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Feder

FEDERATION OF SCREENWRITERS **IN EUROPE**

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FSE NEWSLETTER JULY 2017

AUTHORS CAMPAIGNING IN BRUSSELS

All you need to know about the main objectives of the European Commission (Digital Single Market) for the modernisation of the EU copyright rules :

Click here for more info

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https://ec.europa.eu/digital-single-market/en/modernisation-eu-copyright-rules?utm_ source=twitter&utm_medium=social&utm_content=Digital%20Single%20Market&utm_ campaign=copyright

Most importantly for screenwriters the draft Directive on Copyright in the Digital Age is making its way through the legislative process.

Before reporting on the Copyright Directive, it is important to point out that the busy schedule of the European Institutions on the Digital Single Market and the audio-visual industries includes a number of other initiatives at various levels of progress.

Portability, Geo-blocking & Broadcasting **Regulations**

The Regulation on Portability («ensuring the cross-border portability of online content services in the internal market»); the Regulation on Geo-blocking («on addressing geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment»); the Broadcasting Regulation, resulting from the review of the CabSat Directive («laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes »); not forgetting, of course, the review of the AVMS Directive and the application of the Marrakesh Treaty, are all at various stages of the legislative process.

Many aspects of this agenda have caused worry to the creative industries, especially the audio-visual. The overarching concerns are the damage which would be done to cultural diversity and the infrastructure for production and distribution of audio-visual product by the imposition of an ideologically driven desire to force the introduction of an inappropriate single market for cultural goods and services. A related issue is the regulation of the provision of services online, including audio-visual content, and how to remunerate creators for the use of their work.

FSE co-signed letters with other organisations on two of these issues :

- the Broadcasting Regulation More on the objectives of the Commission https://ec.europa.eu/digital-single-market/en/news/proposal-regulation-layingdown-rules-exercise-copyright-and-related-rights-applicable-certain
- and the Geo-Blocking Regulation More on the objectives of the Commission : https://ec.europa.eu/digital-single-market/en/policies/geoblocking

On the Broadcasting Regulation / Country of Origin principle (COO)

▶ In April FSE co-signed two letters addressed to all MEPs members of the IMCO committee (Internal Market & Consumer Protection Committee) ahead of the committee's vote on Ms. Reda's draft opinion on the proposed « Regulation on Country of Origin Licensing of Certain Online Transmissions by Broadcasters ». One from Creativity Works ! and two from the Audiovisual Sector Coalition.

On the EU Geo-Blocking Regulation

In April FSE co-signed a letter from the Audiovisual Sector Coalition to several MEPs, calling for exclusion of audiovisual from the EU Geo-Blocking Regulation : « the clear and objective motives for the exclusion of audiovisual services from the scope of the 2006 Services Directive remain valid today: commercial freedom to license continues to be a crucial factor in determining the audiovisual sector's ability to secure financing for new audiovisual content and is a key catalyst for cultural diversity ». In March FSE also co-signed a letter on the same issue addressed by Creativity Works ! to the political groups of the European Parliament.

▶ FSE is also among the 411 signatories of a letter addressed on 2nd May to EU Parliament President Tajani and European Council President Tusk. The letter asserts that « Absolute territorial exclusivity is the cornerstone of creativity and investment in European audiovisual works and other protected content - Communication from AV sector representatives across Europe regarding the proposed Regulation on country-of-origin licensing of certain online services by broadcasters (...) As representatives of Europe's world-leading audiovisual sector, we write to highlight our concerns about the impact of erosion of territorial exclusivity on the creativity and investment in original content, which are the foundation of Europe's leadership in cultural diversity and digital content services. ». Among the signatories, let's mention FERA, UNI-MEI and SAA.

On these two issues read also the press release issued by EFADs : « European film agency directors call on the Europe Commission, Parliament and Council to promote and preserve cultural diversity and territoriality ».

