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The advent of the transnational TV format trading system: a global commodity chain analysis

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Abstract

This article argues that the format business transformed into a trading *system* in the 2000s, system being defined as a singular transnational space structured by networks of interdependent economic agents, firms, institutions and places. Following the global commodity chain/global value chain approach set out by Immanuel Wallerstein and developed by Gary Gereffi, this article then examines each dimension of the global TV format commodity chain that runs through this trading system. Beginning with the governance structure, this article counter-intuitively asserts that despite the current boom in TV production, it is a buyer-driven chain with power resting firmly in the hands of those making the acquisitions: the broadcasters. Considering the chain's geographical configuration, this article identifies three tiers of format exporters and specific trade routes along which most TV formats travel. These findings enable us to reassess the claims made by the cosmopolitanization thesis about the nature of media globalization. Contrary to this thesis, this article asserts the need to comprehend media globalization within the context of an expanding capitalist world-system, and shows that the new transnational TV format trade and its commodity chain replicate the inequalities and power structures of former trading systems.

Keywords

cosmopolitanism, global commodity chain analysis, International broadcasting, media globalization, transnational television, TV formats, TV production, world-system theory

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Introduction: the TV format industry as a transnational trading system

The first TV formats – programmes that are licenced for adaptation to local audiences – began to cross borders in the early 1950s. In the ensuing decades, the trade developed but at a slow pace. Most formats were US game shows such as *The Price is Right* and *The Wheel of Fortune*, which travelled across the developed world. No more than a handful of companies distributed these formats and the trade, confined as it was to a minor daytime genre, was largely unknown within the TV industry itself (Chalaby, 2012a; Moran, 1998).

It all changed in the late 1990s when the TV format trade suddenly exploded and became a multi-billion dollar industry. The number of formats in circulation grew exponentially, as did the number of countries they travelled to, and the number of companies distributing and producing them. This revolution had multiple determinants. In developed TV markets, competition was becoming intense, with a rash of cable and satellite channels on pay-TV platforms. TV executives opened up to the idea of buying into a concept with a proven track record that allowed them to offer local and original programming while managing risk. In the emerging markets, fledgling broadcasters were seeking local content but lacked the expertise to produce it. Formats offered solutions with a tried and tested recipe to follow.

By the turn of the century, the vitality of the new market was confirmed and enhanced by four exceptional shows that finally convinced TV executives worldwide of the power of formats: *Who Wants to Be a Millionaire? Survivor*, *Big Brother* and *Idols*. These programmes were adapted in more territories and generated more revenue for broadcasters than any other TV format before. Their global success prompted more acquisitions and commissioning teams to look for adaptable content, in turn encouraging producers to develop concepts capable of crossing borders. Within a few years, an old licensing right that had sat on the margins of the TV industry became a global commodity. From modest origins, the TV format trading system grew to an estimated €2.1 billion per year between 2002 and 2004, and €3.1 billion between 2006 and 2008. 259 formats led to 1,310 adaptations and 31,397 hours of formatted programming in 2002/2004, while 445 formats produced 1,262 adaptations and 54,383 hours in 2006/08 (Bisson et al., 2005: 11; Chalaby, 2011; Esser, 2013; Format Recognition and Protection Association (FRAPA), 2009: 8–13; Moran, 2006).

Drawing from global commodity chain (GCC) and global value chain (GVC) analysis, this article argues that the TV format business became a *transnational trading system* in the 2000s. While acknowledging that this industry is only a part of the international trade in audiovisual products, it will lay emphasis on its recently emerging systemic qualities. A trading system can be defined as a *singular transnational space that brings together interdependent economic agents, institutions, places, networks and commodities*. At its core lies a *commodity chain* that determines economic agents' positions and strategies, organizes networks of production and distribution and shapes trade flows within that space.

This article analyses the TV format industry as a transnational trading system organized around a GCC. Focusing on the global TV format commodity chain, this article first examines how economic agents strategize along the chain's four distinct *segments*; it then scrutinizes the chain's *governance*, studying the relationships between buyers (essentially broadcasters) and their suppliers. It also examines the chain's *geographical configuration*, identifying three tiers of format exporters and specific trade routes along which most formats travel. Finally, considering the chain's *institutional framework*, it shows that the transnational TV format trading system has begun to be protected by a fledgling international regulatory regime and that it stands on firmer legal grounds than ever before. The viability of this trade rests almost entirely on the recognition of intellectual property (IP) rights, which are increasingly acknowledged by courts of law around the world.

The GCC/GVC framework enables us to understand the core dynamic of media globalization while reassessing the claims made by the cosmopolitanization thesis about its borderlessness and cosmopolitan nature, as our findings will show that the TV format trade replicates the patterns and power structures of earlier trading systems.

World-system theory and GCC analysis

Approaching trade as a system was instigated by the scholars studying the multi-secular history of the Atlantic as a singular maritime space. The 'Atlantic system' designates the networks of trade and culture, the civilization and values, which have developed across the Atlantic throughout the centuries. Fashioned by a succession of seaborne empires, this system expanded through successive phases between the mid-13th and mid-19th century. In its last phase, it was marked by the 'Atlantic triangle', which saw manufactured goods leaving Europe for Africa to be exchanged for slaves, who in turn were shipped to work on plantations in the West Indies and the Americas, wherefrom plantation products were exported to Europe (Pietschmann, 2002).

