



 **AGICOA**

The Rights People

ANNUAL REPORT 2016





"POWIDOKI (AFTERIMAGE)", POLAND - AKSON STUDIO SP. Z O.O.

"KANELIA KAINALOON, TATU JA PATU (TATU AND PATU)", FINLAND - DIONYSOS FILMS

"LES SURVIVANTS (SURVIVORS)", BELGIUM/LUXEMBOURG - IRIS FILMS - IRIS PRODUCTIONS

## CONTENTS



PRESIDENT'S MESSAGE	5
FACTS & FIGURES	7
MANAGEMENT REPORT	9
AGICOA MEMBERS	18
AGICOA EXECUTIVE BOARD	20
AGICOA ALLIANCE	22
GUEST EDITORIAL	25
FINANCIAL INFORMATION	26
AUDITOR'S REPORT	30

SHOULD YOU BE INTERESTED TO PROVIDE FILM PICTURES FOR THE  
AGICOA ANNUAL REPORT NEXT YEAR, KINDLY CONTACT [CCH@AGICOA.ORG](mailto:CCH@AGICOA.ORG)



"DEGRASSI: NEXT CLASS", CANADA - DHX MEDIA LTD

"NÄR MOLNEN SKINGRAS (WHEN THE CLOUDS CLEAR)", SWEDEN - LASSE Z PRODUKTION AB, PHOTOGRAPHER: GUNNAR HAHN

"STORM - LETTERS VAN VUUR (STORM - LETTERS OF FIRE)", NETHERLANDS/LUXEMBOURG/BELGIUM - PHANTA BASTA - IRIS PRODUCTIONS - BULLETPROOF CUPID

"LÖVEKVINNEN (THE LION WOMAN)", NORWAY/GERMANY - FILMKAMERATENE AS - GIFTED FILMS WEST GMBH



## PRESIDENT'S MESSAGE

**Change is often shaped by the convergence of trends. In the case of the broadcast industry, business models of the past have been overturned by three powerful forces – technology, consumer empowerment, and commercial interests bringing new global dimensions of scale.**

As always, there are potential winners and losers. Audiovisual rightsholders should be able to take comfort from the aphorism that a rising tide lifts all boats. However, although steadily increasing demand for content is welcome, some boats look less seaworthy than others at this point.

The outlook for traditional royalty revenue streams is uncertain. The key question is whether existing regulatory frameworks will evolve in ways that ensure adequate rightsholder remuneration from new forms of content delivery. Collective management is one means of achieving this – at the discretion of rightsholders.

Scratch the surface of new proposals that build on the EU CABSAT Directive and more specific threats emerge, such as the extension of country of origin rights, and the failure to deal with new means of transmitting channels to platforms – so-called direct injection content. Both would harm content owners.

The nature of these challenges became increasingly clear in the course of 2016. So, too, did

the fundamental choice rightsholders must make: either be heard, or risk losing by default. Although larger players may be able to fend for themselves to some extent, the best option for AGICOA members in a future free-for-all is to stand together to shape a future that serves their common interests.

We cannot assume that if our cause is just we will prevail. We must engage. The European Commission has put a lot of legislation on the table, and has so far been reluctant to prioritize and get to grips with contentious issues affecting rightsholders. It must be forced to address them.

AGICOA has been increasingly proactive in lobbying on behalf of its members. Because it serves a broad range of interests, reaching consensus on how, where and when it should apply pressure isn't easy, but there has definitely been scope for productive advocacy.

For example, there is enough common ground to seek to extend collective licensing to some new cable-like services delivered over the closed Internet and to support producers in demanding respect for

important principles of territorial licensing and contractual freedoms that are fundamental to financing new work.

It is unrealistic to suppose that the flow of innovation transforming the industry will slow anytime soon, but too long spent with the crystal ball can be counterproductive. Rightsholders must deal with what is in front of them today. AGICOA's 30 years of experience and international resources are at their disposal to help fix what needs to be fixed.

The Management Report for 2016 makes encouraging reading. Demand for AGICOA's services continued to increase, it met its collection and distribution goals, and operating costs were kept in check. I am grateful to General Manager Tom de Lange and his team for completing another solid year in a very challenging environment.

CHRIS MARCICH AGICOA PRESIDENT



"CZERWONY PAJĄK (THE RED SPIDER)", POLAND - MD4 SP. Z O.O

"JULIETA", SPAIN - EL DESEO D.A., S.L.U.

"1898. LOS ULTIMOS DE FILIPINAS", SPAIN - ENRIQUE CEREZO P.C., S.A

"OSTATNIA RODZINA (THE LAST FAMILY)", POLAND - AURUM FILM

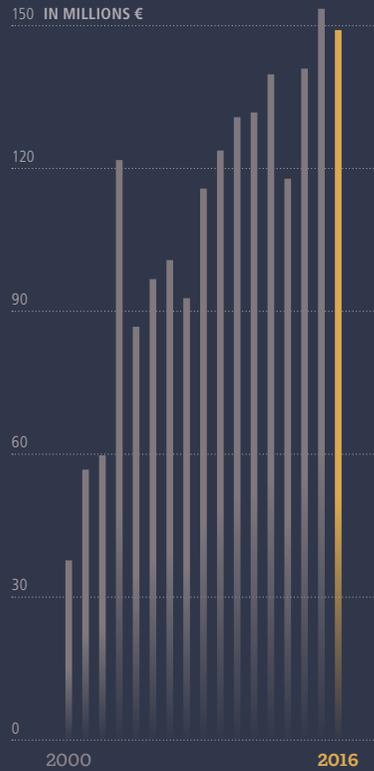
"CÁ POR CASA (IN THE HOUSE)", PORTUGAL - VALENTIM CARVALHO FILMES

## FACTS & FIGURES

### ROYALTIES

**€149M**

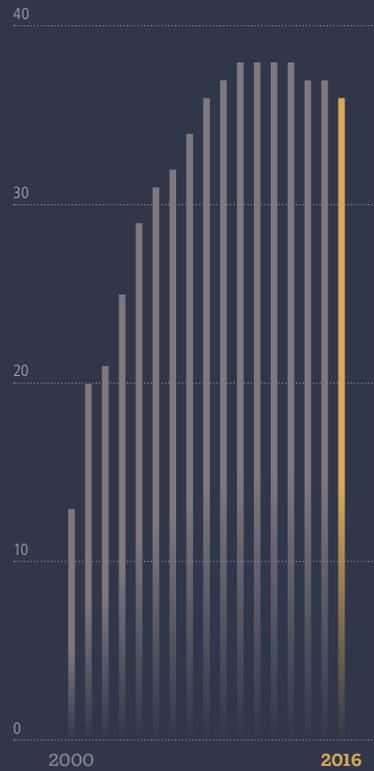
Targets for distribution of royalties over the twelve month period were met and almost reached last year record with a total of €149m put into distribution in the course of the year.



### COUNTRIES

**36**

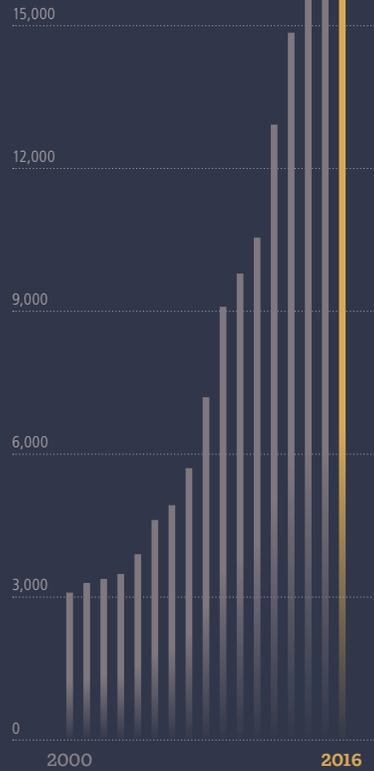
Unique collection and distribution network across major markets.



