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SAA Society of Audiovisual Authors

ZAPA

Poland's audiovisual sector: fair remuneration and economic growth

How the recognition of remuneration rights for audiovisual authors has helped support industry growth

I. Introduction

Poland is considered to have a legal regime ensuring a strong protection for audiovisual authors. Creators of audiovisual works are entitled to remuneration for certain types of exploitation which cannot be waived, transferred or expropriated. This right to remuneration is recognised in the Polish Copyright Act (Act of 4 February 1994 on Copyrights and Related Rights; hereafter "PCA").

Most filmmakers working in Poland are freelancers, operating out of social security and labour collective bargaining mechanisms. Only few of them have real power to negotiate contract provisions that exceed beyond minimal standards. The leading industry model is so-called "buyout contract", by virtue of which authors are remunerated in a form of a lump sum, both for services and transfer of all their exclusive rights to the producer, at a time when the commercial value of these rights is unknown. **In Poland, like in other European countries, the concept of statutory remuneration rights, with mandatory collective management by the relevant collective management organisation (CMO), has proven to be the most effective legal regime to secure equitable remuneration for audiovisual authors.**

This paper provides a case study of the legislative framework in Poland and highlights key industry data illustrating the related growth of the audiovisual sector over the years. It underlines the advantages of the legal regime based on an unwaivable remuneration right for audiovisual authors and indicates what should be improved in order to achieve a comprehensive system fully incentivising audiovisual creation. The analysis also emphasises that not only a well-constructed legal regime is crucial to ensure proper remuneration for audiovisual authors but also an ongoing and effective enforcement of rights. CMOs play an essential role in this process.

II. Legal analysis

The main legal rules on copyright in Poland are set out in the PCA which was amended several times, mainly to adapt it to changes taking place at European and international level.

The specificity of legal issues related to audiovisual production and the exploitation of such works justifies provisions tailored to this very complex creative sector. That is why the PCA provides a separate chapter recognizing a distinct regulation referring to audiovisual works.

A. Authorship of audiovisual works

Article 69 of the PCA states that the persons who made a creative contribution to its creation shall be considered co-authors of an audiovisual work, in particular directors, screenwriters, authors of dialogues, authors of musical works created for the audiovisual work, and directors of photography. The open list in practice also extends to other kinds of contributors (set designers, costume designers, sound directors, film editors, etc.). However only a person who has made a "creative contribution" can be considered a co-author of the audiovisual work. Determining the group of co-authors of a

specific audiovisual work is of high importance because it triggers the obtention of the right to remuneration.

B. Presumption of transfer of rights

Article 70.1 of the PCA establishes a presumption of transfer of rights to the producer provided that he concludes appropriate agreements with individual authors. In most cases such agreements are full buy-out contracts. In order to ensure a share of the revenues from the exploitation of the audiovisual work to its authors, a separate, independent legal basis for the payment of statutory remuneration to authors was introduced.

C. Audiovisual remuneration rights recognized by the Polish law

According to Article 70.2[1] of the PCA, co-authors of an audiovisual work are entitled to equitable or proportional remuneration for the following types of exploitation of their works:

- theatrical exhibition
- rental of copies of audiovisual works and public playing thereof
- broadcasting on television or other mass media
- reproduction of the audiovisual work on a copy intended for own personal use.

According to Article 70.3 (since 2000), the remuneration is paid by the end user (the entity actually exploiting the audiovisual work) and shall be exercised by the relevant collective management organisation. The right to remuneration cannot be waived, transferred, or expropriated.

Royalties for authors are collected and distributed by two Polish CMOs: The Union of Audiovisual Authors and Producers (ZAPA) for the majority of audiovisual authors and Society of Authors ZAiKS for certain screenwriters and authors of musical works created for the audiovisual work.

Performers are also entitled to such remuneration. Music performers are represented by the CMOs called The Union of Performers STOART and Musical Performing Artists' Society SAWP, audiovisual performers by the CMO called The Union of Polish Stage Artists ZASP.

The data presented in this analysis relates only to the collection carried out by ZAPA for audiovisual authors. ZAPA is an organization representing authors and producers. ZAPA assert rights on behalf of their creators under the right to remuneration as well as in the name of those entitled on the basis of exclusive right, in the case when the author does not transfer their exclusive right to producer.

D. The role of collective rights management

Initially it was producers who were obliged to pay the additional remuneration provided by Art. 70 of the PCA, however such system was proved to be completely ineffective. Most often at the end of the film making process, production companies or individual producers went out of businesses, or they did not have sufficient financial resources to pay the additional remuneration to authors.

Following the change in the law in 2000, actual users have been obliged to pay statutory royalties for specifically listed types of use of the audiovisual works, so called fields of exploitation. Thereby the following entities are now responsible for paying remuneration:

- cinema exhibitors for screening works in movie theatres,
- broadcasters for broadcasting,
- publishers or distributors for DVD and Blu Ray releases (currently of little economic importance)

- entities like hotels, pubs, restaurants or hospitals for public performance.