Press release

www.efads.eu/common-positions/european-film-agency-directors-call-on-the-europecommission-parliament-and-council-to-promote-and-preserve-cultural-diversity-andterritoriality.html

NB. Creativity Works ! is a leading European coalition with a diverse membership that includes writers, screenwriters, book publishers and retailers, picture agencies, music publishers, independent music labels, producers, publishers and distributors of film and audiovisual content, cinema operators, broadcasters, sports event organisers, as well as video game developers and publishers. http://creativityworks.eu/

The Audiovisual Sector Coalition gathers organisations working across the audiovisual sector in Europe, and represents film and TV directors, screenwriters, performers and other creators, media workers, producers, distributors and publishers of film and television content, cinema operators, commercial broadcasters, and sports rights owners.

THE COPYRIGHT DIRECTIVE

However the priority issue for FSE is the Copyright Directive.

More on the objectives of the Commission : https://ec.europa.eu/digital-single-market/en/news/proposal-directive-european-parlia-

ment-and-council-copyright-digital-single-market

The draft Copyright Directive is currently being examined by the various committees of the European Parliament with JURI, the legal Committee, being the lead. FSE has been active, mainly in collaboration with the **Authors Group (FERA, EFJ, ECSA and the EWC)** in respect of the so-called **Transparency Triangle (articles 14, 15 and 16)** and with **FERA (directors) and SAA (Society of Audiovisual Authors),** in respect of **the right to remuneration for online uses**.

The Authors Group has been busy meeting individual members of the various committees of the Parliament, promoting positive amendment of the draft committee reports and opposing those that misunderstood the proposals or opposed them.

A recent letter from the group to the members of the

JURI Committee detailed the arguments and responded to the many proposed amendments. The Authors Group has emphasised the need for a collective aspect to the implementation of the Triangle and opposed ideas such as the proposal to exclude buyout contracts from the reporting requirement of the Triangle.

▶ A « tick list » written by FSE and FERA, emphasising the issues for audio-visual creators, has been sent on 12th June to the MEPs of the JURI committee.

While the Triangle has been part of the proposed Copyright Directive from the beginning the ideas of a right to remuneration for online uses, developed by the SAA and endorsed by FSE and FERA, was not included by the Commission in its original draft. There now seems to be a prospect that it will be included into the proposal by the committees of the Parliament

SAA, FSE and FERA have published a flyer explaining what's missing in the remuneration of audiovisual authors online:

« Remuneration of Audiovisual Authors Online, What's missing » : www.saa-authors.eu/file/95/download

► FSE distributed a document published by SAA to counter fake information circulating on the proposal of **« unwaivable right »**.

The 12 myths about an unwaivable right, by SAA : www.saa-authors.eu/file/137/download

SAA proposed a definition of « fair remuneration » on its blog.

The complexity of «fair» : www.saa-authors.eu/en/blog/405-the-complexity-of-fair

SAA published a post on « freedom of contract, seen as a corner stone of much of modern business and often a key argument against regulation. But sometimes contractual freedom is a fiction and to defend it is to perpetuate injustice. »

Read more: www.saa-authors.eu/en/blog/408-freedom-of-contract-fact-and-fiction

▶ FSE, FERA and SAA are also working more closely with the performers organisations FIA and FIM and their Collective Management Organisations (Aepo-Artis) on their similar proposal for remuneration for online uses.

► SAA, FSE and FERA also issued a joint press release signed by several reknowned European screenwriters and directors to call for right to fair remuneration online, « for a concrete measure to turn the positive rhetoric on the need for authors to be fairly remunerated into reality ». The signatories proposed an amendment that introduces an unwaivable and inalienable right to remuneration, paid by video-on-demand services for the making available of audiovisual works, collectively negotiated and enforced.

Read more on www.saa-authors.eu/file/104/download

Transfer of value

In parallel with the audiovisual authors call for online remuneration, the wider creators community is addressing the so-called transfer of value or value gap issue. This is specifically referred to in the Draft Copyright Directive but also in the wider copyright community.

▶ For example creators, ambassadors and copyright experts gathered in Paris on Monday 12th June as CISAC (the International Confederation of Societies of Authors and Composers) joined a conference hosted by UNESCO exploring the transfer of value and the challenges it brings to creative industries.

