lies in the management of perceived risks for participants, such as super-indies, small creators, and buyers.

It is well known that all cultural industry systems, including global television industries, are highly uncertain (Hirsch, 1972)—that is, it is difficult to predict what kinds of televisual product will be popular and travel well around the world. The “you-never-know” mentality is predominant in the markets. A cultural industry system for television formats is even more uncertain, for three reasons.

First, super-indies, which produce and distribute global hit formats, are still relatively new players in the global television programming markets, compared with Hollywood studios and well-established local broadcasters such as ZDF in Germany. It has been easy for large European companies (e.g., Fremantle or Endemol Shine Group) to produce prestige or power sufficient to maintain high prices on their formats to shape format trends and keep ahead of the competition from major Hollywood studios (Havens, 2006, p. 72). Super-indies are not automatically anointed as prestigious institutions that produce and distributes formats. As they enter into the market, they face uncertainty in building prestige within the system.
At the recent MIPFormats, the presentations of new television formats from the Nordic region, Korea, and Japan have become routine and expected. The Nordic World, a distributor representing the Nordic region, has presented new formats since the 2011 MIPFormats (MIPFormats, 2011). Since 2017, Missing Link, whose CEO, Jan Salling, was CEO of The Nordic World until 2015, has occupied the position of presenter of Nordic formats. Format producers from Korea, sponsored by the Korea Creative Content Agency (KOCCA), a government agency affiliated with the Ministry of Culture, Sports and Tourism, have presented new Korean formats, called “K-formats,” since 2012 (MIPFormats, 2012). Since 2013, Japanese producers from seven different broadcasting corporations have collaborated to create a session called Japanese Format Showcase: Treasure Box (MIPFormats, 2013). These three sessions have repeated annually since 2013 (MIPFormats, 2013, 2014, 2015, 2016, 2017, 2018).
Second, numerous small producers and creators of formats who have little experience are able to enter the global markets because they face a lower barrier of entry than producers and creators of finished programs. These producers experience the highest level of risk due to the lack of information regarding what buyers want, which buyers are appropriate for them, and how to make better deals.

Lastly, the absence of televisual elements in formats makes buyers’ purchase decisions a riskier activity. When exchanging formats, buyers can no longer rely on the conventional way of validating a television product: watching textual elements to determine which content will be successful in their local markets. It is even more difficult to recognize and select formats that are valuable and feasible for production.

In this relatively nascent global community, the level of uncertainty is very high because no one truly knows which formats are valuable or how to add values to television formats. Given the limited time and resources, it is a formidable task to determine appropriate sellers or buyers of television formats. The management of risks is a dire issue for all participants, including the organizer of the markets, who must maintain the stability in the distribution of formats and, thus, the process of commodification. In the following sections, I examine three strategies MIPFormats employs to reduce risk for participants.

**Strategy for Super-Indies: Establishing Prestige**

One big change in the global television markets is the rise of super-Indies. These large production companies emerged from European territories during the commercialization period in the 1990s (Chalaby, 2012b; Esser, 2016). Super-Indies such as Endemol and FremantleMedia proved themselves to be important players by distributing popular formats in the late 1990s and the early 2000s. As discussed earlier, they have established or acquired local production
companies in multiple territories, distributing formats throughout their multiterritorial infrastructures.

Despite their growth, super-indies are still smaller than the international television divisions of major Hollywood studios such as Warner Bros. International Television, CBS Paramount International Television, Sony Pictures Television International, NBC Universal International Television, Disney-ABC International Television, 20th Century Fox International Television, and MGM Worldwide Television. For example, FremantleMedia Limited, one of the largest super-indies, had a total revenue of 340,794,000 GBP, or about 558 million USD, in 2013 (PrivCo, 2015), while Sony Pictures had a total revenue of 1.5 billion USD in 2013 (Mosko, 2015). In terms of size, the majors are still bigger players, dominating “global television trade, accounting for nearly 60 percent of total international sales revenue” (Havens, 2011, p. 148).