At the beginning of the process of collecting royalties only a few entities were willing to conclude contracts with CMOs and clear their status (mainly broadcasters). Others like publishers, cable operators, hotel owners or major cinema chains refused to pay, lowered the basis used for calculation of the appropriate rate or refused to provide necessary information. ZAPA was forced to initiate long-standing court disputes with numerous users. The vast majority of judgements were favourable to rightsholders and allowed to establish a secure, reliable and efficient collective management system.

III. The Polish audiovisual sector - Key economic trends

The audiovisual sector is an area of creativity, based on the ingenuity, skills and talent of the authors. By creating new works, representatives of this sector foster the development of the economy and contribute to the creation of new jobs which makes it an important element in the modern economy. The increasing legal certainty in recent years and effective enforcement of authors' rights in Poland is a substantial reason why the audiovisual market in Poland is constantly growing and the Polish cinematography is consistently flourishing.

A. Total market revenues in Poland

Overall, the revenues of the audiovisual market in Poland have increased over time from 3.6 billion euros in 2016 to 4.1 billion euros in 2019. Pay TV and physical video have suffered but on-demand consumer revenues exploded (from 77.7 million euros in 2016 to 225 million euros in 2020). Cinema exhibition revenues have constantly increased too (from 221.8 million euros to 266.2 million euros in 2019).

Total market revenues				in mEUR
	2016	2017	2018	2019
Public funding	134.3	197.1	295.6	391.6
Advertising TV	954.8	988.7	1,052.1	1,037.8
Advertising radio	195.3	196.8	212.2	216.0
Pay-TV revenues	2,024.8	2,040.2	1,990.8	1,967.7
On-demand consumer revenues	77.7	110.1	162.5	225.0
Cinema box office	221.8	251.9	263.6	266.2
Physical video	18.8	13.6	10.3	7.7
Total	**3,627.4**	**3,798.3**	**3,987.1**	**4,112.0**

Source: Ampere Analysis, Warc, EBU/MIS, company/public reports, LUMIERE Yearbook 2021 / Annuaire 2021 / Jahrbuch 2021

CHART 1 Source: European Audiovisual Observatory

B. Film production

According to the European Audiovisual Observatory Yearbook 2021, the number of theatrical feature films produced in Poland has grown from 54 to 93 between 2016-2019 (24 in 2020 due to the pandemic).

Number of theatrical feature films produced (2016-2020)						In units.
	2016	2017	2018	2019	2020	Source
100% national films	45	50	33	59	19	PISF
Majority co-productions	3	7	4	20	4	PISF
Minority co-productions	6	16	5	14	1	PISF
Total feature films incl. minority co-prods.	**54**	**73**	**42**	**93**	**24**	**OBS**

Includes feature documentaries.
Source: PISF

CHART 2 Source: European Audiovisual Observatory

C. Theatrical exhibition

2019 was a record year in terms of cinema attendance in Poland. The cinemas had 61.7 million admissions compared to 59.2 million a year earlier, which means an increase by 4.3%[i]. Top 10 films cumulated 18.7 million admissions and among them were four Polish productions, including Oscar nominee in the International Feature Film category in 2020 "Boże Ciało"("Corpus Christi")[ii]. In 2019 the Oscar nomination in the same category went to Cold War (the film by Paweł Pawlikowski was nominated in three categories including best director and best cinematography – Łukasz Żal).

NO	TITLE	DISTRIBUTOR	LOCAL/INTERN	BOX OFFICE REVENUE	ADMISSIONS	RELEASE DATE
1	*The Lion King (Live action)*	Disney	International	11 181 586,02 EUR	2 521 835	19/07/2019
2	*Miszmasz czyli Kogel Mogel 3*	Next Film/Interfilm	Local	10 921 090,77 EUR	2 389 330	25/01/2019
3	*Frozen 2*	Disney	International	10 497 051,97 EUR	2 511 085	22/11/2019
4	*Avengers: Endgame*	Disney	International	9 427 131,06 EUR	1 880 080	25/04/2019
5	*Joker*	Warner	International	9 234 238,86 EUR	1 971 696	4/10/2019
6	*Polityka*	Kino Świat	Local	8 752 995,95 EUR	1 890 508	4/09/2019
7	*Star Wars: The rise of Skywalker*	Disney	International	6 607 970,83 EUR	1 293 616	19/12/2019
8	*Planeta singli 3*	Kino Świat	Local	6 511 424,35 EUR	1 438 773	8/02/2019
9	*Boże Ciało*	Kino Świat	Local	6 201 397,83 EUR	1 402 986	11/10/2019
10	*The secret life of pets*	UIP	International	6 118 225,32 EUR	1 447 813	28/06/2019
				85 453 112,96 EUR	**18 747 722**	

CHART 3 Source: boxoffice.pl

In 2018, a splendid year for Polish film production, local products surpassed 18 million admissions which accounted for as much as 43% of the total attendance. Polish Titles in Top 10 Films reached 64% of total admissions and Polish productions climbed to Top 3 spots[iii]. The record-breaking titles were: "Kler" ("Clergy"), "Kobiety mafii" ("Women of Mafia") and a romantic comedy "Planeta singli 2" ("Planet Single 2"). Wojciech Smarzowski's "Clergy" has been watched by 5.1 million audience and grossed 26 million euros which broke several box office records[iv]. It also surpassed the result of "Avatar", the most popular foreign film in the Polish box office. Outside of Poland, it was shown in cinemas in the UK, Iceland, Norway, The Netherlands and Germany, where it grossed around 1.75 million euros.

