



SERVING AUTHORS WORLDWIDE  
AU SERVICE DES AUTEURS DANS LE MONDE  
AL SERVICIO DE LOS AUTORES EN EL MUNDO

# CISAC international campaign for the implementation of an unwaivable right of audiovisual authors to obtain equitable remuneration

WIPO National Seminar  
Leonardo de Terlizzi (CISAC)  
Perspectives and Actual Challenges of the AV industry in the digital era  
Sofia, 27/11/2017 - 28/11/2017

# CISAC - AN OVERVIEW

## Who we are

- International Confederation of Societies of Authors and Composers
- Founded in 1926
- A non-governmental, not-for-profit organisation
- The leading worldwide network of CMOs
  - 239 authors' societies
  - 71 societies represent AV repertoire
  - 123 countries
  - Representing over 4 million creators and publishers of all geographic areas and all artistic repertoires: music, audiovisual, drama, literature and visual arts.

# CISAC - AN OVERVIEW

## Worldwide presence



# GLOBAL COLLECTIONS

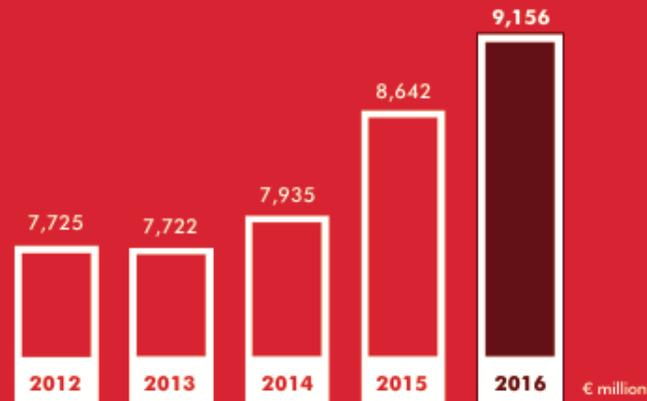
## Headline Figures

### 2016 KEY GLOBAL NUMBERS AT A GLANCE

TOTAL GLOBAL COLLECTIONS IN 2016



GLOBAL COLLECTIONS UP 18.5% SINCE 2012



[www.cisac.org](http://www.cisac.org)



# GLOBAL COLLECTIONS

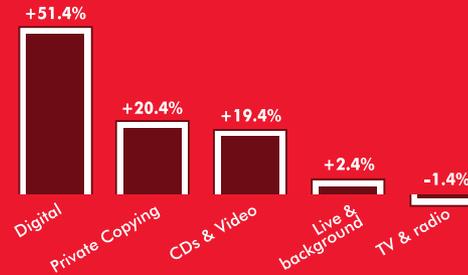
## Headline Figures

### 2016 KEY GLOBAL NUMBERS AT A GLANCE

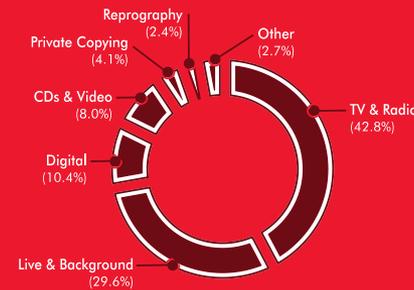
#### REGIONS: % GROWTH BY REGION



#### REPERTOIRE USES: DIGITAL HELPS POWER GLOBAL GROWTH



#### REPERTOIRE USES: TV & RADIO LEADS COLLECTIONS, DIGITAL HITS 10%



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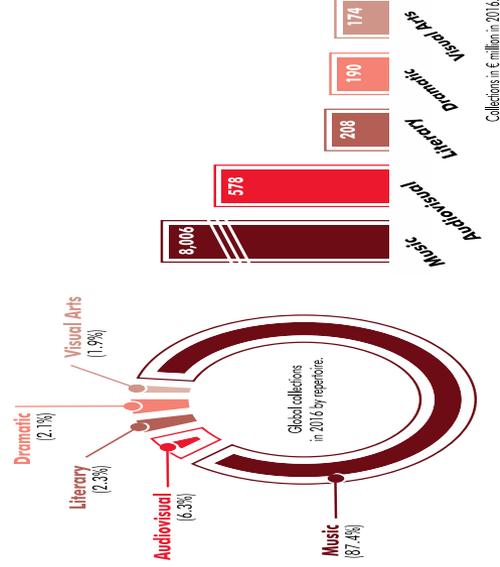