« CISAC is working with its allies on a global campaign for governments to address the transfer of value. The problem is at the very heart of a global debate concerning the relationship between digital platforms and creators. Due to the rapid evolution of the digital market place, users have unprecedented access to cultural works via an array of different platforms, now led by streaming and subscription services. These changes have helped transform access to and consumption of creative works in the digital world. However, they have also had a significant negative impact on creators, who are seeing the revenues that should be due to them siphoned off to profit some large digital services. Especially at risk are local creators and, in turn, cultural diversity ».

More on the definition of « transfer of value » here :

www.cisac.org/What-We-Do/Legal-Policy/CISAC-position-paper-on-the-transfer-of-value and the state of the st

CISAC President Jean-Michel Jarre called for global legislation to ensure digital platforms pay creators fairly.

Read more:

http://www.cisac.org/Newsroom/Articles/CISAC-and-UNESCO-address-creators-remuneration-at-Paris-conference

▶ The issue of transfer of value was also debated at the conference « Meet the Authors » on 30th May in Brussels, organised by **GESAC** (the European Grouping of Societies of Authors and Composers). Frédéric Castadot, president of SSA, the screenwriters' guild of the French-speaking community of Belgium, member guild of FSE, was one of the speakers of the panel « What do authors want from Europe? ».

More on http://www.meettheauthors.eu/

European Commission Vice President Ansip made a speech at that conference :

« Our proposed copyright reform aims to improve the situation on fair remuneration. It will give creators the means to improve their negotiating position with new influential players – like platforms (...) Investments made by creators, artists, performers and creative industries should be properly recognised and rewarded (...) It is not right for the revenues that flow from their work to end

up disproportionately with a few large players who may not themselves be involved in content creation – but who do make money off the back of it. Otherwise, we risk a situation where there is less creation, less diversity and less quality. Why? Because there would be less incentive for creators to invest in producing creative content in the first place. »

Read more on

https://ec.europa.eu/commission/commissioners/2014-2019/ansip/announcements/ speech-vice-president-ansip-meet-authors-conference_en

European Council

On 8th June, the Council adopted its position on the Copyright Directive setting out new rules for business-toconsumer contracts for the supply of digital content and digital services.

 $http://dsms.consilium.europa.eu/952/Actions/Newsletter.aspx?messageid=13278\&customerid=9077\&password=enc_4537333536304135_enc$

Conclusion

Although full of complex problems this focus by the European Union institutions on the Digital Single Market offers opportunities to tackle important questions, such as the remuneration of authors and performers for the exploitation of their work online. The Copyright Directive has proven controversial in many respects and the JURI Committee has postponed its final vote on its own report until 10th October. The Council will then have its say. There will be a copyright Directive in the not too distant future. What exactly it will provide for authors is not yet certain. There is a great deal of work still to do.

FSE OTHER RECENT STATEMENTS

FSE co-signed a letter proposed by SAA about the situation of audiovisual authors' rights in Romania following the adoption of the Emergency Decree 91/2016 amending Government Decree 39/2005 on cinematography. This letter was sent to Vice-President of the European Commission Ansip and Prime Minister of Romania Sorin Grindeanu. The proposal, which would have radically redrawn authors rights structures in Romania has now been withdrawn.

Read more on http://cineuropa.org/nw.aspx?t=newsdetail&did=329177

Others items on the European agenda

FSE met DG Education, Arts & Culture (EAC)

On 4th April David Kavanagh met Walter Zampieri, Head of the Cultural Policy Unit in DG EAC, to discuss collective bargaining and creators' remuneration. The meeting gathered representatives of several creators and performers' organisations (FSE, FERA, EWC, EFJ, ECSA, FIM, FIA), as well as EU officials from DG EAC and from the Copyright Unit of DG Connect. Though DG EAC has no responsibility for copyright law, labour law, competition law or contract law, we see it as a positive sign from DG EAC to initiate a discussion on how to improve creators' contracts through collective bargaining once the Copyright Directive is in place.

European Commission

The European Commission launched an Open Public Consultation in relation with the evaluation of the Creative Europe programme.