The year 2020, due to the COVID-19 pandemic, interrupted the good streak of the film distribution market in Poland. Cinema closings, reopening, reducing the number of seats to 50% and even 25% in

i Data by the Central Statistical Office.
ii Source: boxoffice.pl and the Polish Film Institute.
iii Source: boxoffice.pl and the Polish Film Institute.
iv Source: boxoffice.pl

October, uncertainty manifested by the inability to plan advertising campaigns for films affected most of the key indicators. In 2020, cinema attendance was less than 30% of the amount recorded in 2019.

Paradoxically the worst year for world's cinema, was quite fortunate for Polish filmmakers – the most popular were Polish films, which accounted in 2020 for more than half of the cinema attendance (50.47%) and more than half of ticket revenues (37.4 million euros)[v]. Seven out of the ten most popular titles were occupied by domestic productions - three more than last year. Among them, three with results of over a million audience: "365 days" by Barbara Białowąs (1.6 million), "Psy 3. In the Name of Principles" (1.2 million), "How I Became a Gangster. A true story" (1.1 million)[vi].

The share of local cinematography in total yearly attendance puts Poland among European leaders. In 2019, the highest share of local products in total annual Box Office was reported in Turkey (57%), France (34.8%) and Poland (28.2%)[vii].

Udział lokalnych produkcji w Top 50 Share of local films in Top 50

TOP 50 TITLES, 2019 (04.01.2019 - 02.01.2020)		ATT	%ATT	
TOP 10 >>	LOCAL	7 121 597	38%	4 titles
	INTERNATIONAL	11 626 125	62%	6 titles
TOP 20 >>	LOCAL	10 093 005	35%	7 titles
	INTERNATIONAL	18 646 351	65%	13 titles
TOP 30 >>	LOCAL	11 400 322	32%	9 titles
	INTERNATIONAL	23 885 729	68%	21 titles
TOP 40 >>	LOCAL	13 362 114	33%	13 titles
	INTERNATIONAL	26 735 380	67%	27 titles
TOP 50 >>	LOCAL	14 129 793	32%	15 titles
	INTERNATIONAL	29 461 973	68%	35 titles

TOP 50 TITLES, 2018 (05.01.2018-03.01.2019)		ATT	%ATT	
TOP 10 >>	LOCAL	11 549 672	64%	5 titles
	INTERNATIONAL	6 601 891	36%	5 titles
TOP 20 >>	LOCAL	15 393 842	54%	9 titles
	INTERNATIONAL	12 883 833	46%	11 titles
TOP 30 >>	LOCAL	16 607 187	48%	11 titles
	INTERNATIONAL	17 929 476	52%	19 titles
TOP 40 >>	LOCAL	16 998 707	43%	12 titles
	INTERNATIONAL	22 154 724	57%	28 titles
TOP 50 >>	LOCAL	18 186 793	43%	15 titles
	INTERNATIONAL	24 462 132	57%	35 titles

CHART 4 Source: boxoffice.pl

D. VOD market

The VOD market is growing in a very fast pace. Over the last 5 years, the number of users of these services doubled (from 4.86 million to 10.12 million) in both subscription and transaction models. At the beginning of 2019, 72% of households with internet access used VOD services. Every day, VOD services are used by approximately 29% of households, and several times a week by over 30%[viii]. Most e-viewers spend 2 to 3 hours a day watching videos on VOD services[ix].

v Source: boxoffice.pl
vi Source: boxoffice.pl
vii Source: boxoffice.pl and the Polish Film Institute
viii Source: National Broadcasting Council's study based on data from the Pay TV market in Poland 2020 report. Market analysis and development forecasts for 2020-2025
ix Source: National Broadcasting Council's study based on data from the Pay TV market in Poland 2020 report. Market analysis and development forecasts for 2020-2025

