

THE RIGHTS OF MUSIC ARTISTS IN THE AUDIOVISUAL RECORDINGS

NATIONAL SEMINAR: PERSPECTIVES AND ACTUAL
CHALLENGES TO FILM INDUSTRY IN THE DIGITAL ERA

Challenges of Digital Market to Authors, Artists and
Producers of Audiovisual Works (Sofia, November
27, 2017)





FILAIE is the Ibero Latin American Federation, which has more than 400,000 artists represented by the national Collective Societies of Latin America and the Spanish Caribbean, Spain and Portugal.



AIE is the Spanish Music Performing Artists' Society that has more than 25,000 associates and collects Artists' related rights in the whole World for 500,000 artists through the Reciprocal Agreements.

These entities have the objective to defend the Rights of Music Artists when the performances of them have been fixed in phonograms or audiovisual recordings.



ARTISTS' COLLECTING SOCIETIES



What do the Artists' CMO manage?

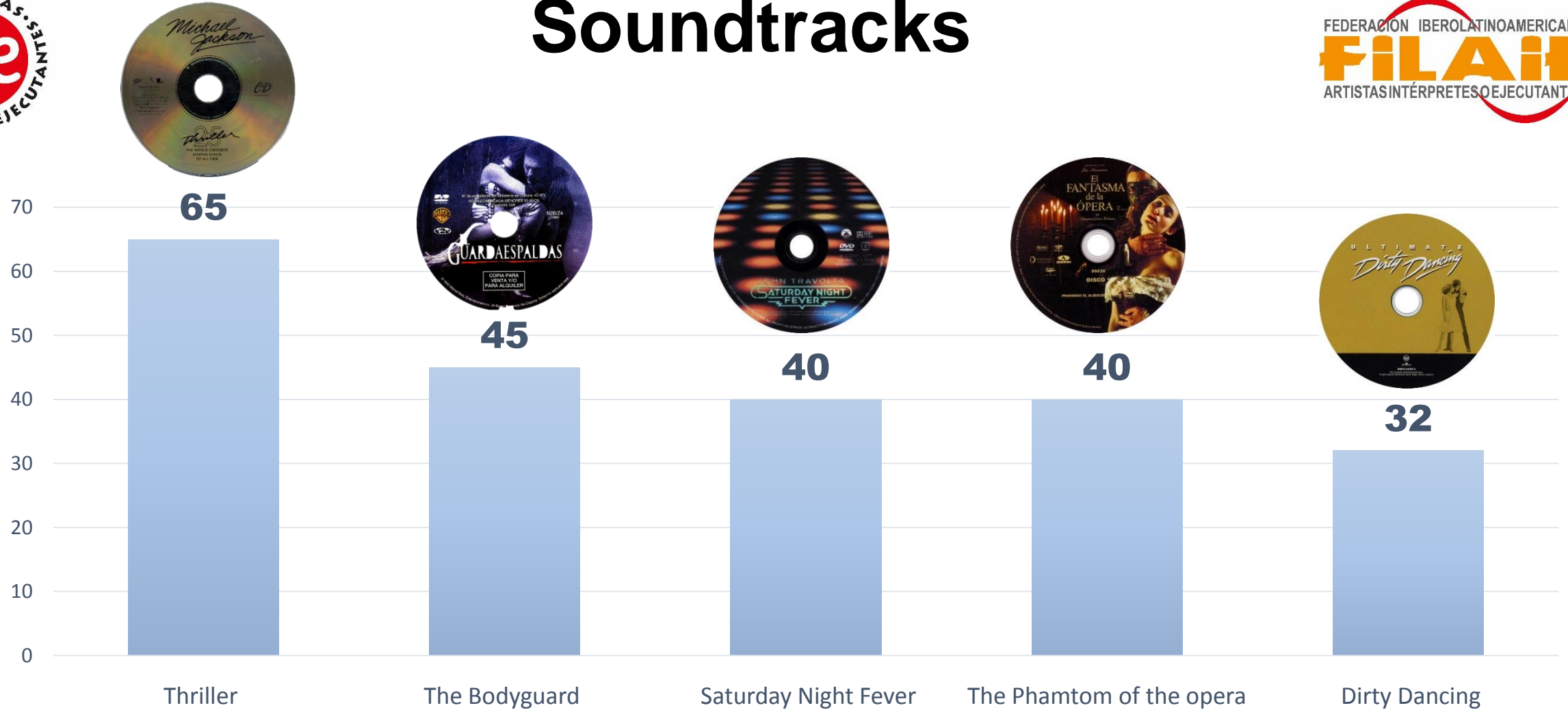


- Communication to the public of phonograms.
 - Convention of Rome 1961 Art. 12 (Artists and Producers)
- Communication to the public of audiovisual recording.
 - Beijing Treaty (June 2012) (Artists)
- Private copy of phonograms and audiovisual recording
- Rental of audiovisual recordings
- Rental (only in Japan)
- @Internet
 - Webcasting not interactive and Simulcasting (Artists and Producers)
 - Making available to the public: WPPT 1996 (Artists)