This approach enabled historians to comprehend long-term changes in the structure and patterns of trade flows, identify sets of interdependent relationships and understand the intertwined roles of economic agents, institutions, governments and places within that system. It eventually helped them uncover a singular trans-empire maritime space whose visibility was partially obscured by national and imperial histories (Pietschmann, 2002: 23). It also allowed them to understand the place – and ultimately the modernizing influence – of the Atlantic system within the world economy (Emmer, 2002).

This approach developed organically but was influenced by Fernand Braudel (1949) who first conceived the Mediterranean as a singular space of commerce and civilization. Immanuel Wallerstein, a Braudellian scholar, is also cited, as his world-system study is relevant both substantially and methodologically (Canny, 2002; Pietschmann, 2002: 11–18). It is within this perspective that the author of *The Modern World-System* introduced the concept of GCC, defining it as a 'network of labor and production processes whose end result is a finished commodity' (Hopkins and Wallerstein, 1986: 159). This led to the development of a body of literature, initially labelled GCC analysis, later evolving into global value chain (GVC) theory (Bair, 2009; Gereffi et al., 1994).

This article examines each dimension of Gereffi's commodity chain: its *input–output structure* (the shape of its connecting production and distribution processes), *territoriality* (spatial dispersion), *governance structure* (issues of control and power relations among economic agents that determine chain co-ordination), and *institutional framework*, which refers to the impact that policy institutions and regulatory systems have on commodity chains (Bair, 2009: 9; Gereffi, 1994: 96–97, 1995: 113; Sturgeon, 2009: 130–131).

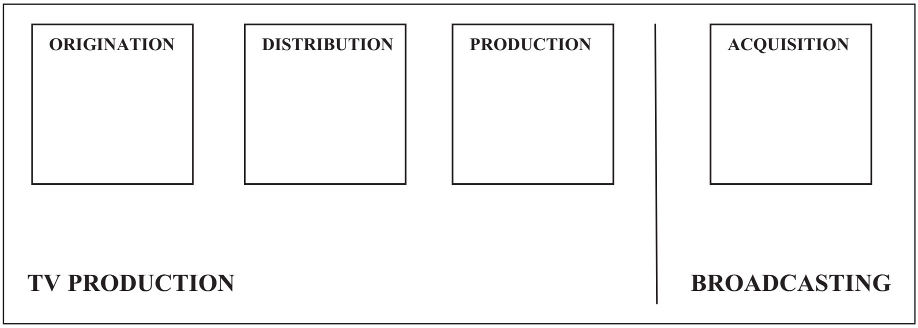

Figure 1. The TV format commodity chain: input–output structure.

GCC/GVC analysis brings many benefits, not least the ability to comprehend how the transnational TV format trading system is organized and determines economic agents' roles and behaviour, and how it evolves as it is continuously reshaped by the interplay and corporate strategies of these same agents. It enables us to assess the role of places and institutions, and identify production patterns and trade routes. It gives us a better understanding of the power distribution within the chain, and of the impact of regulation, national or otherwise, on the TV format trade.

The global TV format commodity chain

The *input–output structure* of the global TV format commodity chain is composed of four distinct segments (or boxes): a format is, in turn, created, distributed, produced and finally acquired (Figure 1). This sequence can be played out in many different combinations, depending on economic agents' strategies and resources (Table 1).

Until recently, the most common business model was licencing, that is, format owners selling the international rights of their formats to a distribution company. In turn, the distributor sells a licence to either a local production company or directly to a broadcaster that decides to produce the format in-house. The process involves four economic agents in the first case (A/B/C/D), and three in the second (A/B/C/C).

This combination remains common as most formats are still produced under licence. However, leading format owners increasingly favour a new model: international production. Whenever feasible, they opt to produce their shows in order to prolong their stay in the commodity chain. This strategy has led to the international expansion of TV production companies, and today about 14 super-groups have production capabilities in up to 30 territories (Chalaby, 2012b). Once a concept shows potential, these groups keep the format rights and produce it in territories where they have facilities (A/A/A/B). They also have international distribution divisions which acquire third-party content, creating an A/B/B/C route through the chain.

For reasons that will be specified below, several broadcasters and media conglomerates have decided to invest in the global TV format commodity chain. BBC Worldwide, RTL (FremantleMedia), ITV (ITV Studios), ProSiebenSat.1 (Red Arrow Entertainment),

Table 1. Most common combinations within TV format chain.

Originator	Distributor	Producer	Buyer
A	A	A	A
A	A	A	B
A	A	B	B
A	A	B	C
A	B	B	C
A	B	C	C
A	B	C	D

Modern Times Group (Nice Entertainment Group), Sony Pictures Television and Warner Bros. Television Group are among those that have developed their international TV production capabilities over recent years (Chalaby, 2012b). These groups have three options: They can sell the licence locally (A/A/B/B or A/A/B/C), they can (preferably) produce the format for (or co-produce with) a local broadcaster (A/A/A/B), or in the few countries where they own a TV channel that matches the format's requirements, they can air their own show and achieve full vertical integration in the TV format commodity chain (A/A/A/A).