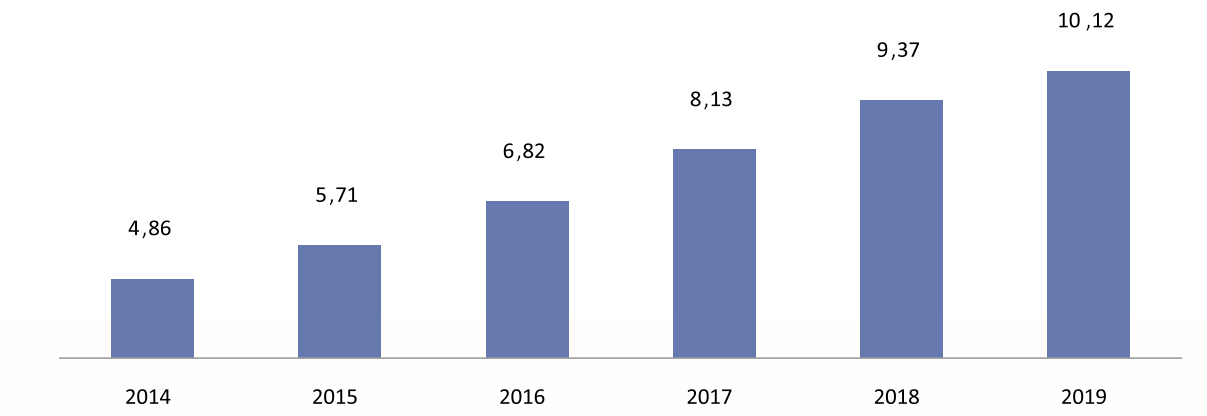

CHART 5 Number of users of VoD services in the years 2014 - 2019 (in million) / Source: National Broadcasting Council's study based on data from the Pay TV market in Poland 2020 report. Market analysis and development forecasts for 2020-2025

The value of the paid VOD services market in Poland increased two and a half times over the last 5 years. In 2019, revenues from paid VOD services exceeded 238 million euros for the first time and already accounted for around 10% of the value of the entire pay TV market. Transaction services in paid VOD are primarily revenues from PPV[x].

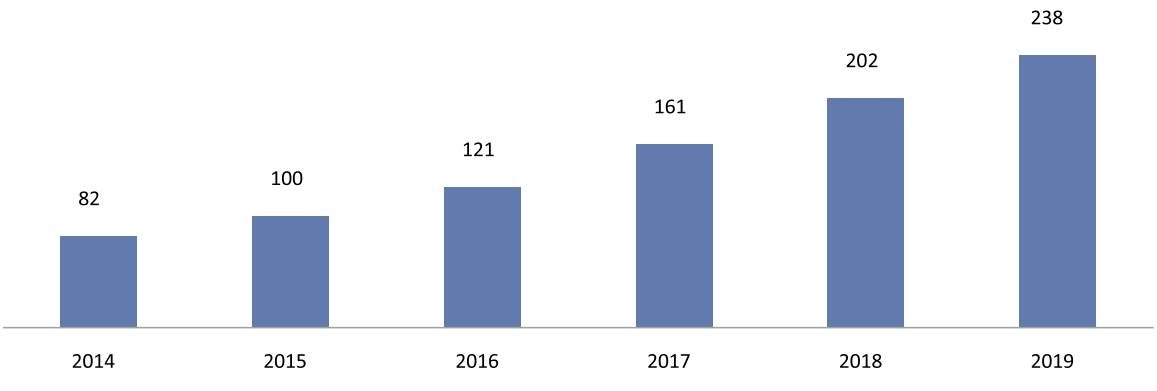

CHART 2

CHART 6 Value of the paid VoD services market in Poland (in million EUR) / Source: National Broadcasting Council's study based on data from the Pay TV market in Poland 2020 report. Market analysis and development forecasts for 2020-2025

In Poland during the social isolation in 2020, Netflix gained a record number of 5.68 million users and 92.89 million views[xi]. In March 2022, Netflix announced that it will open a brand-new office in Warsaw that will serve as a central hub for the streaming giant's Central and Eastern European productions[xii].

E. Royalties as a stimulator of creativity

The strong performance of the Polish audiovisual sector in recent years is the result of an increasingly favourable legal environment.

x Source: National Broadcasting Council's study based on data from the Pay TV market in Poland 2020 report. Market analysis and development forecasts for 2020-2025

xi Source: National Broadcasting Council's study based on data from the Pay TV market in Poland 2020 report. Market analysis and development forecasts for 2020-2025

xii https://cineuropa.org/en/newsdetail/423785/

On the one hand, the Polish cinematography is financially supported by the Polish Film Institute. The main source of such support are levies paid by TV broadcasters, cable and satellite operators, cinema owners and film distributors. The Film Institute awards grants for production of feature films, documentaries and animated films. In 2019, thanks to the funding of the Polish Film Institute, 40 feature films, 42 documentaries, and 22 animated films were produced. In 2019, a new mechanism called "incentives" was introduced to encourage foreign producers to invest in Poland. The mechanism offers reimbursement of production costs incurred in Poland in the amount of 30% of Polish eligible costs. Funds allocated to support audiovisual production come directly from the state budget and the system is also operated by the Polish Film Institute.