MUSIC IN THE FILM INDUSTRY

Soundtracks

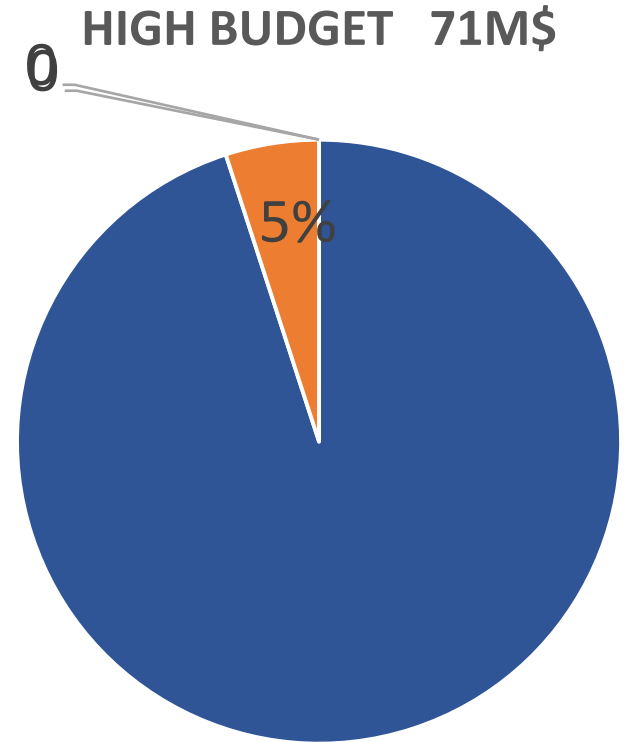
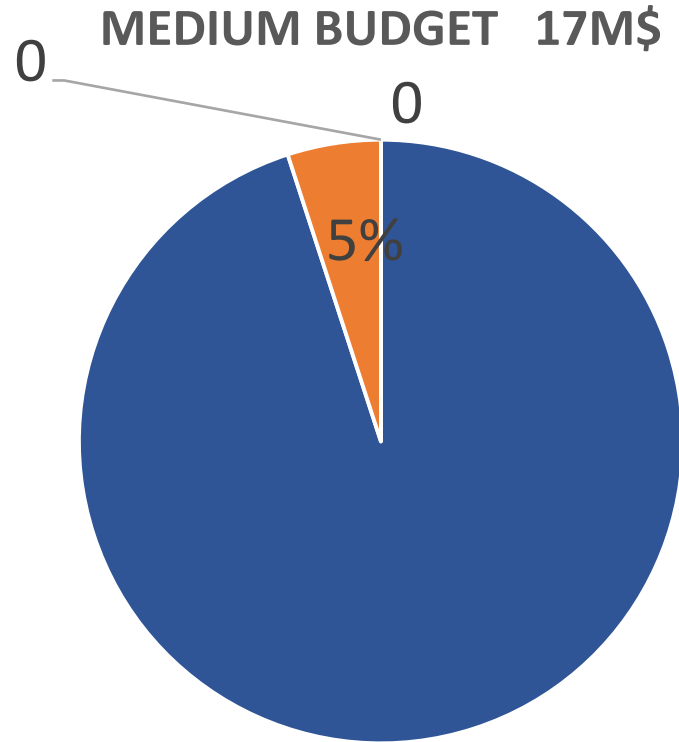
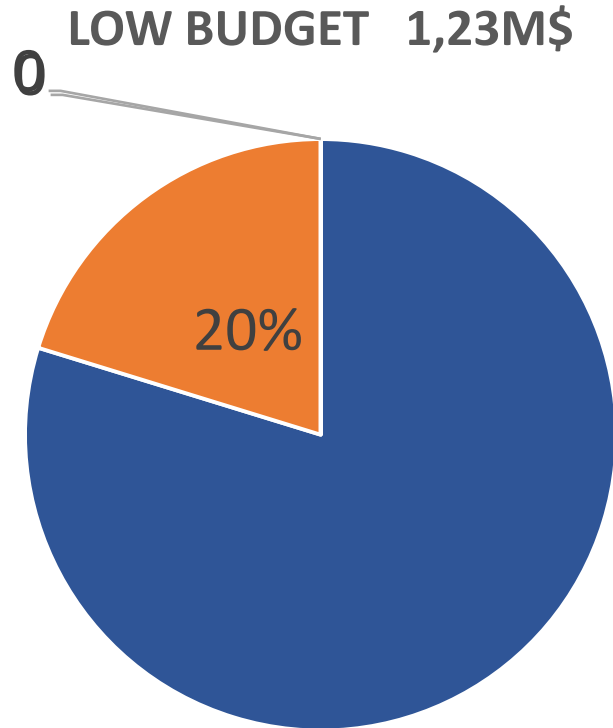