# GLOBAL COLLECTIONS

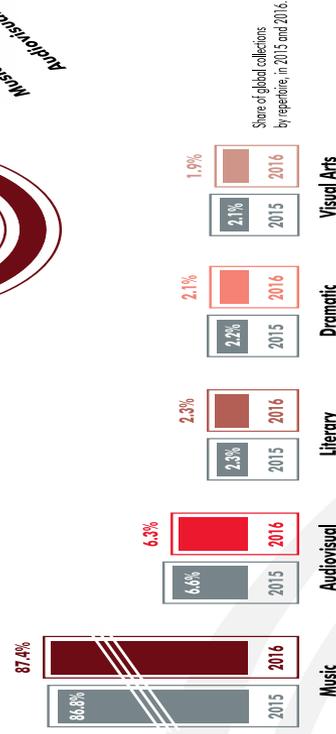
## Global collections by repertoire

### GLOBAL COLLECTIONS DATA

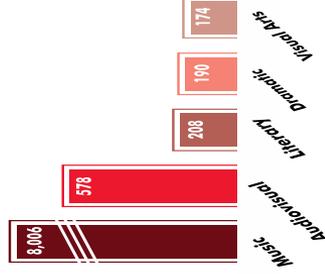
GLOBAL COLLECTIONS BY REPERTOIRE, 2016



REPERTOIRE SHARE OF ROYALTIES COLLECTED IN 2015 AND 2016



Collections in € million in 2016.



Share of global collections by repertoire in 2015 and 2016.

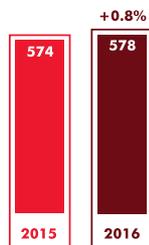


# GLOBAL COLLECTIONS

## AV repertoire Figures

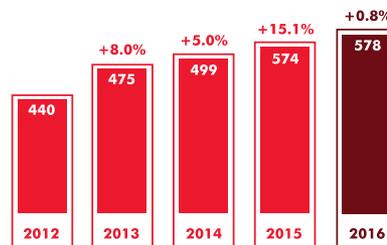


AUDIOVISUAL COLLECTIONS, 2015-2016



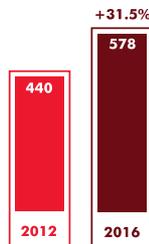
Global audiovisual collections in € million and annual growth in 2016.

AUDIOVISUAL COLLECTIONS, 2012-2016



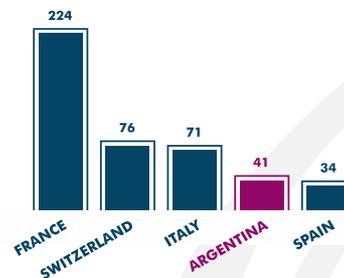
Global audiovisual collections in € million and annual growth since 2012.

AUDIOVISUAL COLLECTIONS GROW 31.5% SINCE 2012



Global audiovisual collections in € million and 5-year growth between 2012 and 2016.

FRANCE LEADS AUDIOVISUAL COLLECTIONS GLOBALLY



Top 5 countries for audiovisual collections, in € million.