### RIGHTSHOLDERS

**17,520**

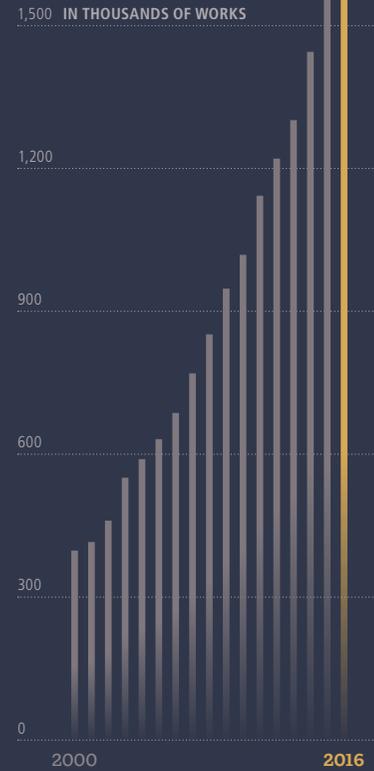
The number of rightsholders taking advantage of AGICOA's services increased by 5%.



### DECLARED WORKS

**1,664,000**

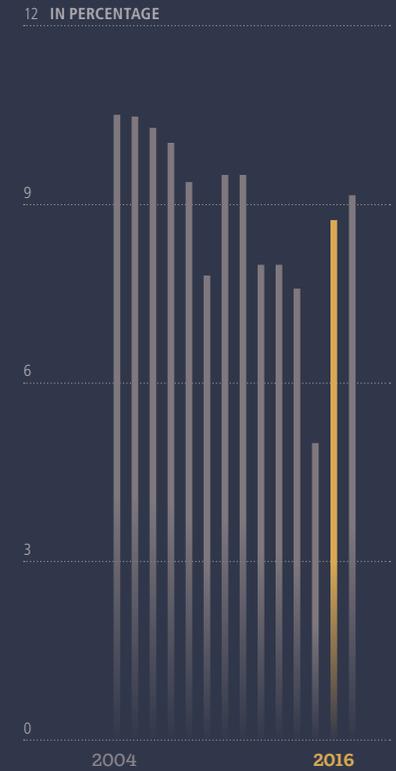
Total number of declared works more than doubled in a decade of continuous growth.

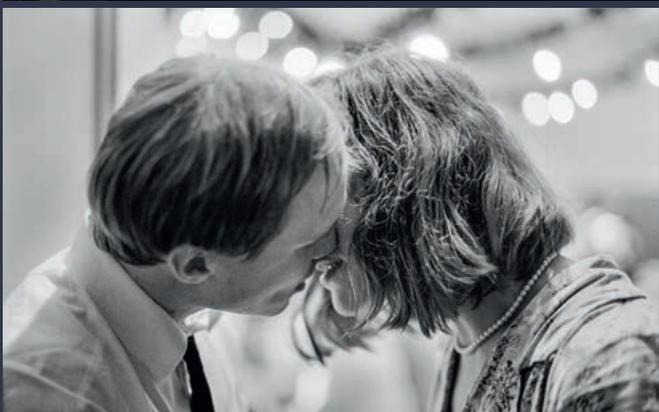


### AGICOA FEES

**8.75 %**

The service fee deducted from royalties put into distribution in 2016 remained below 10%.





"KONGENS NEI (THE KING'S CHOICE)", NORWAY, PARADOX FILM 1 AS

"HYMYILEVÄ MIES (THE HAPPIEST DAY IN THE LIFE OF OLLI MÄKI)", FINLAND -  
AAMU FILM COMPANY, PHOTOGRAPHER: KUOKKASEN KUVAAMO

"MECHANIC RESURRECTION", USA - NU IMAGE

"MADRE PAULA (NUN PAULA)", PORTUGAL - VENDE-SE FILMES

"JESTEM MORDERCĄ (I'M A KILLER)", POLAND - RE STUDIO



## MANAGEMENT REPORT

# Time for action

**AGICOA is pleased to report another productive year of operations. It met collection and distribution goals throughout 2016 and stepped-up its engagement in industry affairs on behalf of members with a number of initiatives to help clarify and respond to the challenges audiovisual rightsholders face as the tide of digital broadcasting innovation flows stronger than ever.**

The pattern of collections during the year was generally smooth. The €124m total was in-line with expectations although down on 2015 which included significant one-time recoveries.

The licensing agreement with the main cable operator in Netherlands expired in June 2016 and related collections in the second half of the year were lower than forecast although overall collections were higher due to payment schedules. There is a continuing exposure to revenue until a new agreement is concluded.

Mandate extensions in other national markets including Finland, Ireland and Portugal brought notable revenue contributions beyond conventional licensing of content for cable and satellite retransmission.

Targets for distribution of royalties over the twelve month period were also met and almost reached last years record with a total of €149m put into distribution in the course of the year.

The number of rightsholders subscribing to AGICOA services grew by 5% to 17,520 and the inventory of declared works and rights under management reached an all-time high of 1,664,000. These figures reflect overall growth in demand for content as well as the perceived value of one-stop collective licensing and management of retransmission rights across an increasingly complicated media landscape.

AGICOA operations in Geneva were within budget and the 8.75% service fee deducted from royalties put into distribution was in-line with the average of previous years.

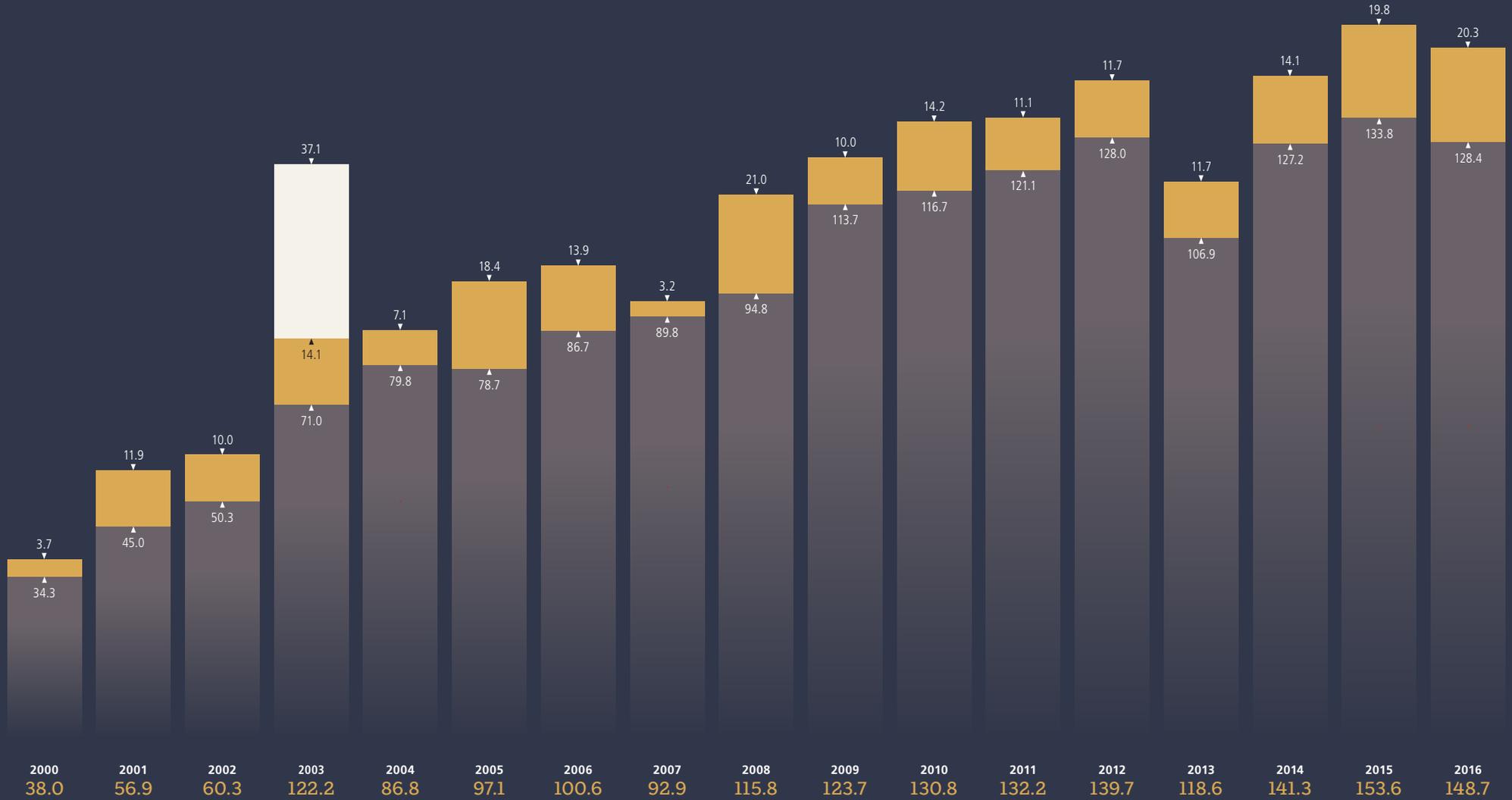
The transformation of the organization's IT systems was completed on schedule in the first quarter of 2016, ensuring the continued smooth management of collections and distributions.