More info :

https://ec.europa.eu/programmes/creative-europe/consultations/creative-europe-2017-consultation_en

FERA shared its answer to the consultation : « European Film and TV directors call for a new talent-driven MEDIA programme. »

Read more here:

 $\label{eq:http://www.filmdirectors.eu/fera-press-release-european-film-and-tv-directors-call-for-anew-talent-driven-media-programme/$

Gender Equality

EWA Network (women directors) has released a statement to call on the European Commission for an integration of gender equality among the priorities of the next Media Sub-Programme.

Read more here:

www.ewawomen.com/en/news/ewa-network-calls-for-gender-equality-mesures-in-the-new-media-programme.html

Fighting Piracy

FERA shared an interesting article : « Entertainment Giants Forge New Alliance to Fight Piracy, Sue Offenders »

http://variety.com/2017/digital/news/entertainment-studios-piracy-lawsuits-1202463987/

Press Freedom

IFJ (International Federation of Jurnalists) declares Press Freedom under threat.

www.ifj.org/nc/news-single-view/backpid/1/article/warning-press-freedom-under-threat/

European Audiovisual Observatory

IRIS Newsletter / « Short reporting on hot legal media topics Europe »

Contents : French pay-TV player Vivendi's hostile takeover of the commercial broadcaster Mediaset; the UK Government's decision to postpone the privatisation of the advertising-driven public service broadcaster Channel 4 and Amazon and Netflix's consolidation of their position on the market.

http://merlin.obs.coe.int/newsletter.php

► The EAO held its **Cannes conference on the impact of VoD on the film value chain** (20th May).

http://www.obs.coe.int/documents/205595/5132577/Observatory+Cannes+Programme +2017+ENnn.pdf/6ea8b329-578a-473e-8bc2-92a99eb57a54

Some presentations are available here : https://prezi.com/kissd3pi-v-e/obs-cannes-conference-2017/?utm_ campaign=share&utm_medium=copy

as well as a video :

www.youtube.com/watch?v=dofhTmVNMOw&feature=youtu.be&t=21m10s

▶ Publication: Origin of films and TV content in VOD catalogues in the EU & Visibility of films on VOD services. MEPs recommended that VoD services such as Netflix carry 30% of European works. But what's the current situation? How many films currently offered via VoD services are "made in Europe"? A new VoD study shows that UK TV programmes make up the lion's share of EU TV content available on Netflix and iTunes, followed by France and Germany.

Free report to down load here :

http://www.obs.coe.int/documents/205595/264623/2016+-+Origin+of+films+and+TV+c ontent+%28C.+Grece+-+G.+Fontaine%29.pdf/94cab491-3cf2-4a76-986c-07065f950c99

Publication: Exceptions and limitations to copyright Free report to down load here :

http://publi.obs.coe.int/documents/205595/8682894/IRIS+Plus+2017-1+Exceptions+and +limitations+to+copyright/b3410fd0-f574-419f-aba8-c81ba79f9fd1

INDUSTRY

▶ «The Value of Commercial Television, and ways for European and national policy makers to support it (or not) ». You might be interested in the results of a conference held in Brussels on 8th June on private television. It was hosted by imec-smit-VUB and supported by the Vrije Universiteit Brussel, imec and the Association of Commercial Television in Europe (ACT).

More on a

http://smit.vub.ac.be/Conference/PTV2017/Home

An interesting article on how the tech companies lobby in Brussels, in *Politico* :

www.politico.eu/article/silicon-valley-tech-lobbyists-swarm-brussels/

News from FSE member guilds in Europe

In Belgium

A new guild of creators, the Belgian Screen Composers Guild, gathering professional music composers for film, TV, series, documentary and video games.

http://screencomposers.be

In France

Profession scénaristes : the Guilde française des Scénaristes regularly posts portraits of screenwriters on its website.

http://guildedesscenaristes.org/itw/prof-scenar_08/ http://guildedesscenaristes.org/itw/prof-scenar_09/

► Following a polemic raised at the Cannes Festival (two Netflix films selected but which will not be released in theatres), the Guilde issued a statement calling for an urgent reform of the chronology of media in France and for the contribution to creation by the giants of the web like Netflix. « La Guilde, en tant que membre de la FSE, encourage l'Europe à revoir au plus vite sa réglementation afin de contraindre tout opérateur diffusant des oeuvres au sein des Etats membres à respecter les prescritptions fiscales, et à remplir ses obligations de financement et d'exposition de la création française. »