On the other hand, it is the statutory remuneration legal regime which stimulates audiovisual authors to create and establishes legal certainty for producers. The statutory remuneration right structure has helped establish an active community of audiovisual authors, without having any negative effects on the development of the Polish audiovisual market. Undoubtedly, the strong legal regime has stimulated the evolution of the Polish cinematography and its export abroad. The Polish legal system is a key factor when it comes to our competitiveness among other countries of the region, and we clearly see increased interest in the Polish offer on the international arena. The stable stream of royalties administered by ZAPA offers a large group of authors - not only directors and screenwriters - artistic freedom and provides necessary means for living in between making subsequent feature films. Most Polish filmmakers also work for television making ambitious TV series or working on long-lasting soap operas. Television activities provide additional experience, remuneration in a form of a lump sum for production services and relatively high royalties, since broadcasting and retransmission are the two fields of exploitation with the highest revenues.

IV. The impact of a favourable remuneration system on the audiovisual authors

In Poland, the favourable legal regime of rights to remuneration for key fields of exploitation with mandatory collective management has been essential for securing remuneration to audiovisual authors for the exploitation of their works. However, it took many years of litigation to enforce it and ensure that the main operators play by the rules.

A. Key fields of exploitation

1) Broadcasting

The PCA introduced a statutory remuneration right for broadcasting in 2000. This law amendment was revolutionary for the functioning of the royalty mechanism in Poland. Public broadcasting services and certain private broadcasting organisations were willing to voluntarily conclude agreements with CMOs and play by the rules. However, with regard to some other private broadcasters, ZAPA conducted many years of litigation, as a result of which they were obliged to pay the remuneration with high interests.

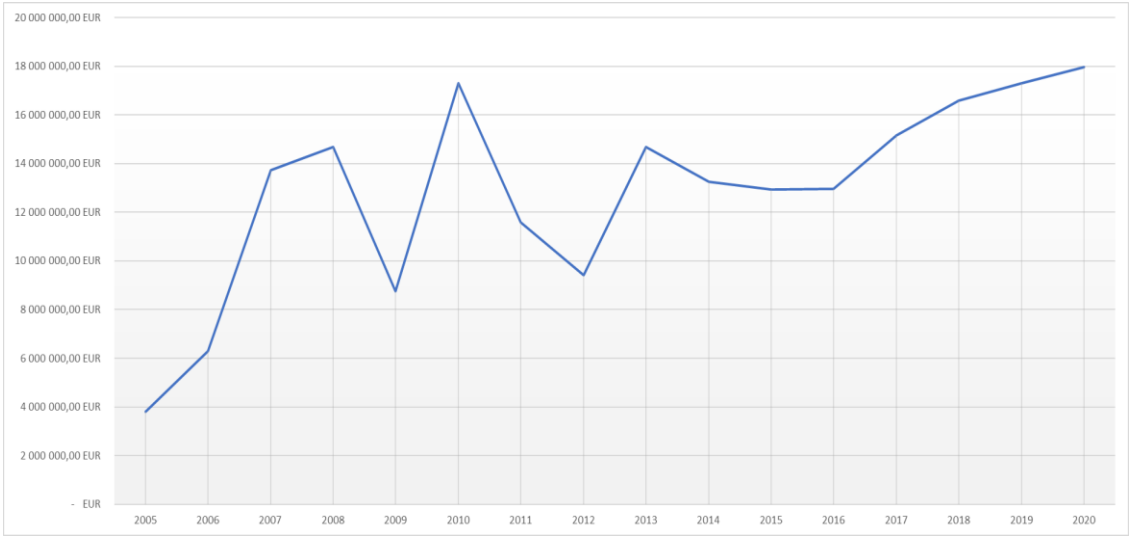

CHART 7 ZAPA's collection for broadcasting in 2005-2020 / Source: internal data

The graph illustrates that the collection for broadcasting is constantly increasing. The stable growth in the total revenue is in a great part due to the continuous conclusion of new contracts. In years marked in the graph as peaks, ZAPA collected high back payments from a major broadcaster – Polsat, a popular Polish free-to-air television channel. Since several years, ZAPA relations with most broadcasters have been regarded as correct and almost seamless.

ZAPA's relations with the market leaders have been defined for some time now and changes relate mainly to the increased advertising revenue of the broadcasters. As of today, ZAPA collects revenues from all major broadcasters and covers the entire market with contracts.

In 2020, ZAPA actively monitored the market of TV broadcasters in order to search for new business partners. Negotiations were held with smaller users who until recently had not exploited the repertoire protected by the CMO.

2) Retransmission

The PCA provides for an additional legal basis for remuneration for authors and producers due for retransmission. Cable operators may namely retransmit audiovisual works broadcasted in programmes of television organisations exclusively on the basis of a contract concluded with the competent collective copyright management organisation.

Mandatory collective management is provided only for cable retransmission but ZAPA licenses satellite retransmission as well.

The overall collection for retransmission jointly for authors and producers represented by ZAPA is significant, however it was developed through many years of court trials.

