

AUDIOVISUAL AUTHORS' RIGHTS AND REMUNERATION FOR ONLINE EXPLOITATION IN EUROPE

SAA WHITE PAPER



Society of Audiovisual Authors

The Society of Audiovisual Authors

- Established in February 2010
- 25 collective management societies in 18 countries
- 120,000 audiovisual authors represented (screenwriters and directors)

Main objectives

- Defend and strengthen the economic and moral rights of audiovisual authors
- Secure fair remuneration for audiovisual authors for every use of their works
- Develop, promote and facilitate the management of rights by member societies

SAA White Paper

- Provide information on the situation of European audiovisual authors in terms of their rights and remuneration
- Highlight existing problems and present solutions
- Open the debate on these solutions with the main stakeholders (institutions and industry)

Contents

- Who is an audiovisual author?
- Rights and remuneration general principles
- Collective administration of audiovisual authors' rights
- Challenges
- Solutions

Who is an audiovisual author?

- Author of audiovisual works: cinematographic works, TV programmes (documentaries, series), new online formats
- Limited harmonisation of authorship in audiovisual works: the director (Directive 93/98/EEC)
- Other contributors: scriptwriter, music composer, some creative technicians

Who is an audiovisual author?

in the 17 countries where SAA has members

	Director	Scriptwriter	Music composer	Some creative technicians by law	Creative technicians can be accepted by contract	Producer
Austria	Green	Yellow	Yellow	Green		
Belgium	Green	Green	Green			
Czech Republic	Green	Yellow	Yellow	Yellow		
Estonia	Green	Green	Green	Green		
Finland	Green	Green	Green	Green		
France	Green	Green	Green			
Germany	Green	Yellow *	Yellow	Green		
Italy	Green	Green	Green			
The Netherlands	Green	Green	Green	Green		
Poland	Green	Green	Green	Green		
Portugal	Green	Green	Green			
Romania	Green	Green	Green		Green	
Slovakia	Green	Green	Green			
Spain	Green	Green	Green			
Sweden	Green	Green	Green	Green		
Switzerland	Green	Green	Green		Green	
United Kingdom	Green	Yellow	Yellow			Green

Author of the audiovisual work

Author of a pre-existing or separate work

* According to the leading opinion

Rights and remuneration

- Moral and economic rights: right of reproduction, right of communication to the public (2001/29/EC Directive)
- But contractual freedom
 - Transfer of rights to the producer with little guarantee
 - Individual negotiation results in buy-out payments

The making available right

- Authors' exclusive right (2001/29/EC Directive)
- Online/on demand exploitation becoming increasingly important
- As difficult to implement as the other rights in contracts and rarely results in additional remuneration

Individual and collective management

- Individual management: weak contractual position of the author in negotiations with the producer
- Collective management: protects the authors from the individual negotiation and guarantees remuneration to all authors, independently of their reputation

Collective administration of rights

- By law and/or voluntary
- Started for secondary exploitations (cable retransmission, rental, educational uses, private copying, etc.) then developed for broadcasting in many countries.

