

**Standing Committee on Copyright and Related Rights: Fortieth Session
November 16 to 20 (Geneva, Switzerland)**

The International Authors Forum

The International Authors Forum (IAF) represents authors from the text, screenwriting and visual arts sectors and their interests in copyright. Its members are over 70 organisations representing well over 700,000 authors worldwide. IAF campaigns for authors in a variety of areas including fair contracts, remuneration rights and copyright issues.

Article 27 of the Universal Declaration of Human Rights states that ‘everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits’. Therefore, the ability of professional authors everywhere to make a living is vital if this participation in culture is to proliferate across the world.

Article 27 further states that everyone ‘has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he [or she] is the author’. Ultimately, it is authors' works is being considered in the matters discussed at the World Intellectual Property Organization (WIPO). There are individual authors whose rights are involved in all countries. Those rights must be given primary consideration to ensure the continued creation of the culture we value today. Authors must be rewarded for their contribution to society and maintain rights to control how their work is used.

In recent years, we have seen growing pressure to devalue copyright and the mechanisms by which authors are remunerated for their work. This has been argued on the basis that the author will be somehow rewarded otherwise, having gone unpaid for their work or it is simply proposed because this is an easy cost to cut. This has gone without consideration for the long-term consequences of not compensating the author and comes at a time when multiple studies and surveys from around the world have found that the earnings of authors are in significant decline. It is more important than ever that we recognise the impact these policies can have on authors and a nation’s culture and find ways to ensure that the work of WIPO helps authors share in the global growth of creative industries in the digital age.

Authors’ earnings

Authors around the world play an essential role in ensuring the prosperity of their societies. This makes it imperative that they have a conducive environment in which to work, are valued for their diverse creations, retain the right to make a decent living from their work, and are supported by a robust copyright framework. Yet, numerous studies and surveys from developed countries across the world have found that the earnings of authors are in significant decline, despite international growth in the creative industries that make use of their works. There is an urgent need for a better understanding of the issues authors worldwide currently face when it comes to earning a creative living. IAF has drawn together a report incorporating research into the current working conditions for authors and needs the support of WIPO to tackle the challenges identified.

In many of these countries, authors have seen an overall decline in their earnings in recent years. In the UK, authors on average saw a 42% decline in earnings from 2005 to 2017 (Authors’ Licensing and Collecting Society, 2018. *Authors’ Earnings: A survey of UK writers*), while similarly the average author in the US saw their earnings decline by 42% from 2009 (Authors Guild, 2020. *The Profession of Author in the 21st Century*). In some cases, the

November 2020

average reported decline of earnings was sudden; in Canada authors saw a 27% decline in earnings between 2014 and 2017 alone (The Writers' Union of Canada, 2018. *Diminishing Returns: Creative culture at risk*). Studies often found this decline to be a result of profits being disproportionately passed on to authors, as in the US where the growing dominance of Amazon has put pressure on publishers. The impact of digitisation was varied; for some it squeezed the market and increased the demand to work for free, while for others it was a source of opportunity to reach new audiences. In some countries, globalisation has had an impact on the ability of authors to create in their own language where their country takes in culture from around the world but has few opportunities for authors to establish and share their work in return.

It is hoped that opportunities can be taken to reverse the decline in authors' incomes and better remuneration rights can be established that ensure authors' earnings reflect the way their work is enjoyed. Potential measures for this include rights such as the Public Lending Right (PLR), Artist's Resale Right (ARR), also known as *droit de suite*, and a remuneration rights for online uses of work. Understanding the issue of authors' earnings will be an ongoing challenge, in many countries there are no in-depth studies on authors' earnings, and far more can be done to understand the international situation of the author. As the COVID-19 pandemic has an ongoing effect around the world there will be even more challenges to contend with. We hope the IAF study on authors' earnings will help to illustrate the need for action to ensure authors in every country can sustainably create and contribute to diverse cultures around the world.

The IAF report, *Creating a Living: challenges for authors' incomes*, is available in [English](#), [French](#) and [Spanish](#).

Exceptions and Limitations

Authors want the widest possible lawful access to their works. Authors welcome libraries, archives and educational institutions as vital points of access to their works, but there must be a balance of access and reward to ensure that they can continue to create the works that are enjoyed. Research in the UK, *An economic analysis of education exceptions* (2012, PriceWaterhouseCooper), identified that many authors, particularly of educational works, would potentially stop creating these works due to declining remuneration if a licensing scheme was not in place to fairly reward them for their efforts. Recent cases in Canada have shown that the unregulated expansion of the educational exception in their Copyright Modernization Act (2012) has led to significant losses of income for Canadian authors: a likely unintended consequence but an unjust, detrimental effect on authors nonetheless, considering it is their work that is being used for no reward.

Authors believe that existing provisions contain enough flexibility for countries represented at WIPO to continue to work towards national solutions, such as licensing frameworks, which can be developed according to local needs.

