THE UNANTICIPATED CONSEQUENCES OF THE "MIRÓ LAW" AND ITS NEGATIVE IMPACT ON THE SPANISH FILM INDUSTRY

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Abstract

According to its preamble, the "Miró Law" was intended as an ambitious effort to rationalize financing in the Spanish film industry and to enhance the quality of cinematic production. The law established a system for financing films via subsidies calculated based on their anticipated box office returns. Successful films were expected to add funds to the initiative's overall budget. While motivated by laudable goals, the Miró Law was a tremendous failure in practice. Dubious methods for predicting box office success and political favouritism, coupled with biased professional and cinematic standards of quality that favoured academic cinema, drained the resources dedicated to the project at an alarming rate and ended up eroding, rather than enhancing, the popularity of Spanish films. The unmistakable consequence of the new financing system was that it brought an end to the era of producing low-budget and quick-turnaround films. The considerable rise in production costs led to a reorganization of the film industry in a manner that benefitted famous director-producers (these roles were mixed) to the detriment of more modest cinematic productions and the overall variety of Spanish films.

Keywords: law, cultural policy, academic cinema, film industry, cultural audiences

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1. Introduction

In 1982, the electoral programme of the Spanish Socialist Workers' Party (PSOE) stated that cinema "cannot be defined as an industrial product; rather its value as a cultural asset must also be underlined." The PSOE won those elections, and the film director Pilar Miró, appointed General Director of Cinematography by her friend, PSOE president Felipe Gonzalez, brought in new legislation in 1983 that would come to be called the Miró Law. According to its preamble, it set out to make "an ambitious effort to rationalize financing, especially in the production sector".

The new law was passed in a context in which low-budget but critically slammed productions packed movie theatres since the 1960s and especially the 1970s. The film industry was also facing competition from the all-powerful American film industry of the 1980s and the advent of video. The Miró Law aimed to lay the foundations for eradication of films considered of dubious quality and rewarding films that would give visibility to Spain internationally.

The Miró Law established a financing system based on advancing subsidies for film projects, including the script and technical and artistic elements, that theoretically would reflect expected box office returns. It thus gave exceptional support to film directors that presented projects of "special interest" or "projects by new filmmakers or experimental in nature". However, it did not take into account production and distribution elements. Another issue was that the Miró Law awarded powers to grant subsidies to an Evaluation Committee of professionals appointed by the General Directorate of Cinematography (typically professionals with political connections), and, incredibly, enabled the Director General, Pilar Miró until 1986 (when she resigned on being appointed Director General of TVE) to veto Evaluation Committee decisions. Thus, subsidies were only granted to production companies politically close to the party in government. New production companies were thus created by people sympathetic to the government and to Pilar Miró. Naturally, the corresponding directors and actors, who were almost guaranteed a subsidy, began to make greater financial demands.

In sum, this new model of supporting filmmaking in the interest of raising the quality of productions and dignifying the profession may have been based on good intentions but ultimately failed to establish quality and professional criteria, two different but related concepts. In the period 1982-1987, only academic Spanish cinema survived, while popular genres – other than *film noir* and *cine quinqui* (films set in marginalized urban settings) – almost disappeared from the map. Many producers simply stopped making films that they knew would be discriminated against in the granting of subsidies, and so few horror, fantastic,

adventure, science fiction, action, or erotic movies were produced, with the result that box office receipts for Spanish films dropped sharply.

The unmistakable consequence of the new financing system was that it brought to an end to the era of low-budget, fast-payback films, while the considerable rise in production costs led to a reorganization of the film industry in a way that most benefited from the legislative reforms to the detriment of screenings and distribution.

2. Methodology

This case study focuses on an analysis of the Miró Law, its impact according to published data, and an interpretation based on existing research regarding support for film production and distribution.

3. Context/background

In its 1982 electoral programme, the PSOE adopted the position that cinema was not just a business product, but also a cultural asset. However, a suitable balance needed to be struck between film as art and film as a money-making proposition. Pilar Miró, as a filmmaker, was very aware of the difficulties of financing filmmaking, and as Director General of TVE, she was mindful of TV's capacity to finance film production.