Under the market dynamics, the major Hollywood studios do not feel a need to be present at the subsidiary conferences of the markets. In the beginning years of MIPFormats, the majors participated in the conference as speakers and sponsors. The 2010 MIPFormats invited speakers from the majors (i.e., MTV, CBS, Twentieth Century Fox Television Distribution, and Sony Pictures Television). However, since then, the participation of the majors has dropped. In 2011, only CBS and Warner Bros. International Television Distribution participated as speakers (MIPFormats, 2011). At the 2015 MIPFormats, except for Sarah Watson, a writer and executive producer of NBC’s Parenthood (MIPFormats, 2015), no speaker came from the majors. Moreover, Warner Bros. International Television Distribution sponsored a format pitch competition, called MIPFormats International Pitch, from 2012 until 2014. Even this sponsorship was taken over by All3Media International, a super-indie, in 2015. In addition, the presence of the majors for Buyers’ Matchmaking is also minimal. Warner Bros. International Television
Production and Sony Pictures Television in 2014, Sony Pictures Television and NBCUniversal International Television Production in 2015, and only NBCUniversal International Television Production in 2016 participated in the matchmaking session (MIPFormats, 2014, 2015, 2016). The minimal presence of the majors at MIPFormats could be due to the studios’ cost-saving strategy. At the same time, it could also be understood as a means for the majors to articulate their power by being unavailable at MIPFormats, making their brands appear even more valuable and desirable.

Compared with the major Hollywood studios, super-indies must be more available at MIPFormats. To establish prestige, super-indies send their executives to MIPFormats as speakers. For the 2015 MIPFormats, All3Media International, FremantleMedia International, and Zodiak Media sent their CEOs: Jane Turton, Jens Richter, and Marc-Antoine D’Halluin, respectively. Richter and D’Halluin participated as interviewees of the MIPFormats Keynotes Series, and Turton participated as an interviewee during the MIPFormats International Pitch. One interviewer and one CEO occupied the center stage of the Grand Auditorium for about 25 minutes. Their conversations were also broadcast to the audience on a large screen behind the center stage and filmed for MIPFormats’s YouTube channel. Through such spatial structures, super-indies can send a message to the audience that they are important and that their products are and will be valuable.
Figure 12. MIPFormats Keynotes Series with Jens Richter, CEO of FremantleMedia International.

For super-indies, however, perhaps the most important method of establishing prestige in the conference is to emphasize their role as distributors of television formats. Compared with the market condition of finished programs, formats are a more level playing field. Only a few producers can make expensive finished television programs, whereas virtually anyone could come up with formats and bring them to the markets. Super-indies make themselves available as distributors to producers and creators in MIPFormats. They can circulate purchased formats through their extensive distribution networks, which add value to the formats. Therefore, they have consistently sent representatives for Buyers’ Matchmaking sessions. Endemol, FremantleMedia, All3Media International, and Red Arrow International have sent their acquisition managers to the conference since 2014, when the conference launched the sessions (MIPFormats, 2014, 2015, 2016). In interviews, CEOs of super-indies all expressed interest in
acquiring formats in the markets. Displaying the promise of distributing formats is a way to articulate their power in the markets.

By displaying the constant availability and the promise of distribution, super-indies hope to encourage the overproduction of formats, bringing a constant influx of new ideas from producers and creators (Hirsch, 1972). Because super-indies are hungry for “the next big thing” in these markets of high uncertainty, it is in their best interest to create as large an input pool as possible. MIPFormats manages risk for super-indies by allowing them to articulate their power in the conference. They present themselves as particularly valuable distributors of formats.

**Strategy for Small Creators: Educating Small Creators and Creating Artificial Scarcity**

Most MIPFormats participants are producers and creators from various countries. Of the 366 companies registered at MIPFormats in 2015, 182 companies identified themselves as producers and creators, 128 as distributors, and 75 as both (Midem, 2015). Due to the low barrier of entry to the format community, many producers and creators new to the global television markets have participated in the conference. They often lack knowledge regarding buyers’ wants. More importantly, they do not know how to transform mere ideas or local formats into globally successful formats. The value chain of global television formats is quite complex, especially for the novice, with multiple stages of development: creation/development, acquisition/distribution, production, broadcasting, international acquisition/distribution, reproduction/adaptation, and rebroadcasting (Altmeppen et al., 2007, p. 98). In facing this complexity, small producers and creators shoulder a huge risk. MIPFormats provides a site to teach them how to undergo this long and complex process. This is why smaller producers and creators pay an extra fee in addition to the fee for MIPTV to participate in MIPFormats.
To educate producers and creators, the conference offers four 30-minute workshop sessions called The Producers’ Toolbox. For the sessions, producers and creators are invited to Auditorium A, a medium-sized auditorium, or Auditorium K, the smallest auditorium in the Palais. In three sessions, there is one moderator along with three or four speakers from various companies on the stage. They play sample formats on screens behind them. Speakers during the Toolbox sessions are considered experts who can share their stories of success and failure, teaching small producers and creators how to create a valuable format. Topics of the Toolbox sessions in 2015 were “New Ways of Financing Your Formats,” “Format and Social Media: The Do’s and Don’ts,” “10 Things You Should Know Before Signing a Distribution Deal,” and “How to Work with Eastern Europe.” Although the Toolbox sessions deal with various topics, there seem to be two large areas of topics that MIPFormats addresses consistently. The first area includes ways to add more value to formats at the development stage. The second area includes ways to build a strategic relationship with other players such as coproducers, distributors, platform providers, broadcasters, advertisers, and brands, during and after the global television markets. By participating in those sessions, producers and creators learn lessons about how to make their formats valuable. In a conversation with Jan Salling, a distributor (now CEO of Missing Link Media) and a cochairman of FRAPA, I learned that MIPFormats is a conference that attempts to reduce risks for small producers and creators by teaching them some tricks they
can use in the actual market (J. Salling, personal communication, April 12, 2015).

