



EPC CODE OF FAIR PRACTICES FOR VOD SERVICES WHEN COMMISSIONING NEW WORKS FROM INDEPENDENT PRODUCERS

The role of the independent production company is to discover talents, initiate projects by acquiring or creating IPs, develop scripts, attach other creative talents, produce the film and/or TV content and commercialise/monetise the work, via distributors and/or sales agents, by accessing audiences through theatres, broadcasters, VOD Services and any other means.

The role of an independent production company is at the heart of each project and involves creative development, production and budgetary and financial management. The value of this role should be recognised in the producers' relationships with VOD Services, in particular through the contractual terms regarding the funding and exploitation of each project.

This Code of Fair Practices aims to establish basic parameters to be applied to VOD Services' contracts when commissioning feature films, TV series and other audiovisual works ("originals") from independent production companies.

1. Fair and proportionate remuneration and economic participation for producers

The principle of appropriate and proportionate remuneration, which is already provided for by the EU for authors, directors and other copyright or related rights owners, should be applied to independent producers, as well.

Appropriate and proportionate remuneration for independent production companies includes reasonable producer fees, overhead fees in accordance with industry standards, and additional remuneration to be determined fairly and depending on viewing results. An adequate contingency reserve should also be included in the budget approved by the VOD Service.

2. Producers' contribution and right to participate in future derivative works

When an independent production company has acquired, created or co-developed an IP, that underlying IP shall remain with the production company, including the rights to make sequels, prequels, remakes, and any other derivative audiovisual works based on the initial film or TV series.

As an example, the production company that has produced the first season of a TV series based on that IP should be involved as the production company in all subsequent seasons of that same series.

The exploitation rights granted to the VOD Service should be limited to the rights in the film or TV series that the VOD Service needs in connection with the primary exploitation of the work on its service, while allowing for the production company to authorize the reasonable, additional exploitation of the remaining or unused rights of the work, e.g. a theatrical release, where appropriate, and free TV exploitation after a reasonable period of exclusivity. VOD Services should only require the license of the rights they actually exploit or should acquire those additional rights for additional fees at a fair market rate.

All exploitation rights granted to a VOD Service should revert to the independent production company after a reasonable period of time.

3. Transparency and Accountability

In order for the independent production company to gain insight into the success of the works it has produced, the VOD Services should provide the independent production company with regular and comprehensive information on the exploitation of the work, in particular with respect to (i) the number of overall views of the work on the VOD Service, including detailed data for the key territories as well as (ii) relevant and comprehensive information about any off-service exploitation and any revenues thus generated.



4. Public Benefits and Fiscal Incentives

National benefits or subsidies, regional support funding and/or tax incentives aimed at national and European works in the Member States should be accessed only through independent production companies. Such support should be recognised as part of the producer's financial contribution and allow for the production company to maintain ownership and control of exploitation rights that are of a value that is truly comparable to that contribution.