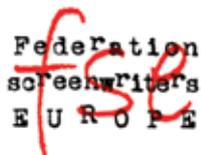


PUTTING AUTHORS BACK AT THE HEART OF CULTURE AND COPYRIGHT

Europe's Screenwriters'
and Directors' Organisations Expect



Society of Audiovisual Authors

During the last legislative period, **copyright** and the internet were presented as opposing ideas. It was as if the authors' moral and economic rights were an obstacle to internet access, the availability of culture, and the **growth of the digital economy**.

This sterile opposition put the **creative and cultural sectors** on the defensive. It forced them to demonstrate the benefits of a system that rewards both creativity and risky investments and is of vital importance to **Europe's economy** and cultural prominence on the **international** stage.

Europe's creators, like **screenwriters** and **directors**, are key assets of a successful Europe. They need to be directly connected to the European copyright system in order to reconcile citizens and the web with Europe's talent.

FERA, FSE and SAA are calling on the new members of the European Parliament to build on the foundations laid together with the previous European Parliament. Now is the time to take the next steps that will **put authors back at the centre of copyright policy** as the main driving forces of **Europe's culture**.

**We believe this can be done
by the following actions** 

1

**GUARANTEE AUTHORS ARE REMUNERATED
FOR EACH USE OF THEIR WORKS**

2

**STRENGTHEN EUROPE'S AUDIOVISUAL
POLICY**

3

**CONSOLIDATE THE PRIVATE COPYING
LEVY SYSTEM**

4

**PRESERVE EUROPE'S CULTURAL
DIVERSITY IN TRADE TALKS**

5

REFRESH THE E-COMMERCE DIRECTIVE

6

**PUT A STOP TO RETRANSMISSION ROYALTY
EVASION**

7

**RETHINK TAXATION FOR
THE DIGITAL INTERNAL MARKET**

1

GUARANTEE AUTHORS' REMUNERATION FOR EACH USE OF THEIR WORKS

Part of the criticism of copyright is that authors are not remunerated properly for their work. In the audiovisual sector two parallel approaches are needed. One is to **improve creators' contracts**. The other is legislation **guaranteeing that screenwriters' and directors' remuneration** is linked to the exploitation of their works.

An **unwaivable right to remuneration**, compulsorily negotiated and collected on a collective basis from users, has been supported by several resolutions and studies and can build on the recently adopted Directive on Collective Rights Management which lays down common rules across Europe.

2

STRENGTHEN EUROPE'S AUDIOVISUAL POLICY

Availability, prominence and investment in European works are requirements of the Audiovisual Media Services (AVMS) Directive. Limited and soft implementation in many countries has prevented it from producing visible effects.

In addition, the rise of online services that did not exist at the adoption of the Directive raises question marks over its scope and degree of harmonisation. The Directive needs **strong rules and real enforcement** to ensure that Europe continues to develop a culturally diverse and internationally competitive audiovisual sector.

3

CONSOLIDATE THE PRIVATE COPYING LEVY SYSTEM

We now copy cultural works more than ever before. The private copying system is **a vital freedom for consumers**.

It is also a **key source of compensation** for audiovisual authors, but is being forced into obsolescence by device manufacturers and importers. It needs to be updated and elements harmonised across Europe to secure authors' compensation.

4

PRESERVE EUROPE'S CULTURAL DIVERSITY IN TRADE TALKS

The negotiation and implementation of international trade agreements such as the Transatlantic Trade and Investment Partnership (TTIP) should not put at risk Europe's ability to develop policies for cultural audiovisual services, in particular online.

The **exclusion of the cultural and audiovisual sectors from any international trade negotiation** should be the rule. Culture is the soul of our European societies and Europe's regulatory autonomy in this field should be preserved.

5

REFRESH THE E-COMMERCE DIRECTIVE

The e-Commerce Directive is starting to look its age and **no longer caters for today's digital landscape**. The range of hosting services has evolved from those simply dealing with emails and websites to modern day online multimedia destinations with user generated content and professional channels.

Respect for authors' rights needs everybody in the value chain to be jointly responsible and to collaborate.

6

PUT A STOP TO RETRANSMISSION ROYALTY EVASION

Europe's legislation guarantees royalties to screenwriters and directors for the retransmission of broadcast programmes. This is a vital source of remuneration for authors.