In Spain in 1982, film production ventures depended on whom you knew, as the now familiar and varied sources of financing were almost non-existent: international distribution (as an export), tax breaks, agreements with the emerging video distribution sector (and later, streaming platforms), funding from private TV stations (there were none in Spain in 1982), etc. For this reason, the future of film depended on political contacts, the Institute of Cinema and Audiovisual Arts (ICAA), and public national and regional TV channels.

The pre-1980s context was one of low-budget productions, which, for all that they were panned by the critics, filled movie theatres before the mid-1980s, and thereafter met stiff competition from the all-powerful US cinema of the 1980s (particularly from their effective distribution channels and the bundling of films) and from video. The Miró Law laid the foundations to eradicate films it considered to be of dubious quality and to reward films that could give international visibility to Spain. It was inspired by French legislation, and although that version of the law was never applied in Spain, the new law managed to renew the institutional structures of Spanish cinema inherited from the Franco regime and to implement an interventionist policy. Interestingly, it is reported that Pilar Miró privately raised, from friends and colleagues, the 5,000 pesetas needed to translate the French legislation to Spanish (Leal, 2007).

In terms of figures, in 1972, 146 films were produced (Heredero, 1998), cinema attendance was 156M, for a mean attendance frequency of 3.7 times a year, and market share for Spanish-made films was 22%-29%. From the early 1980s, this market share commenced a steady decline (Fundesco, 1993).

Figure. Spanish film data: market share, productions, and demand.

Source: Sancho & Pinilla (2020).

4. Protecting national film production

This case study illustrates what happens when protection for film production fails to take into account the entire film business system, and particularly, viewers' preferences and market size. The question is: What is the best way to protect filmmaking as both a cultural asset and a business sector?

Typically, there are two approaches to protection: state subsidies and sales. Subsidies are usually based on certain criteria (e.g. of special quality, or a special project, as in the Miró Law), and this excludes productions that fail to conform with those criteria. However, any movie, regardless of its genre, should be rated taking into account production costs and box office receipts. This is even more so the case when filmmaking is subsidized by the taxpayer.

The Miró Law was based on the first method, which only protected the already established more academic directors making films according to a particular interpretation of film quality in filmmaking. it therefore merely bolstered the power of established film directors to the

detriment of the power of producers building a popular cinematographic industry and even of TV stations. In other words, the artistic perspective predominated.

Film producers play a critical role in terms of determining film genres and quality, which depend not only on the director but also on the script, the acting, and the technical components, and is reflected in the level of demand. Film producers also play a critical role in reducing the risks associated with filmmaking, as only the largest producers can withstand the costs of financing several productions, only some of which may be successful. Artistic directors who become producers of their own films, however, cannot assume the risk without state subsidies to finance production. The effect of the Miró Law was that the state assumed all the risks, including losses on unsuccessful films, but received none of the benefits or profits from successful films.

The demand for films is not like a seam of some mineral, waiting for someone to come along to open it. Rather, demand is created by the choices and decisions of directors, producers, and distributors. Focusing only on a single dimension on the film supply side (i.e. creative directors) is like preparing a block of stone to sculpt a body, but only properly sculpting the arms. While those arms may seem to be well-shaped, the body as a whole will seem unbalanced.

5. The Miró Law: aims, quality criteria, and subsidies

The legislation that resulted in what is known as the Miró Law included Royal Decree 3304/1983, Ministerial Orders of February and May 1984, and Royal Decree 1067/1983. Between them these laws reorganized the Spanish cinema sector, reintroducing the art movie theatres that had disappeared in 1977 and X-rated rooms for the screening of pornographic and violent films, abolishing the S-rating (created post-censorship in1977 to permit films that had previously been prohibited), and awarding autonomous status to the Spanish Film Library.

The Miró Law aimed not to restructure the film industry, in which the producer is a crucial figure, but to ensure quality filmmaking. Another aim was to achieve public funding for filmmaking, achieved in 1983 under a financing agreement with TVE that established a minimum payment of 18M pesetas in return for TV rights.