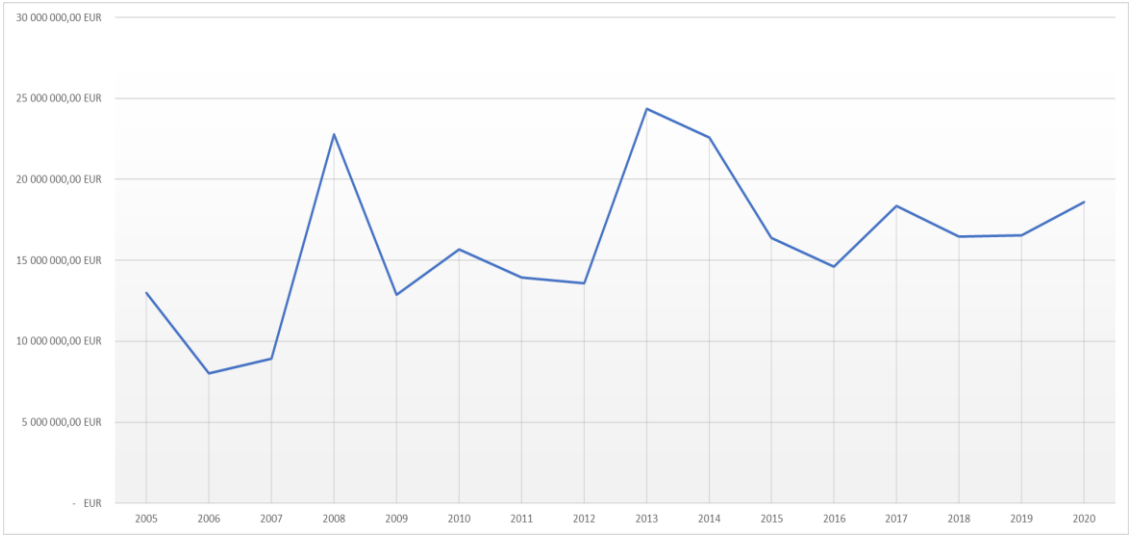

CHART 8 ZAPA's collection for retransmission in 2005-2020 / Source: internal data

The graph illustrates that the numbers are progressively rising, although at the beginning the operators did not want to voluntarily pay royalties. ZAPA was forced to initiate long-standing court disputes with many cable operators (the cable market is very fragmented, there are around 300 cable operators in Poland). Most judgments fully recognised ZAPA's claims and in the most significant case against the largest cable operator at the time - UPC (a part of Liberty Global), the court ordered in 2013 triple compensation amounting to several million euros. The year 2013 was a turning point. As a result of the judgment, other large Polish cable operators concluded license agreements with ZAPA and settled past liabilities. Other judgements against smaller operators were also favourable to ZAPA. But even though cable operators concluded agreements with ZAPA, they constantly lowered the basis used for calculation of the appropriate rate and tried to pay less than they should.

In 2020 after another trial lasting over 6 years the court issued a judgment obliging currently the largest cable operator in Poland - Vectra S.A. (a Polish company) to additionally pay ZAPA a several million euros, as a compensation for the understated payments in the period from 2013 to 2015. The judgment should be regarded as a turning point for several reasons. First, the largest entity on the market became obligated to pay extra remuneration amounting to over a million euros plus high interest. Second, the Court resolved in a final and unappealable ruling that it is contrary to the provisions of licence agreements concluded with ZAPA to exclude from the base used for calculating payments to ZAPA any amounts obtained cyclically from subscribers. Due to this favourable judgment, ZAPA expects a quick end to other similar disputes with cable operators and an increase of revenues. ZAPA plans to commission further financial audits of operators, for which there is a suspicion of reporting underestimated revenues.

The retransmission market is one of very few for which the COVID-19 pandemic did not bring a significant reduction in revenues. This field of exploitation is of key importance to ZAPA and has been bringing high current revenues for many years. Owing to effective monitoring of the performance of concluded contracts – at the end of 2020 there was over 300 such contracts - ZAPA maintained a high level of amounts collected.

3) *Cinema exhibition*

The remuneration right for screening in cinemas has existed since the PCA came into force in 1994. Audiovisual authors have been entitled to royalties, i.e., remuneration determined as a percentage in proportion to the proceeds obtained by the cinema exhibitor.

