



Society of
Audiovisual
Authors

Collective bargaining in copyright: the French example

EU Conference on audiovisual media and copyright regulatory challenges, 15 July 2022

Presentation outline

- ✦ The Society of Audiovisual Authors
- ✦ The French model of interprofessional agreements
 - ✦ Before the Directive 2019/790 on Copyright in the Digital Single Market
 - ✦ New provisions in the implementation law
- ✦ The opportunities (and limits) of collective bargaining in copyright
- ✦ The SAA model to ensure proportional remuneration to authors for the exploitation of their works
- ✦ Resources



Society of Audiovisual Authors

- ✦ 33 audiovisual authors' CMOs in 25 European countries
- ✦ 160,000 film & TV screenwriters and directors
- ✦ Objectives:
 - ✦ Promote audiovisual authors' rights and remuneration
 - ✦ Develop the collective management of AV authors' rights and remuneration
 - ✦ Provide information on how audiovisual CMOs work and their challenges



Interprofessional agreements in France

Before the Copyright directive

✦ Interprofessional agreement on ongoing exploitation of cinema and TV works, 3 Oct 2016

Basis: Art L132-27 IPC (2016) - the producer is obliged to seek ongoing exploitation of the AV work.

Agreement between representative organisations of authors, producers, distributors, broadcasters, cinemas and VOD services on the conditions of implementation of the obligation, under the auspices of CNC and extended by an administrative order (7 Oct 2016).

✦ Interprofessional agreement on transparency of production and exploitation accounts, 6 July 2017

Basis: Art L.213-25 Cinema Code (2016) – refers to interprofessional agreements to define a model of production and exploitation accounts and the categories of expenses to be mentioned.

2 agreements: one for cinema and one for TV.

Interprofessional agreements in France

Implementation law (order of 12 May 2021)

- ✦ Principle of '**proportional**' remuneration already existed in the law for authors (Art 18 only transposed for performers): *an assignment of rights shall comprise a proportional participation by the author in the revenue from the sale or exploitation of the work* (Art L131-4 IPC)
- ✦ Transposition law added that it is not possible to derogate by agreement (public order)
- ✦ **New Article L.132-25-2 requests that collective professional agreements specify the modalities of remuneration of authors per mode of exploitation**
- ✦ Order implementing AVMSD (21 Dec 2020) excludes from the quotas of European works and public financial support the works whose production contracts do not respect the moral rights and right to proportional remuneration of the authors ([standard contractual clauses](#))

Opportunities (and limits) of collective bargaining in copyright

- ✦ Lessons from the French experience:
 - The intervention of the law is essential to frame and force negotiations on contractual practices
 - Collective management organisations (CMOs) of authors participate in negotiations as representative organisations of authors
 - Authors' remuneration: the scope of negotiations is limited to what is not already regulated by authors' CMOs' agreements with users
- ✦ Other experiences
 - Collective bargaining mostly used in dealing with working conditions in production
 - Difficulty in including users in negotiations while they are an essential part of discussions on copyright exploitation

SAA model for AV authors' remuneration: remuneration rights collectively managed

- ✦ Several copyright laws provide for a right to remuneration for AV authors, collectively managed
 - Spain (Art 90), Italy (Art 46bis) and Estonia (Art 14.6): general provision
 - Poland (Art 70): list of rights collectively managed (cinemas, TV, public performance, retransmission, rental)
 - The Netherlands (Art 45d): all communications to the public (exclusion of on-demand uses)
 - Switzerland (Art 13a): on-demand uses
 - Belgium: retransmission, direct injection, Art 17 uses and on-demand uses (new!)
- ✦ Renewed opportunity provided by Article 18 of the Copyright Directive

SAA's resources



How to ensure fair and proportionate remuneration for audiovisual authors?

- ✦ Recordings of SAA's online events
- ✦ Academic work and legal studies
- ✦ Case studies: Spain, Italy, Poland
- ✦ New brochure on audiovisual authors and the collective management of their rights in Europe (2022)



Thank you for your attention!

c.despringre@saa-authors.eu
[@CDespringre](#)