Governance structure

Governance structure highlights power and co-ordination within chains; it is where the distinction between a buyer- and producer-driven commodity chain is made. The latter type includes those chains in which large manufacturers remain in control of production and distribution networks and processes, which is 'characteristic of capital- and technology-intensive industries such as automobiles, aircraft, computers' (Gereffi, 1999: 41). By way of contrast, buyer-driven commodity chains prevail in industries that are labour-intensive and in such cases 'large retailers, branded marketers, and branded manufacturers play the pivotal roles in setting up decentralized production networks in a variety of exporting countries'; the classic example being the fashion industry, which is controlled by a few global marketers in command of large networks of subcontractors across the developing world (Gereffi, 1999: 41–42).

The issue of power has attracted considerable attention in the GCC literature and attempts have been made to both expand and soften the terms of the dichotomy. For instance, Philip Raikes et al. (2000) suggest the existence of 'multi-polar driving' chains with a possible 'diffusion of power between producers and buyers' (p. 397). The more recent GVC framework has highlighted other forms of chain co-ordination and integration (Gereffi et al., 2005; Gibbon and Ponte, 2008; Sturgeon, 2009). This article analyses the relationship between broadcasters and suppliers within the GCC approach, while integrating a few elements from GVC analysis.

The distribution of power in the global TV format commodity chain hinges on the answer to these two questions: Who is most in control and who benefits most from the chain? It is undeniable that the independent TV production sector has profited from the rise of TV formats. Although this sector is not universally established, in recent years it has witnessed a sharp growth in countries such as Britain and the United States, not least thanks to booming TV format sales. In the United Kingdom, the 150 leading TV production companies have reached a total turnover of £2.1 billion in 2013 (Bulkley, 2014: 5). Arguably, TV formats only represent a portion of their revenue as the international trade in audiovisual products remains dominated by finished programming. Nonetheless, TV formats have acquired a strategic importance for TV production houses who constantly strive to develop new ones. A recognized entertainment format will raise a company's profile and, as it develops international scale, will boost the company's profit margins. Many global TV formats have played a key role in the growth of TV production groups, such as Endemol's *Big Brother*, RDF's *Wife Swap*, Shed's *Supernanny*, FremantleMedia's and Syco TV's *Got Talent* and *Idols*, and Shine's *MasterChef*.

While TV formats have played a key role in the development of the independent TV production sector, on balance, the global TV format commodity chain is buyer-driven. Control, and the lion's share of profit, rest in the hands of broadcasters, the chain's large 'retailers'. The range of benefits TV formats bring them is so vast that they accept – sometimes only after harsh negotiations – licence fees between 7% and 8% of production costs. In an age of intense competition, formats enable them to offer local programming and improve ratings while lowering risks to the schedule, safe in the knowledge that the same concept has a proven track record in other markets. Any new TV format is expected to outperform the show that it is replacing, to be scalable (adaptable to various budgets) and versatile (being able to fit in different slots or stretched to various lengths). Formats also enable broadcasters to drive down costs by taking out the development expenses normally associated with a new show. All TV formats involve a transfer of expertise and are accompanied by production bibles and consultant producers; by the time a format has reached a broadcaster, the production model has been fully refined: All possible short-cuts have been identified and previous mistakes ironed out from the production process.

Above all, broadcasters derive substantial income from TV formats. Well-known franchises never fail to generate a considerable amount of advertising revenue because, notwithstanding their ratings, they are easier to sell to advertisers than generic shows. On many occasions, broadcasters get to share extra revenues from voting and licenced products. In recent history, formatted shows such as *Who Wants to Be a Millionaire?*, *Survivor*, *Big Brother*, *Idols* and *Dancing With the Stars* have made a key contribution to the balance sheets of TV networks around the world (Bazalgette, 2005). In 2012, the top 100 formats generated US$2.7 billion for 84 channels across 16 European territories, with *Money Drop* alone generating US$213 million (Clarke, 2013). In addition, such shows not only become returning brands for channels, but become part of their identity and help them to build their profile.

Examining the issue of power, the relationship between broadcasters and their suppliers is determined by three factors: quality of the IP, which is broadly set by a format's ratings record, its originality and complexity, broadcasters' purchasing power and the supplier–broadcaster ratio.

The importance of IP in contemporary broadcasting means that the suppliers who pass the quality threshold do hold a certain amount of leverage over their clients. Broadcasters are desperate to acquire distinctive shows that help them stand out from the competition and compete for the best formats. Those production companies that control valuable IP, such as a well-known global TV franchise, are arguably in a good negotiating position. It is the uniqueness and originality of a concept that makes a TV format difficult to replace and gives bargaining power to its rights holders. Furthermore, the complexity of certain formats, in terms of multi-media integration for instance, gives a certain amount of 'competence power' to TV producers (Sturgeon, 2009: 129). Access to good IP being vital, broadcasters are increasingly mindful of their reputation in the TV production community and try to maintain a good relationship with their suppliers.

Even though supplier power cannot be entirely discounted – especially for those few TV producers fortunate enough to hold desirable IP – ultimately the balance of power is firmly in favour of broadcasters. Their significant purchasing power gives them natural leverage over suppliers, a position that is reinforced by the particularly high supplier–broadcaster ratio (there are many more companies selling IP than acquiring it). As such, the position of broadcasters is not dissimilar to that of supermarkets whose size alone gives them control over large transnational food chains and thousands of small farmers.