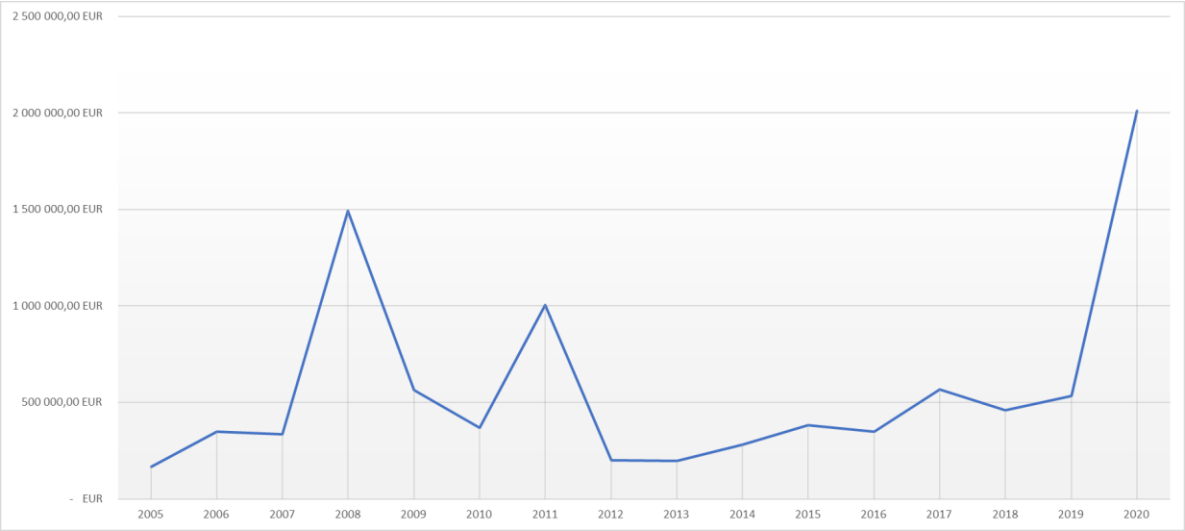

CHART 9 ZAPA's collection for screening in cinemas in 2005-2020 / Source: internal data

However, before the pandemic, only 20% of the cinema market in Poland was covered by contracts with ZAPA (small and local cinemas). Collection for audiovisual authors was initially performed by ZAiKS on the basis of a mutual agreement and the two first peaks were connected to the fact that ZAiKS transferred claims due to ZAPA for the exploitation performed by the two biggest Polish cinema chains.

In 2014, ZAPA started to collect royalties from cinemas independently. At the same period, ZAPA filed its first lawsuits against the three largest multiplex chains in Poland for the period from 2011 to 2013. In the following years, ZAPA filed other lawsuits for further periods. In November 2020, ZAPA won the court case against Cinema City for the first period (after 6 years of court proceedings). Cinema City is part of the international Cineworld network, one of the largest cinema groups in the world. It has been operating on the Polish market for over a dozen years and owns over 30 multi-screen cinemas. During this time, the multiplex had gained billions of zlotys on screening audiovisual works – in 2019 alone, the company operating the Cinema City chain generated revenue of over 116 million euros. At the same time, the company refused to pay royalties to audiovisual authors. Shortly after the court's ruling, ZAPA initiated enforcement procedures and settlement negotiations with the other two entities - Multikino (a part of Vue International) and Helios (a Polish company). Consequently, settlements and general agreements with them were concluded at the beginning of 2021. Pursuant thereto, two operators of almost 100 cinemas in total in Poland will pay amounts outstanding for many years until the end of 2020, and after reopening their cinemas will begin to pay current amounts.

4) *Public performance*

Public performance of a work means, according to the PCA, communicating it to the public by means of sound, image or sound and image carriers on which the work is fixed or using devices for receiving a radio or television programme in which the work is broadcasted or using devices that allow to use

a work communicated to the public in a manner that allows anyone to access it from a place and at a time of their choosing.

For the audiovisual industry, important are mainly works publicly performed in hotels, hospitals and public transport. It is also worth noting that in Poland, historically screening in cinemas is regarded as a separate field of exploitation (not as public performance) although it also needs a carrier by which the work is communicated to the public.

Collection for the public performance right is continuously beneficial to creators and has significant potential to grow in future, although a downward trend is noticeable in recent months due to restrictions in the hospitality industry adopted during the pandemic.

5) VOD

The PCA lacks a regulation in relation to the "digital" field of exploitation which results in obtaining disproportionately low revenues in this field despite the increasing profits of internet platforms.

