

Advancing audiovisual **authors' rights** in Europe

Collective Management Organisations
for screenwriters and directors'
fair remuneration

The bottom half of the cover features a series of white, wavy lines that flow from the left side towards the right, creating a sense of movement and rhythm. The background is a gradient of blue and orange, with the orange being more prominent at the bottom.

About the SAA

- The umbrella association of European collective management organisations representing audiovisual authors.
- 34 members in 26 countries manage rights for over 167,000 European screenwriters and directors in film, television and other media.

CMOs are a key part of the audiovisual ecosystem

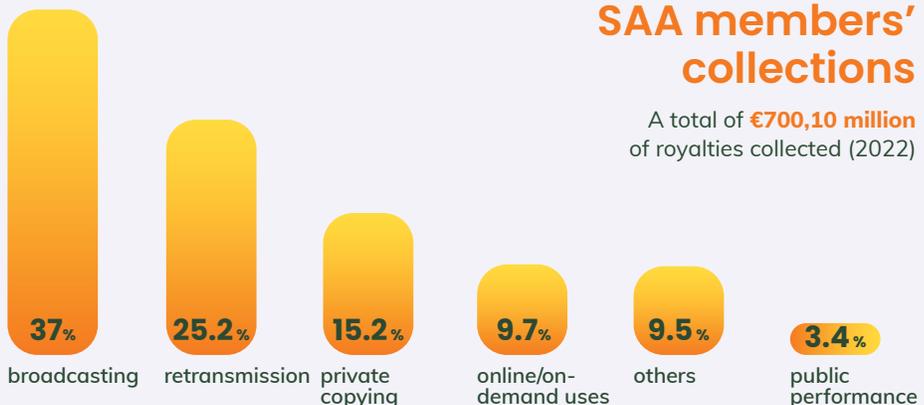
Authors join a collective management organisation (CMO) to receive royalties for uses of their works that they would not be able to enforce on their own.

- Represent and enforce audiovisual **authors' rights** by negotiating licensing agreements with broadcasters, retransmission operators, streaming platforms and other users on behalf of their members.
- Ensure that the authors' rights are respected and that the authors actually receive **royalties** for the use of their works. These royalties help authors make a living, invest in new projects and sustain their careers.
- Promote **cultural diversity** by enabling the dissemination of audiovisual works to audiences.
- Contribute to the growth of the audiovisual market by providing efficient **licensing solutions** and reducing transaction costs.

In the EU, CMOs are regulated by the 2014 Collective Rights Management Directive which harmonised minimum requirements on the rights of rightsholders, governance, transparency and accountability of CMOs. In a 2021 report, the EU Commission concluded that CMOs are fulfilling their role and are having a positive effect on rightsholders and on the licensing market.

SAA members' collections

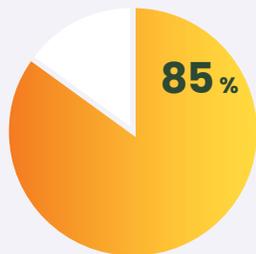
A total of **€700,10 million** of royalties collected (2022)



The diversity and concentration of the European audiovisual media sector

€130 billion in value in 2022 (€95 billion for the EU)

9 349 TV channels and **3 315** VOD services and video-sharing platforms.



of VOD viewing time is generated by only **3 services** (Netflix, Prime Video, Disney+)

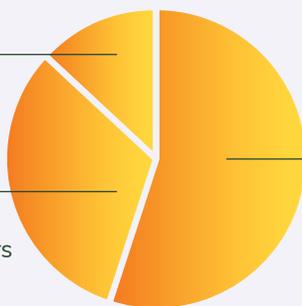


US companies are the largest group among the **top 20** European audiovisual groups in terms of operating revenues.

Fiction titles commissioned

12%
global
streams

32%
private
broadcasters



55%
public
broadcasters

(European Audiovisual Observatory, 2022).

A fragmented market for audiovisual authors

Film and TV writers and directors are at the heart of the creative process in the audiovisual sector. However, their legal and economic situation differs widely from one country to another.