The British market, home to some of the world's most popular TV formats and production companies, provides a case in point. Although the number of broadcasters with a commissioning budget has recently expanded to cable and satellite operators such as Sky, Discovery and MTV, most of the commissioning purse remains in the hands of four terrestrial broadcasters: BBC, ITV, Channel 4 and Channel 5. Hundreds of independent TV production companies vie for the attention of these four volume buyers, which all acquire shows for multiple channels. In turn, each of these broadcasters deals with a large number of producers: in 2013, the BBC worked with 296 independent suppliers (up from 290 in 2012), ITV worked with 89 (up from 81), Channel 5 with 59 (up from 57) and Channel 4 with more than 300 (2012 figure) (*Broadcast Indie Survey*, 22 March 2013: 18–23; *Broadcast Indie Survey*, 21 March 2014: 23–27). These broadcasters also dwarf the suppliers they are dealing with. ITV's revenues touched £2.7 billion in 2013 and those of the BBC (2012/2013) reached £5.1 billion (BBC, 2013: 106; ITV, 2014: 4). By way of contrast, the average revenue of the UK's leading 153 independent production companies stood at £13.1 million in 2013 (*Broadcast Indie Survey*, 21 March 2014: 7–14).

Until the early 2000s, broadcasters' position in the chain was so dominant that PACT, Britain's independent producers' and distributors' trade body, convinced the British Government to introduce legislation in order to safeguard producers. The Communications Act 2003 duly introduced a code of practice that was inspired by similar regulation preventing supermarket groups' exploitation of their dominant position in the agriculture chain. The Act regulates the terms of trade between broadcasters and producers preventing the former from getting hold of all the IP rights when acquiring a programme or format (Doyle and Paterson, 2008).

The Act has undoubtedly put a brake on the abusive practices broadcasters used to indulge in, including price fixing, strong-arming and blackmailing (McVay, interview 2009). By creating a market for IP rights, it has also transformed IP catalogues into bankable assets, vastly improving the financial prospects of the independent production sector in Britain (Chalaby, 2010).

Nonetheless, broadcasters' purchasing power combined with the high supplier–broadcaster ratio means that regulation alone cannot fully redress the balance of power. Indeed, industry surveys regularly paint a picture of a fractious and difficult relationship between suppliers and broadcasters, who seem to be in command of this commodity chain. A recent survey among PACT's 500 members highlighted once again the difficulties producers face when dealing with their clients. It brought to light a wide range of issues, including broadcasters' non-respect of the terms of trade (regarding rights particularly), late payments, lack of concern about producers' cashflow issues and pressure on financial margins (Khalsa, 2013). Other oft-voiced complaints include unwillingness to pay production costs up front, slow decision process, contradictory feedback, complex commissioning structure and so on (*Broadcast Indie Survey*, 21 March 2014: 23–29). All these complaints are voiced anonymously because the stakes are significant for producers who are willing to jump through hoops to gain a network commission.

A clear picture emerges: the importance of quality IP and the complexity of production processes in contemporary broadcasting create a certain degree of interdependence among economic agents and there is evidence of supplier power in the global TV format commodity chain. However, not only is this power unequally shared among suppliers, but ultimate control resides with a small number of volume buyers who more often than not are in the position to dictate their conditions and who always benefit most from their transaction with producers.

Both broadcasters and producers have developed strategies in order to upgrade their position along the TV format chain. As seen above, several production companies have expanded internationally in order to exploit their IP across markets. Broadcasters, and even Hollywood studios, have become aware of the benefits of extending their involvement in the commodity chain and have moved upstream by taking control of TV production companies. This strategy began more than a decade ago (Chalaby, 2012b: 28), but the rhythm has accelerated recently: since 2012, Warner Bros. acquired Eyeworks (an Amsterdam-based company with facilities in 17 countries), Discovery and Liberty Global took over All3Media (UK's largest independent production group with a large international footprint), and ITV has made nine acquisitions (Kanter, 2014a, 2014b).

There are several advantages of pursuing a strategy of vertical integration. Being involved in TV production enables broadcasters to develop their own IP pipeline, sell TV formats and finished programmes to third parties, and diversify their revenues away from advertising. It is a strategy that offers them the best of both worlds: broadcasters can still access producers' IP, and can either use or sell elsewhere the shows they develop. These acquisitions may confirm the strategic importance of IP ownership but they also confirm the ascendancy of broadcasters over the suppliers they purchase.

The global TV format commodity chain is a key engine of change that is contributing to the globalization of the world TV industry. Not only do the dynamics within this chain stimulate media firms to expand internationally, they also increase their transnational – albeit asymmetrical – interdependence. This industry is increasingly organized on the basis of *transnational networks of companies whose strategic decisions are informed by an international trading system, which they also contribute to re-shape and transform*.

Geographical scope: trade flows and patterns

The GCC perspective enables us to offer a better account of trade flows in the transnational TV format trading system than existing theoretical frameworks. The volume of cross-border media flows has increased sharply since the late 1990s. These flows consist of finished programmes, TV formats, transnational TV channels and all manner of distribution platforms from pay-TV operators to Subscription Video on Demand (SVoD) providers such as Netflix, Amazon's Lovefilm and Microsoft's Xbox. This has led international communication scholars to lay emphasis on the cosmopolitan nature of the new media order.