Simultaneously, there seems to be a contradictory discourse circulating within MIPFormats, a directive to producers and creators to be realistic. In 2015, the experts reminded participants that not all formats would be sold to super-indies, prestigious institutions that add value to their formats. They emphasized that super-indies have no incentive to buy formats unless they are, or can potentially become, the next big hits. In “The Producers Toolbox #3: 10 Things You Should Know Before Signing a Distribution Deal,” Salling explicitly urged his audience to gauge “how hot” their formats were. He added that super-indies did not need to buy formats because they can develop their own formats and feed their local production companies in multiple territories. In fact, during the MIPFormats International Pitch, Turton said that the

Figure 13. “10 Things You Should Know Before Signing a Distribution Deal,” presented by Jan Salling.
company does not buy many formats but instead develops its own. The discourse, articulated by Salling and Turton, strangely raised the level of uncertainty in the community.

With this contradiction of the alleviation and intensification of uncertainty, MIPFormats creates an artificial scarcity in the television format trade. Creating artificial scarcity is not a new practice in the global television programming markets. Due to the public good nature of television—referring to the nature of the television commodity indicating that “one person’s consumption of such a good does not reduce the quantity available to other people” (Owen & Wildman, 1992, p. 23)—the prices of programs tend to decline if there is no intervention. Havens (2011) observes that, in the markets for finished programs, executives of large distributors enforce product scarcity by restricting access to their sales stands (pp. 154–155). Havens (2006), in studying the global television markets for finished programs, explained that restricting access to sales stands and exhibition halls is a technique to create an artificial scarcity:

Because of the public good nature of television, programming is quite easily and cheaply traded, which tends to drive down prices. In order to maintain high prices and demand, distributors use temporal scarcity to try to enforce product scarcity. That is, because executives at the large distributors cannot possibly meet with everyone during the few days that the markets are open, the scarcity of time becomes a way to artificially restrict buyers from product. (p. 81)

In the case of the television format trade, the artificial scarcity is more necessary due to a glut of formats in the markets, given that the barrier of entry to the markets is lower for format producers and creators. To maintain high prices and demand, super-indies experience a greater need to emphasize scarcity in the access to their distribution infrastructures. The discourse reminds small creators that super-indies will take only a selected few that have the potential to be
successful. MIPFormats, in this sense, acts as an additional gatekeeper. It invents artificial scarcity by injecting just enough uncertainty into the system to encourage competition among producers and creators for access to super-indies. Thus, the markets can—or believe they can—enhance the quality of television formats.

**Strategy for Buyer: Visualizing Formats**

When buyers make purchasing decisions in the global television markets, they rely on relationships with producers and their reputations (Bielby & Harrington, 2008; Havens, 2006; Moran & Keane, 2006). At the same time, they rely on the “textual elements” (Havens, 2011, p. 162) or “aesthetic elements” (Bielby & Harrington, 2008, pp. 112–120) of television programs. There is a shared sense among participants that some textual or aesthetic elements travel well. This is what Havens (2013) calls “televisual discourses,” which form and are formed by the markets (p. 4).

However, these institutionalized discourses are potentially useless in the trade of television formats due to the lack of visible textual elements. It is difficult for buyers to readily determine the aesthetic value of a format; a format is merely a recipe. Trading formats can disrupt televisual discourses, business practices, and conventional wisdom in the markets. Before I actually observed how participants deal with this problem in MIPFormats and MIPTV, I imagined that buyers and sellers would discuss know-how and track records written in format bibles. However, to my surprise, MIPFormats resolved the problem by creating a physical form that can visualize formats. There are two major ways of constructing the physical form: a screenings library and sizzles.

First, MIPFormats creates a screenings library in two small auditoriums of the Palais for buyers. Only buyers have access to computers on a long table in the library. Buyers can watch
produced formatted programs. In fact, MIPFormats requires creators who want to use the library to upload finished programs, which have been broadcast in at least one territory. The MIPFormats screening library visualizes formats in the form of produced programs so buyers can understand and evaluate textual elements. As described earlier, the screening library has been established even in the Monte-Carlo Television Festival’s Formats Forum. To buyers in the markets, watching actually produced formatted programs is a common-sense step when making purchasing decisions.