Prompted by public debate about the transparency and accountability of collection societies, the AGICOA Board engaged accountants Deloitte to carry out a full audit of AGICOA internal controls. The result was highly satisfactory, earning ISAE 3000 certification.

ROYALTIES DISTRIBUTION

IN MILLIONS €

■ First distribution   ■ Final distribution   ■ Exceptional catchup



## FIRST DISTRIBUTION

### AGICOA MANDATES

AUSTRALIA	2015
AUSTRIA	2011-2012
BELGIUM	2015
BOSNIA	2013-2014
CANADA	2014
DENMARK	2014
FINLAND	2015
GERMANY	2015
HUNGARY	2014
IRELAND	2015
ISRAEL	2015
LUXEMBOURG	2015
NORWAY	2014
POLAND	2015
PORTUGAL	2015
SERBIA	2014-2015
SPAIN	2015
SWEDEN	2015
SWITZERLAND	2014
THE NETHERLANDS	2015

### AD-HOC MANDATES

FINLAND (EDUCATIONAL COPY)	2014
FINLAND (NPVR)	2015-2016
NORWAY (EDUCATIONAL COPY)	2013
POLAND (GUILDS)	2014
UNITED KINGDOM (EDUCATIONAL COPY)	2015

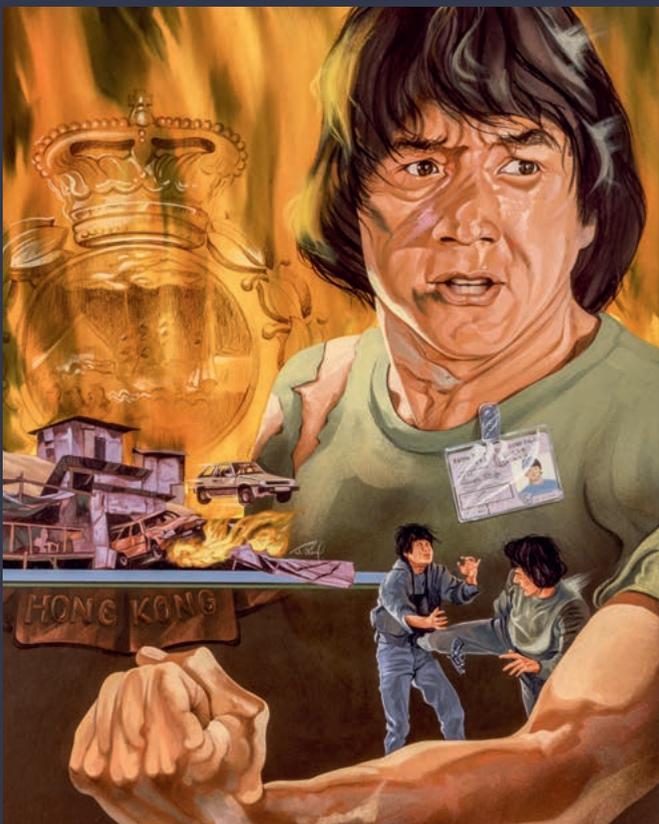
## FINAL DISTRIBUTION

### AGICOA MANDATES

BELGIUM	2012
FINLAND	2012
HUNGARY	2008
IRELAND	2007 & 2010
LUXEMBOURG	2012
NORWAY	2012
POLAND	2012
PORTUGAL	2012
SLOVENIA	2008-2010
SWEDEN	2012
SWITZERLAND	2008
THE NETHERLANDS	2012

### AD-HOC MANDATES

FINLAND (EDUCATIONAL COPY)	2011
NORWAY (EDUCATIONAL COPY)	2010
UNITED KINGDOM (EDUCATIONAL COPY)	2012



"MY LIFE AS A DEAD GIRL", CANADA - REEL ONE ENTERTAINMENT

"POLICE STORY", CHINA - FORTUNE STAR MEDIA LIMITED

"SIM CHEF (YES CHEF)", PORTUGAL - VALENTIM CARVALHO FILMES

## Industry environment

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**Technology-led changes have radically redefined the scope and structure of the broadcast industry. The transition from wired to wireless, the diversification of content delivery, and the emergence of new business models pose many challenges to audiovisual rightsholders, but also offer opportunities to boost royalty revenues as overall demand for content grows.**

The trend towards consumer viewing convenience continues at a rapid pace. Content providers must include an increasingly wide range of options in their standard offers to be competitive. TV Everywhere, time shifted and catch-up viewing, and Networked Personal Video Recorder (NPVR) are the norm.

Add the increasing availability of internet-based services from Netflix, Apple TV, Amazon and You Tube, and today's consumers enjoy unprecedented levels of choice and service. This is undoubtedly good for the long-term health of the industry, but the gap between the decades-old legislative framework governing the licensing of audiovisual rights and the commercial realities of the marketplace is of growing concern.

In the absence of licensing structures, the tendency has been for operators of new services to completely ignore the need for additional licensing, and for rightsholders, knowingly or unknowingly, to fail to contest this. The risk is that royalty streams associated with linear viewing will diminish, and with no clear forward agenda for ensuring proper remuneration for new uses of work revenue they will be compromised from the outset.

It follows that rightsholders and collection societies that represent them must do more to protect existing entitlements and secure a fair share of the benefits of market expansion. They must be proactive rather than reactive. What do its members wish AGICOA's role to be?

Should AGICOA's collection mandate be broadened to include some or all of the new forms of distribution of content?

To what extent should AGICOA seek to represent rightsholder points of view in regulatory discussions?

These questions were high on the agenda of the AGICOA Executive Board during 2016. Member views vary, but there is general agreement that the organization's reputation as a unique, international, one-stop licensing shop for distributors of TV channels makes it a logical start point for negotiating collective agreements that include new forms of delivery. In addition, it has over 30 years of industry experience to contribute to the development of fair and reasonable regulatory solutions.



PHOTOGRAPHER: MIKAEL STRANDBERG



"LONDON HAS FALLEN", USA - NU IMAGE

"TARDE PARA LA IRA", SPAIN - LA CANICA FILMS, S.L.U. / AGOSTO LA PELICULA, A.I.E.

"BORNING 2", NORWAY - FILMKAMERATENE AS

"MANNEN MED BARNVAGNEN (MAN WITH A PRAM)", SWEDEN -  
EXPLORER MIKAEL STRANDBERG, PHOTOGRAPHER: MIKAEL STRANDBERG

"WOŁYŃ (HATRED)", POLAND - © KRZYSZTOF WIKTOR - FILM IT

## Regulatory developments

**AGICOA's 2015 submission to the European Commission review of the 1993 Cable and Satellite (CABSAT) Directive was followed up with a series of position papers and consultations in the course of 2016.**

The Commission proposed a regulation to address cable-like services not covered by the Directive, including those delivered over closed Internet systems. The proposed regulation is now in the legislative pipeline, and is being reviewed by the Member States and the European Parliament. Final decisions are not expected before the end of 2017. As a regulation it will apply automatically in Member States i.e. it will not require national law to make it valid.

