

ROYALTY DISTRIBUTION RULES AND PRACTICES



Society of Audiovisual Authors

INTRODUCTION

THE SOCIETY OF AUDIOVISUAL AUTHORS

The Society of Audiovisual Authors (SAA) is the European grouping of collective rights management organisations who deal with audiovisual authors' rights. It gathers **25 societies** in 18 European countries who together represent more than **120,000 film, TV and web screenwriters and directors**. Established in 2010, the SAA's main objectives are:

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

To present the situation of audiovisual authors and their collective management organisations (CMOs) in Europe, the SAA published a **White Paper on Audiovisual Authors' Rights and Remuneration in Europe** in 2011 which was the first comprehensive survey ever made on audiovisual authors' rights and remuneration management in Europe. Based on the analysis, reflection and joint efforts of SAA members, this document highlighted existing problems and presented solutions building upon the experience and know-how of its members.

AUDIOVISUAL AUTHORS' SOCIETIES - WORKING CONTINUOUSLY TO IMPROVE DISTRIBUTION AND REDUCE DELAYS

The rules and practices for distribution of collective management organisations depend very much on the rights they manage.

“The rules and practices for distribution of CMOs depend very much on the rights they manage.”

Audiovisual authors' societies manage both remuneration rights and exclusive rights. All of SAA's members manage remuneration rights or mandatory collective schemes (cable retransmission, private copying, public lending right, educational uses, etc.). Some of them also manage exclusive rights (such as broadcasting rights, online rights).

Some rights generate large amounts of money for individual distribution while others do not generate enough money to justify several payments a year.

This document aims to show the practices of audiovisual authors' societies in terms of royalty distribution to their authors. These practices have been established to implement rules deriving from the law, their statutes or governing body's decisions. They all aim at distributing royalties to authors as quickly as possible. Societies are continuously working to improve distribution and reduce delays.

ON WHAT DOES THE FREQUENCY OF ROYALTY DISTRIBUTION DEPEND?

Several factors influence the frequency of distribution. The first is decisive:

➔ The amount of royalties to be distributed: the bigger the total amount to be distributed, the more cost effective it is to have frequent distributions.

➔ The frequency of payments received from users: generally provided for in the agreements, payments from users can either be made in one

go or, as is more common with broadcasters, in installments for a given period. Schedules of payments are established, although not always respected by users (see below).

➔ Obtaining programming/usage data from users or third party organisations and the quality of the documentation received.

➔ The method of distribution (full census vs. sampling): most audiovisual authors' societies identify each usage of an audiovisual work made by users and allocate and distribute royalties to each work. This is much more time-consuming than working on a sampling basis, but much fairer to all members.

WHAT IS THE MOST COMMON DISTRIBUTION FREQUENCY APPLIED?

The frequency depends on the rights managed:

① Broadcasting rights = 4 or more distributions a year

Most audiovisual authors' societies who manage broadcasting rights (in Belgium, France, Slovakia, Spain and Switzerland for example) organise at least 4 distributions a year and sometimes once a month. This is justified by the sufficiently large amounts of money that are collected (broadcasters usually make several payments a year) and that need to be distributed individually.

② Remuneration rights or statutory rights = 1 distribution a year

These rights usually generate small amounts of money for individual distribution. This is the main reason for not organising several distributions a year. Some societies organise 2 distributions a year when the amounts of money collected make it worthwhile or because they have one main distribution based on a provisional ratio and one final distribution to correct for the final ratio, once the financial year is closed and the final payment for the period has been received from the users.

When societies manage several rights, they usually schedule distribution plans in such a way that allows them to spread the work over the whole

year (as an example, private copying is paid in May, cable retransmission in October, etc.). This enables societies to operate their distributions in the most efficient manner and thereby keep the costs to members as low as possible. It also allows authors to receive money at several periods of the year, which is important for them to have a regular income.

WHY DO SOME AMOUNTS REMAIN UNDISTRIBUTED OVER A CERTAIN PERIOD OF TIME?

Several problems can occur which prevent distributions proceeding on time. The first one is the most important one for audiovisual authors' societies:

“Insufficient and unreliable data on usage of works slow down the distribution process.”

→ Insufficient, unreliable or no data at all from users to allocate the money to a work or an author.

→ In the case of compulsory collective management, societies collect both for members and non-members / non-represented rightholders; constant efforts are made by audiovisual authors' societies to identify non members. This requires human resource capacity and can be very time consuming.

→ Dispute over ownership, entitlement to receive royalties or on the split between co-authors.