Figure 14. MIPFormats’s screenings library.

Second, MIPFormats also urges producers and creators to bring a short clip, a 3-minute teaser, a “sizzle” in industry parlance, of real produced content. A plain idea is less valuable for sales, especially in a meeting between sellers and buyers at the market. In fact, having a sizzle reel is considered the best practice for both format and finished program sales (MIPTV, 2010).
Buyers have only a limited amount of time for each meeting. The unwritten rule of meeting in the market is to spend about 5 minutes on small talk, about 20 minutes on discussion about projects, and about 5 minutes for one party, either the sellers or the buyers, to walk to another stand for another meeting (MIPTV, 2010). A 20-minute meeting is not enough time to read format bibles and understand concepts and instructions of formats. Even when they have enough time, buyers face enormous risks in determining whether the know-how presented to them is valuable or not during such short meetings. They want to catch the feel and spirit of formats by watching sizzle reels, which allow them to make a good purchasing decision quickly. If the buyers are interested in the formats, they will ask for the detailed descriptions and instructions, commonly called “the send after” (MIPTV, 2010). This business culture forces format producers and creators to carry visualized formats in the form of a sizzle on their laptops or tablet PCs.

The institution (i.e., MIPFormats screenings library) and the institutionalized discourse (i.e., the emphasis on sizzle reels) articulate the idea that only formats that have been produced are eligible for the market. The presentation of the physical format serves two purposes for buyers. First, it maintains the best practice of trading television programs in the global television programming markets. Without visualization of formats, buyers may take more time to recognize, negotiate, and transcode the value of formats, or they may have to develop different means to valorize formats. Either case would only make the process of reaching a purchase decision more complicated and inefficient. The second and more important purpose of visualized formats is the signal they send to buyers that it is safe to invest. The visualized formats are the evidence of actual investments for production in territories. MIPFormats provides buyers with a rationalized ground for their decisions. As a result, the visualization of the format “protects” buyers in a risk-averse market (MIPTV, 2010). Tim Crescenti, then the president of Small World
IFT, in a forum at 2010 MIPTV called “Entertainment Master Class: How to MIP Your Format,” said that visualized formats are like insurance:

[I]n a rather risk aversive market that we’re in now that protects the buyer so it covers his ass or her ass and she can say, you know, I saw the tape, it looked good, it was on in 10 countries, it isn’t my fault it didn’t work here. (MIPTV, 2010, p. 12)

MIPFormats is an institutional solution that helps buyers make decisions and protect their jobs.

Conclusion

A market for formats and a market for finished programs are the same, occupying the same place and time. However, a format is different from a finished program. Selling and buying a television format in the global television programming market is a strange activity. How can an idea be bought and sold? Without a consensus among sellers and buyers that a certain format is more valuable than another, the exchange is not possible. Without the exchange, a market cannot sustain itself—a market failure, so economists say. A market for formats is prone to lose value altogether. Especially because of the lack of televisual elements in the formats themselves, it is not easy for market participants to recognize the values of the formats. It is even more difficult when formats are overabundant in the market. It is in itself a risky business that requires more stability than the global sales of finished programs.

Of course, we have not witnessed the destruction of format values yet. This chapter is an attempt to understand an individual market as an institution actively involved in enabling the exchange of formats in global television programming markets. In this chapter, I examined the process of materializing formats in global television markets. By conceptualizing the materialization as the process of establishing stability in the market, I examined the three roles of
MIPFormats. Based on my visit to 2015 MIPFormats, it is clear that the conference is not just another pre-MIPTV event but a distribution institution that contributes to shaping the commodity form of formats in three major ways. First, it provides a site for participants to build social networks. Second, it provides them with a site for gathering intelligence. Third, it manages risks for participants—especially super-indies, small producers and creators, and buyers. This risk management helps super-indies gain prestige in the global format trade. It educates small producers and creators regarding the foundations of valuable formats and it creates an artificial scarcity in the format community. Lastly, MIPFormats helps buyers’ decision-making processes by encouraging and forcing sellers to bring produced formats to the market.
CONCLUSION

A goal of this dissertation was to reveal the process of commodifying television formats and to challenge the assumption that a format is already considered a commodity by global media scholars. The assumption is based upon the fascination with the “recipe” aspect of formats and the adaptation of formats in particular territories. The technical capability of formats to transfer and reproduce knowledge is emphasized in the academic and popular understanding of formats (Baltruschat, 2010; Brennan, 2012; Moran, 1998; Quinn, 2015). However, this assumption does not reveal the driving force behind the increasing creation of television formats, as opposed to standard television productions.