Authors recognise that each country must aim to respond to its local needs. However, in no country are authors able to work and create effectively when they are entirely either denied remuneration or inadequately paid. While each country represented at WIPO has libraries, archives and educational institutions seeking to secure access to works, it must not be forgotten that there are authors in each of the WIPO Member State whose rights and property are affected.

In many countries, there are already copyright provisions in place that establish licensing frameworks which enable access through libraries, archives and educational institutions

November 2020

while ensuring fair payment to authors and respect of their rights regarding their works. In *An economic analysis of education exceptions* (2012, PriceWaterhouseCooper) it was found that almost 25% of authors in the UK derived more than 60% of their income from secondary licensing income, while a 10% decline in authors' income would lead to a 20% drop in output. There is a clear case for collective management organisations and fair licensing regimes as a means to efficiently ensure the balance of access to works and reward to authors. IAF opposes any blanket expansion of copyright exceptions and limitations that would not properly consider the needs of authors and would prefer to see the work focused on ensuring authors can sustainably generate creative and educational works for readers.

Artist's Resale Right

Artist's Resale Right (ARR), through its global application, not only helps authors receive fair payment for work that will be sold before its value is known to them but can also be a means of fairness to artists when their work is resold into an international market. ARR provides a fair contribution to artists from the proceeds of ongoing sales in the global art market, as well as an incentive to continue creating.

IAF wishes to express its thanks and support to the proposal from Senegal and Congo to include ARR as a standing item on the future agenda of the SCCR. It is important that artists in all countries can benefit from the resale of their creations. This is a matter of equity with how creators of other works are respected and rewarded for the continued enjoyment of their creation. ARR can comprise a significant part of an artist's income. A survey of artists in the UK found that 81% spent payments from ARR on their living expenses (DACs, 2016. *Ten Years of the Artist's Resale Right: Giving artists their fair share*).

IAF strongly supports the inclusion of ARR on the SCCR agenda and the progress of the Resale Right task force at WIPO.

Public Lending Right

IAF strongly supports the 'Proposal for a Study Focused on Public Lending Right in the Agenda and Future Work of the Standing Committee on Copyright and Related Rights of the World Intellectual Property Organization (WIPO)' put forward by Sierra Leone, Panama and Malawi.

IAF wholeheartedly supports remuneration measures such as Public Lending Right (PLR), which fairly rewards authors and ensures they can keep creating, while helping to maintain indigenous arts, literature, language and culture.

PLR is a positive mechanism that provides recognition for authors for the loans of their books from libraries. The scheme is greatly valuable to authors both as a connection to ongoing readers and enhancing literacy, as well as providing the seed of the authors' next creation. It can be a valuable way for governments to support authors writing in local languages and is a means to reward authors for the contribution they make to a vital public good; the availability of culture in public libraries.

PLR can also be a valuable way for governments to protect authors' writing in local languages. It's a recognition of creators' contributions to culture and also supports the role of education, helps maintain psychological health and protects a country's cultural heritage by preserving literature and language.

At the PLR International Conference in London in 2019, and the side event on PLR held at WIPO during the SCCR38, we had opportunities to hear about the successes of PLR

November 2020

systems around the world in supporting authors and cultural sectors. This has meant enabling more authors to continue to create while their work is enjoyed in libraries.

IAF supports the development of centrally funded PLR schemes that are to the benefit of authors – writers and visual artists alike – readers and libraries, and hopes the committee can look to support international cooperation to this end. Government support for libraries remains as vital as ever, and goes hand in hand with PLR, but PLR encourages the surge of industry support for cultural goods from local creators in indigenous languages.

IAF strongly supports the proposal for a study, outlined in SCCR/40/3. IAF particularly supports the intent to study the benefits of PLR for authors. It is particularly positive that the proposal considers opportunities for setting up PLR in developing countries, while considering the benefits for a nation's cultural and linguistic support. This proposal is a significant step to achieve support for authors and diverse cultures around the world.

Authors in the digital environment

In the digital environment, creators' works are used more than ever and we would like to thank the members and speakers who have acknowledged the importance of appropriate remuneration to foster the work of creators. IAF hopes that analysis of Copyright Related to the Digital Environment propose by Group of Latin American and Caribbean Countries (GRULAC) could holistically consider the impact of the digital environment on authors and, in particular, the impact of business models in streaming on creators. We thank the GRULAC for its proposal on this important area of work and hope this issue will remain on the agenda.

While the works of authors across the world are now being accessed online more than ever before, creators are not always fairly remunerated for such access. Screenwriters, for example, often remain unpaid for the use of their work online despite audio-visual works generating significant revenues for on-demand services. It is often difficult to resolve this lack of remuneration, given the huge inequality in the negotiating relationship between producer and screenwriter. Authors' organisations such as the Federation of Screenwriters in Europe (FSE) and the Federation of European Film Directors (FERA) have called for the need for an additional right as well as better creator contracts to resolve this. Therefore, authors urgently need remuneration rights that reflect the myriad uses of their works in the digital age. An Unwaivable Right to Remuneration (URR) for online uses would ensure that authors are properly rewarded for their contribution to the vast libraries of work now being made available by on-demand streaming services.