→ Lack of payment details.

→ The estate of a deceased author has not been settled, etc.

It is therefore important that the money can be kept for a certain time, in order for the society, the user or the author himself to resolve the situation. CMOs have developed and apply procedures to address the most common problems (dispute resolution procedure for conflicts between authors, international identifiers of works and authors), but some reasons fall outside their remit, or require the active cooperation of users for instance.

Once the issue is resolved, the society distributes the money with due diligence. However, there are situations which are never resolved. There is therefore a need for a time-limit after which CMOs are no longer obliged to hold on to the money.

FOR HOW LONG DO SAA MEMBERS HOLD ON TO ROYALTIES?

Generally provided for in national legislation, this period varies from 3 to 10 years. The majority of SAA members respect time limits of between 3 to 5 years before the money is reassigned.

WHAT HAPPENS TO NON-DISTRIBUTABLE AMOUNTS?

The main practices of audiovisual authors' societies are the following:

“The majority of SAA members add the non-distributable amounts to the rights revenue to be distributed at the end of the designated period.”

→ The amounts are added to the rights revenue to be distributed

The majority of SAA members add the non-distributable amounts to the rights revenue to be distributed at the end of the designated period. This is the choice made by the general assembly or the board of the societies.

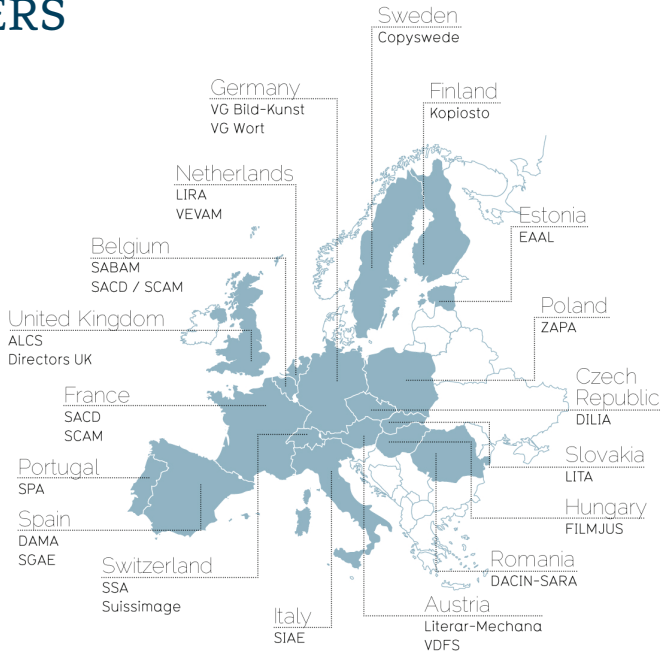
→ The amounts are allocated to cultural and social funds

In a few countries, the law or the statutes of societies provide that non-distributable amounts are allocated to cultural and social funds dedicated to the support of authors and cultural activities.

A minority of societies, as voted by the general assembly, use part of the non-distributed royalties to cover the management costs of the society, thereby reducing management fee deductions from members' royalties.

In all cases the non-distributable money collectively benefits the active community of authors and their works.

MEMBERS



Austria

→ LITERAR-MECHANA

www.literar.at

→ VDFS

www.vdfs.at

Belgium

→ SACD/SCAM

www.sacd.be

→ SABAM

www.sabam.be

Czech Republic

→ DILIA

www.dilia.cz

Estonia

→ EAAL

www.kinoliit.ee/?163

Finland

→ Kopiosto

www.kopiosto.fi

France

→ SACD

www.sacd.fr

→ SCAM

www.scam.fr

Germany

→ VG Bild-Kunst

www.bildkunst.de

→ VG Wort

www.vgwort.de

Hungary

→ FilmJUS

www.filmjus.hu

Italy

→ SIAE

www.siae.it

Netherlands

→ LIRA

www.lira.nl

→ VEVAM

www.lira.nl

Poland

→ ZAPA

www.zapa.org.pl/pl/zapa

Portugal

→ SPA

www.spautores.pt

Romania

→ DACIN-SARA

www.dacinsara.ro

Slovakia

→ LITA

www.lita.sk

Spain

→ DAMA

www.damautor.es

→ SGAE

www.sgae.es

Sweden

→ COPYSWEDE

www.copyswede.se

Switzerland

→ SUISSIMAGE

www.suissimage.ch

→ SSA

www.ssa.ch

United Kingdom

→ ALCS

www.alcs.co.uk

→ DIRECTORS UK

www.directors.uk.com

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