Instead of the recipe metaphor, I propose a vehicle metaphor to shift our perspective and achieve an understanding of the driving force behind the commodification process of formats. Answers to three questions must be obtained: a) What is the process whereby a format obtains property status and becomes a copyrighted work? b) Who enables the transnational movement of a format? How does a format move from one country to another? What sustains this movement? and c) How do people recognize which formats are more valuable than others? By answering these questions, one can understand the format cycle—production, distribution, and exchange.

This dissertation, from a political economic perspective, pinpoints the process of commodification as the driving force of the format flow. In other words, the production, distribution, and exchange of commodity value combine to drive the global format business. Particularly in the case of the television format business, this paper has emphasized how the sphere of distribution, rather than the sphere of production or exchange, plays a crucial role in commodifying formats.
A commodity form emerges in the sphere of distribution. In the case of television formats, the form has three aspects: legality, functionality, and materiality. Formats only emerged as a commodity after 2004. Indeed, the formats existed prior to 2004; however, they have only emerged recently as commodities. Historical studies have revealed that the practice of formatting has a longer history (Bourdon, 2012; Chalaby, 2012a; Moran, 2013a). Formats have existed largely as a production technique—a legitimate method of copying television programs—rather than a commodity. I contend that the longer history of the format as a production technique was punctuated by the emergence of these formats as commodities, distinguishing the present state of global format trade from the previous one.

**Three Aspects of the Commodity Form of Format**

The first aspect of the commodity form of a television format is its legality. It is well known in the industry and by scholars that the legal definition of a format has not been firmly formed (Meehan & Torre, 2012; Rubin, 2005). In addition, there is no uniform legal definition of a television format across territories. Moreover, courts in different territories have had difficulty conceptualizing a format as an expression of an idea that can be protected by the copyright laws. However, unlike previous understandings, this dissertation demonstrates that the legal definition of a format, in fact, has changed from a mere idea to a compilation of ideas that can be subject to copyright. The rulings made in a series of court cases in the Netherlands, the United States, Brazil, and Australia in 2002, 2003, 2004, and 2005, respectively, show this shift. Particularly (and contrary to other rulings), the Brazilian court established an originality of a format by recognizing a format bible as an expression of ideas that can be used as proof of originality. As a consequence, *TV Globo & Endemol v. TV SBT* was the first legal case that punished the defendant for infringing Endemol’s copyright. This decision assured industry leaders that a
format could be protected, and infringement would draw punishment by the legal system. Because of this particular ruling, a legal definition of a format emerged, changing the pattern of subsequent rulings. Even in the United Kingdom, the only major format-exporting country notorious for refusing to grant copyrights for television formats, the High Court finally ruled in 2017 that a format can be protected by copyright law. Perhaps this ruling was expected, given that the trail had already been blazed by the major television-exporting countries in the early 2000s. It is now difficult to imagine a format as a noncommodity. Even in the context of the rapidly expanding intellectual property arena, it is now natural to think either an individual or a corporation can claim an ownership of a format.

A second aspect of the commodity form of television is the functionality of its format. The function of a format—the capability of a television format to cross national borders and become a local version of a program—has been well-documented in the literature. By placing the function in a historical context, one can examine the relationship between commodification and the distribution structures of formats. The capability to cross national borders once depended on the relational structures of distribution. However, the function of the television format was transformed as large European transnational production companies (Esser, 2016) or super-indies (Chalaby, 2012b), such as FremantleMedia and Endemol, emerged from European territories to evolve into global corporations. The case of Endemol demonstrated that the structure of distribution shaped the function of formats. When Endemol transformed itself from a European player into a global player, it created a decentralized networked structure of distribution to better exploit local knowledge. The function of a format was no longer limited in its ability to cross international borders. It functioned as a codification of transactions between local offices to coordinate the decentralized management of creative works in the super-indie. In this process,
the present form of the format bible was invented as a medium of organization. This is not to say that format bibles did not exist in the past. It is to argue that a new type of format bible would include not only production instructions but also information about a format’s performance in local markets. A format bible is an expression of the logic of coordinating super-indies’ local production companies.

From the capability to cross national borders to the codification of intrafirm trade, the function of the format was not fixed. It transforms itself to enable the corporate structure. Without the reinventions of the format’s functions, Endemol could never have become a large European production group, a super-indie, or a mini-major company in the global television landscape.