The Miró Law, in place until the early 1990s (Heredero, 1998), established a financing system based on “a regime of advancing subsidies according to expected box office returns, from the presentation of the film project, including the script and the technical and artistic teams.” It gave exceptional support to films of “special interest” and to “projects by new filmmakers or of an experimental nature”, but failed to consider any other aspect of the business system, including production and distribution.

There was no clear definition of what was meant by those criteria, rather it depended on the opinions of the members of the Evaluation Committee, created by Royal Decree 1067/1983, and granted the power to award subsidies for filmmaking. The Evaluation Committee was composed of a maximum of 12 members appointed by the Ministry of Culture at the proposal

of the General Directorate. Suitability criteria for the members were ill-defined, no incompatibilities or conflicts of interests were established nor was there proportional representation.

The Evaluation Committee, typically composed of individuals with political connections, was chaired by Pilar Miró, who, as General Director of Cinematography, had the right to veto its decisions. Many of its members were drawn from a group of art directors and producers (e.g. Borau, Giménez Rico) who colluded to favour their own projects.

Thus, the Miró Law was accused from the outset of fostering favouritism and promoting vested interests. Just a year after Pilar Miró's appointment as General Director of Cinematography, a campaign organized against her by professionals very dissatisfied with the new subsidy system required her to solicit the support of 200 film professionals.

The advance subsidies, "introduced as an unprecedented novelty in our legal system", were inspired by the French legislation and its progress *sur recettes*. It was based on financing guarantees for films provided by the Cinematography Protection Fund and underwritten by the Industrial Credit Bank. Subsidies amounted to up to 50% of the budgeted cost and could never exceed the final cost of the film. A certain freedom was allowed in calculating a third of the total production expenditure (advertising, general expenses). A unique case, not even the most striking, was that, by two years after its release, the film *Sé infield y no mires con quién* had obtained 177M pesetas in financial aid when the budgeted cost was 70M pesetas. (Heredero, 1998:46).

The costs of filmmaking escalated, above all, those referring to technical and artistic teams, which were some of the easiest to manipulate. There was no limit on the accumulation of subsidies from regions or TV stations, so this made it possible to cover 100% of the budgeted cost. Subsidies thus quickly became the primary source of financing for film, with the result that Spanish cinema became wholly dependent on the state and its institutions.

According to critics of the Miró Law (Ozores 2002:277), the subsidies were only granted to production companies with political connections, especially with the government, and the impact was that new production companies began to emerge created by people sympathetic to the PSOE and to Pilar Miró, almost guaranteed to receive subsidies for their films, and furthermore, the amounts claimed began to increase. Gómez B. de Castro (1989) indicates that 12M pesetas was the average outlay for movies produced in 1977, compared to 20M in 1980 and more than 25M in 1985. Thus, in just a decade, costs doubled. If for some film directors, e.g.Eloy de la Iglesia, their films were guaranteed to go ahead, for others, their films were vetoed. Interestingly, once Pilar Miró resigned, state protectionism practically ended for Eloy de la Iglesia, except (partially) for *La estanquera de Vallecas*. Same legislation, but different people in charge of the Evaluation Committee (González, 2020).

6. Analysis: achievements and impacts

The new legislation that sought to raise the quality of Spanish film and dignify the profession reflected good intentions but failed to establish quality and professional criteria, two different but related concepts.

1) *Reduced film output*

Pilar Miró implemented several measures that resulted in fewer films of higher quality. This resulted in a significant drop in the number of Spanish films produced in the second half of the 1980s (Fundesco, 1993:21), equal to around half of the 120-150 feature films produced annually between 1960 and 1970. Other European countries saw a drop in film production, e.g. 20% in France and 30% in Italy, but none saw the 45% reduction experienced in Spain between 1980 (118 feature films) and 1991 (64 feature films) (Sancho & Pinilla, 2020). A similar pattern was evident in attendance. The reduced Spanish film share is explained by several factors: the suspension of the "S" category of films, which had accounted for 30%-40% of total production and a significant share of viewers, the disappearance of low-budget films as typical of the 1970s, the end of the nascent Spanish terror and fantasy film industry (López, 2021), the strong competition from the robust US film industry, and the emergence of a home video sector.