With 65M copies sold "Thriller" is the best-selling record in history

The soundtrack of "The Bodyguard" is 4th place among the best selling albums.

Along with "The Bodyguard": "Saturday Night Fever" and "The Phantom of the Opera" make up the 3 Soundtracks that are among the 10 best selling records in history.

Film budget for music



 MUSIC BUDGET



THE ARTISTS' RIGHTS IN THE AUDIOVISUAL RECORDINGS

WIPO Treaties



WPPT (1996)



- Article 2 WPPT:
 - (a) “performers” are actors, singers, musicians, dancers, and other persons who act, sing, deliver, declaim, play in, interpret, or otherwise perform literary or artistic works or expressions of folklore;
 - (b) “phonogram” means the fixation of the sounds of a performance or of other sounds, or of a representation of sounds, other than in the form of a fixation incorporated in a cinematographic or other audiovisual work;²
 - (c) “fixation” means the embodiment of sounds, or of the representations thereof, from which they can be perceived, reproduced or communicated through a device;
- Agreed Statement concerning Article 2(b): It is understood that the definition of phonogram provided in Article 2(b) does not suggest that rights in the phonogram are in any way affected through their incorporation into a cinematographic or other audiovisual work.



Beijing Treaty (2012)



- Article 2:
 - (a) "performers" are actors, singers, musicians, dancers, and other persons who act, sing, deliver, declaim, play in, interpret, or otherwise perform literary or artistic works or expressions of folklore;
 - (b) "audiovisual fixation" means the embodiment of moving images, whether or not accompanied by sounds or by the representations thereof, from which they can be perceived, reproduced or communicated through a device;
- Agreed Statement concerning Article 2(b): It is hereby confirmed that the definition of "audiovisual fixation" contained in Article 2(b) is without prejudice to Article 2(c) of the WPPT.



THE ARTISTS' RIGHTS IN THE AUDIOVISUAL RECORDINGS

National Legislations

Communication to the public of...

PHONOGRAMS

Spain

Bulgaria

Portugal

The Netherlands

Switzerland

ETC.