Key considerations for AGICOA rightsholders include the extension of mandatory collective management beyond traditional cable services to retransmission on platforms such as satellite, digital terrestrial, mobile and other networks.

Resolution of the 'direct injection' debate is central to this. Following a number of country-level decisions, the very existence of cable retransmission as a legal concept is being challenged. Direct injection is said to occur when broadcasters no longer communicate directly with the public through conventional reception in homes but send encrypted signals for distribution by cable or satellite companies. We hope this problem will be addressed by the Directive and the proposed Regulation.

A very controversial element of the proposed regulation concerns application of the so-called country of origin principle to broadcasters' programmes delivered across national borders over the Internet. Rightsholders have rallied against the pro-

posal fiercely. Unless the concerns are addressed, the entire regulation will be jeopardized.

In addition to interest in CABSAT, the EU Directive on Collective Management of Copyright and Related Rights enacted by member states in 2016 is central to AGICOA's operations. It defines best practice criteria for not-for-profit collecting entities or those such as AGICOA that are owned and controlled by members and operate on their behalf. Although AGICOA is Swiss-based and not directly bound by EU legislation, it is committed to conform to these regulatory requirements given its extensive EU-based interests and operations. AGICOA's by laws are under review and revision to ensure such conformity.

## International operations

**The international services of AGICOA and its Alliance partners are of increasing value to many rightsholders as cross-border traffic in movies, TV formats and other high-interest program categories grows.**

As mandates change, new patterns of productive cooperation are emerging. TUOTOS, the AGICOA Alliance partner in Finland, began to collectively license NPVR services in 2015, significantly increasing rightsholder revenues. AGICOA assists with the international distribution of these royalties to members.

A comparable agreement signed in 2016 with GEDIPE, the Alliance partner in Portugal, enables collection and distribution of royalties for content use by hotels, and an agreement between AGICOA Norge and NORWACO will lead to the international

distribution of royalties for Start-from-the-Beginning services. Both come on stream in 2017.

The AGICOA Alliance is currently represented in eleven European markets and also has cooperation agreements with external collection societies in a number of other countries. Productive discussions with prospective partners in Bosnia and Slovenia during 2016 are expected to extend its networking reach.

The broadening of AGICOA's collection mandate in Ireland to include TV Everywhere in 2015 - the first licensing agreement of its kind - contin-

ues to generate significantly increased revenue for rightsholders. Additional licensing opportunities were explored in this market during 2016, and in the UK where broadcasters and producers' associations have succeeded in seeking to end public service exemptions and will as a result obtain royalty payments from cable companies for retransmission of works broadcast within the UK. Such exemptions were recently found by the European Court to be contrary to European law in the second "TV Catchup" case.



"MATLAGNINGSPROGRAMMET INGEN TALAR OM LÄNGRE (THE COOKERY SHOW NOBODY TALKS ABOUT ANYMORE)", SWEDEN - VILDA BOMBEN FILM AB, PHOTOGRAPHER: BENGT LÖFGREN

"DOLORES OCH GUNELLENS VÄRLD (DOLORES AND GUNELLENS WORLD)", SWEDEN - LEE FILM STOCKHOLM AB, PHOTOGRAPHER: LEE FILM

"HONOR STUDENT", CANADA - REEL ONE ENTERTAINMENT

"DONOS DISTO TUDO (OWNERS OF THIS ALL)", PORTUGAL - VALENTIM CARVALHO FILMES

## Conflicts resolution

An analysis of provisions for works in conflict undertaken by AGICOA and its partners in 2016 resulted in a number of actions to reduce the number of pending cases and volume of blocked funds. These included an invitation - well received

by many rightsholders - to resolve conflicts on a voluntary basis, and the launch of a system of automatic updates on the status of conflicts.

These measures resulted in significant number of resolutions between relevant parties and

the unblocking of over €2m for distribution. Further work is undertaken to simplify and speed up conflict resolution processes.

## Value proposition

**AGICOA is uniquely placed to deliver value to both audiovisual rightsholders and content distributors.**

It offers rightsholders a single point of contact to declare audiovisual works and continuously track their use on major TV channels in countries where it operates. There are no entry costs: registration of content is the sole requirement. Agreed international standards ensure equal treatment of all

content owners and the timely, transparent remuneration of royalty payments for use of their works.

It offers distributors efficient, one-stop licensing security for a wide range of content.

It is a source of valuable lobbying and negotiating experience. Its observer membership of the

World Intellectual Property Organization (WIPO), participation in a number of its committees, and cooperation with the European Commission in matters relating to collective management of copyright help bring a wider perspective to broadcast industry developments.

## Conclusion

**Measuring progress in times of rapid, widespread change can be difficult. Benchmarks are quickly redundant and longstanding certainties give way to doubt. Short-term thinking can crowd-out wiser, longer-term perspectives.**

It was nevertheless an encouraging year for AGICOA and the members it represents, with marked progress towards shared goals. The prospects for more relevant and more equitable alignment between rightsholder interests and the new look broadcast industry were brighter at the end of 2016 than at the start.

While it is unrealistic to seek one-size-fits-all solutions to complex licensing needs, AGICOA believes that the benefits of collective management will be increasingly evident, and that it is uniquely placed to serve rightsholders in this respect.

Our commitment to deliver the best possible returns on the investments our members make to create some of the world's finest audiovisual con-

tent is absolute. The management team thanks them for their trust, and looks forward to further shared success in 2017 and beyond.



TOM DE LANGE GENERAL MANAGER

## AGICOA MEMBERS

The purpose of the association AGICOA is to defend, through collective rights management, the interests of its members.

**A** GICOA's members are associations of audiovisual producers or distributors, audiovisual producer collective rights management organizations, rights agents and other film and television rightsholders from all over the world.

AGICOA's members define the association's role through their presence in and contributions to its supreme decision making body, AGICOA's General Assembly.

The members, through the General Assembly, define AGICOA's purpose in its by-laws and fundamental rules of royalty distribution. They approve the annual operating budget and the AGICOA fee. They give discharge to AGICOA's Executive Board and Management and elect and dismiss the auditors. They proclaim the exclusion and suspension of a member and also decide on the association's dissolution.