Sociologists such as Ulrich Beck and Arjun Appadurai became influential and contributed to our understanding of contemporary media systems. According to Beck (2006), only a 'boundary-transcending and boundary-effacing' cosmopolitan outlook can investigate a social reality whose inner quality is being transformed by intense cross-border flows and ever-increasing interdependence among states (p. 82). Such theoretical narratives have helped place the stress on the cosmopolitan nature of contemporary media systems prompting academics to investigate, for instance, the articulation of the local and the global in the media that straddle borders (e.g. Chalaby, 2005; McCabe, 2013). Concepts such as hybridization, syncretism and métissage came to the fore as they grappled with the consequences of interpenetrating cultures (Nederveen Pieterse, 2004: 53).

The cosmopolitan outlook is full of insights but tends to ignore the influence of capitalist power structures on the world TV industry and in particular its embeddedness in international trade. It is a view according to which weightless media float above capitalistic logic and media products flow seamlessly in all directions. However, from spices to silk and from coffee to IP products, commodities have always travelled along specific routes (Bernstein, 2008). Under the capitalist world economy, some routes have disappeared, some have flourished and many new ones have emerged, but on the whole capitalism has intensified trade by encouraging a world-scale division of labour (Feenstra, 1998; Hopkins and Wallerstein, 1986). The GCC approach, which takes the magic out of media studies and replaces it with history, enables us to bring to light the structure and patterns of trade flows in the world TV format trading system.

An examination of the geographical scope of the global TV format commodity chain reveals tightly structured trade flows. On the basis of data collected in the late 2000s, three tiers of TV format exporters can be distinguished. Britain and the United States precede a group of seven mid-sized exporters (Australia, Argentina, France, Germany, Japan, the Netherlands and Sweden), themselves followed by a third tier of smaller exporters (Denmark, Canada, Italy, Norway and Spain; Table 2). Between 2006 and 2008, Britain and the United States exported more formats (431) than all the other exporters put together (386). Their formats generated almost as much revenue (in terms of production costs) than the rest of the exporters (€3.0 billion vs €3.1 billion). Table 2 also shows a clear trade leader as the United Kingdom beats its nearest rival by a margin of 2:1 both in terms of number of exported formats and revenue generated from local production costs. Chart 1 reveals a division between countries that are primarily IP generators versus those that are IP consumers, as four territories only (Argentina, Britain, Japan and the United States) have a positive balance in the TV format trade.

Table 2. Format exports, in terms of number formats, number of hours, number of episodes and revenue, 2006 to 2008.

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

Source: Adapted from FRAPA (2009: 11, 13–15).

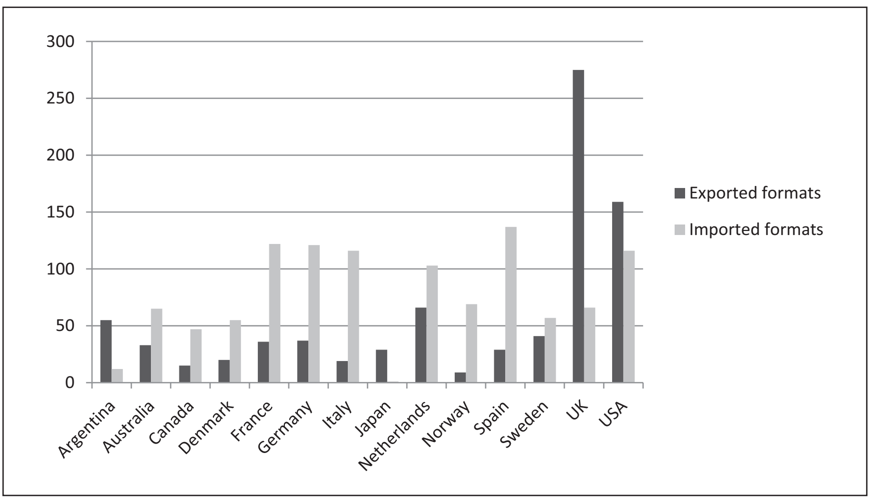

Chart 1. Exported versus imported formats, by country.
Source: FRAPA (2009: 11).

The key to these figures is history: the trade remains dominated by the two nations that initiated it in the 1950s, and several countries of the second ring, most notably Australia and the Netherlands, were industry pioneers in the 1990s. The TV format business rapidly internationalized in the 2000s when the number of formats in circulation grew exponentially, as did the number of companies that produced them and the number of countries they travelled to (Chalaby, 2011).

New territories are constantly opening up to the format trade. In recent years, the Middle East, Asia and Latin America have all become fast-growing markets. In Latin America, Brazilian broadcasters have become avid format consumers, and those in smaller markets such as Chile, Panama or Peru have also begun to adapt international franchises in high numbers (Waller, 2013). Asian markets used to be blighted by a 'blatant disrespect for intellectual property' with local broadcasters simply cloning Western shows (Keane, 2004: 9–10). Chinese firms were particularly adept at borrowing ideas, from *Who Wants to Be a Millionaire?* to *Super Girl* (a clone of *American Idol*). All this changed with *China's Got Talent*, the show that finally convinced Chinese broadcasters to pay for a licence fee and help this market move away from rampant copycatting. They witnessed how the transfer of expertise that comes with a legal format contract enabled Shanghai Dragon TV, the broadcaster of *China's Got Talent*, to completely overhaul its production processes and air China's most successful show ever (Yin, 2013, email correspondence; see also Fry, 2013).