A summary of the polemic on :

 $http://www.liberation.fr/futurs/2017/05/13/la-chronologie-des-medias-une-histoire-francaise-bousculee_1568894$

The Guilde's statement :

 $https://www.facebook.com/143761639008453/photos/a.183303391720944.58508.1437\,61639008453/1519575451427058/?type=3\& theater$

In Germany

VG wort and authors agree on new distribution plan for royalties.

http://meedia.de/2017/05/22/mehr-macht-den-autoren-vg-wort-und-urheber-einigen-sich-auf-neuen-ausschuettungsplan-fuer-tantiemen/

▶ More visibility for screenwriters. Read this interesting contribution of VDD board members Christian Lex for a panel to be proposed by VDD on 26th June on the occasion of FilmFest München : at the begining there is a script, written by a screenwriter.

www.filmfest-muenchen.de/de/festival/news/2017/06/autorenverband

Representatives of ARD and screenwriters of VDD successfully discussed the future of fiction on TV : an important recognition of the creative contribution of screenwriters to quality fictional programmes.

Read more here :

http://www.drehbuchautoren.de/news/2017-06-30/erfolgreiches-werkstattgespraech-zwischen-ard-und-vdd-ueber-die-zukunft-der

In Ireland

New scheme allows more writers and artists to access welfare supports.

http://www.artscouncil.ie/News/Arts-Council-welcomes-new-social-welfare-pilot-scheme-for-artists/port

In Italy

► Writers Guild Italia regularly posts interviews of screenwriters, « WGI si racconta » :

www.writersguilditalia.it/wgi-si-racconta-adriano-chiarelli

In Spain

The Supreme Court of Spain rejects the request to compensate management entities for digital levy.

www.sgae.es/en-EN/SitePages/EstaPasandoDetalleActualidad.aspx?i=2033&s=5

Inés París, a woman screenwriter, is the new president of the SGAE Foundation :

www.fundacionsgae.org/es-ES/SitePages/Programacion_Noticia.aspx?i=333&s=7

Spanish artists united for the creation of a new statute for artists :

www.lavanguardia.com/vida/20170527/422980545306/actores-y-artistas-se-unen-enapoyo-del-estatuto-del-trabajador-de-la-cultura.html?platform=hootsuite

▶ On pension for retired authors : lifting of sanctions and compatibility of pension and copyright, a claim to the Spanish government through the « Plataforma Seguir Creando », a grouping of 42 organisations reprensenting creators in Spain.

 $www.eldiario.es/cultura/Autores-jubilados-reclamar-Gobierno-devuelva_0_652335467. html$

Visit the new website of ALMA www.sindicatoalma.es

In Sweden

▶ Pia Gradvall, chair of Dramatikerförbundet in Sweden, calls for more money for script development to encourage screenwriters to write for film.

http://sverigesradio.se/sida/artikel.aspx?programid=478&artikel=6711213

In the UK

Read the annual report 2016-2017 of WGGB :

https://writersguild.org.uk/annual-report-2016-17/

A boycott campaign aiming to pressurise the broadcasters to agree to issue programme-level diversity data

https://writersguild.org.uk/third-trade-union-joins-project-diamond-boycott/

Bumper digital pay-out for BBC writers. BBC screenwriters contracted during 2015 earned £750,000 in royalties for reuse of their work on BBC iPlayer, according to figures just released by Writers Digital Payments (WDP).

https://writersguild.org.uk/bumper-digital-pay-bbc-writers/

▶ WGGB has welcomed the Government's decision to drop its controversial Making Tax Digital reforms. The proposals, which included quarterly data submissions and covered all businesses with a turnover of more than £10,000, including freelances, were previously branded a "bureaucratic nightmare" by the actors union Equity. WGGB has been urging its members to lobby their MPs on the issue. https://writersguild.org.uk/wggb-welcomes-making-tax-digital-u-turn/