2) *Inflated costs*

From 1984, the number of subsidized films increased. In 1987, of 69 feature films produced in Spain, 51 received an advance subsidy. The linking of grants to budgets meant that producers made fewer films but of higher quality. The average cost per film increased almost fivefold, from 24.5M pesetas in 1980 to 118.3M pesetas in 1988. However, film quality and revenues do not necessarily go hand in hand (Fox, 2020).

Due to poor results for many of the subsidized films unable to repay advances, and despite the runaway box office successes of a few other films, the Cinematography Protection Fund rapidly lost capital. Other effects were that private capital disappeared as a funding source, and the roles of director and producer were fused, meaning that the artistic facet was not separate from the industrial production facet of filmmaking (Rodríguez Marchán, 2011).

3) *Uncertainty as to improved quality*

There is no real consensus as to whether the Miró Law contributed to quality film production. Some researchers view its contribution positively (Pérez and Ponce, 1986; Triana-Toribio, 2003; Zunzunegui, 1987), whereas others, like Fernández Heredero (1991: 114) refers to the "hegemony of academicism". The "special quality" label undoubtedly could be applied to a group of filmmakers, some already established or starting a successful career, including Trueba, Saura, Chávarri, Erice, Garci, Almodóvar, Borau, Camus, Gutierrez Aragon, etc. And some films made in the 1980s are today considered classics, e.g. *Los santos inocentes* and *El viaje a ninguna parte*.

From the 1990s, a very profound change took place in the film industry, with a gradual recovery in previous levels of production, and with producers approaching the production of films in a way that took into account the tastes of the most assiduous public and a more competitive market (Sancho Alegre & Pinilla Navarro, 2020).

4) *Increased funding by public TV*

Spanish TVE signed agreements, in 1983, with six national associations of film producers, whereby it acquired the rights to broadcast a film in exchange for funding to help the project get off the ground. These agreements represented the first regulation in Spain between public TV and the film industry. Rights were valued at a minimum of 18M pesetas (increased to 25M in 1987), and two years was the established waiting period for broadcast calculated from the date of its premiere in commercial theatres (Heredero, 1998). These agreements resulted in the creation of the figure of the associated producer, a formula through which TVE leased TV film or series production to filmmakers while assuming the production cost plus a profit of 15% over the total budget.

5) *Reduced attendance*

By the early 1980s, the market share of Spanish films was around 20%, but by 1984—the first full year of the Miró Law— it had dropped to 16.3%, then to 12.5% by 1986, falling to its lowest point ever of 7.5% by 1989. Attendance patterns reflected this change, with 40M cinemagoers in 1981 falling to 9M in 1991 (Fundesco, 1993: 25).

6) *No increase in new directors*

It cannot be claimed that the Miró Law favoured the appearance of many new filmmakers. According to Fernández Heredero (1999: 11), the protection provided by the Law facilitated an initial crop of novel directors, accounting for 15.8% of all directors, while, out of a total of 391 films produced from 1984 to 1989, 62 were first films (an average of around 10 debuts per year). Nonetheless, the 1990s saw higher percentages of new filmmakers, reaching a high of 30% in 1990 (Fernández Heredero, 1999).

Looking only at Pilar Miró's period as General Director of Cinematography (1983-1985) and adding the year 1986 as a sequel, the statistics look even poorer: new directors numbered 5 in 1983, 10 in 1984, 6 in 1985, and 6 in 1986. This total of 27 new directors accounted for only 10% of total production, a figure very similar to that of the latter years of the previous government (*Ley.Exam-10, 2017).*

7) *Reduced number of genres*

The Miró Law promoted academic cinema (Heredero, 1991:114), so many popular genres disappeared from the map, apart from *film noir* and *cine quinqui* (González, 2020). the incipient Spanish terror and fantasy film industry disappeared (López, 2021), along with the typical low-budget films of the 1970s, especially the hugely popular comedy genre known as the "*españolada*", a term that for some was derogatory but for many was synonymous with hedonism and fun. Mariano Ozores was the great master of this vaudeville and parody cinema, conservative in values and sexist to an extreme, that filled theatres and inflated box office receipts (González 2020).