Once acquainted with formats, many territories begin to look at their position in the global TV format commodity chain, seeking to move from Stage 1 – (re)produce foreign IP, to Stage 2 – create local IP for local consumption, to Stage 3 – export local IP. Gereffi (1999) defines industrial upgrading as a 'process of improving the ability of a firm or an economy to move to more profitable and/technologically sophisticated capital- and skill-intensive economic niches' (pp. 51–52). Several governments and industry leaders have initiated this process and have identified TV formats as a way of exporting more TV entertainment-related IP. Belgium, Colombia, Israel, South Korea and Turkey are among those countries that have recently emerged as format exporters.

The question is, 'Which attributes do a country need to possess in order to be successful in the global TV format trade?' Further research is necessary, but, at first sight, several features stand out in the four territories that perform particularly well: Britain, the United States, Holland and Israel. The first attribute is a broadcasting ecology that cultivates *both* competition and diversity. In the United States, the cut-throat environment is double-edged as tough competition makes IP investment a necessity but can make broadcasters risk-averse. The British eco-system is sufficiently competitive to force innovation but that also includes public service broadcasters – predominantly Channel 4 – which can afford to take risks in trying new formats. Both the Dutch and Israeli broadcasting systems present similar conditions.

All have strong cultural links with the United States and are (or were) heavy importers of American television fare. The United Kingdom was the world's main importer of US game shows in the 1970s and 1980s, Holland also imported its fair share, as did Israel. All of them import(ed) US series in great numbers. Even Japan (one of four countries with a positive trade balance in the format business, see above) owes its prowess in the game show genre to a strong US cultural influence in the aftermath of the Second World War (Ishita, 2000: 29–30). Proximity and familiarity with the birthplace of commercial TV creates producers, commissioners and audiences who understand the grammar and semiotics of television.

Finally, an export-oriented media policy is a necessity. The American government has helped Hollywood studios sell their films since the 1920s (Miller et al., 2005; Trumpbour, 2002), and Britain's broadcasting policy has begun to support UK exports since the turn of the century. Its Communications Act 2003 enables producers to keep all the TV rights that are not specifically purchased by broadcasters, among those are format rights which TV production companies are free to exploit on the international market. It is in their interests to exploit their IP as much as possible and unsurprisingly UK format exports have soared ever since (Chalaby, 2010).

The geographical configuration of the global TV format commodity chain helps us understand why the format trade works as a system: The trade is dominated by a few IP-exporting countries, formats follow routes and trade routes follow patterns. An industry motto claims that a good idea can come from anywhere, and while it is true that formats are exchanged among a growing number of countries, not all countries are equal in the transnational TV format trading system.

The systemic aspect of the trade is further underlined by new organizations that oil the 'global wheels' of the industry. These include a trade association (see below), a trade press (e.g. *C21Media, World Screen*) and trade fairs. Since 2009, a two-day event, MIPFormats, precedes MIPTV in Cannes; the 2013 edition attracted 570 participants from 55 countries.[1]

Institutional framework

The fourth dimension of commodity chains 'identifies how local, national, and international conditions and policies shape the globalization process at each stage in the chain' (Gereffi, 1995: 113). This section argues that the TV format trading system has begun to be protected by an emerging international regulatory regime and that it stands on firmer legal grounds than ever before.

From a legal perspective, a TV format is a right to remake a programme for a given territory. This right exists alongside other rights (such as ancillary rights, television rights, video rights, etc.) that are attached to a piece of IP. For a format to exist, a broadcaster must accept to pay for a show's intangible elements, such as its concept and package (as opposed to something concrete such as a script), and for format rights to be traded, buyers must recognize them as IP rights. This has been a long battle, and it has taken more than a half-century for this right to gain international recognition.

A few industry pioneers, being aware that the entire business rests on the premise of IP protection, founded FRAPA in April 2000. FRAPA's foremost objective is to act as an industry pressure group to campaign for the legal recognition of TV formats and protection of the IP they contain. It also aims to combat plagiarism within the TV industry by means of education and the creation of guidelines for fair competition (Lyle, interview 2009; Rodrigue, interview 2012).

Almost by nature, TV formats are difficult to protect, and the history of the trade is littered with lawsuits between parties fighting over IP. Some periods have been more acrimonious than others, and the first half of the 2000s was particularly so. The height of reality TV brought a flurry of lawsuits involving many of the world's best-known formats. However, despite persistent obstacles, the recognition of TV format rights has progressed by leaps and bounds since the turn of the century. The importance of respecting IP rights has slowly spread around the globe and is now an increasingly accepted industry norm in regions such as Latin America and Asia. In addition, evidence shows that rights owners are gradually more successful in protecting their formats. Courts are not only more favourable to format owners than in the past, they have a wider choice of options open to them. Five legal routes presently exist (FRAPA, 2011: 6):

- Copyright law can protect against copycat formats.
- Laws of unfair competition (or passing off in certain jurisdictions) can provide help against formats that confuse the public.
- Laws of unfair competition can also guard against unfair business practices that are deemed 'parasitic'.
- The law of confidential information can help safeguard the expertise behind a format.
- The law of registered trademarks can help protect format titles and logos.