The last aspect of the commodity form is the materiality of the format. For the purposes of this dissertation, materiality does not mean the binary division between the physical and the symbolic; rather, it is a spectrum of the social stability of things. Without stability, no exchange of formats is possible. Despite the emergence of copyright protection and the invention of the format bible, the format trade still has the problem of recognizing values of formats in the sphere of exchange. The solution to that problem is quite simple: the global community of formats and MIPFormats, not copyright laws or format bibles, has made market participants—particularly super-indies, small creators, and buyers—feel as if a format is not different from a finished program by using strategies of managing risks (i.e., providing a site for establishing prestige, educating creators, creating artificial scarcity, and visualizing formats). Based on this shared understanding, the members of the community have easily interpreted the format as a category of commodity and developed among themselves business practices that are part of the business culture of the global media trade.
However, studying the three aspects of the commodity form can be useful for understanding the commodification process of some media products that rely on international distribution. The framework may not be well suited to examining some finished television program whose values may not be shaped by international economies, politics, and cultures. However, as our television landscape becomes more and more globalized, obvious television products such as finished programs become less definite. Coproduction, which is becoming a more popular way of creating a high-end drama, can be an example. Who owns a coproduced program? How does the coproduced program enable the particular relationship among not only production and broadcasting companies but also government agencies from different countries? What institutionalized discourses and practices would shape its materiality in global television markets? In such cases, the framework this dissertation proposes can be useful to discover the driving forces of change.

**Formation of Distribution**

The commodity form of the format, however, did not emerge naturally. It is my contention in this dissertation that the three aspects of the commodity form of the format emerged precisely from the sphere of distribution as opposed to the sphere of production or exchange. By tracing the development of the commodity form, this study covers the three different domains of the media industry: copyright, multinational corporations, and global television markets. By framing these in terms of distribution, I articulate the role of distribution and its institutions in the process of commodification. I argue that distribution is not a mere bridge between production and exchange but a productive sphere that transforms values in motion into values in a particular form. Thus, a commodity form is dependent upon the structures of distribution.
In media studies, it is easy to assume that distribution is characterized by its commodity form. Such an assumption is based on another assumption, that distribution is largely composed of sociotechnical systems, such as broadcasting and other infrastructural systems. However, one should not reduce distribution to a technological system. It is a complex institutional arrangement that is also a part of the distribution sphere, and thus a commodity form of a format can be characterized by its structures of distribution.

The distribution structure that forms the legality of the format is shaped by the legal institution of a nation-state. The particular institution that this dissertation focuses on is the court. The courts analyzed in this dissertation were able to create a commodity form by reinterpreting the definition of a format. Without changing the legal framework, they were able to create a new boundary, distinguishing what is protectable from what is not. In between the traditional boundary of “an expression of ideas” and “a mere idea,” they created a new category called “a compilation of ideas” to recognize the copyright of a television format. The legal institutions demonstrated resilience when facing a challenge to their framework. As in the case of establishing the ownership of photographic images and the American broadcasting system, the copyright laws have constructed the ownership of television ideas.

However, the real challenge for the courts was to distinguish whether there was an actual infringement when format owners and alleged copycats were in dispute. A meaningful legality can be established upon enforceable laws. This was a real challenge, not because the courts had technical difficulties when testing the similarities between the two television shows in dispute but because of the economic consequences of the rulings. Due to the transnationality of formats, the format copyright infringement cases were composed of two parties from different countries. Because jurisdiction lies in the country of adaptation, the courts encountered a combination of
foreign format owners and domestic media corporations (broadcasting corporations in many cases). In this particular context, the courts made rulings to protect their national corporations by denying the substantial similarities between the two television shows at hand. Courts, after all, are state institutions and tend to serve the interest of their nation-states. The court decision in the American case, *Survivor Productions & CBS Broadcasting v. Granada, Granada Entertainment USA & ABC Inc.* demonstrated the concern for the economic consequences of its ruling.

A national interest, however, should not be interpreted as a fixed concept of protectionism. The Brazilian case—*TV Globo & Endemol v. TV SBT*—is exemplary. Both the legislature and the court seemed to have a shared the idea that it was in the nation’s best interest to revive the media sector by attracting foreign investment. The Brazilian case does not represent a winning case of foreign capital in the struggle with a state. In the context of the struggle between an international company and a state institution, the copyright laws still functioned to serve the interest of the state, but in a different way. The ruling recognizing the copyright of Endemol’s format could be read as the state’s will to create a modern media market that provides more certainty for its potential foreign investors. Banning one show, SBT’s *Casa Dos Artistas*, would be a small sacrifice compared to the potential gain from future investments. In the end, the national interest and the interest of foreign capital were considered together, leading to the emergence of a new characterization of intellectual property.