Technology neutral legislation must be applied across Europe independently of the technical means used. This would level the playing field for cable operators and other platforms and prevent them from inventing new conditions to avoid paying. **Authors should be remunerated for every use of their work.**

7

RETHINK TAXATION FOR THE DIGITAL INTERNAL MARKET

The **fiscal evasion** perfected by the giants of the internet, often linked to cultural services, is challenging Member States' capacity to benefit from the digital economy in their market. **Better fiscal coordination** is needed to avoid a race to the bottom.

In addition, cultural and audiovisual works are currently subject to different VAT rates depending on the way they are accessed (cinema, TV, VOD, etc.). **Reduced VAT rates** for all cultural and audiovisual goods and services would help online market development. Finally, **double taxation on royalties** represents an increasing barrier to multi-territorial licensing and needs to be resolved.

WHAT HAS BEEN DONE AND WHAT YOU CAN DO

From 2009 to 2014, MEPs worked on a number of issues that affect authors and their collective management organisations. What can you do now to put authors back at the heart of culture and copyright?

AUTHORS' RIGHTS AND FAIR REMUNERATION

Authors' rights are the intellectual property that the whole audiovisual value chain is built on. However audiovisual authors, such as screenwriters and directors, often find themselves unable to enforce them effectively with their value chain partners. The European Parliament adopted a resolution on the online distribution of audiovisual works and called for authors to be given an unwaivable right to remuneration for all forms of exploitation of their work.

Calls for the bargaining position of authors and performers vis-à-vis producers to be rebalanced by providing authors and performers with an unwaivable right to remuneration for all forms of exploitation of their works, including ongoing remuneration where they have transferred their exclusive 'making available' right to a producer;

[Online Distribution of Audiovisual Works](#),

J-M. Cavada (EPP, FR), Sept 2012

Other cross-sector resolutions reaffirmed the importance of the highest level of protection of authors' rights as a key part of the value chain and ensuring creation and investment in creation were supported. In addition, numerous resolutions recognised the vital importance of fairly remunerating authors proportionally to the exploitation of their work, not only to guarantee continued creation but also to win back support for copyright.

Rightholders that put an end to the orphan work status of a work (...) should receive fair compensation for the use that has been made of their works (...);

[Orphan Works Directive](#) Oct 2012

Calls on the Commission to propose agreed sector-specific solutions that respect copyright, ensure fair remuneration for authors, and promote public access to a wide range of lawful cultural products;

[Completing the Digital Single Market](#),

P. Arias Echeverria (EPP, ES) Dec 2012

(...) implementation, at European level, of fair remuneration for audiovisual authors that is proportional to the revenues generated ...;

[European Cinema in the Digital Era](#),

P. Borys (EPP, PL), Nov. 2011

(...) legal supply can develop in an environment of healthy competition which effectively tackles the illegal supply of protected works and new ways of remunerating creators can develop which involve them financially in the success of their works;

[Unlocking the potential of Cultural and Creative Industries](#),

M-T Sanchez-Schmid (EPP, FR), May 2011

The Parliament also called for an end to unfair contractual practices such as 'buy-out contracts'.

(...) guarantee authors and performers remuneration that is fair and proportional to all forms of exploitation of their works, especially online exploitation, and therefore calls upon the Member States to ban buyout contracts, which contradict this principle;

[Online Distribution of Audiovisual Works](#),

J-M. Cavada (EPP, FR), Sept 2012

As a result, it commissioned a [study](#)* by KEA/CRIDS which demonstrated the unfair contractual practices that authors suffer and made recommendations to guarantee an unwaivable right to remuneration to be collectively negotiated and implemented.

This Parliament needs to follow up on all of these resolutions and put authors' back at the centre of copyright by guaranteeing them enforceable rights:

* Contractual arrangements applicable to creators: law and practice of selected member states requested by the European Parliament's committee on legal affairs and drafted jointly by CRIDS and KEA, January 2014.

WHAT CAN YOU DO?

- 1 Ban abusive clauses from authors' contracts.**
- 2 Link authors to the success of their works by implementing an unwaivable right to remuneration for online exploitation to be negotiated with, and collected from, online services on a collective basis.**

PRIVATE COPYING

The European Parliament adopted, by a large majority, a resolution dedicated to private copying. It underlined the continued relevance and the virtuous nature of the system in giving consumers freedom to copy for private use while compensating authors. This resolution and a resolution on cloud computing both recognised the possible need for levies on certain cloud services.

