

Standing Committee on Copyright and Related Rights

Forty-fourth Session
Geneva, November 6 to 8, 2023

PROPOSAL FOR A STUDY ON THE RIGHTS OF AUDIOVISUAL AUTHORS AND
THEIR PAYMENT MECHANISMS FOR THE EXPLOITATION OF THEIR WORKS –
REVISED

prepared by the African Group

The African Group wishes to propose that the World Intellectual Property Organization (WIPO) launch an awareness-raising exercise by commissioning a study on the situation of audiovisual authors. The focus of the study would be on existing models of legal protection for audiovisual authors worldwide and the impact that they have on the exercise of their rights and on how they are paid for the exploitation of their works. In Europe, Latin America and Africa, there have been some interesting legislative developments regarding the collective management of remuneration rights, the aim of which is to improve the position of rights holders, in particular audiovisual authors, in the face of the explosion in the exploitation of their works, especially online. Those developments, and existing models of legal protection for audiovisual authors in all other regions of the world need to be studied. The study would also benefit from examining: (1) how piracy may affect audiovisual authors' payments (e.g. compare piracy rates vs. payment rates by country/region); (2) how accession to international treaties may impact audiovisual authors' payments (e.g. compare payment mechanisms in countries that acceded to international treaties and those that did not); (3) how the existence of collective management organisations or unions and collective bargaining agreements, may impact audiovisual authors' payments for the exploitation of their works.

Screenwriters and directors, among others, are at the heart of the creative process in the audiovisual industry, but their legal and economic position varies considerably from country to country. In some territories, they are not recognized as authors of audiovisual works and therefore may not enjoy protection. As the volume of audiovisual production grows, partly owing to the development of on-demand and online services, and the widespread use of "buyout contracts" (whereby creators transfer their ownership of copyright, and any right to future royalty income to producers in exchange for a lump-sum upfront payment), it would be informative to survey the legal and economic protection of audiovisual authors.

Ideally, the study should address not only the situation of screenwriters and directors as the potential co-authors of audiovisual works but also provide a broader overview of all the other authors who, through their respective contributions, contribute to their creation. It should survey how different jurisdictions treat authorship of audiovisual works, the rights audiovisual authors are granted by law in different parts of the world and how they exercise them, their contractual relationship with producers and other relevant parties, the different ways in which their works are exploited, the role played by their collective management organizations, and, if applicable, the effect of unions and collective bargaining agreements.

The study should focus on the ability and/or the right of audiovisual authors to receive appropriate payment for the exploitation of their works on the various media, especially given the emergence of new means of exploiting such works through on-demand and online services (right of making available).

Through an analysis and overview of the existing legal regimes protecting audiovisual authors worldwide, the study will help national policymakers understand the different approaches to payment mechanisms for audiovisual authors for the economic exploitation of their works and inform them of ways to support authors' ability to continue to create.

We believe that Committee members and observers would benefit from an exchange of knowledge and practices on this issue, which is of critical importance to the global community of audiovisual authors.

The African Group has also submitted a separate proposal on the rights and remuneration mechanisms of audiovisual performers, which may be considered by the Committee at its discretion.

[End of Document]