Copyright laws

The industry's favourite line of defence has traditionally been copyright laws but many difficulties reside in their application and the outcome of such cases has been uncertain at best. First, for a TV format to be a 'work' susceptible of copyright protection, it 'requires that the format (1) has found expression in a certain perceptible form and (2) that originality is expressed' (European Broadcasting Union (EBU), 2005: 69).[2] Thus, a court must ascertain a format's degree of originality, knowing that 'inspiration is allowed' and weighing 'the competing benefits of protecting IP rights against the right of free access to information' (EIB, 2005: 70). Second, a TV show is made of several *copyright works* (literary, artistic, musical, etc.), and when 'these elements or other features are combined' they form a 'dramatic work' (FRAPA, 2011: 10–11). It follows that not all formats are equal before the law: scripted formats that come with characters and storylines are easier to protect than quiz shows, themselves easier to protect than variety and reality programmes (FRAPA, 2011). To compound the difficulties, concepts, legal practices and interpretations vary considerably from jurisdiction to jurisdiction. The international copyright regime that is underpinned by various treaties such as the Bern Convention and the Budapest Treaty fixes certain general principles but legislation and its application are still determined by sovereign states (Tingay, interview 2012). For instance, the 'level of inventiveness' or originality that a format must possess to be granted copyright protection varies considerably from one jurisdiction to another (Tingay, interview 2012).

However, despite these obstacles, evidence shows that TV formats are increasingly granted legal protection against copyright infringement. After years of fruitless attempts, it was a Spanish court that agreed for the first time that a TV format could be subject to copyright protection. In 1994, Endemol sued Antenna 3 in Spain over a local version of *Love Letters*. The court not only found that *Love Letters* 'was protected by copyright', but that the '"key elements" of the format had been copied by Antenna 3' (FRAPA, 2011: 16). Since 1994, there were 13 instances of a court finding that in principle a TV format can be protected by copyright, irrespective of whether or not the court upheld the claim of copyright infringement (Table 3).[3]

In several instances, courts have deemed that TV formats merit protection but have ruled against copyright infringement in a particular case. For example, although the Dutch Supreme Court agreed that 'the combination of 12 elements within *Survive!* when taken together was sufficiently unique and specific to be original', and hence that the whole formed a 'copyright work', it decided that '*Big Brother* was not an infringing copy' (FRAPA, 2011: 17–18).

Other legal options

The laws of unfair competition in civil law jurisdictions (or passing off in common law systems that prevail in the Anglo-Saxon world) offer a line of defence that is growing in popularity among format owners. The focal point of such an action is not the act of copying, but that 'the imitation, deliberately or inadvertently, has misappropriated the goodwill such that members of the relevant public would be confused or deceived into thinking that the copy was created by the format owner, causing the format owner loss and damage' (FRAPA, 2011: 30). In such an action, the claimant must prove that his or her format has gained a reputation in the country – 'local goodwill' – where the case is brought (Bridge and Lane, 1990).

The first such dispute occurred in France in 1993 (Table 4). Once Antenne 2 had licenced CBS's *Rescue 911* (*La Nuit des Heros*), TF1 poached the production team to make *Les Marches de la Gloire* and *Le Defi*. Antenne 2 sued 'for unfair competition on the counts of passing off, disruption of business, acquisition under false pretences and parasitical business practices' and was successful (EBU, 2005: 133). Although the trend is not as marked as for copyright claims, Table 4 shows that several cases reached courts in recent years.

Confidential information about a TV format and the expertise surrounding it can be safeguarded by law. A breach of confidence can be brought against a party that misuses information received as such. This covers paper formats that are pitched to broadcasters, communications by flying producers and the production bible, which can only be seen by licensees. An important case was won on these grounds by a media consultant against Sony Entertainment Television in India in 2001 (FRAPA, 2011: 42–43).

Finally, the law of registered trademarks can protect format titles and logos. This legal provision is particularly useful when called upon to protect formats with a strong brand element and identity. Several global TV formats, including *Big Brother*, *Who Wants to Be a Millionaire?* and *Popstars*, won injunctions to prevent trademark infringements (FRAPA, 2011: 45; Pickard, 2011).

The legal protection of IP remains an industry issue. Perhaps reflecting once more their disadvantageous position in the TV industry, format creators and producers remain adamant that it remains difficult to protect ideas and that format theft is a constant threat. In addition, discrepancies exist in the legal protection of TV formats from jurisdiction to jurisdiction. For instance, Spain saw five copyright cases, three of them successful, against none in the United Kingdom.

However, despite these pending issues, TV rights owners' legal position is stronger than ever. As seen above, all successful copyright cases, bar two, and most successful

Table 3. Courts that held that TV formats can be protected by copyright laws.

