



Federation of European  
Screen Directors

Fédération Européenne des  
Réalisateurs de l'Audiovisuel

## PRESS RELEASE

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# EU Filmmakers Call on Global Streamers to Commit to Fair Negotiating Conditions On Remuneration

As global streamers are on the rise in the European audiovisual online distribution and production markets, European filmmakers look forward to new opportunities for creative endeavors. The ongoing implementation of key European Directives touching to media regulation (AVMS Directive 2018/1808) and authors' rights (Copyright Directive 2019/790) should ensure that these collaborations develop in fair and sustainable conditions for European audiovisual creation.

In order to build healthy creative relationships, European filmmakers and their representative organisations need global streaming platforms to commit to 3 essential principles.

### **1. Transparency: Provide verified viewership figures to allow for fair negotiations**

We very much welcome the willingness of global streaming services to engage in collective negotiations to set up remuneration models for worldwide exploitation, as entailed by the 2019 Copyright Directive. In this process, the communication of verified viewership data and statistics is essential for all parties involved to be able to assess the value of the rights and remuneration models being negotiated.

Article 19 of the 2019 Copyright Directive seeks to correct information asymmetry in contracts' negotiation: without information on their works' actual performance, authors and their representatives are negotiating blindfolded.

### **2. Ensure that filmmakers get fair and proportionate remuneration for their works' use and success**

European audiovisual authors, and singularly directors, are freelance in their vast majority with little to no job security or access to social benefits. They also face significant periods without income as they develop new projects and promote finished works.

In the wake of COVID-19, we need more than ever to fairly share in the commercial use and success of our works across the board – as authors from other Cultural and Creative sectors traditionally do in Europe.

### **3. Define fair and proportionate remuneration models**

In doing so, two aspects of the value of authors' economic rights should be considered:

- **Assignment** – Fair and proportionate value for our Making Available Right's assignment, based on its global scope and the subscriber base of the service,
- **Success** – A remuneration model based on our works' actual audience performance e.g. through payment thresholds consistent with their performance potential.

Production costs covering most – if not all – authors' remuneration does not qualify as a fair remuneration model and does not fit European audiovisual filmmakers' socio-economic reality.

The introduction of unfair so-called success-based remuneration mechanisms in Europe would risk undermining existing models and the implementation of the 2019 Copyright Directive which sets out essential new safeguards – at a time when the European audiovisual creative community needs them most.

**We call on global streamers to commit to a fair negotiation process through which we will reach an outcome to the benefit of all parties:** a healthy European audiovisual industry where authors and performers are able to maintain sustainable artistic and creative careers, to create compelling stories for the screen – and to keep on generating the IP and economic value on which the entire audiovisual value chain relies.

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# Background Information

## *A New EU framework for filmmakers' remuneration*

Varying from one Member State to another, film and TV directors generally derive income from 3 sources when working on a project: remuneration for the work of direction, remuneration from the assignment of their economic rights to the producer i.e. for the use of said work, and additional remuneration proportionate to the commercial success of the work.

Articles 18 to 23 in Directive 2019/790 on Copyright and related rights in the Digital Single Market stem from an explicit acknowledgement by the EU legislator of authors' systemic weak bargaining power when negotiating their contract.

It accordingly sets out provisions to ensure their fair remuneration in exploitation contracts. Collective negotiations will be essential to implementing them in industry practice to bring fairer terms to authors as well as legal security across the value chain.

These new provisions include a thorough transparency obligation on the exploitation of their works which will empower authors in contractual negotiations, and a general principle of appropriate and proportionate remuneration.

This means that authors' rights cannot be considered fairly remunerated based solely on the production budget while investors retain all revenues generated by the work. As demonstrated by recent research<sup>1</sup>, freelance European audiovisual authors share a significant creative, reputational and economic risk on each project: they need to be entitled to share in the benefits of its use and success to build sustainable careers.

In the wake of the COVID-19 crisis, our community is hit by high levels of unemployment. In that context, the vast majority of European audiovisual authors are still not entitled to share in the use and success of their works online, while this mode of consumption of audiovisual works is booming worldwide.

## *Global streaming services viewership data*

Accurate, comprehensive and verified information on the viewership of audiovisual works online is not available publicly today.

In addition, metrics unilaterally devised by on-demand services can present significant discrepancies in their definition of what constitutes a view, which in turn impacts audience performance evaluation as well as proposed remuneration models.

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<sup>1</sup> <https://screendirectors.eu/new-report-first-ever-eu-wide-study-finds-audiovisual-authors-struggling-to-make-ends-meet-and-to-maintain-sustainable-careers/>

## About Us

Founded in 1980, FERA represents the independent voice of European film and TV directors in Brussels. With 48 organizations as members from 35 countries, it speaks for more than 20,000 European film and TV directors, representing their cultural, creative and economic interests at national and EU level.

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