### NORTH AMERICA

#### CANADA

> CRC

#### USA

> APTPA-PBS

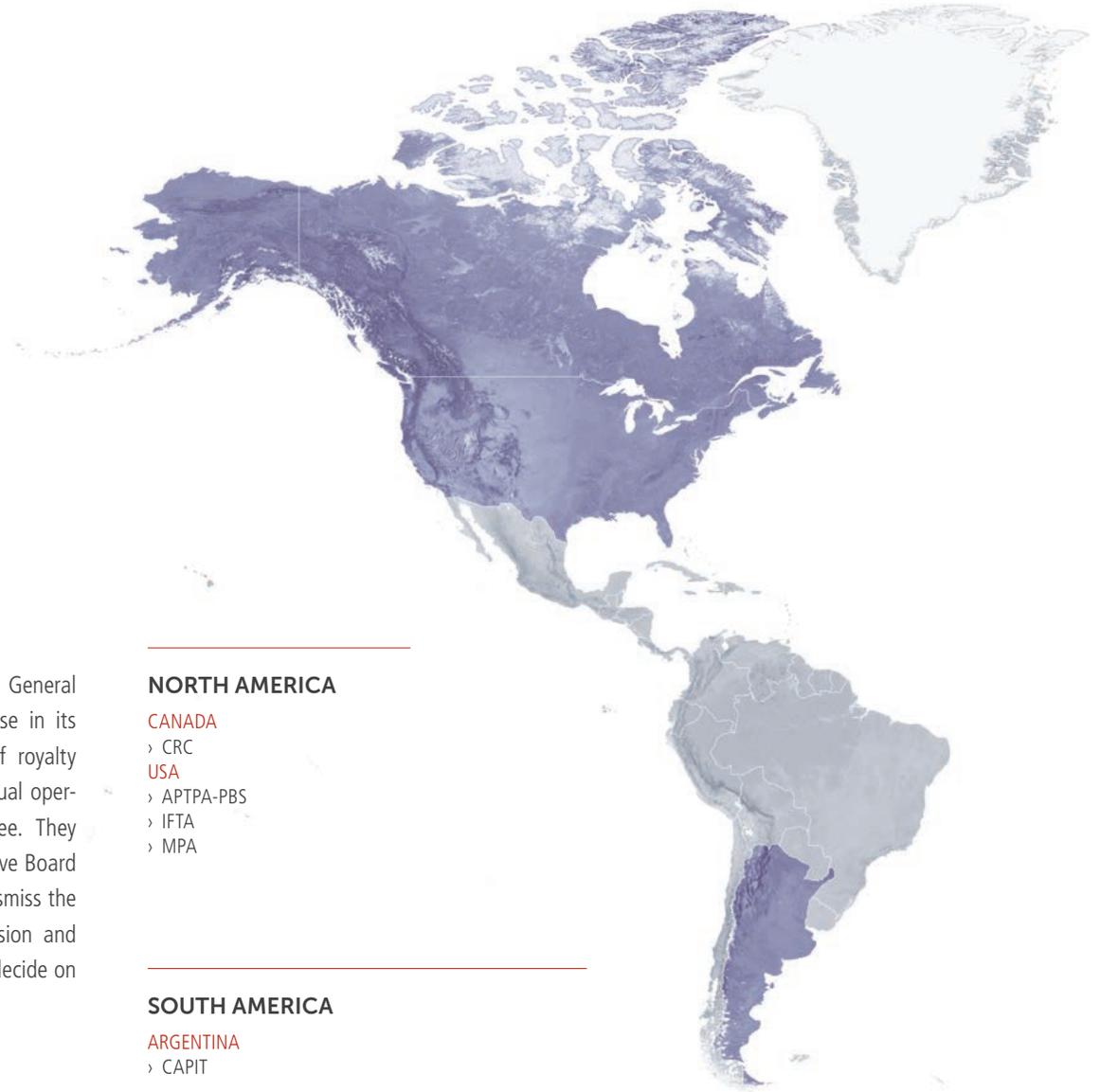
> IFTA

> MPA

### SOUTH AMERICA

#### ARGENTINA

> CAPIT



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## ASIA

### CHINA

- › CFCA

### INDIA

- › THE FILM & TELEVISION PRODUCERS GUILD OF INDIA LTD

### RUSSIA

- › PRODUCERS' GUILD OF RUSSIA

### TURKEY

- › SE-YAP

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## EUROPE

### AUSTRIA

- › VAM

### BELGIUM

- › BAVP
- › COMEDIA

### BOSNIA

- › UFI

### BULGARIA

- › FILMAUTOR

### DENMARK

- › CAB

### ENGLAND

- › 560 MEDIA RIGHTS LIMITED
- › COMPACT MEDIA GROUP
- › EMI MUSIC PUBLISHING LIMITED
- › PACT

### FINLAND

- › COFFPA
- › TUOTOS

### FRANCE

- › FIAD
- › FIAPF

### GERMANY

- › GWFF
- › VDF
- › VGF

### GREECE

- › SAPOE

### ICELAND

- › SIK

### IRELAND

- › SCREEN PRODUCERS IRELAND

### ITALY

- › ANICA
- › LUXEMBOURG

### LUXEMBOURG

- › ALGOA
- › SAMSA FILM SARL

### NORWAY

- › AGICOA NORGE

### POLAND

- › ZAPA

### PORTUGAL

- › GEDIPE

### SERBIA

- › FILM CENTER SERBIA

### SLOVAK REPUBLIC

- › SAPA

### SPAIN

- › EGEDA
- › IBAIA
- › PAC
- › UPCT

### SWEDEN

- › FRF

### SWITZERLAND

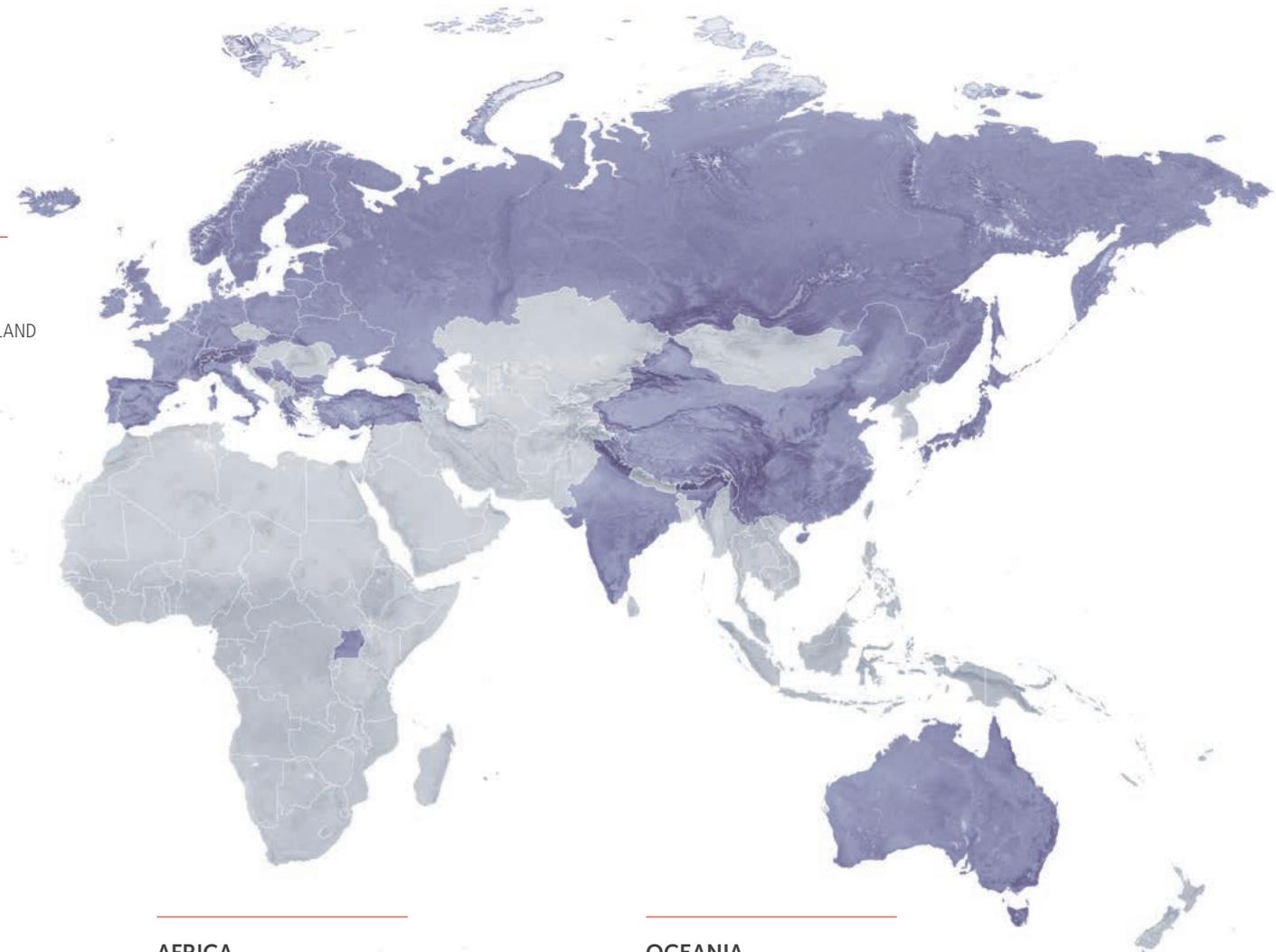
- › SUISSIMAGE

### THE NETHERLANDS

- › FINTAGE HOUSE

### UKRAINE

- › SEKAM
- › APU



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## AFRICA

### UGANDA

- › UFGI

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## OCEANIA

### AUSTRALIA

- › SCREENRIGHTS

## 2016 AGICOA EXECUTIVE BOARD

### CHRIS MARCICH PRESIDENT

Former President, MPA International (USA).