WGGB has successfully negotiated a 2% increase in minimum fees with the National Theatre, Royal Court Theatre and Royal Shakespeare Company.

https://writersguild.org.uk/writers-fee-increases-tnc-theatres/

In the Netherlands

▶ How can authors get better fees ? Proposals discussed by De Auteursbond (association of authors representing writers and translators, as well as screenwriters, in partnership with the Dutch guild of screenwriters) :

http://auteursbond.nl/blog/2017/06/14/passie-gewaardeerd-en-hoe-nu-verder/

Some interesting views from screenwriters in the online magazine PLOT, on remuneration, copyright, contracts... : www.plotmagazine.nl/cms/page/6?edit_mode=1&data_object_id=730&data_object_type=cms_short_note_content

Netwerk Scenarioschrijver (Dutch guild of screenwriters): election of a new board and a new website. http://netwerkscenarioschrijvers.auteursbond.nl/

OTHER NEWS

In the US

Hollywood could have faced a major strike

« Writers, who power almost everything the movie and television factories make, want better pay and the shoring up of a faltering health care plan. Studios, while open to some raises, have so far proposed health care changes that many writers consider rollbacks ». wrote Brooks Barnes in the New York Times. Howard A. Rodman, president of WGA West, confirmed : "Without beginning with the script whether it is television, it's film, it's new media — none of the rest of the larger machine functions at all," he said. "That needs to be deeply recognized by the industry. We need to be compensated in a way that is just and proportionate to our contribution." The Writers Guild of America asked its members to give it the authority to call a strike. Meanwhile, WGA East explains why the entertainment industry has never been more profitable. « In 2016 the six major media companies that dominate film and television, and employ almost all Guild writers (CBS, Comcast, Disney, Fox, Time Warner, and Viacom), reported almost \$51 billion in operating profits. Those profits have doubled in the last decade and continue to grow ». WGA East

concludes : « The entertainment business is thriving because of the content WGA members create. This content has fueled the global growth of the media companies and the meteoric rise of online video distribution. The companies which control this content have reaped the rewards many times over. Writers deserve a fair share of this unprecedented prosperity. »

FSE contacted WGA to offer its moral support.

96% of WGA members voted in favor of strike authorization. On 1st May, the Writers Guilds of America, West and East and the Alliance of Motion Picture and Television Producers have concluded negotiations and have reached a tentative agreement on terms for a new three-year collective bargaining agreement. The Negotiating Committee thanked the members of WGA in this way : « Did we get everything we wanted? No. Everything we deserve? Certainly not. But because we had the near-unanimous backing of you and your fellow writers, we were able to achieve a deal that will net this Guild's members \$130 million more, over the life of the contract, than the pattern we were expected to accept. That result, and that resolve, is a testament to you, your courage, and your faith in us as your representatives. We will, of course, provide more details in the next few days. But until then, we just wanted to thank you - and congratulate you. Your voices were indeed heard. »

NY Times :

 $www.nytimes.com/2017/04/06/us/california-today-a-strike-looms-in-hollywood. html?_r=2$

Hollywood Reporter:

www.hollywoodreporter.com/news/wga-strike-explained-inside-offers-counteroffers-table-997216

WGA West:

www.wgaeast.org/for-members/contract-2017-2/wga-reaches-tentative-agreement-with-amptp/

You may also be interested in the WGAE Executive Director's Report to Council and Members – June 2017 :

www.wgaeast.org/news-events-awards/executive-directors-report/

Credit screenwriters !

British screenwriters speak out on 'pathetic' treatment by Hollywood. Oscar-winner Ronald Harwood and twice-nominated William Nicholson urge industry to give writers credit they deserve :

www.theguardian.com/film/2017/may/21/oscars-screenwriters-sir-ronald-harwoodwilliam-nicholson-hollywood-pathetic-treatment

Net Neutrality

Net neutrality is still a hot topic in the US, though not very much in Europe. Read the position of the Writers Guild of America East on this issue: « WGAE Urges FCC to Maintain Net Neutrality; Implores Public to Submit Comments »

www.wgaeast.org/2017/05/wgae-urges-fcc-to-maintain-net-neutrality-implores-public-to-submit-comments/