

# AUDIOVISUAL AUTHORS' RIGHTS AND REMUNERATION IN EUROPE

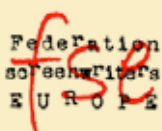
**SAA** WHITE PAPER

2<sup>nd</sup> edition | **2015** | **EXECUTIVE SUMMARY**



Society of Audiovisual Authors

Endorsed by



## Setting the Scene

Europe's audiovisual sector is a key economic, social and cultural contributor to the European Union:

€122 bn  
European audiovisual  
sector revenues in 2013

1,542  
Films produced  
in Europe in 2013

€6.28 bn  
Box office  
receipts in 2013

8,828  
TV channels  
in 2013

3,000+  
On Demand  
Platforms

Source: European Audiovisual Observatory Yearbook 2014

But this success isn't being converted into increased remuneration for Europe's screenwriters and directors.

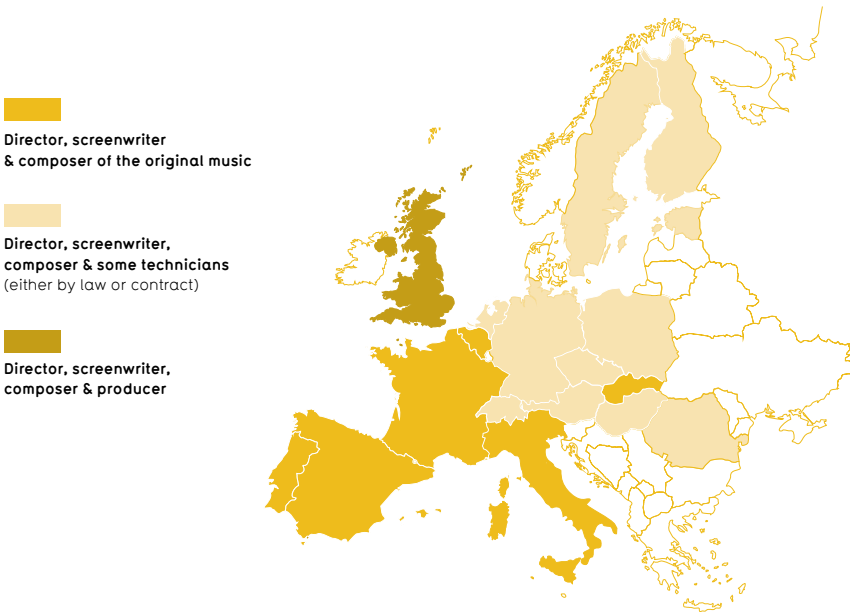
0.37%

SAA members' collections as a percentage  
of audiovisual sector revenues

The legitimacy of authors' rights and copyright is rooted in the link between the success of a creative work and the remuneration of its author(s). Putting authors at the heart of culture and copyright should be the starting point.

## Who is an Audiovisual Author?

SAA's members represent two key author groups: screenwriters and directors of film, TV and multimedia. Depending on the country, other contributors can also be co-authors. Where SAA has members, the situation is:



## Representative Organisations

Screenwriters and directors can join a variety of different organisations to collectively defend their interests: unions, guilds, associations and/or collective management organisations (CMOs). These organisations are represented at European level by FERA, FSE and SAA.

Creativity is the oil of the 21<sup>st</sup> century. It is the imagination of artists that keeps the creative industry going.

Jochen Greve - Screenwriter, Germany



For CMOs there is no single model. SAA's members represent a variety of rightholders and manage different rights depending on the national context and European harmonisation.

Country	SAA member	Cable retransmission	Private copying	Other retransmission rights *	Online/ on demand uses	TV broadcasting	Video sales	Educational uses	Video rental	TV archives	Video lending	Cinema/ Public performance
Austria	Litex-Mechana											
Austria	VDFS											
Belgium	SABAM											
Belgium	SACD / SCAM											
Czech Republic	DILIA											
Estonia	EAAL											
Finland	Kopioosto											
France	SACD											
France	SCAM											
Germany	VG Bild-Kunst											
Germany	VG Wort											
Hungary	Filmjus											
Italy	SIAE											
The Netherlands	LIRA											
The Netherlands	VEVAM											
Poland	ZAPA											
Portugal	SPA											
Slovakia	LITA											
Spain	DAMA											
Spain	SGAE											
Sweden	Copyswede											
Switzerland	SSA											
Switzerland	SUISSIMAGE											
UK	ALCS											
UK	Directors UK											
<b>TOTALS</b>		<b>24</b>	<b>23</b>	<b>19</b>	<b>17</b>	<b>16</b>	<b>15</b>	<b>15</b>	<b>11</b>	<b>11</b>	<b>9</b>	<b>8</b>
<b>Percentage</b>		<b>96%</b>	<b>92%</b>	<b>76%</b>	<b>68%</b>	<b>64%</b>	<b>60%</b>	<b>60%</b>	<b>44%</b>	<b>44%</b>	<b>36%</b>	<b>32%</b>

