



## FSE Newsletter

June 2011

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### Edito by Christina Kallas

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The Federation of Screenwriters in Europe is ten years old this year! A group of writers got together in Athens in June 2001, signed a manifesto (as relevant today as it was then), agreed a structure for their new organisation and got to work.

We owe those people a considerable debt.

We have come some distance since then – the Rise Festival; the First European Conference of Screenwriters; the first World Conference of Screenwriters. But, for me, as Chairwoman of the Federation for the last years, a high point of our growth as an organisation came in the unlikely context of **our recent General Assembly**.

It's true that writers have a great deal in common. Firstly that we write and that we produce "droit d'auteurs" or copyright. Secondly that we are almost all of us freelance workers and thirdly that we almost always sign contracts for the work that we do. After that, however, all is cacophony – different national laws; minimum rate in some countries but not in others; competition law and contract law and labour law; public service broadcasters with one approach, independent producers with another; feature film and television; collecting societies important in some countries and not in others.

So the idea that we can approach a complex issue like the potential impact of the digital revolution and even find a common language, never mind agreeing on possible approaches to solutions, was an extremely daunting challenge. Yet in the confines of the meeting room at UNI-EUROPA (whose support over the years has been critical to our survival) we found, over four hours of very intense debate, an agreement on a set of basic principles which should allow us to combine support for those practical solutions emerging at the level of national market places with a wider perspective that will help us to contribute to the debate at the European level.

So thank you to the writers' representatives from all over Europe who were present at the General Assembly and who contributed with solidarity, mutual respect and friendship. It may seem odd that an animated discussion about equitable remuneration was inspirational – but it really was.

Christina Kallas  
President  
On behalf of the Board and staff of the FSE



The General Assembly of the FSE was held in Brussels on 18-20 March 2011.

It gathered representatives of member associations, guilds and unions of screenwriters.

► Photo : Cheerful delegates at the FSE 10<sup>th</sup> Anniversary diner.

## Collective Bargaining

### Smart contracts for the smart economy : collective bargaining for freelance screenwriters in the digital area

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The European film and television industries have **an annual value of about 120 billion euros and employ some 1 million people**. One of the 7 flagship initiatives of the Europe 2020 programme for smart, sustainable and inclusive growth is the Digital Agenda for Europe proposal, intended to promote the creation of a digital single market, characterised by a high level of trust and a clear legal framework. Europe's **8.000 screenwriters sign approximately 25.000 contracts** with their employers each year for the writing of the scripts, which are important basic tools for the functioning of the film and television industries. Most screenwriters are **atypical workers with no stability of income and limited access to social protection as a result of their freelance status**. Their contracts are collectively bargained in some countries but are widely accepted as unsuitable for the new digital economy.

FSE intends to develop new European standards for screenwriters' contracts in the increasingly borderless digital economy and establish ground rules and procedures for collectively bargained standard terms and conditions for the employment of writers by film and television production companies. As a first step, FSE has designed a training programme for members of staff or boards of the member unions and guilds engaged or willing to be engaged in local collective bargaining. If this programme receives the support of the European Commission as we hope, it will be launched in July 2011.

### European Campaign against right-grabbing contracts

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The European Federation of Journalists (EFJ) is more and more concerned by the growing trend among media organisations to use right-grabbing contracts. This type of contracts often demands journalists to sign away their authors' rights, including both economic and moral rights. The EFJ

demands that responsive democracies treat journalism as a public good, defend the authors' rights of journalists, and reward journalists fairly.

► **More on the campaign :** [www.ifj.org/en/pages/efj-campaign-against-right-grabbing-contracts](http://www.ifj.org/en/pages/efj-campaign-against-right-grabbing-contracts)

## **No-pay policy for online contents**

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"Why should writers work for no pay?" is the title of an article written by Michael Walker in the Los Angeles Times on the 1<sup>st</sup> of April. A labour dispute has opposed the Huffington Post, an internet newspaper and the writers who contribute to most of the contents of the newspaper for free. The Newspaper Guild called for boycott of the online newspaper in support of a virtual strike. The Huffington Post justifies its policy by the fact that it offers writers the access to the largest possible audience. This no-pay policy "is the Web's fundamental underlying business philosophy, writes Michael Walker. The reality is that the complicity of writers and entire publications in serving up endless freebies (...) has gone a long way toward transmuting "writing" done for pay into "content," consumed for free".