(...) the private copying system is a virtuous system that balances the exception for copying for private use with the right to fair remuneration for rightholders, and that it is worth preserving (...);

[Private copying levies](#), F. Castex (S&D, FR), Feb 2014

Calls on the Commission to investigate (...) the ways in which private copying levies that are relevant for certain types of cloud computing services are imposed;

[Unleashing the potential of cloud computing](#),

P. Del Castillo Vera (EPP, ES), Dec 2013

The European Parliament needs to follow up on its own excellent report and ensure that any consolidation of the private copying system strengthens authors' fair compensation. The SAA has detailed its vision and proposals for modern private copying levies in an [infographic](#).

WHAT CAN YOU DO ?

- 1 Consolidate the principles developed by the European Court of Justice.**
- 2 Harmonise the list of devices subject to private copying levies.**
- 3 Make the levies transparent for consumers.**

AUDIOVISUAL SECTOR

The European Parliament declared its support on numerous occasions for the prominence and visibility of European works on audiovisual services.

Calls for the diversity of cultural and audiovisual work in a converged world to be accessible to and findable by all Europeans (...);

[Preparing for a fully converged audiovisual world](#),

S. Verheyen (EPP, DE), March 2014

Calls, therefore, on the Commission and the Member States to act urgently to ensure the effective implementation of Article 13 of the AVMSD;

[Implementation of the Audiovisual Media Services](#)

[Directive](#), P. Borys (EPP, PL), May 2013

Calls on the Commission to ensure the strict implementation of Article 13 of the Audiovisual Media Services Directive;

[Unlocking the potential of Cultural and Creative Industries](#),

M-T Sanchez-Schmid (EPP, FR), May 2011

Europe's sophisticated legislation in this area has evolved from the Television Without Frontiers Directive to the Audiovisual Media Services Directive and the time has come for Europe to modernise again and implement forward-looking legislation guaranteeing Europe's audiovisual productions continue to be prominent and financed in a converged media environment.

WHAT CAN YOU DO ?

- 1 Strengthen and enforce implementation of Article 13 of the AVMS Directive on the promotion of European works by on-demand services.**
- 2 Bring online services currently perceived as outside the scope of the Directive into scope as their operations evolve from simple content hosting to editorialised content channels.**

CULTURAL DIVERSITY AND INTERNATIONAL TRADE

Europe's cultural diversity is one of its core foundations. Throughout the last legislature the European Parliament adopted a number of resolutions on the relationship between cultural diversity and trade negotiations, culminating in the resolution on the TTIP negotiation mandate, reminding the European Commission that cultural and audiovisual services must be excluded from any international trade agreement.

(...) including audiovisual culture and media in international free trade agreements represents a contradiction of the EU's commitment to promote cultural diversity and identity and to respect Member States' sovereignty over their own cultural heritage;

[Preparing for a fully converged audiovisual world](#), S. Verheyen (EPP, DE), Mar 2014

Calls on the Commission to exclude audiovisual media services from liberalisation measures negotiated as part of international trade agreements.

[Connected TV](#), P. Kammerevert (S&D, DE), July 2013

Considers that the agreement [TTIP] should not risk prejudicing the Union's cultural and linguistic diversity, including in the audiovisual and cultural services sector; and

Considers it essential for the EU and its Member States to maintain the possibility of preserving and developing their cultural and audiovisual policies, and to do so in the context of their existing laws, standards and agreements; calls, therefore, for the exclusion of cultural and audiovisual services, including those provided online, to be clearly stated in the negotiating mandate;

[EU trade and investment agreement negotiations with the US](#), V Moreira (S&D, PT), May 2013

Calls on the Commission to continue to ensure that audiovisual media services, given their dual nature as providers of cultural as well as economic services, remain excluded from any accord on liberalisation reached in negotiations on the General Agreement on Trade in Services (GATS);

[Implementation of the Audiovisual Media Services Directive](#), P. Borys, May 2013

(...) calls, therefore, for the exclusion of cultural and audiovisual services, including those provided online, to be clearly stated in agreements between the Union and third countries; emphasises in this connection the need to keep the cultural and audiovisual outside the scope of the negotiating mandate for the EU-US free trade agreement (...)