\* Satellite, iPTV

## Rights and Remuneration

The current situation of audiovisual authors varies from one country to another due to the individual contracts they sign, their collective strength and their national legislation. The 2001 Copyright Directive introduced the *making available right* for online exploitations. However, its introduction has not produced additional remuneration for authors.

### Fees and Intellectual Property Rights (IPRs)

$$\text{Authors' income} = \text{fee for writing script or directing work} + \text{income based on their IPRs}$$

The vast majority of authors are freelancers. The nature of their work and the practices of the industry are such that much of what they do can be unpaid, in particular at the development stage. Recent surveys give an idea of how much authors earn:

€22.000  
Yearly median income of screenwriters after tax  
Source: FSE

11.5%  
Authors earning their living solely through writing  
Source: ALCS

70%  
Directors experiencing some form of fee deferral  
Source: Directors UK

## European Harmonisation

The EU has adopted 11 Directives harmonising certain aspects of authors' rights and related rights. The most significant Directives for audiovisual authors are:



## Unfair Contractual Practices

Individually negotiated fees in the contract between the author and the producer result in many audiovisual authors receiving a **lump sum payment** for the writing and/or directing of the audiovisual work. A 2014 European Parliament study<sup>1</sup> confirmed that contractual practices very often deprive audiovisual authors of the effective exercise of their rights. Breaks in the **long distribution chain** can also mean remuneration fails to reach authors.

<sup>1</sup> Study on contractual arrangements applicable to creators: law and practice in selected Member States' by CRIDS and KEA.

## Commercialisation chain of audiovisual works



## Additional Remuneration from Collectively Managed Rights

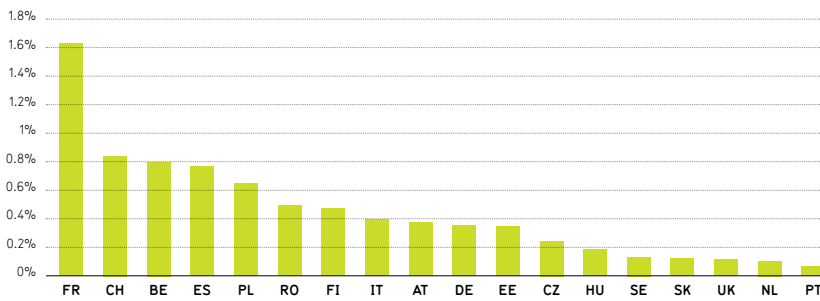
The two major rights that are collectively managed are **cable retransmission** and **private copying**. In addition, in a number of countries audiovisual authors' CMOs are, either contractually or by law, entitled to collect on behalf of their members for the **TV broadcasting** of their works.

In many European countries, audiovisual authors are not, as yet, receiving any payment for the online/on-demand consumption of their work. It would be unacceptable for authors to be left behind by this digital revolution.

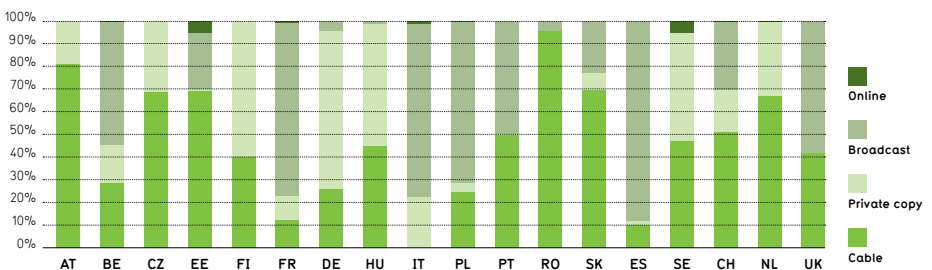
## Collective Administration of Audiovisual Authors Rights in Europe

In 2013, the 25 SAA members collected €452 million for their audiovisual authors. Audiovisual collections represented just **0.37%** of film and TV's €122bn revenues. The number and/or categories of rights managed obviously have an impact but these figures demonstrate the extent to which collections for audiovisual authors need to be strengthened.

