

CAMERIMAGE Cinematographers Memorandum for 2015

On Track to European Harmonization

Protecting Authors' Rights in the Digital Age

Abstract

A new European Union Directive, intended to be implemented into national law, is necessary for the equitable distribution of digital media over the Internet. Since the Internet is global, solutions need to be implemented on at least a multinational level. It is an important topic for a united Europe to harmonize the existing regulations. As Europe is culturally defined by both its plurality and its integrity, we feel a common obligation to guarantee that arts and culture benefit from the Internet, while ensuring that authors and creators are financially compensated for the use of their works.

Artist and the market

In most cases, the market power of a single artist is minimal compared with that of the production company. For example, in spite of the cinematographer's significant role in conceiving and creating visual value for the market, he is mostly paid per week or day – just for preparation and shooting. Production companies and TV stations dictate those rates and drive them down in the face of shrinking budgets by reducing shooting schedules. There is no additional payment if the movie is extraordinary successful (bestseller). These conditions leave the artist on his own and unprotected against the stronger counterparts. It is important to create effective legal mechanisms to protect the artist.

Equally important is the issue of the unregulated publication of artists' work on the Internet. Since it is almost impossible to effectively control the electronic distribution of an artist's work on the Internet, there is rarely an opportunity for the artists or creators to benefit from the revenues generated. To put it simply: if intellectual property is distributed in any form, including digitally on the Internet, and if that distribution is generating sales revenues, the producers and creators of that intellectual property should benefit by receiving their fair share of the turnover.

Internet and intellectual property

The Internet is not at all a "fair" marketplace. There is no transparency in the use or misuse of creative content. This can not be controlled by an artist or a collecting society, which often means that there is no compensation for the use of the work. The principal magnet of the Internet is the content created by authors, journalists, designers, screenwriters, directors, cinematographers, photographers, musicians, set designers, actors, and other artists. As these individuals do not currently share in the proceeds arising from the content in what they were directly involved, a change of the rules is obviously overdue. Even the production firms of i.e. audiovisual content are betrayed by misuse and piracy in the Internet. Protected works of art, or any other content created by professional authors or artists, should not be used without fair profit-sharing. This does not limit the liberty or the freedom of the Internet or its users in any way.

Content-providers and **access-providers** build their business models and base their marketing activities on the value of the creative content generated by third parties. A substantial part of these works is the protected intellectual property of artists, photographers, journalists, and film authors such as screenwriters, directors, directors of photography, editors, production designers, etc. In order to ensure that producers and creators benefit from the use or even misuse of their work, **content providers and access providers should pay an Intellectual Property Fee (IPF)**, which would be set and regulated by the European Community.

Role of collecting societies

Professional creative work should be registered by the collecting society responsible. Artists and creators should benefit from the profits generated by the use of their work. Since the collecting societies register the work and the details of the authors involved, they receive payment in trust for the authors (i.e. in film work: directors, cinematographers, editors, etc.). The **Intellectual Property Fee (IPF)** paid by the **content-providers** and **access-providers** should be dependent on the amount of stored content as well as on the amount of traffic generated. The IPF should be paid directly to the collecting societies. This system is well known in the already existing structures as „blank media levy“ or „photocopy levy“.

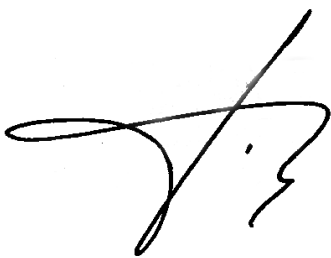
In order to guarantee transparency and fair participation, the works of authors and artists have to be registered in the collecting societies' databases. The collecting societies would have to adhere to the regulations set by the European Community.

Conclusion

The lack of participation in the turnover arising from the use of intellectual property on the Internet causes massive losses for those authors and creators who live from their creative output and for the production firms. To change this, an adequate European **Intellectual Property Fee (IPF)**, to be paid by **content-providers** and **access-providers**, is an appropriate solution. The existing and working system of blank media levies could easily be translated into the digital world. The collecting societies receive the IPF and distribute it to the individual artists. This model is based on well understood factors and the existing, functional system of collecting societies. We ask politicians on the European and national levels to acknowledge our purpose and to initiate a dialogue about these matters with our organizations.

This document was developed November 2014 during CAMERIMAGE International Festival on the Art of Cinematography at Bydgoszcz / Poland by the Polish Society of Cinematographers (PSC) and the German Society of Cinematographers (BVK). Signed by the Presidents of the societies - Jerzy Zielinski and Johannes Kirchlechner - and the Director of the Festival - Marek Zydowicz - this document will be sent to the EU Commission and relevant committees within the EU Parliament as well as to national institutions in Germany and Poland.

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