Date and country	Parties	Formats	Outcome
1994, Spain	Endemol vs Antenna	*Love Letters/unknown*	Claimant (Endemol) successful
1999–2004, Netherlands	Castaway Television Productions vs Endemol	*Survive!/Big Brother*	Claimant (Castaway) unsuccessful
2002, Belgium	BVBA Habrasaje en Martin De Jonghe vs VRT	*Golfbreker/Golfbreker*	Claimant (Martin De Jonghe) successful
2003, United States	Survivor Productions LLC & CBS vs Granada & others	*Survivor/I'm a Celebrity … Ge Me Out of Here!*	Claimant (Survivor Productions) unsuccessful
2004, Brazil	TV Globo & Endemol vs TV SBT	*Big Brother/Casa dos Artistas*	Claimant (Endemol) successful
2005, United States	RDF Media vs Fox Broadcasting	*Wife Swap US/Trading Spouses*	RDF's claim of copyright infringement upheld but case did not go to trial
2005, Belgium	Tailor-Made Films vs VRT	*Don't Get Mad … Get Even/De Thuisploeg*	Claimant (Tailor-Made Films) unsuccessful
2007, Malta	Endemol vs TVM Malta & others	*Big Brother/L-ispjun*	Claimant (Endemol) successful
2009, Spain	Maradentro Producciones vs Sogecable	*Epitafios/Epilogo*	Claimant (Maradentro Producciones) unsuccessful
2010, Spain	Atomis Media vs Televisión de Galicia	*No Em Rattlis, No Te Enrolles and Ya Te Vale (all Spanish versions of What Kids Really Think/O País Dos Ananos*	Claimant (Atomis Media) unsuccessful
2011, Spain	Sociedad Española de Radiodifusión vs Radio Popular	*Carrusel Deportivo/ Tiempo de Juego*	Claimant (Sociedad Española de Radiodifusión) unsuccessful
2011, Spain	Corporación Radiotelevisión Española vs Gestevisión Telecinco	*Tengo Una Pregunta Para Usted/España Pregunta, Belén Responde*	Claimant (Corporación Radiotelevisión Española) successful
2011, Canada	Robinson & Les Productions Nilem vs France Animation & others	*Robinson Curiosité/ Robinson Surcroë*	Claimants (Robinson & Les Productions Nilem) successful

Sources: FRAPA (2011: 10–29), EBU (2005: 142–145).

Table 4. Courts that held that a TV format can in principle be protected by unfair competition laws.

Date and country	Parties	Formats	Outcome
1993, France	Antenne 2/TF1	*La Nuit des Héros/Les Marches de la Gloire*	Plaintiff (Antenne 2) unsuccessful
1995, Germany	Developer vs ZDF	*Labyrinth/Goldmillion*	Plaintiff (developer) unsuccessful
2005, France	Saranga Productions vs Canal Plus	*Crise-en-direct/C'est déjà demain*	Plaintiff (Saranga) successful
2007, Spain	Televisión Autonomia de Madrid vs Televisión Española	*Madrid Directo/ España Directo*	Plaintiff (Televisión Autonomia de Madrid) successful
2011, Spain	Corporación Radiotelevisión Española vs Gestevisión Telecinco	*Tengo Una Pregunta Para Usted/España Pregunta, Belén Responde*	Plaintiff (Corporación Radiotelevisión Española) successful
2013, France	Endemol France vs Banijay	*Dilemma/Loft Story*	Plaintiff (Endemol France) unsuccessful

Sources: FRAPA (2011: 30–36), EBU (2005: 133–136) and Brzoznowski (2013).

unfair competition cases occurred since 2002. The viability of this trade rests entirely on the recognition of IP rights and these are increasingly recognized by courts of law around the world.

Television, trade and historical capitalism

This article's central argument is that the TV format business – albeit located within the broader context of an international trade in audiovisual products – developed as a singular transnational space at the onset of the 21st century. This space is singular because of the economic interdependence of economic agents, the multiple connections and transactions among them, and the knowledge they have of each other and of the industry as a whole. Common spaces have developed, digital or otherwise, in which industry members can exchange views and develop relationships. These members also increasingly share common values, notably with regard to IP.

This space is transnational in scope because it brings together economic agents, organizations, commodities and commercial networks across borders. Furthermore, the chain that is the core of this system not only increases media firms' transnational interdependence, but it also stimulates them to expand internationally.

This trade is systemic in character because it is structured by the global TV format commodity chain, which ascribes roles and relationships but also informs economic agents' commercial and industrial strategies. In addition, commodities follow trade routes and these routes follow patterns.

At theoretical level, this article asserts the need to comprehend global television within the context of historical capitalism. The discourse of cosmopolitanism fails to establish the connection between culture and economy, and more fundamentally between culture and history, and thus misunderstands the globalization of television. The intensification of cross-border TV trade and the formation of a singular transnational space do not automatically confer this trading system a cosmopolitan character. The patterns and structures of the TV format trade clearly show that, unlike Beck (2006) claims, borders have not all become 'transparent', and the inequalities among territories, including the division between IP generators and IP consumers, demonstrate that nation-states are more than just 'historical fetishes' (p. 8).

Commodity chains have been transnational 'from the very beginning of historical capitalism', Wallerstein rightly argues (Wallerstein, 1983: 31; see also Hopkins and Wallerstein, 1986). Thus, it cannot be inferred from the emergence of a TV format commodity chain that distances, differences and borders have all vanished in the TV industry. The globalization of television has less to do with an alleged cosmopolitization of the world than with the expansion of the capitalist world-system into IP trading. This explains why the new transnational TV format trade and its commodity chain replicate features of former trading systems.

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List of interviews

(Company names and job titles at time of interview)

Lyle D, president, Fox Reality Channel, and founding director, FRAPA, interview with author, 30 September 2009.

McVay J, chief executive, PACT, interview with author, 25 February 2009.

Rodrigue M, co-founder, The Format People, and founding member, FRAPA, 29 March 2012.

Tingay S, director, legal and business affairs, FremantleMedia, interview with author, 31 May 2012.

Yin V, chief representative and deputy general manager, Stat China International Media, email correspondence with author, 2 April 2013.

Notes

1. http://www.mipformats.com. Consulted June 2014.
2. Henceforth EBU.
3. This figure includes the RDF Media vs. Fox Broadcasting case over *Wife Swap US/Trading Spouses*, although it was stopped after the first hearing, probably due to an out-of-court settlement (EBU, 2005: 142–145).

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