The new financing system and the resulting protectionism had the effects of largely merging the direction and production roles and raising personnel salaries. In the space of two years, the caché of artistic and technical teams skyrocketed, and this collaterally and substantially increased the corresponding costs.

While many directors had laid the foundations for a more radical cinematographic trend in previous decades, in the 1980s there were just a few directors who implemented riskier and more innovative proposals, e.g. Víctor Erice with *El sur* (1983), José Luis Guerín, with *Los motivos de Berta* (1983), and Agustín Villaronga with *Tras el cristal* (1986).

7. Conclusions

Lessons learned

The artistic and moneymaking potential of films needs to be balanced, as a high-budget movie does not necessarily make a high-quality film or vice versa. High-budget films result from a significant market size (i.e. a demand side incentive), and market size is created by producer and distributor decisions to make a film available in as many sectors as possible: movie theatres, video, streaming, public TV, private TV, cable TV, and exports to other countries.

Once the expected market size is significant, revenues from sales of the rights can be expected to be high, enabling producers to contract the best art directors, actors, and technical staff. Note that building up a pool of excellent professionals in a country requires time, yet that pool empties rapidly when the industry is unable to support regular incomes, as research has shown (Padrós & López, 2005).

Film, as a creative production, differs from material products in that the benefit for the consumer is aesthetic. From the point of view of filmmakers, filmmaking is riskier than the production associated with material products for several reasons. Film has the characteristics of a public good (Wildman & Siwek 1988:3) and a positive network effect (Adler 1985, 2006), each new film is a new creation but it is difficult to predict which films will succeed at the box office, consumers of film have an infinite preference for variety (Peterson & Berger, 1975) but tend to prefer entertainment and big productions (García, Filimon & López 2007), film production has economies of scale as well as fixed and sunk costs of quality (Caves, 2000), and finally, selecting new productions is difficult, as low-budget films are needed to be able to select new art directors, actors, and technical staff.

Today's challenge

Several recommendations can be made that would bolster the success of the Spanish film production industry.

More Spanish films with higher internal demand need to be produced (focusing on the consumer preference for variety and entertainment) while entertaining big productions need to be produced for the global market. An efficient selection process could be put in place to categorize films as low-budget and high-budget productions (A-list/B-list), with national and regional TV stations transformed into A-list and B-list producers, respectively. On the supply side, a pool of artistic and technical talent is needed to produce low-budget films, in line with Sweden's proposal for the EU Amplify project (Amplify-Sweden, 2021) to create a robust cultural infrastructure that benefits European cooperation, economic growth, and social sustainability.

Distribution plays a crucial role in developing the market and determining market size. This is even more important today in creating a shared understanding of European cultures. A pan-European streaming network is needed, to partially displace commercial streaming platforms such as Netflix, which have repercussions for sharing and promoting European cultures. The recent transformation of Netflix into a set of national streaming networks limits choices as to what can be viewed in each country. First, it is focused on national markets, not the European market, which complicates not only the international distribution of national productions but also the diffusion of European cultures. Second, although it has obligations to fund local productions, it vastly favours US films and series. Filmin, a Spanish company, seems to be the only streaming platform that primarily offers films and series from European and non-US countries.

Reducing the inherent risk implied by each new feature film or series requires a business focus as well as an artistic and cultural focus. Furthermore, it is broadly envisioned that the future of filmmaking is the production of series. The Spanish film director, Gonzalo Suárez, recently commented as follows:

> *In cinema for the masses, the author is finished. In the series, this is even more evident. There are excellent ones, so much so that they almost demoralize you. They have everything -- but not the distinctive vision of the director [the author]. Forget about Kubrick or Spielberg or whoever you want. They are so technologically efficient that they don't need that specific author's vision. They tell a story. Surprisingly, series represent the triumph of traditional literature, not cinema. What counts is that what is told is well told. Not who is behind the camera.* (Marcos, 2022).

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