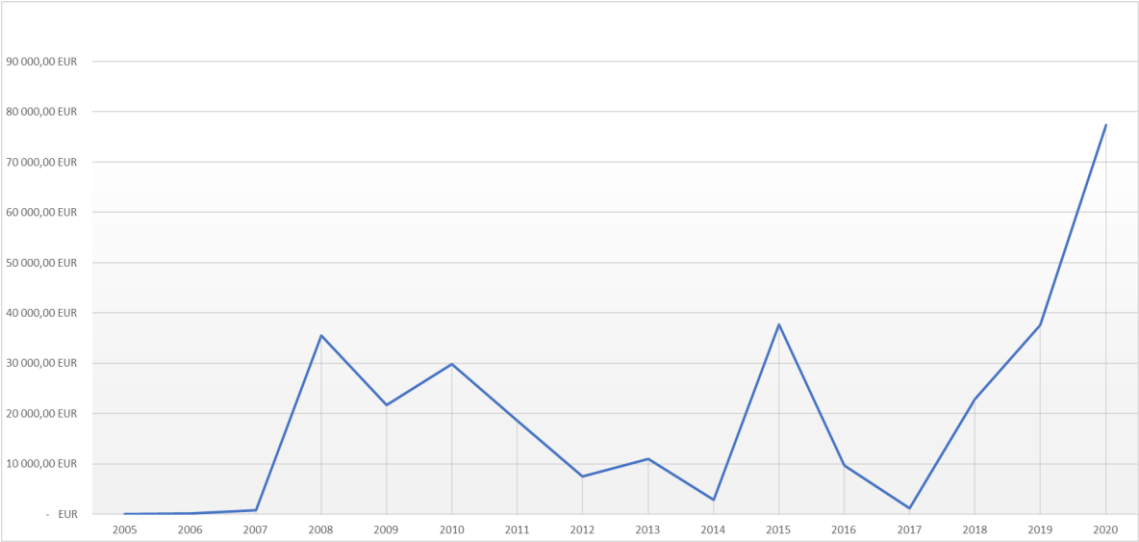

CHART 10 ZAPA's collection for VOD 2005-2020 / Source: internal data

The graph illustrates that compared to other fields of exploitation and taking into account the market value of the VOD services, ZAPA's collection in the VOD field is at a very low level. There has been a certain increase in recent months due to the introduction of a new legal basis which enabled ZAPA to license rights to archival programmes communicated to the public by a Public Service Broadcaster - TVP. According to the Article 21[2] of the PCA an archival programme is produced, ordered, commissioned or co-produced by a given public service broadcasting organisation before 1 January 2003. Clearly the scope of this provision is very narrow, and the remuneration collected concerns mainly Polish rightsholders.

B. <u>Total audiovisual collections by ZAPA</u>

The year 2020 was unique to collective management organisations in many ways. The COVID-19 pandemic forced most CMOs to revise most of the plans made and to adapt structures to support audiovisual authors in these difficult times. However, ZAPA proved that it could function effectively even in unfavourable conditions. Thus, last year closed with the highest collection of revenues from rights in the history of the organisation, amounting to almost 38.6 million euros (PLN 176.2 million).

It was composed not only of current receivables, but also the accumulated arrears of some users for periods reaching many years ago.

EXPLOITATION FORM	REVENUES COLLECTED IN 2020
Retransmission*	18 133 061,30 EUR
Broadcasting	17 527 616,07 EUR
Screening in cinemas	1 960 986,3 EUR
Private coping	332 622,20 EUR
Foreign use	322 987,88 EUR
Public performance	163 709,05 EUR
Reproduction	142 143,58 EUR
VOD	75 440,85 EUR
TOTAL	38 658 567,28 EUR

*Joint collection for audiovisual authors and producers

CHART 11 ZAPA's collection in 2021 / Source: internal data

2020 was also record-breaking in terms of outgoing payments. ZAPA paid to Polish and foreign rightsholders the amount of 32 million euros (PLN 146.8 million). Out of this amount, as much as 22,4 million euros (PLN 102.3 million) were paid out to authors, and 9,7 million euros (PLN 44.5 million) to producers.

Royalties are also an important factor in fostering community social ties and cultural events aiming to promote ambitious and meaningful cinematography. ZAPA places great emphasis on supporting rightsholders also in those aspects. The key social initiatives include scholarships for talented filmmakers and social support for seniors. Cultural activities include co-organising and co-financing film festivals and many other cultural events (including the Polish Film Festival in Gdynia, Krakow Film Festival, Youth and Film Festival in Koszalin, Camerimage International Film Festival of the Art of Cinematography, Etiuda & Anima International Film Festival).

V. Conclusions

This paper shows very high revenue collections for audiovisual authors in Poland in recent years, which demonstrates that, thanks to the statutory remuneration rights, audiovisual authors have been associated with and benefitted from the growth of the exploitation of their works. The legal regime based on the unwaivable remuneration right has helped to develop a sense of security in the creative sector which contributes to the growth and popularisation of the Polish cinematography.

ZAPA encountered many difficulties in obtaining actual remuneration for audiovisual authors. It took dozen of years of court proceedings and negotiations to put the legal regime into practice. Nevertheless, the unwaivable right to remuneration model is the only and most effective way to ensure a fair share of revenues for authors and weight economic interests of all stakeholders. Producers are entitled to unlimited exploitation of the works; the rights are centred around one entity which facilitates the sale of licenses and authors receive appropriate and proportionate

remuneration regardless of their bargaining power. A strong collective management organisation, which can negotiate contracts and enforce rights of behalf of rightsholders, is a key element in this structure. Without it, the statutory remuneration system would not function efficiently.

In the digital world, further modernisation is needed to adapt to the new fast-developing environment. There is therefore an urgent necessity to introduce a right to remuneration also for the digital fields of exploitation in order to create an environment conducive to creativity and innovation. This solution is necessary to establish a level playing field for economic actors and ultimately safeguard authors' interests. The implementation of the DSM Directive is an opportunity to make up for the absence of fair remuneration to audiovisual authors in the digital market.