AUDIOVISUAL RECORDINGS

Spain

The Netherlands

Switzerland

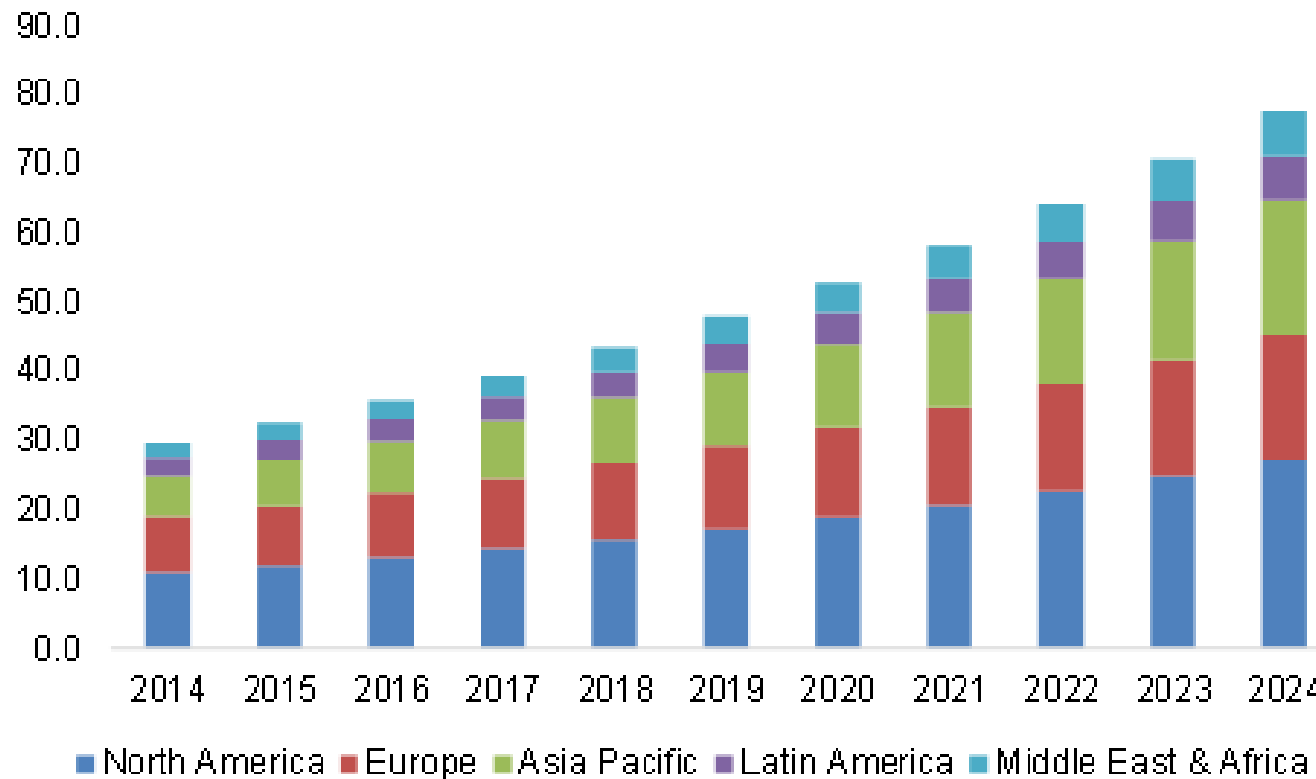
Romania

ETC.



DIGITAL MARKET

Global Video on Demand Market, by Region, 2014-2024 (in BN USD)



Attribute	Details
Base Year	2016
Historic Analysis	2014 & 2015
Forecast	2017 to 2024
Complete Free Customization*	Equivalent to 50 analyst hours