In summary, the construction of the copyright as a format distribution structure can be characterized as a struggle of legal institutions both to protect the capital interest of intellectual property and the interests of the nation itself. Particularly, the court’s understanding of “national interest” played a crucial role in the process of forming the copyright. And this national interest can never be isolated from the global economic conditions. The national politics and policies
relating to the global economic conditions expressed through legal institutions are one driving force behind the structures of distribution.

But, as state institutions the courts are not the only forces that shape the distribution of a format. The functionality of the format emerged from the particular corporate structure of super-indies—a multiterritorial and multinetwork structure. The formation of super-indies described in this dissertation is not driven solely by market forces. The market mechanism that drives their formation is, in fact, composed of both market and nonmarket forces. The forces interact with each other in the form of cooperation and conflict. This dissertation examines the interaction by analyzing the two main phases to the process of the formation of Endemol: the formation of Endemol as a major European producer, and Endemol’s transformation into a global player.

When Endemol became a major European producer, the European Commission, and the Dutch government shaped the multiterritorial structure of the format market. On one hand, the supranational institution and capital were articulated together in the process of liberalizing the Dutch television market from the control of the nation-state. On the other hand, the EC and the Dutch government collaborated in the process of stopping Endemol from becoming a producer–broadcaster. As a result, Endemol evolved as a producer–distributor to exploit the European television markets and to avoid any regulatory bites in the 1990s.

In the second phase, when Endemol became a global player, the American talent agency William Morris Agency and Endemol struggled to control the distribution format into the U.S. market. As a result, Endemol created Endemol USA as a local entity and transformed its corporate structure into a network, or a web of local offices. To exploit the efficiency of the network structure, Endemol restructured the way it managed creative projects. A format bible was created and used as a coordinating tool within the network of offices.
As Endemol shows, the evolution of the super-indie can be characterized as the formation of a global distribution structure that enables a systematic flow of formats across international borders. The agency of this evolution lies neither in the Dutchness embedded in Endemol’s DNA, as John de Mol, one of the founders of the company, would like to claim, nor in inter-capital competition. The multiterritoriality was formed by the interaction between the supranational institution and the nation-state. The network structure was formed by the interaction of its production structure and its distribution structure in search of a new balance between capital’s tendency toward centralization and its countering tendency toward decentralization. The distribution structure of super-indices was shaped by both outer regulatory pressures and inner forces, leading to the invention and reinvention of the management structure.

Through this process of constructing the distribution, the television format has become more than a set of ideas and know-how. It is a collection of local knowledge, and this knowledge is the very basis of the logic of format distribution. Interestingly, this logic can be easily discovered in today’s media systems, such as subscription video-on-demand (SVOD). Netflix, Amazon, YouTube Red, and others are streaming services based on this strategy of creating value by collecting local knowledge. This is not to argue that super-indices have directly influenced the emergence of these services. Rather, it is meant to show that the organizational logic of global media—globalization by localization—can be present in the formation of format distribution of super-indices in 2003 and 2004.

Lastly, the materiality of the format emerges from the global community of formats. It is maintained and reproduced by the institutions of the community. In this dissertation, two institutions of the community of the format are compared: the Monte-Carlo Television Festival’s Formats Forum and MIPTV’s MIPFormats. Formats Forum lasted only 2 years, while
MIPFormats is still an ongoing event. The major difference between the two institutions is their connection to the marketplace. The Monte-Carlo Television Festival dropped its market altogether as a part of the restructuring plan. Conversely, MIPFormats was established as a subsidiary conference of MIPTV, one of the largest global television markets. This crucial difference in structure shaped the role of the conference as a distribution institution. MIPFormats, unlike Formats Forum, is able to articulate the sphere of exchange by allowing participants to recognize a format’s value and distinguish one format from another.

The mechanism of recognizing and distinguishing a format’s value is built on institutionalized discourses and practices that have been developed by the business culture of global media. MIPFormats contributes to the reproduction of the mechanism by providing its participants with a site for social networking, gathering intelligence, and managing risks. This dissertation emphasizes the significance of the third function, an additional step intended to stabilize the format as an exchangeable commodity in the marketplace. Through institutionalized discourses and practices, MIPFormats creates ways to differentiate one format from another. First, it allows large distributors, especially super-Indies, to build their prestige by being at the conference. Second, it creates an artificial scarcity of access to large distributors. Third, it requires sellers to bring sizzle reels of already-produced formats to maintain the practice of negotiating values of televisual products. As a result, the social materiality of a television format looks very similar to that of a finished television program. This makes sense because global television markets exist for both finished television programs and formats. It would have been inefficient and even disruptive had MIPFormats not reproduced the same business culture. After all, the participants are not innovators but business people whose goal is to exchange formats based on their habitual (or ritual) practice of validating values.
Implications for Future Research