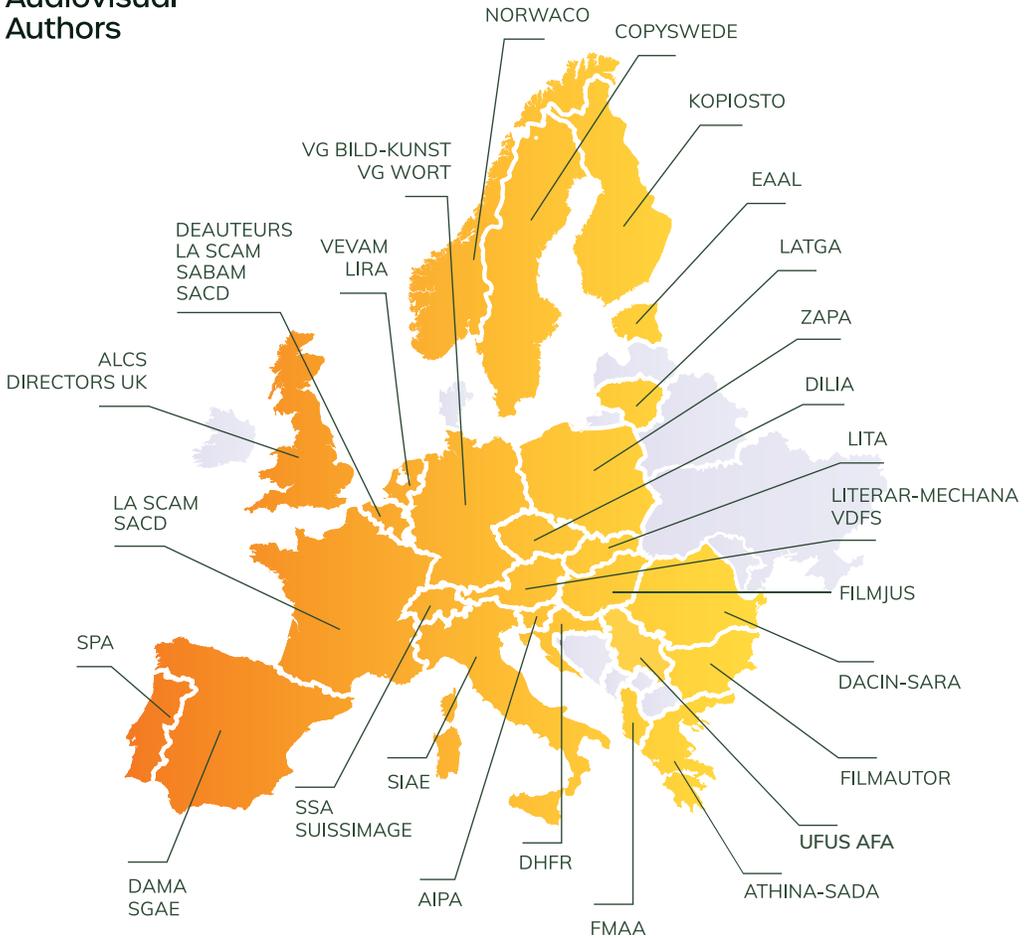
Thanks to the EU harmonised collective management of the retransmission right in the 1990s, audiovisual authors have received increased revenues for the retransmission of their works.

Unfortunately, this is not the case for all types of exploitation, which means authors are denied fair remuneration based on the success of their works. The scope of the collectively managed rights varies per country, which results in different levels of revenues.

Because legislation and markets are still fragmented, audiovisual authors don't receive royalties on all media in all European countries.



Society of Audiovisual Authors



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AUTHORS' RIGHTS: FIX STREAMING LOOPHOLES AND CHAMPION STATUTORY RIGHTS TO REMUNERATION

Thanks to the EU Parliament, a principle of appropriate and proportionate remuneration was added to the 2019 **Directive on Copyright in the Digital Single Market** (Article 18). As a result of the transposition of the directive, several countries improved the legal protection of audiovisual authors. However, many countries have simply copied-pasted Article 18 without introducing any remuneration mechanism.

As a result, the market remained fragmented, and authors' entitlement to remuneration continued varying widely from country to country, particularly for streaming. Due to the heterogeneity of the legal systems in place and lack of statutory rights to remuneration, collective management organisations cannot always provide reciprocal agreements that would bridge the gaps.

An unwaivable and inalienable right to remuneration that is collectively managed is the way to go for audiovisual authors: it guarantees remuneration to authors when their works are exploited, without harming the producers' role. The remuneration is paid by the distribution operators according to the exploitation of the works on their services, based on an agreement negotiated with the authors' CMOs that represent the audiovisual authors in the country. The burden of payment falls not on the producers but on the services that exploit the works.



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Did you know?

- Audiovisual authors receive remuneration for the on-demand exploitation/streaming of their works only in Belgium, Estonia, France, Italy, Spain and Switzerland in Europe.
- Thanks to the implementation of the 2019 Directive on Copyright in the Digital Single Market, the situation of audiovisual authors should improve in Lithuania, Romania, Portugal and Slovenia.
- It leaves too many authors with no statutory right to remuneration for the exploitation of their works on all media, in particular on-demand services. In most of those countries, authors only receive collectively managed remuneration for retransmission and private copying.