### SAA member audiovisual collections against sector revenues



### Respective share of the main categories of royalty collected by SAA members (2013)



## Collective Rights Management Challenges

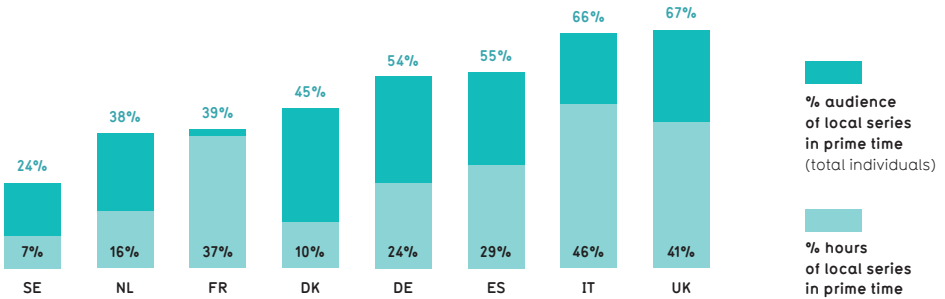
Collectively managed remuneration such as that for cable retransmission or private copying compensation often provide key income to audiovisual authors in between projects. However, these sources of remuneration are today threatened: cable retransmission royalties are currently the subject of court cases in a number of countries as cable operators refuse to pay. Despite the making of copies of protected works for personal use being more common than ever before, private copying compensation through levies on the devices and media used to make copies is also being challenged across the continent by importers and manufacturers. The **Collective Rights Management Directive** – to be implemented by Member States by 10 April 2016 – reaffirms collective management as an essential tool which protects authors in their relations with users.

## Changing Times, Time for Change

In spite of its natural fragmentation, the European audiovisual industry has succeeded in turning its diversity into an advantage. With relatively limited investment, Europe's industry still manages to punch above its weight and produce screenwriters and directors whose works are loved the world over. This is a European success story of how we have found ways to channel our naturally fragmented continent of different languages and cultures to produce a competitive audiovisual sector.

### Comparison of hours and audience of local series in prime time

Source: Eurodata TV Worldwide 2013



However, the current market is far from perfect as US films and TV programmes continue to dominate in many countries. More has to be done to help the European audiovisual industry to fully seize the digital opportunities and reach new audiences, grow our creative business and showcase the talents of our creators.

The huge opportunity provided by the internet is also its greatest challenge. The multitude of possible exploitation methods of audiovisual works also requires new licensing systems. The use of work identifiers such as ISAN need to become more widespread. In such an increasingly complex environment only CMOs are able to facilitate the remuneration of authors.

## The Way Forward – Ensuring Fair Remuneration

Both the European Commission and Parliament have recognised that authors' remuneration is an issue:



## Improved Contractual Practices

The SAA supports the improvement of contractual practices, in particular through collective bargaining. We do not believe that this will be enough to ensure fair remuneration to audiovisual authors for the exploitation of their works across Europe. The enforcement problems of individual contracts will remain. A good contract that cannot be enforced does not help authors very much.

## An Unwaivable Remuneration Right

Audiovisual authors should be granted an unwaivable right to remuneration **negotiated and collected on a collective basis**, to guarantee they will be financially associated to the exploitation of their works, whatever the distribution platform.

The legitimacy of authors' rights and copyright revolves around the creators being economically and morally linked to enjoyment by audiences of their works. Audiences expect to support directors and screenwriters they love by paying to watch their works. It is therefore **time to put authors back at the heart of copyright**.

In the end we transfer a lot of things when we transfer our rights

Cédric Klapisch - Screenwriter and director, France

## ABOUT SAA

Founded in 2010, the Society of Audiovisual Authors (SAA) is an association of European collective management organisations representing audiovisual authors. Its 25 members in 18 countries manage rights for over 120,000 film, television and multimedia European screenwriters and directors.

The organisation's objectives are:

- to defend and strengthen the economic and moral rights of audiovisual authors;
- To develop, promote and facilitate the management of rights by member societies;
- To secure fair remuneration for audiovisual authors for every use of their works.

In addition to the White Paper, SAA has produced several contributions, including on [private copying compensation](#), [royalty distribution rules and practices](#) as well as a joint [wish list](#) with FERA and FSE for how Europe can help its screenwriters and directors help the European audiovisual sector thrive.



Society of Audiovisual Authors

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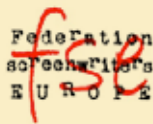
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