► **More :** [www.latimes.com/news/opinion/commentary/la-oe-walker-huffington-post-strike-20110401.0.1035765.story](http://www.latimes.com/news/opinion/commentary/la-oe-walker-huffington-post-strike-20110401.0.1035765.story)

## **Collecting societies and collective bargaining**

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SACD, a French collecting society, conducted a study on the remuneration of the authors of films in France. This study, based on the analysis of more than 600 contracts (corresponding to 220 films produced in 2008 and 2009), confirms trends already observed: the increasing professional insecurity of the authors in the French cinema industry.

The study reminds two key principles of the droit d'auteur in France: the author should be remunerated proportionally to the income generated by the exploitation of the film and to the price paid by the audience to watch a film in particular (in theatre, dvd, vod). However, the study shows that more than 90 % of the authors do not receive any other remuneration but the minimum standards contained in the initial contract - individually negotiated - whatever the success of the film is. The study also underlines the lack of financial transparency from the producers. The study concludes that : 1) collecting management is the only system that can ensure all writers a proportional remuneration to the success of their work, with a guarantee of transparency, 2) collecting societies should be entitled to manage the rights for the online exploitation of the films (VOD).

SACD also denounces in a press release the absence of representatives of creators within the Conseil National du Numérique (National Council for Digital policy), while a constant and democratic dialogue with the lobby of access and services providers is absolutely necessary.

► **The study if available in French on :** [www.sacd.fr/Etude-de-la-SACD-sur-la-remuneration-des-auteurs-de-cinema.2296.0.html](http://www.sacd.fr/Etude-de-la-SACD-sur-la-remuneration-des-auteurs-de-cinema.2296.0.html)

# Droit d'auteur and Copyright

## 3 principles to adapt Copyright to the Digital World

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Francis Gurry is Director General of the World Intellectual Property Organisation. Speaking at a conference in Australia last February, he addressed the future of Copyright, saying that copyright needs to evolve to current technological realities or risk becoming irrelevant. He listed three principles that should guide the development of a successful policy response. 1) "Copyright should be about promoting cultural dynamism, not preserving or promoting vested business interests." 2) collective management societies "need to re-shape and to evolve", adapt to the multi-jurisdictional world of the Internet and the convergence of expression in digital technology." 3) the need for more simplicity in copyright.

► **Report** : [www.wipo.int/pressroom/en/articles/2011/article\\_0005.html](http://www.wipo.int/pressroom/en/articles/2011/article_0005.html)

► **Speech** : [www.wipo.int/about-wipo/en/dgo/speeches/dg\\_blueskyconf\\_11.html](http://www.wipo.int/about-wipo/en/dgo/speeches/dg_blueskyconf_11.html)

## World Copyright Summit 2011

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FSE is partner organizer of the World Copyright Summit in Brussels on 7 and 8 June 2011, organized by CISAC, the International Confederation of Societies of Authors and Composers.

The Summit addressed the global eco-system for creators and creative industries, the digital economy and new business models and the authors's rights and the legislative & social environment.

Neelie Kroes, the European Commissioner for Digital Agenda, opened the conference. Her view point, that you can read on the website of the Summit, focuses mainly on the music industry. Let's hope that the participation of FERA and SAA on the advisory committee has ensured visibility to audiovisual authors, including screenwriters. The last keynote of the summit came from Michel Barnier, the European Commissioner in charge of the Internal Market and EU's policy relating to copyright issues, who presented the new proposed guidelines for collective management.

FSE attended the Summit and will report to its members on the discussions.

► **More information** : [www.copyrightsummit.com](http://www.copyrightsummit.com)

## Conference on Culture, Audiovisual and Copyright

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The Polish Ministry of Culture and National Heritage will organise during the EU Presidency of Poland an expert conference in the area of culture, audiovisual and copyright that will be held in Warsaw on July 18<sup>th</sup>-20<sup>th</sup> 2011. The leitmotif of the conference is "Competences in Culture".

Discussions will include the **preservation and use of audiovisual digital heritage** and respect for copyrights in the digital environment : 1) Future of digital archives / creative potential, commercial potential and business models; 2) Reconstruction of film and audiovisual materials / Archives and film education; 3) Digital distribution of film and audiovisual materials.