How you can help

- Map the legal and market loopholes and the insufficient protection of authors' rights in the audiovisual sector that prevent the economic sustainability of their careers.
- Stand up for authors and champion statutory rights to remuneration collectively managed for all exploitation of their audiovisual works, in particular for video-on-demand/streaming and call for greater harmonisation.

Find out more

- SAA's [national case studies](#) on how the recognition of remuneration rights for audiovisual authors has proven effective in ensuring their fair remuneration and the growth of the audiovisual industry in Italy, Spain and Poland.
- The [Principle of Appropriate and Proportionate Remuneration for Authors and Performers](#) in Art.18 Copyright in the Digital Single Market Directive, Statutory residual remuneration rights for its effective national implementation, by Professor Raquel Xalabarder, 2020

THE ART OF AI: AUTHORISATION, REMUNERATION AND TRANSPARENCY

Thanks to the EU Parliament, the Artificial Intelligence Act provides for **transparency obligations** for providers of general-purpose AI models (Art 53). They shall **put in place a policy to comply with Union copyright law**, and in particular to identify and comply with (...) a reservation of rights expressed pursuant to Art 4(3) of Directive (EU) 2019/790 (c); and draw up and make publicly available a **sufficiently detailed summary about the content used for training** of the general-purpose AI model, according to a template provided by the AI Office (d).

The **AI Act is just the beginning, not the end of the story on AI and copyright**. The AI Act does not solve the **legal uncertainty** around the authors' authorisation for the use of their works for generative AI purposes and their remuneration for such uses. The European Commission's extensive interpretation of the text and data mining (TDM) exception (Art 4), leaving the rightsholders with only an opt-out, is a threefold error:

- 1) legally:** there are many arguments against this exception being applied to such massive use of protected works without authorisation and to the detriment of human creation (three-step-test);
- 2) economically:** encouraging opt-out instead of licensing means that no value is created for European authors;
- 3) culturally:** if AI models are not trained with European works, AI services will offer standardised products, designed outside the European imagination, in contradiction with a cultural diversity logic.

There is an urgent need to clarify the application of the principles of **authorisation and remuneration** for the use of authors' works for AI purposes that will force AI companies to seek licences. **Collective management organisations of audiovisual authors** are well placed to play a role in negotiating and delivering licences to AI companies that would generate remuneration to the authors.



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Did you know?

- Generative AI was not considered when the TDM exception of Art 4 of Directive 2019/790 was negotiated.
- Providers of AI systems, including general-purpose AI systems, generating synthetic audio, image, video or text content, should also ensure that the outputs of the AI system are marked and detectable as artificially generated or manipulated (Art 50.2 of the AI Act).
- While Art 53 of the AI Act should apply in 2025, AI systems already placed on the market or put into service before 2025 will only have to comply with the obligation in 2027.

How you can help

- Reaffirm the need for the authorisation and licensing of authors' works when used to train AI models and systems. The AI revolution cannot be built on an exception depriving authors of any remuneration.
- Call for collective licensing schemes to cater for the needs of audiovisual authors and provide appropriate and proportionate remuneration for the use of their works for AI purposes.

Find out more

- SAA's [position paper \(2023\)](#): Artificial intelligence must serve society and enhance human creativity.

THE AUDIOVISUAL MEDIA SERVICES DIRECTIVE: LANDMARK LEGISLATION

The Audiovisual Media Services Directive (the successor of the Television Without Frontiers' Directive of 1989) was last amended in 2018 to adapt to the changes in the audiovisual sector. It provided new **obligations to promote European works for on-demand services**, in addition to the existing obligations of broadcasters. Art 13 on one hand requested Member States to ensure that on-demand media service providers under their jurisdiction secure at least a 30% share of European works in their catalogues and ensure prominence of those works and on the other hand that Member States may require media service providers under their jurisdiction to contribute financially to the production of European works.

Due to Covid, the implementation of the 2018 revised AVMS Directive was only completed at the end of December 2022. Each country reviewed its regulatory framework to tackle challenges raised by the accelerated consumption of audiovisual works online and the exponential rise of global streaming companies in the European market: the tools provided by the AVMS Directive played a crucial role in many Member States to design and update their policies according to their cultural ambitions and the specificities of their audiovisual ecosystems.

However, these policies are often challenged by global media players, as well as the relevance of such a sectoral directive at a time of convergence of the digital single market. It is therefore crucial to understand the **pivotal role played by the AVMS Directive in encouraging Member States to set out cultural policies to promote European audiovisual creation.**



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Did you know?

