



## JOINT STATEMENT - AN END TO BUYOUTS IN EUROPE

Brussels, Tuesday April 10<sup>th</sup> 2012

**Three important authors' bodies are coming together to demand legislation for equitable rights payments for European film and television directors and screenwriters. They are calling for unwaivable enforceable rights, fair contracts and stronger resistance to arguments put out by the pirate lobby.**

SAA, which represents authors throughout Europe who are members of collecting societies; FERA, which represents European film and television directors; and FSE which represents European screenwriters, are united in our commitment to facilitating production and distribution of our members' work based on legal clarity and fair remuneration.

We are committed to internet culture, we are determined to play our part in its development, and we want our work to be seen on as many European screens as possible. It is the creative talent of our members which will appeal to audiences online and across borders and create the demand that will fuel business innovation, employment creation and the many benefits which flow from an active cultural environment. This talent deserves fair reward.

### **AN END TO BUYOUTS**

Above all, we are seeking an end to the buyout contracts that deprive our members of so much legitimate income. Buyout contracts force authors to accept payments that take little or no account of subsequent use. They divorce the creator from the success of the work.

The recent European Court of Justice ruling<sup>1</sup> against 'Cessio Legis' is an important step forward, but it is only a start. We are appealing for EU legislation to make buyouts illegal, initially for online use and eventually for all means of distribution. The moral argument is the same in both: authors should be allowed to share in the success of their work. This will allow them to survive and do more work: in effect, it's a virtuous circle.

### **UNWAIVABLE AND ENFORCEABLE RIGHTS**

Our online 'Making Available' Right<sup>2</sup>, taken in buyout contracts and exploited for a decade, in many cases without payment, should now be made enforceable, allowing negotiation of rates for online use.

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<sup>1</sup>Court of Justice of the European Union, C-277/10, Martin Luksan v. Petrus van der Let, 9 February 2012

<sup>2</sup> The exclusive right of making available to the public was granted to authors by the 2001/29/EC Directive of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society. In our experience, this right to authorise or prohibit on-demand exploitation of works has not been valued in contracts since then.

Where this exclusive right is transferred to the producer, we ask for the enactment of an unwaivable Right to Equitable Remuneration payable to authors, for online use at first, and in due course for all means of distribution. This would be collectively negotiated, and depending on territory would function either as a benchmark rate underpinning local contractual negotiations, or as an actual rights payment collected and distributed by collecting societies. Our members have experience of both systems.

## **COLLECTIVE SOLUTIONS AND THE RIGHT TO NEGOTIATE**

Flexibility will be essential, to reflect our differing legal cultures; but not the kind of 'flexibility' that merely allows producers and financiers to impose one sided contracts on individual authors with impunity. Most authors' contracts are currently signed under considerable pressure. It is time to redress the balance of power.

It is also essential that the Commission reverses the current undermining of free negotiation by some competition authorities, for instance in Ireland and the Netherlands. In a free society, the representatives of creators must be permitted to bargain collectively and agree appropriate rates and conditions.

## **GOVERNANCE**

We welcome the imminent publication of an EU Directive on the governance of collecting societies and are determined to remain in the vanguard of efforts for greater transparency, efficiency and democracy in collective management. However, delays on resolving governance issues should not be an excuse for policy makers to shy away from strong, urgent and immediate support for solutions to the problem of fair payment.

## **PIRACY AND FREEDOM**

Our associations emphatically reject the insinuations of the pirate lobby (and some powerful internet operators) that simply to require payment for use constitutes some kind of 'attack on free speech'! This sophistry needs to be resisted by all, the Commission and Parliament in particular. Bullying is not less immoral for being practised by large movements.

**European audiovisual authors will not stand idly by and see their industry destroyed. We speak out for democracy, and for the principle of Fair Trade. 'Free access – but not for free!'**

**SAA - The Society of Audiovisual Authors** is an association of European Collective Management Societies which administer audiovisual authors' rights. Its 25 societies across 18 countries currently manage rights of over 120,000 film and television screenwriters and directors. [www.saa-authors.eu](http://www.saa-authors.eu). Press contact: James Taylor - [jtaylor@saa-authors.eu](mailto:jtaylor@saa-authors.eu) - +32 2 894 93 34.

**FERA** - Founded in 1980, the **Federation of European Film Directors** contains 39 directors' associations from 29 countries. It speaks for approximately 20,000 European screen directors, representing their cultural, creative and economic interests both in Brussels and in the Member States. [www.filmdirectors.eu](http://www.filmdirectors.eu). Press contact: Elisabeth Sjaastad [elisabeth.sjaastad@filmdirectors.eu](mailto:elisabeth.sjaastad@filmdirectors.eu) - +32 489 30 37 03.

**FSE** - The **Federation of Screenwriters Europe** is a network of national and regional associations, guilds and unions of writers for the screen in Europe, created in June 2001. In 2011, it comprises 25 [members](#) from 19 countries, representing more than 7,000 writers in Europe. [www.scenaristes.com](http://www.scenaristes.com). Press contact: David Kavanagh [david.kavanagh@script.ie](mailto:david.kavanagh@script.ie) - + 353 86 837 1203.