# CHALLENGES IN THE DIGITAL ERA

## General market trends

- Rapid development of new digital business models
- Huge number of small transactions
- Explosion of micropayments
- Data is key
  - Efficient and accurate identification of works is crucial
  - Extensive data processing is essential
- Globalization of the entertainment landscape
  - Online services expand to new territories
  - Seek cross-border and multi-repertoire licenses

# CHALLENGES IN THE DIGITAL ERA

## Difficulties for individual creators

- Challenges in administering rights are amplified in the digital world
- Individual creator :
  - cannot handle the extensive data processing needed
  - not in a position to negotiate with entities exploiting works
- Monitoring and enforcement is more challenging and costly
- Rights are particularly vulnerable in digital world
- More than ever, creators need to assemble their voices and work together

# WHAT'S NEXT?

## Developments and General Outlook

- Digital revenues account for only 10% of overall collections
- Potential for future growth is huge
- Authors societies will play a key role as market facilitators
- Continue to increase efficiency
- Co-investment in technological tools
  - Common Information System (CIS) to exchange information
  - Identifiers to facilitate prompt and accurate invoicing and payment
- Efforts to streamline licensing of online services
- All this, while continuing to perform the essential function that no one else does: defending the individual author's rights and promoting creators' interests

# CHALLENGES TO AV AUTHORS

## Overview

- Rights granted to AV creators differ significantly in countries around the world
- In the majority of countries, AV creators do not get remunerated when their work are made available online by broadcasters or online services
- They usually receive an initial payment when assigning their exploitation rights to the producer
- They are not allowed to obtain any proportional payment for each use along the whole chain of exploitation
- They don't get a fair return for the success of their works

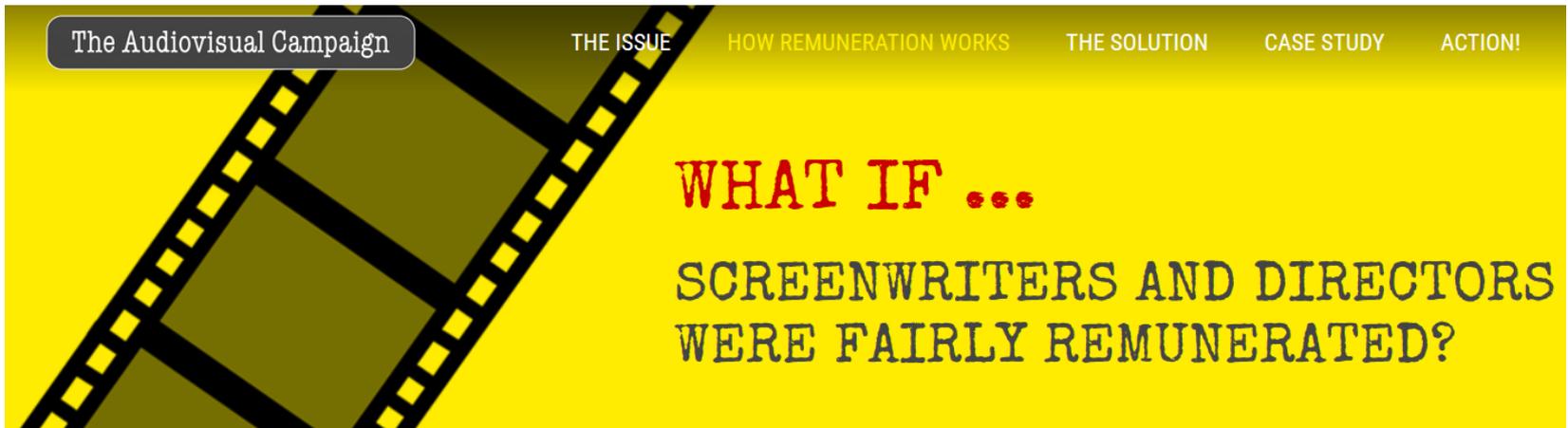
# CHALLENGES TO AV AUTHORS

## Why is that so?

- AV authors have weak bargaining position when negotiating with powerful organisations – Buy-out clauses are common practice
- Different conditions in the AV market production of each country. Only few countries have strong guilds or CMOs capable of collective negotiation with producers
- Lack of international legislative harmonisation. National laws address the issue of ownership of AV works in different ways (statutory presumption/work made for hire, ...)