Another session will focus on **management of copyrights and related rights in the digital environment**: 1) Licensing of the audiovisual works online; 2) Infringement of copyrights liability in the digital environment and collective management of rights; Extended collective rights management as a possible solution to current copyrights dilemmas.

► **Programme of the conference** : <http://www.competencesinculture.pl/en>

## International Arts and Entertainment Alliance recalls the importance of online rights for creative workers

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IAEA (made of UNI-MEI, FIM and FIA) attended the conference on “Creative industries: Innovation and Growth” in Brussels on April 20<sup>th</sup>, 2011. The Conference, attended by representatives of the European Commission, European Parliament, consumer groups and the creative community focused on the crucial importance of Intellectual property for all industries based on creation and innovation. The IAEA “welcomed the contribution of Commissioner Michel Barnier (Internal Market) who reiterated the commitment of the Commission to tackle the issue of counterfeiting and piracy, recalling their negative impact on jobs. Mr. Barnier also insisted on the need to increase the online legal offer and involve ISPs, while avoiding unnecessary criminalisation of citizens”.

“The artistic and social dimensions of cultural contents must be systematically taken into account when decisions impacting the creative chain are being discussed and considered, so as to make sure that the issue of the remuneration of creative workers is properly addressed”, said IAEA Secretary, Benoît Machuel.

▶ **Press communiqué :**

[http://www.uniglobalunion.org/Apps/UNINews.nsf/vwLkpByld/E17B84C2EC82E48FC125787E0074557F/\\$FILE/pr%20iaea%20conference%20%20innovation%20for%20growth%20EN.pdf](http://www.uniglobalunion.org/Apps/UNINews.nsf/vwLkpByld/E17B84C2EC82E48FC125787E0074557F/$FILE/pr%20iaea%20conference%20%20innovation%20for%20growth%20EN.pdf)

▶ **IAEA :** [www.iaea-globalunion.org](http://www.iaea-globalunion.org)

## Google France

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“Google has suffered a serious setback, with the court of appeal in Paris delivering four judgments on 14 January 2011 ordering the major Internet player to pay more than EUR 500,000 in damages to various film production companies. These companies had complained that their films were being broadcast in their entirety free of charge via Google Vidéo (...)”.

▶ **Source IRIS newsletter :** <http://merlin.obs.coe.int/iris/2011/4/article24.en.html>

## Industry

## Net Neutrality

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FSE has responded to a public consultation launched by the European Commission on the issue of net neutrality. In its brief document, FSE supported the concept of net neutrality and argued that multinational conglomerates should not be able to buy any kind of preferential treatment on the internet that would disadvantage small innovative production companies or creative individuals trying to reach new audiences through distribution on the internet. In other words, net neutrality is the idea that ISPs (Internet Service Providers) treat all information equally. The worry is that powerful players will be able to pay for prioritization, consigning new players (such as, potentially, new drama produced for the net) to the digital slow lane. However, this crucial discussion is often mis-cast as being about so-called traffic management, like the idea that it is sensible to, for example, prioritise VOIP (Voice over IP, like the very popular tool Skype) - which is time-sensitive - over email - which does not need to arrive instantly.

The Commission organised a summit on “The open internet and net neutrality in Europe” on November 11<sup>th</sup> 2010 and in April 2011, Commissioner for the Digital Agenda Neelie Kroes published a communication on this topic, addressed to the European Parliament, the Council, the Economic and Social Committee and the committees of the regions ((Brussels, 19.4.2011 COM(2011) 222 final).

“The long-awaited report published today fails to offer a convincing policy to protect a free, open and therefore neutral Internet, criticizes La Quadrature du Net. Under heavy pressure, Kroes carefully avoids taking any action to regulate the way Internet access providers discriminate their users' Internet traffic. The report actually recycles many statements from the telecoms lobby in order to present them as consensual truths”. On the other end, La Quadrature du Net welcomes a report issued by the French Parliament on net neutrality: “This encouraging report calls for preserving the Internet's universality and protecting end-users' fundamental freedoms, and should be considered a template for other European public authorities”.

BEREC (the Body of European Regulators for Electronic Communications) has done some research to try to ascertain whether there is evidence that net neutrality principles are being abused and conducted a survey among its members in early 2010 to assess the state of play in the different Member States. It concluded that there have been instances of unequal treatment of data by certain operators. But the Commission seems to think that there needs to be further work to be done to provide more precise information.