[Promoting the European cultural and creative sectors as sources of economic growth and jobs](#), M-T. Sanchez-Schmid EPP, FR), Sept. 2013

The new European Parliament needs to be vigilant and ensure that our cultural diversity is not put at risk.

WHAT CAN YOU DO ?

- 1 Exclude cultural and audiovisual services and goods from all trade discussions and agreements.**
- 2 Ensure back door commitments in other fields such as online services do not circumvent this principle.**

FISCAL REGIME FOR CULTURE

The previous Parliament called for a reduced VAT rate to be applied to the same cultural good, irrespective of the way it is accessed (offline or online), in numerous resolutions.

Draws attention to the effects of the disparities between VAT systems at European level, which will be further accentuated with the arrival of connected TV, and stresses the need to adopt a competitive joint VAT system across all the Member States;

[Connected TV](#), P. Kammerevert (S&D, DE), July 2013

Calls on the Commission to propose a revision of Directive 2006/112 in order to introduce a new category of electronically provided cultural content services which would benefit from a reduced rate of VAT ;

[Completing the Digital Single Market](#), P. Arias Echeverria (EPP, ES) Dec 2012

Calls on the Commission, in its review of VAT legislation, to address the anomaly of the possible application of reduced VAT rates to printed books and other cultural content but not to identical goods available in electronic format.

[Completing the Digital Single Market](#), P. Arias Echeverria (EPP, ES) Dec 2012

Stresses the need to apply the same VAT rate to cultural audiovisual works sold online and offline;

[Online Distribution of Audiovisual Works](#), J-M. Cavada (EPP, FR), Sept 2012

WHAT CAN YOU DO ?

- 1 Implement reduced VAT rates for all cultural goods and services to boost the online market.**
- 2 Improve coordination to avoid tax evasion.**
- 3 Ensure that tax treaties do not block the single market for authors' royalties.**

RELEVANT 2009-2014 EUROPEAN PARLIAMENT RESOLUTIONS

LEGISLATIVE RESOLUTIONS

Collective Rights Management Directive

(M. Gallo, EPP, FR), February 2014

The Directive covers collective rights management across all sectors and guarantees the central role of CMO members through the general assembly. It imposes common rules concerning the functioning of CMOs and strict transparency requirements. Member States have until 10 April 2016 to implement it.

Directive on Certain Permitted Uses of Orphan Works

(L. Geringer, S&D, PL), September 2012

The orphan works Directive tries to resolve the growing number of creative works with unidentified or unlocated rightholders, and the consequent inability to exploit such works. With most works having multiple rightholders, the Directive essentially covers the clearing of orphan rights (through a process including a diligent search). Known rightholders still have to be contacted. The Directive also includes essential provisions on the remuneration of re-appearing rightholders. CMOs will be a key source of information for the diligent search. The Directive has to be implemented by 29 October 2014.

Anti-Counterfeiting Trade Agreement

(David Martin, S&D, UK), July 2012

The European Parliament rejected the Anti-Counterfeiting Trade Agreement (ACTA) and hence the agreement could not be adopted. This was the first time that Parliament exercised its Lisbon Treaty power to reject an international trade agreement.

RESOLUTIONS ON EUROPEAN COMMISSION NON-LEGISLATIVE DOCUMENTS

Preparing for a fully Converged Audiovisual World

(S. Verheyen, EPP, DE), March 2014

Following up on a European Commission Green Paper of 24 April 2013 (of the same name) and the EP Connected TV own-initiative resolution of July 2013, this Resolution called on the Commission to conduct an impact assessment so as to look into whether the scope of the AVMS Directive is still relevant and emphasised the need to adapt EU law to the realities of the internet and the digital environment, and to pay special attention to companies offering audiovisual content online which try to evade taxation in certain Member States by basing themselves in countries with a very low tax rate.

Promoting the European cultural and creative sectors as sources of economic growth and jobs

(M-T. Sanchez-Schmid, EPP, FR), Sept. 2013

The EP Resolution builds on the communication from the Commission of 26 September 2012 and raises the profile and contribution of the cultural and creative sectors to Europe. The report also underlines the important role of collective rights management organisations.