Rights administered by SAA members

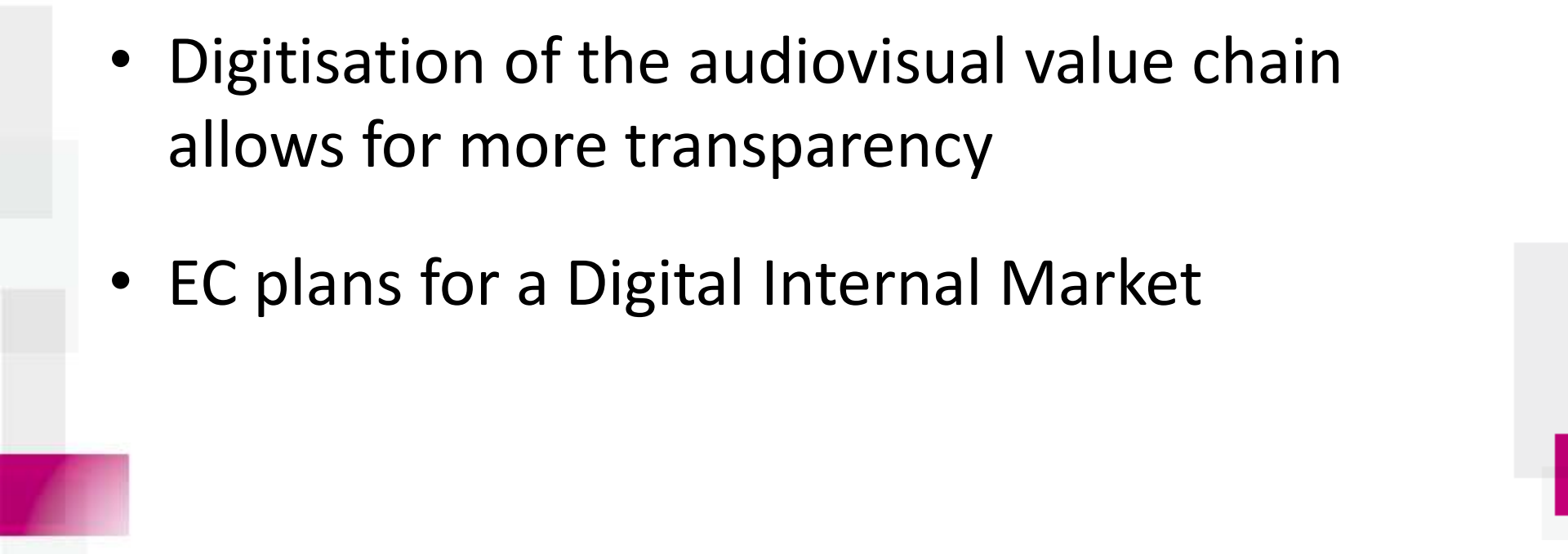
Country	SAA member	Cable	Private copying	TV broadcasting	Video sales	Online/ on demand uses	Educational uses	Video rental	TV archives	Video lending	Cinema / Public performance
Austria	Litran-Mechana										
Austria	YDPS										
Belgium	SABAM										
Belgium	SACD / SCAM										
Czech Republic	DILIA										
Estonia	EAAL										
Finland	Kopioosto										
France	SACD										
France	SCAM										
Germany	VG Bild-Kunst										
Germany	VG Wort										
Italy	SIAE										
The Netherlands	LIRA										
The Netherlands	VEVAM										
Poland	ZAPF										
Portugal	SPA										
Slovakia	LITA										
Spain	DAMA										
Spain	SGAE										
Sweden	CopySweden										
Switzerland	SUISIMAGE										
Switzerland	SSA										
Utd. Kingdom	ALCS										
Utd. Kingdom	Directors UK										
	TOTALS	23	22	15	13	12	11	10	8	7	5
	Percentage	95.83%	91.67%	62.50%	54.17%	50%	45.83%	41.67%	33.33%	29.17%	20.83%

Challenges

- Address current disparities between Member States
- Ensure that audiovisual authors are fairly remunerated throughout Europe
- Maintain and enhance European production
- Ensure presence of European works online



Basis for action

- Acquis communautaire: 7 Directives in the field of copyright since 1991
 - Digitisation of the audiovisual value chain allows for more transparency
 - EC plans for a Digital Internal Market
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SAA proposal


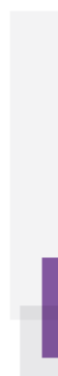
- An unwaivable right to remuneration retained when the making available right is transferred to the producer
- Collected from the final distributors (platforms) on the basis of the revenues generated from the online distribution
- Mandatory collective administration

Precedent

- Successful for mandatory collective administration: cable retransmission right (93/83/EEC)
- Missed opportunity: rental right (2006/115/EC)



Way forward

- 13 July European Commission Green Paper consultation on the online distribution of audiovisual works up to 18 November 2011
 - SAA conference to summarise the debate and build consensus, end of November 2011
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Thank you!

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