### RONALD FROHNE VICE-PRESIDENT

GERMANY

Substitute: *Gertraude Müller-Ernstberger*

Attorney and CPA. Partner of international Law Firm Noerr LLP. Managing Director of GWFF (collecting society for private copy) and AGICOA Germany. Board member of various German and international companies.

### MICHAEL BRODIE TREASURER

UNITED KINGDOM

Bachelor of laws, ACA chartered accountant, UK former Universal Pictures executive.

### BÖRJE HANSSON OBSERVER

SWEDEN

Substitute: *Johannes Klingsporn*

Film producer, managing director of Bright Pictures. Earlier head of production at Svensk Filmindustri (SF) and Swedish film company Filmlance that produced among others the famous Swedish criminal series "Beck". Representative of FIAPF.



### NICOLE LA BOUVERIE VICE-PRESIDENT

BELGIUM

CEO of BAVP (collecting society for audiovisual producers), PROCIBEL (collecting society for private copy), AGICOA Europe Brussels, Zenab consulting. Director of AUVIBEL (Belgian umbrella collecting society for the private copy) and of Eurocopia (European organization of collecting societies for private copy), member of the Belgian Centre of Intellectual Property (CEPI), accredited mediator.

### MIGUEL ANGEL BENZAL MEDINA

SPAIN

Substitute: *José Antonio Suarez*

CEO EGEDA, Spain (Audiovisual Producers Rights Management Association) since 1992. At the same time, is CEO of Audiovisual SGR, a mutual guarantee society in which EGEDA is a protector member.

### JOHN M. JACOBSEN

NORWAY

Producer and head of Filmkameratene AS, one of the leading Norwegian film and television companies. Their productions include the Oscar nominated "Pathfinder", the international Emmy nominated animated series "Elias, the little rescue boat" and the recently acclaimed "Max Manus" and "Trollhunter". Their TV-series "The Heavy Water War" which premiered in January 2015 is the most seen drama in Norwegian television history.

### DAVID JOHNSON

UNITED KINGDOM

Substitute: **Jane Hyndman**

CEO of Compact Media Group since 2014, David has worked in media for over 20 years in a variety of senior management, commercial and financial roles. His involvement with Compact as a former client goes back to 2001, when he was at Granada International. He is a FCA qualified Chartered Accountant. He has worked in international distribution and licensing, broadcast, new media and production for companies including the BBC and ITV. Most recently he was MD of an independent sports production company. He has extensive experience in negotiating large scale deals for productions, co-productions and international sales.

### SAN FU MALTHA

THE NETHERLANDS

Substitute: **Dick van der Graaf**

Dutch film producer. San Fu Maltha founded the production company Fu Works in 1995 and the company has grown into one of the most leading feature film production companies of the Netherlands. Fu Works is an independent and internationally oriented production company that produces feature films, documentaries and TV series. Representative of SEKAM.

### MAX RUMNEY

UNITED KINGDOM

Substitute: **Valerie Smith**

Deputy CEO and Director of Business Affairs for PACT (Producers Alliance for Cinema and Television in the UK). Solicitor in England and Wales. Negotiates terms of trade between Producers and Broadcasters as well as Collective Agreements between Producers and Talent/Authors/Labour Unions. Board member of CEPI (European Producers' Association).

### JANE SAUNDERS

USA

Managing Director & Senior Vice President, Worldwide Rights Management, Motion Picture Association of America (MPAA).



### RYSZARD KIREJCZYK

POLAND

Substitute: **Sylwia Biadun**

CEO of ZAPA (Union of Audiovisual Authors and Producers - a collecting society within Polish Filmmakers Association). Former film producer and former Director of Gdynia Film Festival and Debut Film Festival - the biggest Polish film events.

### JEAN PREWITT

USA

Substitute: **Susan Cleary**

President/CEO of the Independent Film & Television Alliance (IFTA).

### NIELS TEVES

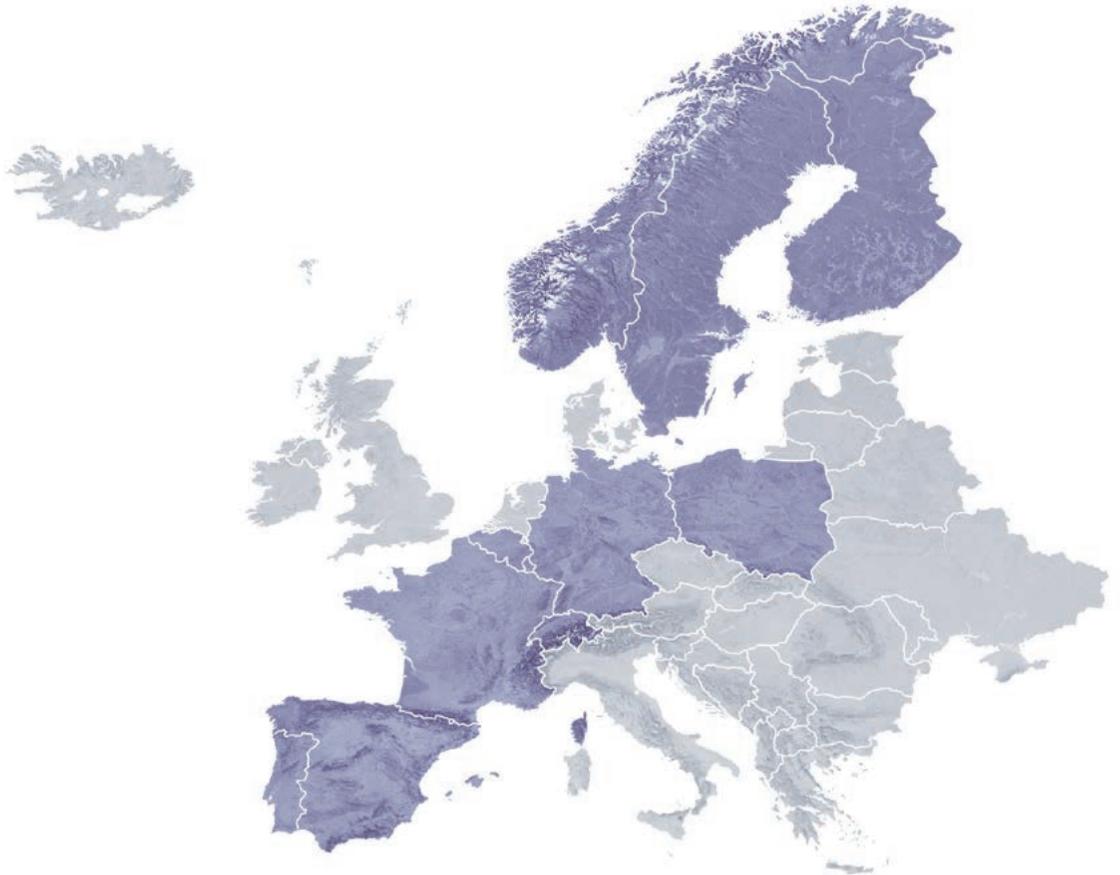
THE NETHERLANDS

Substitute: **Marcel Hoogenberk**

Co-owner/CEO of Fintage House, a privately owned global Music, Film & TV Rights company headquartered in the Netherlands with offices in the UK and Hungary and global consultants in 14 countries. Over the years, Niels has cultivated and built a fully integrated business model connecting all sectors of the entertainment industry. He has created unique service lines within Fintage as well as securing strategic investments and business developments in cutting edge technology and complete digital eco-systems.

# AGICOA and its partners organizations

The AGICOA Alliance is a unique partnership that enables the efficient international collection and distribution of royalties for the retransmission of audiovisual works.