Implementation of the Audiovisual Media Services Directive

(P. Borys, EPP, PL), May 2013

This very focussed report on the application of the 'Audiovisual Media Service Directive' (2010/13/EU) called for European works to be guaranteed visibility and prominence in audiovisual services through the proper implementation of Article 13 of the AVMS Directive.

Online Distribution of Audiovisual Works

(J-M. Cavada, EPP, FR), Sept 2012

Following the European Commission Green Paper on the online distribution of audiovisual works published on 13 July 2011, the European Parliament resolution includes clear provisions supporting action to guarantee remuneration for authors and performers through the implementation of an unwaivable right to remuneration and the banning of buyout contracts.

Unlocking the potential of cultural and creative industries

(M-T. Sanchez Schmid, EPP, FR), May 2011

Following up on a European Commission Green Paper of 27 April 2010 of the same name, the EP resolution underlined the economic and cultural importance of Europe's cultural and creative industries, particularly at a time of economic crisis. It also highlighted the importance of fairly remunerating creators and linking them financially to the success of their works as well as guaranteeing the prominence of European works in audiovisual services through the implementation of Article 13 of the AVMS Directive. Reduced VAT rates for cultural goods are also supported.

OWN-INITIATIVE RESOLUTIONS AND RESOLUTIONS ON TOPICAL SUBJECTS

Private copying levies

(F. Castex, S&D, FR), February 2014

Further to a European Commission requested report by former Commissioner Antonio Vitorino, the European Parliament drafted its response resolution on the issue of private copying levies underlining the continued relevance of the levy system at a time when people copy more than ever before. The report underlined the importance of compensation from private copying levies to authors and performers.

Unleashing the Potential of Cloud Computing in Europe

(P. Del Castillo, EPP, ES), December 2013

This forward-looking resolution on the Commission communication of 27 September 2012 (of the same name) recognises that private copying levies may well apply to certain types of cloud computing services and calls on the European Commission to investigate this further.

Connected TV

(P. Kammerevert, S&D, DE), July 2013

Called on the European Commission to update the AVMS Directive. Underlined that cultural and audiovisual services must be excluded from international trade agreements.

EU trade and investment negotiations with the United States of America

(V. Moreira, S&D, PT), May 2013

Although supporting a deep and comprehensive trade and investment agreement with the US, the European Parliament called for the exclusion of cultural and audiovisual services, including those provided online, to be clearly stated in the negotiating mandate.

Completing the Digital Single Market

(P. Arias Echeverría, EPP, ES), December 2012

This broad report covered vital issues such as consistent VAT rates for cultural goods and for the European Commission to boost the development of Europe's online services through harmonised reduced VAT rates for online cultural services. The report also underlined the importance of excluding cultural and audiovisual services from any international agreements.

European Cinema in the Digital Era

(P. Borys, EPP, PL), October 2011

Excellent report on the challenges facing the distribution of European cinema in the digital era. It also stated: "Underlines the need to accompany the development of new online exploitation methods with the implementation, at European level, of fair remuneration for audiovisual authors that is proportional to the revenues generated by these new formats and services;"

Enforcement of Intellectual Property Rights

(M. Gallo, EPP, FR), September 2010

This report struck an excellent balance between the enforcement of IPRs, encouraging new legal services for copyrighted works and education and awareness raising as to the importance of IPRs.



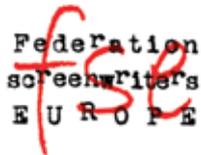
FERA (Federation of European Film Directors)

is an international organisation that represents 39 directors' associations and approximately 20,000 film and television directors from 29 countries, speaking in the European arena for their economic, cultural and creative rights.

www.filmdirectors.eu

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The Federation of Screenwriters in Europe (FSE)

is the voice in Europe for more than 6,000 professional screenwriters working mainly in the film and television industry. It is a federation of currently 25 associations, guilds and unions of screenwriters in 19 countries.

www.scenaristes.org

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 @screenwritersEU



Society of Audiovisual Authors

The Society of Audiovisual Authors (SAA)

is the association of European collective management organisations representing audiovisual authors' rights. Its 25 member societies in 18 European countries manage the authors' rights of over 120,000 European film, television and multimedia screenwriters and directors.

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