In the meantime, the Commission relies on general principles of Competition policy in the EU and its members and, more particularly, on the amended Telecoms Framework adopted in 2009, which supports for example “the ability of end users to access and distribute information or run applications and services of their choice” (Article 8(4)(g).

▶ **FSE's contribution to the 2010 EU Public Consultation on the Open Internet and Net Neutrality in Europe:**

[www.scenaristes.org/pdfs/netneutrality\\_web.pdf](http://www.scenaristes.org/pdfs/netneutrality_web.pdf)

▶ **The full Communication of the European Commission :**

[http://ec.europa.eu/information\\_society/policy/ecomm/doc/library/communications\\_reports/netneutrality/comm-19042011.pdf](http://ec.europa.eu/information_society/policy/ecomm/doc/library/communications_reports/netneutrality/comm-19042011.pdf)

▶ **And the position of La Quadrature du Net:** [www.laquadrature.net/en/net-neutrality-an-encouraging-report-from-the-french-parliament](http://www.laquadrature.net/en/net-neutrality-an-encouraging-report-from-the-french-parliament)

▶ **The full report of the French Parliament (in French):** <http://www.assemblee-nationale.fr/13/rap-info/i3336.asp>

and the translation of the introduction of the report in English: [www.laquadrature.net/en/net-neutrality-an-encouraging-report-from-the-french-parliament](http://www.laquadrature.net/en/net-neutrality-an-encouraging-report-from-the-french-parliament)

## AVMS Directive

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The European Commission seeks information from 16 Member States on their implementation of Audiovisual Media Services Directive.

▶ **Source IRIS newsletter :** [http://merlin.obs.coe.int/article.php?iris\\_r=2011%205%205&language=en](http://merlin.obs.coe.int/article.php?iris_r=2011%205%205&language=en)

▶ **Intervention of Christina Kallas/FSE President on AVMS at the European Parliament on 1 June 2006:** [www.scenaristes.org/newsletters/speechCK\\_AVMSDweb.pdf](http://www.scenaristes.org/newsletters/speechCK_AVMSDweb.pdf)

▶ **On the AVMS directive :** [http://ec.europa.eu/avpolicy/reg/tvwf/index\\_en.htm](http://ec.europa.eu/avpolicy/reg/tvwf/index_en.htm)

## Film and Television – Falling in Love again?

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The European Audiovisual Observatory held a workshop in Cannes, during the festival, on Sunday 15 May, to look “at the long-standing ‘affaire’ between cinema and television (...) Cinema and television have long been pillow partners, but recent developments have had a deep impact on their relations”.

▶ **More :** [www.obs.coe.int/about/oea/pr/mif2011.html](http://www.obs.coe.int/about/oea/pr/mif2011.html)

## Dynamic TV Market

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A recent press release of the European Audiovisual Observatory says “European Digital Television market continues to be dynamic: more platforms, channels and HD”.

▶ **More :** [www.obs.coe.int/about/oea/pr/mavise\\_mars2011.html](http://www.obs.coe.int/about/oea/pr/mavise_mars2011.html)

## Publications

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The European Audiovisual Observatory publishes new **IRIS plus report on Film Funds in South East Europe**.

▶ [www.obs.coe.int/about/oea/pr/irisplus2011-2.html](http://www.obs.coe.int/about/oea/pr/irisplus2011-2.html)

Iris Plus / An Insight into Selected **Film Funding Systems**.

▶ [http://www.obs.coe.int/oea\\_publ/iris/iris\\_plus/2011-2.html](http://www.obs.coe.int/oea_publ/iris/iris_plus/2011-2.html)

IRIS plus / **Media Literacy**

Synopsis: One of the most important social changes of the past two decades is the development of the so-called information society. The choice of the term "information society" lays particular emphasis on the supply aspect of this development: the increasing amount of available information in the broadest sense, as well as the growing number of ways in which we can access this information. However, in order to take full advantage of this explosion of information, a form of literacy is required (...)

▶ [http://www.obs.coe.int/oea\\_publ/iris/iris\\_plus/2011-2.html](http://www.obs.coe.int/oea_publ/iris/iris_plus/2011-2.html)

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## FSE monthly newsletter

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If your organization would like to have news published in the next issue of the FSE monthly newsletter, or if you have suggestions to improve it, please contact us at [info@scenaristes.org](mailto:info@scenaristes.org).

**VISIT [www.scenaristes.org](http://www.scenaristes.org)**

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