By revealing the three aspects of the format commodity form and their emergence in the sphere of distribution, I examined the processes that created the cycle of the format—from the production through the distribution to the exchange of formats. In this last part of the conclusion, I want to emphasize two dimensions of the nature of the distribution sphere. The sphere of distribution is a complex space, and the complexity comes from the interactions among multiple institutions. Supranational institutions, state institutions, super-indies, global markets, and the global community of producers and creators cooperate and conflict with one another to construct particular modes of format distribution. Unfortunately, the sphere is affected by other forces such as technology, making it an even more complex environment. No single institution is able to create a world in its own image. Instead, multiple institutions actively operate according to their institutional logic. They do not passively accept larger political, economic, and cultural conditions; they use them to develop survival strategies.

Second, and more importantly, the three distribution structures are not related in a linear way. The legality, functionality, and materiality of the television format commodity are contained within domains quite independent of one another. There is no particular reason for one domain to influence the other. Nevertheless, in the early 2000s, the three domains converged, creating a window from which the commodity form could emerge. One possible reason for this convergence is that each domain was in dire need of a way to guarantee the accumulation of capital. In this larger context, commodification is a meaningful process if—and only if—a value is successfully transformed into money value and capital.

The two dimensions of the nature of distribution leave us with largely two areas of study that require further research. First, one key issue on which this dissertation is silent is the
influence of technologies. The influence of technology was omitted on purpose to emphasize that the construction of a commodity form is an organizational issue rather than a technological one. However, as hinted at within the chapters, the emergence of the format has coincided with the rise of new technologies of distribution. The EC’s Television Without Frontier Directive was galvanized by distribution technologies like satellite and cable systems. Big Brother, in fact, was an attempt to converge television and the internet. As of this moment, a new digital distribution, SVOD, is emerging as a disruptive force in the global television market. Netflix, Amazon, and YouTube are emerging as new players in this radically changing landscape. How will SVOD influence the shape of the commodity form of television formats?

Second, as the second dimension of the nature of distribution suggests, studies of commodification of the format must incorporate research on capital accumulation. How is capital produced and reproduced by the cycle of a television format? To understand this process, one ultimately needs to understand the formation of surplus values. Surplus values of the television format business can be expressed in many different forms, such as the number of national borders that a format can traverse, the amount of income generated by licensing branded formats, the value created by stock exchange, taxes paid to countries where their local offices are located, fees paid to global television market conferences for renting booth space, and so on. Further research must be undertaken to understand the creation and control of surplus values.

Furthermore, future research must also examine the relationship between the formation of a commodity and the formation of surplus values. Their relationship is more than obvious. The commodity form is a condition for the emergence of surplus values. However, at the same time, capital made by surplus values wants to set itself apart from its commodity form. This tension between these two tendencies is influenced by the technologies and institutions of distribution.
What does this tension look like when one is comparing two contradictory tendencies? How does this tension affect the accumulation of capital? Only after an understanding of the whole process of commodification of formats is attained will a meaningful discussion of power in the global television system be possible.
REFERENCES


Loisen (Eds.), *Private television in western Europe: Content, markets, policies* (pp. 11–19). New York, NY: Palgrave Mcmillan.


Endemol v. TV SBT (Big Brother v. Casa Dos Artistas (Brazil)).


EndemolShineGroup. (n.d.). *Who we are.* Retrieved from https://www.endemolshinegroup.com/about/


Retrieved from Nexis Uni.


doi:10.1017/S0143814X07009713


Hazelton, J. (2001a, October 1). Crossing the pond A growing band of European companies are setting up shop in the US, hoping to make the most of the country’s new found interest in international programming. But it remains a tough market to crack, reports John Hazleton. *Television Business International, 13*. Retrieved from Factiva database.


doi:10.1080/15295038609366675


Retrieved from Factiva database.


doi:10.1080/10457220120044684

MIPFormats 2011 expands in second year; The pre-MIPTV formats conference & pitching showcase; MIPFormats: April 2-3, Palais des Festivals, Cannes, France; MIPTV: April 4-

MIPFormats. (2012). *Programme of conferences & events* [Brochure]. Boulogne-Billancourt, FR: Reed MIDEM.

MIPFormats. (2013). *Conferences & events programme* [Brochure]. Boulogne-Billancourt, FR: Reed MIDEM.

MIPFormats. (2014). *Conferences & events programme* [Brochure]. Boulogne-Billancourt, FR: Reed MIDEM.


(Original work published 1934).


Retrieved from https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=1348&context=iplj


Retrieved from Nexis Uni.


https://digitalcommons.law.ggu.edu/cgi/viewcontent.cgi?article=1067&context=annlsurvey