- A majority of EU countries requires the media service providers under their jurisdiction or targeting their territory to contribute financially to the production of European works, via direct investment in the production and acquisition of rights in European works, a levy to a fund or a combination of these measures.
- By 19 December 2026, the Commission should submit to the European Parliament and the Council an evaluation of the directive (Art 33). Alongside the impact of the Directive and its added value, the evaluation should include, where appropriate, proposals for its review.
- The MEDIA strand of the Creative Europe programme is financially supporting the European film and audiovisual sector. This is the second pillar of the European audiovisual policy.

How you can help

- Highlight the key role played by the AVMS Directive in supporting film, TV creation and local audiovisual ecosystems.
- Defend the quotas and financial obligations that guarantee the visibility and funding of European film and audiovisual creation.
- Prepare the revision of the AVMS Directive bearing its cultural diversity objective in mind, as well as the interest of European screenwriters and directors.

Find out more

- [AVMSDigest](#) of the European Audiovisual Observatory on the promotion of European works (2023).
- [European audiovisual sector's assessment](#) of the European Parliament's report on the AVMS Directive (2023).

TRADE NEGOTIATIONS: PROTECTING AUDIOVISUAL GOODS AND SERVICES

For several decades, the EU has recognised the dual nature of audiovisual works, not limited to their economic dimension. Their cultural dimension justifies a specific approach and protection, both in the EU (state aid rules, AVMS Directive, MEDIA programme) and in external relations. Such a protection shall not be undermined by trade agreements negotiated by the European Union. This “**cultural exception**” guarantees the right of States that so wish to adopt appropriate support measures that often derogate from the rules of ordinary law: implementation of quota policies to ensure the visibility of European creation, specific taxation to finance local creation, etc.

These principles have been enshrined in the 2005 UNESCO **Convention on the Protection and Promotion of the Diversity of Cultural Expressions**, ratified by the European Union in 2006. However, threats are regularly made, leading to fears that in the digital environment, the Union’s trading partners may seek to challenge the existence of specific rules for European audiovisual services that protect European creation.



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Did you know?

- Most bilateral and regional trade agreements have included exemption clauses for the cultural and creative sectors, confirming their status as public goods and exceptions to free trade.
- However, as part of the WTO negotiations on global electronic commerce, this long-established policy could be challenged.

How you can help

- Call on the European Commission to protect cultural exception and to maintain the exclusion for audiovisual goods and services in all trade negotiations.
- Ensure that possible trade negotiations on electronic commerce or digital products do not circumvent this principle.

Find out more

- [Council Decision](#) of 18 May 2006 on the conclusion of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions
- [WTO Joint Initiative on E-commerce](#)

FOSTER EQUALITY, DIVERSITY AND FAIRNESS IN THE AUDIOVISUAL SECTOR

Cultural and creative professionals face **precarious working conditions** (project-based, freelance, fluctuating income, unpaid work, unpredictable success, intermittent periods of unemployment). These working conditions often exclude them from social security protection and require them to find an additional source of income in a different sector. As a result, they struggle to find the time to devote to their creative work. An **EU status for artists and creative professionals** would be one way of recognising atypical work and giving access to funding and benefits. It could consist of a professional specific regime covering labour, social protection and taxation. Some countries already have such models in place and others are in the process of reforming legislation.

Gender equality, non-discrimination and cultural diversity are fundamental EU values and drivers of economic growth. They need to be promoted in political leadership, in decision-making, on the labour market and in society at large. The audiovisual sector is no exception. Women directors and screenwriters are underrepresented, paid less and do not have the same budgets for their projects. Another challenge is the way in which gender and diversity are featured and represented on and behind the screen.



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Did you know?

- Member States expert group argued in its 2023 report that a legal status for artists and creative professionals would be a way to reduce social and economic disadvantages.
- The EU Parliament proposed concrete actions to improve working conditions of authors and artists, including an EU legal framework.
- Women represent 50% of film school graduates, but only 22% of active directors and 36% of active writers (EAO and Le Lab). There is also a significant gap in terms of production and budget: for example, the average budget of feature films directed by women is 19% lower than that of films directed by men (EAO).

How you can help

- Call for improved and harmonised EU cultural statistics and equality data in the audiovisual sector. Such comparable figures, including employment, income and remuneration, are powerful tools in the fight against discrimination, exclusion and unfair practices in the sector and the basis for any action.
- Consider membership to collective management organisations as one of the ways to identify audiovisual authors' eligibility for artists' status.

Find out more

- The [European Audiovisual Observatory reports](#) on female professionals in the audiovisual sector.
- EU OMC [report on the Status and Working Conditions](#) of Artists and Cultural and Creative Professionals (2023).
- [EP resolution](#) on an EU framework for the social and professional situation of artists and workers in the cultural and creative sectors (2023).