Digital Players

North America

Europe

South Asia

South East Asia

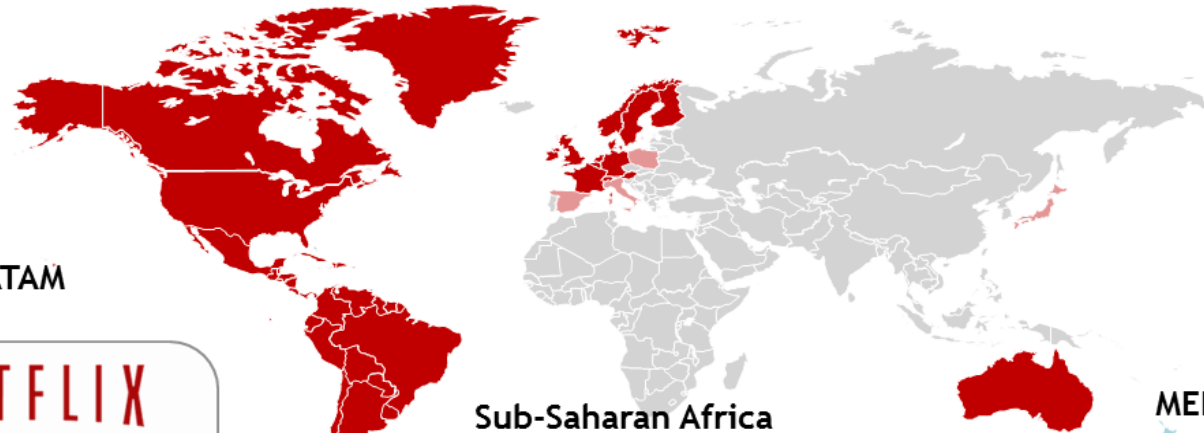
Rest of Asia

LATAM

Sub-Saharan Africa

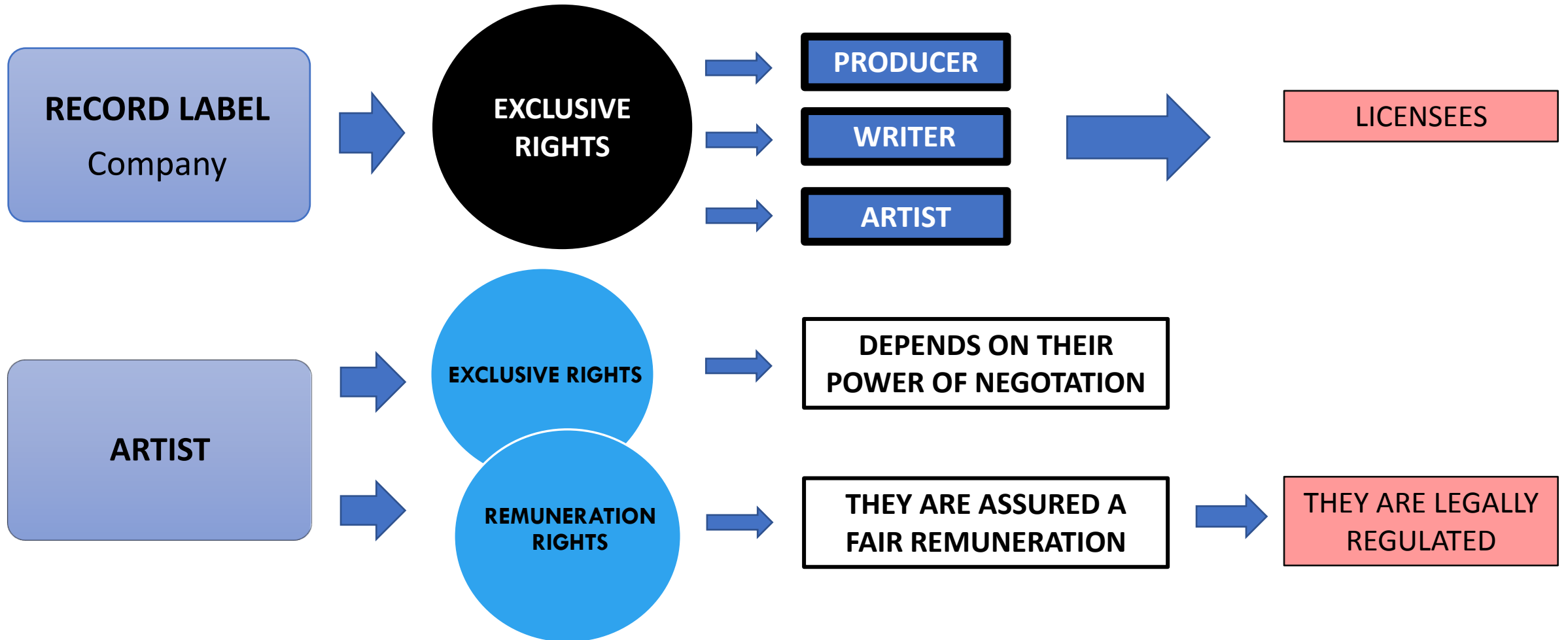
MENA

Australia



 NETFLIX DOMAIN

Phonograms



Beijing and national legislations

- SPANISH LAW: *If the performer has assigned or transferred to a phonogram or audiovisual recording producer his exclusive right of making available to the public (...), he shall preserve his unwaivable right an equitable remuneration to be received whom makes it available to the public.* This remuneration is managed under obligatory collecting management.
- CROATIA, HUNGARY AND OTHER EU COUNTRIES have recognized a remuneration right for artists as well
- BEIJING TREATY: The article 12 considers the transfer of exclusive rights to the producer and the permits that “national laws or individual, collective or other agreements may provide the performer with the right to receive royalties or equitable remuneration for any use of the performance, as provided for under this Treaty including as regards Articles 10 and 11”, this is making available and communication to the public.



Fair internet



FAIR INTERNET FOR PERFORMERS

#FairInternet4Performers

[Home](#) [About us](#) [News & media](#) [The campaign](#) [Testimonials](#) [Campaign kit](#) [Contact](#) [English](#)

**“Most performers (musicians, actors, dancers...)
do not enjoy any remuneration
for the online exploitation of their performances”**

[Sign the on-line petition](#)

Photo © Geribody/iStock

Conclusions

- 1) Music performers have a remuneration right for the communication to the public when their performance is fixed in a phonogram which has been synchronized in an audiovisual recording according to WPPT.
- 2) Music performers should have a remuneration right for the communication to the public of audiovisual recording when the Beijing Treaty will be in force.
- 3) For the digital market, it is necessary that the performers preserve an unwaivable right of an equitable remuneration when they have transferred their exclusive right of making available to the public to the producer of phonogram or audiovisual recording.



Благодаря!

alvaro.hpinzon@aie.es