Alliance partners accommodate different national legal requirements but embody common practices to manage rightsholders' interests in a consistent, cost efficient way. The single declaration of an audiovisual work enables the collection of royalties wherever collective management operates.

Alliance partners have deep knowledge of their own broadcast markets. Aggregation of the interests of international rightsholders adds considerable weight to the collective licensing agreements they negotiate with national and local operators. Equal treatment of all rightsholders, irrespective of size and nationality, is guaranteed.

- BELGIUM**
- › AGICOA EUROPE BRUSSELS
- FINLAND**
- › TUOTOS
- FRANCE**
- › ANGOA
- GERMANY**
- › AGICOA GMBH

- LUXEMBOURG**
- › AGICOA EUROPE
- › ALGOA
- NORWAY**
- › AGICOA NORGE
- POLAND**
- › ZAPA
- PORTUGAL**
- › GEDIPE

- SPAIN**
- › EGEDA
- SWEDEN**
- › FRF
- SWITZERLAND**
- › AGICOA



THE AGICOA TEAM IN GENEVA

## People in Geneva

**Almost 100 people located in 11 countries are involved in the management of rightsholder interests by the AGICOA Alliance.**

Of these, 35 worked at AGICOA in Geneva in 2016. Rightsholder Relations managed client portfolios. Distribution and Identification tracked use of work and organized distributions. Legal and Licensing negotiated new license agreements, renewed and extended existing contracts. Finance and Administration managed the collection and distribution of funds. Information Systems was responsible for the quality and performance of the information systems that support our operations, and Information Technology and Security ensured the protection and failsafe back-up of rightsholders data.



"MANUAL DE INSTRUÇÕES (INSTRUCTION MANUAL)", PORTUGAL - VENDE-SE FILMES

"TYTTÖ NIMELTÄ VARPU (LITTLE WING)", FINLAND - MAKING MOVIES, PHOTOGRAPHER: TUOMO HUTRI

"LIVET I MATTELANDET (LIFE IN THE LAND OF MATH)", SWEDEN - PATRIK STHLM, PHOTOGRAPHER: PATRIK STHLM PRODUCTIONS

"MADEIRA PRIMA (WOOD MATERIAL)", PORTUGAL - VENDE-SE FILMES

"EX-ONNELISET (LIVING WITH MY EX)", FINLAND - DIONYSOS FILMS, PHOTOGRAPHER: JOHANNA VUOKSENMAA



DAVID SWEENEY

## GUEST EDITORIAL

# Future Proof?

**This is a critical moment for the audiovisual sector. It must gradually let go of the past, focus on the future and be prepared to radically rethink its approach to distribution in the digital age.**

*DAVID SWEENEY IS A DUBLIN AND BRUSSELS BASED LAWYER WITH EXTENSIVE EXPERIENCE OF THE ENTERTAINMENT INDUSTRY. HE SPECIALIZES IN EU LAW, INTELLECTUAL PROPERTY, NEW MEDIA AND LICENSING.*

Others have passed this way before. The music industry was slow to accept change and suffered through an inability or reluctance to profit from the rapid growth in online access to its repertoire. Consumers now enjoy music at a fraction of the cost of a generation ago and artists, writers and record companies are left to pick up the tab.

It doesn't have to be that way. Take the games industry, for example. Maybe because it was new and "born digital", it transitioned quickly and effectively from arcades to computers, game consoles and now tablets and phones. Many content ("IP") owners were able to keep pace with technology and get their fair share from new methods of product distribution rather than seeing them as a danger.

Consumer access to audiovisual works is now changing with equal speed and the threats are becoming clear. Content must remain king and get the lion's share of value generated by creative works. The investments necessary for creativity to thrive must be protected from populist pressure for free access and a universal entitlement to share.

Rightsholders looking to the European Commission's Digital Single Market program for assurance about the future may end up disappointed. Advancement of politically attractive goals have so far taken precedence over copyright and content creators. Control over cross-border licensing of work is fundamentally at risk, and there is no guarantee that the very concept of retransmission will survive the technological and legal threat of Direct Injection to cable platforms. The financial consequences for producers of audiovisual works could well be catastrophic.

EU deliberations apart, content owners must face up to the growing challenges, and opportunities, of digital rights management and distribution as conventional broadcasting gives way to more and more new forms of content delivery by existing and new platforms.

Generally speaking, apart from changing laws, rightsholders have three options. The first is to secure their own "new world" licensing deals, accepting the inequality of bargaining power that all but the biggest rightsholders are likely to face. An analogy of the relationship between supermarket chains and small suppliers comes to mind.

The second is to seek strength in numbers and mandate a rights management organisation to negotiate more broadly on their behalf. The third is to do nothing and risk - like the music industry - the rapid devaluation of their precious product.

A ready-made solution may be at hand.

The efficiencies, expertise and revenue generation brought about by one stop content licensing agreements in the cable sector can be extended from basic cable to new uses. Some rightsholders have already mandated AGICOA to do this.

This mandate extension route is an increasingly attractive option. Better technology and the provisions of the EU's Collective Rights Management Directive have significantly increased the transparency and accountability of collective service providers, and they are often better placed than individual rightsholders to monitor new uses of content and pursue advantageous licensing deals. Rightsholders who fear letting go should think long and hard about the viability of holding on.

A recent industry survey in *The Economist*<sup>1</sup> magazine noted that: "More high quality entertainment is available to more people on the planet than ever before. And yet, as a business, entertainment has become in some ways less democratic, not more. Technology is making the rich richer."

Rightsholders can no longer sit on the fence if they want to be on the right side of this equation.

<sup>1</sup> THE ECONOMIST - FEBRUARY 11<sup>TH</sup>, 2017

## FINANCIAL INFORMATION

FIGURES FOR THE YEAR ENDED DECEMBER 31

### Financial Statements of AGICOA (CHF)

Summary balance sheet	2016	2015
<b>Assets</b>		
<b>Current Assets</b>		
Cash and term-deposits	11,565	13,124
Receivables from the fiduciary funds	776,923	476,484
Other receivables and prepaid expenses	813,618	658,678
	<b>1,602,106</b>	<b>1,148,286</b>
<b>Non-Current Assets</b>		
Deposits and guarantees	58,521	54,516
Investments in affiliates	99,828	99,828
Other receivables	71,295	71,295
Receivables ISAN International Agency	2,534,365	2,544,265
Tangible fixed assets	141,396	95,902
	<b>2,905,405</b>	<b>2,865,806</b>
<b>Total Assets</b>	<b>4,507,511</b>	<b>4,014,092</b>
<b>Liabilities</b>		
<b>Current Liabilities</b>		
Accounts payable	956,974	677,043
Accounts payable related to affiliates	16,406	19,083
Accruals/provisions	246,607	193,464
Other short term liabilities	753,159	580,237
	<b>1,973,146</b>	<b>1,469,827</b>
<b>Non-Current Liabilities</b>		
Provision ISAN International Agency	2,534,365	2,544,265
<b>Equity</b>	0	0
	<b>2,534,365</b>	<b>2,544,265</b>
<b>Total Liabilities and Equity</b>	<b>4,507,511</b>	<b>4,014,092</b>

Summary statement of income	2016	2015
<b>Operating Expenses</b>		
Salaries and social charges	5,199,611	4,472,779
Professional fees and administrative expenses	2,011,576	1,692,444
Depreciation	58,236	52,948
Costs incurred by partner organizations	3,921,351	4,060,276
Modernization of information systems	82,030	510,272
Special projects	70,390	53,399
<b>Total Operating Expenses</b>	<b>11,343,194</b>	<b>10,842,118</b>
<b>Financial (Income)/Expenses</b>		
Interest and bank charges, net	4,648	5,630
Exchange (gains)/losses, net	22,868	52,838
<b>Total Financial (Income)/Expenses</b>	<b>27,516</b>	<b>58,468</b>
<b>Miscellaneous (Income)/Expenses</b>		
External services	(341,091)	(309,708)
Rent office space	(31,050)	(130,934)
Other income	(33,161)	(89,256)
Exceptional (income)/charges	29,652	13,912
<b>Total Miscellaneous Income</b>	<b>(375,650)</b>	<b>(515,986)</b>
<b>Total Net Expenses before Taxes</b>	<b>10,995,060</b>	<b>10,384,600</b>
<b>Direct Taxes</b>		
Direct Taxes	79,641	100,000
<b>Total Net Expenses</b>	<b>11,074,701</b>	<b>10,484,600</b>
<b>Funding of Net Expenses</b>		
Operational budget	12,162,230	11,973,531
Allocation from fiduciary provision	82,030	510,272
Operational budget (surplus)/deficit	(1,169,559)	(1,999,203)
<b>Total Funding of Net Expenses</b>	<b>11,074,701</b>	<b>10,484,600</b>