# CISAC INTERNATIONAL AV CAMPAIGN

- Launched in 2015 in cooperation with W&DW



- Goal: introduce a remuneration scheme for AV authors at international level, in particular in the online market

# CISAC INTERNATIONAL AV CAMPAIGN

## Main requirements

### A Global Law for Screenwriters and Directors

A simple change in the law for screenwriters and directors can ensure fair pay and restore equality. By imposing an unassignable, unwaivable right to remuneration, we can bring their rights level with other players by guaranteeing them a fair share in the future success of their works.

Four Simple Provisions:



Creators Must be Listed as Authors

The co-authors of an audiovisual work are the people that created it and must include the director and the authors of the screenplay, dialogue and adaptation



They Must Receive Remuneration

Proportional to amount of revenue generated, for each use of their work and arrived at via equitable negotiation



That is Unwaivable and Unassignable

Meaning that this right to remuneration may not be waived or transferred to a third party.



Paid For by End Users of Works

The legal obligation for remuneration should be on the end users (TV channels, digital platforms, etc.) and be paid via organisations mandated by authors to collect and distribute it.

# CISAC INTERNATIONAL AV CAMPAIGN

## How?

- **Academic legal study to support the campaign.**
- **Author:** Raquel Xalabarder Plantada. Chair of Intellectual Property. Universitat Oberta de Catalunya (UOC). Barcelona.
- **Title:** « International legal study on the implementation of an unwaivable right of audiovisual authors to obtain equitable remuneration for the exploitation of their works »
- **Publication.** End of 2017.

# CISAC INTERNATIONAL AV CAMPAIGN

## The study (in a nutshell)

- (...) *Authors of audiovisual works are **granted exclusive rights** to exploit their works. However, **they rarely obtain equitable remuneration** for the whole exploitation(...)*
- (...) ***Despite international consensus** that authors deserve to be fairly remunerated for the exploitation of their works, audiovisual authors **seldom receive remuneration** in the form of royalties or other proportional payments along the whole chain of exploitation.*
- *This is **especially true regarding new markets for online exploitation** which, despite rapidly growing, fail to generate additional remuneration for audiovisual authors (...) »*

# CISAC INTERNATIONAL AV CAMPAIGN

## The study

- **Main findings:**
  - Buy-out clauses are detrimental for AV authors
  - Implementation of Remuneration Right **would not affect/interfere** on the Producers' exploitation of the work
  - **Global implementation of a Remuneration Right scheme would be in full compliance** with International agreements and EU law
  - **Collective management** is the best solution to guarantee effective administration of Remuneration Rights

# CISAC INTERNATIONAL AV CAMPAIGN

## The study

- **Proposal:**
  - Introduction of a **statutory provision** securing for audiovisual authors an **unwaivable and inalienable** right to obtain **equitable remuneration**
  - Such Remuneration shall apply to **any acts of exploitation of their works (including online)**, in exchange of their transfer of the exploitation rights to the producer
  - the remuneration shall be **subject to collective management** (administered by CMO's) and **paid directly by the licensees**
  - It should be implemented at an **international level**

# SOME STEPS IN THE GOOD DIRECTION

## Chile: Larrain Law

- Ricardo Larrain Law was adopted in Chile in October 2016.
- The law allows local AV creators, for the first time ever, to obtain remuneration from broadcasting, **making available online**, public lease and screening in movie theatres of their works.



# SOME STEPS IN THE GOOD DIRECTION

## Colombia: Pepe Sánchez Act

- The “Pepe Sánchez Act”, was adopted in Colombia on May 23, 2017.
- The Law allow audiovisual creators to receive an equitable remuneration for any c2p of their works, **including the making available**, of their works.



# THANK YOU

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