## Fiduciary Funds Managed by AGICOA (EURO)

Summary fiduciary funds balance sheet	2016	2015
<b>Current Fiduciary Assets</b>		
Cash and term-deposits	184,965,591	189,132,260
Other assets	1,759,470	1,306,460
	<b>186,725,061</b>	<b>190,438,720</b>
<b>Non-Current Fiduciary Assets</b>		
Investment property	5,183,250	5,183,250
	<b>5,183,250</b>	<b>5,183,250</b>
<b>Total Fiduciary Assets</b>	<b>191,908,311</b>	<b>195,621,970</b>
<b>Fiduciary Liabilities, Reserves and Provisions</b>		
<b>Short-Term Fiduciary Liabilities</b>		
Payable to rightsholders	6,242,532	5,700,325
AGICOA current account payable	723,635	440,126
Payables of national partner organizations	71,402	111,941
Fiduciary funds put into distribution pending allocation to rightsholders	78,782,364	79,533,078
Fiduciary funds to be put into distribution	81,151,534	85,988,803
	<b>166,971,467</b>	<b>171,774,273</b>
<b>Fiduciary Reserves and Provisions</b>	<b>24,936,844</b>	<b>23,847,697</b>
<b>Total Fiduciary Liabilities, Reserves and Provisions</b>	<b>191,908,311</b>	<b>195,621,970</b>

Summary fiduciary funds statement of income	2016	2015
<b>Revenues</b>		
Royalties earned	100,538,033	111,195,238
Financial and other revenues	320,351	485,813
<b>Total Revenues</b>	<b>100,858,384</b>	<b>111,681,051</b>
<b>Distributions and other Charges</b>		
Fiduciary funds put into distribution	(96,354,614)	(104,968,992)
AGICOA fees	(8,121,954)	(7,765,879)
Bank charges	(11,849)	(12,909)
Foreign currency translation adjustment	(597,273)	2,389,564
<b>Total Distributions and other Charges</b>	<b>(105,085,690)</b>	<b>(110,358,216)</b>
<b>Net Surplus prior to Allocations</b>	<b>(4,227,306)</b>	<b>1,322,835</b>
<b>Total Allocations</b>	<b>4,227,306</b>	<b>(1,322,835)</b>
<b>Net Surplus after Allocations</b>	<b>0</b>	<b>0</b>

The fiduciary funds financial statements exclude the fiduciary funds managed by AGICOA Urheberrechtsschutz GmbH (Germany), ANGOA (France) and EGEDA (Spain).

## Fiduciary Funds Split AGICOA & Partner Organizations (EURO)

Summary fiduciary funds balance sheet	2016	2016	2016
	AGICOA Alliance	AGICOA Geneva	Partner Organizations
<b>Current Fiduciary Assets</b>			
Cash and term-deposits	184,965,591	105,829,684	79,135,907
Other assets	1,759,470	-297,073	2,056,543
	<b>186,725,061</b>	<b>105,532,611</b>	<b>81,192,450</b>
<b>Non-Current Fiduciary Assets</b>			
Investment property	5,183,250	5,183,250	-
	<b>5,183,250</b>	<b>5,183,250</b>	-
<b>Total Fiduciary Assets</b>	<b>191,908,311</b>	<b>110,715,861</b>	<b>81,192,450</b>
<b>Fiduciary Liabilities, Reserves and Provisions</b>			
<b>Short-Term Fiduciary Liabilities</b>			
Payable to rightsholders	6,242,532	3,787,306	2,455,226
AGICOA current account payable/(receivable)	723,635	(1,277,478)	2,001,113
Payables of national partner organizations	71,402	31,343	40,059
Fiduciary funds put into distribution pending allocation to rightsholders	78,782,364	46,729,879	32,052,485
Fiduciary funds to be put into distribution	81,151,534	42,374,321	38,777,213
	<b>166,971,467</b>	<b>91,645,371</b>	<b>75,326,096</b>
<b>Fiduciary Reserves and Provisions</b>	<b>24,936,844</b>	<b>19,070,490</b>	<b>5,866,354</b>
<b>Total Fiduciary Liabilities, Reserves and Provisions</b>	<b>191,908,311</b>	<b>110,715,861</b>	<b>81,192,450</b>

## Summary fiduciary funds statement of income

	2016	2016	2016
	AGICOA Alliance	AGICOA Geneva	Partner Organizations
<b>Revenues</b>			
Royalties earned	100,538,033	54,240,109	46,297,924
Financial and other revenues	320,351	15,143	305,208
<b>Total Revenues</b>	<b>100,858,384</b>	<b>54,255,252</b>	<b>46,603,132</b>
<b>Distributions and other Charges</b>			
Fiduciary funds put into distribution	(96,354,615)	(52,603,265)	(43,751,350)
AGICOA fees	(8,121,954)	(3,980,896)	(4,141,058)
Bank charges	(11,848)	(8,957)	(2,891)
Foreign currency translation adjustment	(597,273)	(597,273)	0
<b>Total Distributions and other Charges</b>	<b>(105,085,690)</b>	<b>(57,190,391)</b>	<b>(47,895,299)</b>
<b>Net Surplus prior to Allocations</b>	<b>(4,227,306)</b>	<b>(2,935,139)</b>	<b>(1,292,167)</b>
<b>Total Allocations</b>	<b>4,227,306</b>	<b>2,935,139</b>	<b>1,292,167</b>
<b>Net Surplus after Allocations</b>	<b>0</b>	<b>0</b>	<b>0</b>



### Report of the independent auditor on the summary financial statements

To the General Meeting of the Members of  
**Association de Gestion Internationale Collective des  
Œuvres Audiovisuelles (AGICOA), Geneva**

The accompanying summary financial statements, which comprise the summary balance sheet as at December 31, 2016, the summary statement of income for the year then ended, the summary fiduciary funds balance sheet, the summary fiduciary funds statement of income and the summary fiduciary funds split AGICOA & Partner Organizations are derived from the audited financial statements of Association de Gestion Internationale Collective des Œuvres Audio-Visuelles (AGICOA), for the year ended December 31, 2016. We expressed an unmodified audit opinion on those financial statements in our report dated April 25, 2017.

The summary financial statements do not contain all the disclosures required by Swiss law and the association's by-laws. Reading the summary financial statements, therefore, is not a substitute for reading the audited financial statements of AGICOA.

### Executive Board of the Association's Responsibility for the Summary Financial Statements

The Executive Board of the Association is responsible for the preparation of the summary financial statements in accordance with Swiss law and the Association's by-laws.

### Auditor's Responsibility

Our responsibility is to express an opinion on the summary financial statements based on our procedures, which were conducted in accordance with Swiss Auditing Standard (SAS) 810, Engagements to Report on Summary Financial Statements.

### Opinion

In our opinion, the summary financial statements derived from the audited financial statements of AGICOA for the year ended December 31, 2016 are consistent, in all material respects, with those financial statements, in accordance with Swiss law and the Association's by-laws.

**Deloitte SA**

Geneva, April 25, 2017

FABIEN BRYOIS  
LICENSED AUDIT EXPERT

AURÉLIE DARRIGADE  
LICENSED AUDIT EXPERT

EDITORIAL AGICOA, GENEVA – GRAPHIC DESIGN SFX MEDIA, LUTRY

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