

## **Comments on draft guidelines on collective bargaining of self-employed**

### **Collective Bargaining Is Urgently Needed in the Arts Sector**

Artists' Association of Finland welcomes the draft guidelines on the application of EU competition law to collective agreements regarding the working conditions of solo self-employed persons.

Artists' Association of Finland represent over 3 000 professional visual artists. In Finland, there is a strong culture of freelancing and working on a solo self-employed basis in the arts and culture sector.

We strongly support the aim of the draft to ensure that competition law does not stand in the way of collective agreements to improve the working conditions of a wide range of solo self-employed persons. It is important to clarify and develop the legislation regarding the right for collective bargaining for all self-employed, whether working in traditional off-line environment or on digital/online platforms. The lack of collective bargaining contributes to poor job quality, low income and limited social protection.

**The self-employed lack of the individual bargaining power to negotiate their terms and conditions, and thus their economic position in the arts and culture sector is considerably weak. Self-employed artists have an imbalanced negotiating position vis-à-vis their contractual counterpart, leading to underpricing and to have little say over their working conditions. This applies both for those working through digital platforms and to those whose work is physically distributed.**

**We consider collective bargaining an appropriate, important and most efficient tool to improve their situation.**

The market mechanism drives the consumer prices down in the arts too, but often to such extremes that it leaves most artists without a decent pay. The current situation in Europe is that the whole population has access to more art — visual art, films, music, literature, performing arts, etc. — than ever before and people are also consuming more art than ever before. Yet it is getting more and more difficult for the artists to get fair income from the content they



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create, and which people consume. One of the main reasons for this, is that artists' have a weak negotiation position when the rates of pay are negotiated, and standards created.

A single artist can rarely actually negotiate with a big museum or other, similar institution, or with an international corporation. The majority of artists can only accept the terms offered.

Here are a few examples of this distress:

- In Finland only 3% of art museums' budget goes to artists (as wages, payments and purchases of artworks).<sup>1</sup>
- In Finland artists get paid for their museum exhibitions about 6 cents per museum visitor.<sup>2</sup>
- In Finland writer gets average of 3,1 € per printed book. From audio books only 0,6 €. This has already driven down the income levels of even the most popular writers. The consumption of literature has increased, because of e-books and audio books, but the actual income of the writers has simultaneously collapsed.<sup>3</sup>
- Digital, global distribution is driving down the unit prices of artworks. The royalty rates Spotify, YouTube and similar platforms pay to the artists are shamelessly low. For a million streams the artist might get a few hundred Euros, starting from 0,0006 € / stream.<sup>4</sup> An example: in 1977 customers paid 4,83 % of their weekly salary for an album of music (peak LP), in 2003 customers paid 1,22 % of their weekly salary for a digital, downloaded album (peak download), now customers have to pay

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<sup>1</sup> According to the Finnish art museums' own statistics, their budget is divided: Buying art, 1,4 %. Staff salaries, 44 %. Buildings, 34 %. Marketing & exhibitions, 21 %. Payments to artists is a tenth of the last mentioned (i.e. a tenth of the marketing and exhibition budget. See also a survey commissioned by the Finnish Government in 2016. [http://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/64928/Taidenäyttelyiden%20järjestämiseen%20liittyvistä%20opimus-%20ja%20korvauskäytännöistä\\_Työryhmän%20loppuraportti.pdf](http://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/64928/Taidenäyttelyiden%20järjestämiseen%20liittyvistä%20opimus-%20ja%20korvauskäytännöistä_Työryhmän%20loppuraportti.pdf)

<sup>2</sup> This is a calculation made by the Finnish Artists' Association. The calculation is based on the public statistics. In 2019 there were 2,730,033 visits to art museum sites in Finland (<https://frame-finland.fi/wp-content/uploads/2021/03/Taidemuseoiden-käyntimäärät-Suomessa-2019-tietokortti-1.pdf>). In the same year, Kuvasto which is the copyright society for artists in Finland, collected exhibition fees of 199,367 € from museums. ([https://kuvasto.fi/hallinta/wp-content/uploads/2020/08/Kuvasto\\_avoimuusraportti\\_2019\\_low3.pdf](https://kuvasto.fi/hallinta/wp-content/uploads/2020/08/Kuvasto_avoimuusraportti_2019_low3.pdf)). When the exhibition fee collected by the Kuvasto is divided by the number of museum visits, the fee per visitor is 7.3 cents. Taking into account the costs of the Kuvasto (22%), less than 6 cents per visitor will eventually be distributed among the artists in the exhibition.

<sup>3</sup> A survey made by the Finnish Writers' Union in 2020. <https://kirjailijaliitto.fi/ajankohtaista/aanikirjojen-kasvava-myynti-ei-nay-kirjailijan-kukkarossa-kirjailijaliitto-selvitti-kirjailijoille-vuonna-2019-maksettuja-tekijanpalkkioita/>

<sup>4</sup> <https://informationisbeautiful.net/visualizations/spotify-apple-music-tidal-music-streaming-services-royalty-rates-compared/>

only 1 % of their weekly salary for unlimited access to streamed music and films.<sup>5</sup>

The economic trend of sliding towards ever smaller payments to artists is blatantly visible in music and literature, but it is also affecting the visual arts. Especially in the digital domain visual artworks are now increasingly shared either without the artists' permission or the artists receiving less and less compensation.<sup>6</sup> The lack of collective bargaining is pushing the problem even further causing lower negotiating power and subsequently, lower-fee and poor trading agreements.

If artists could use collective bargaining efficiently, they would much more be able to improve their working conditions and have a real power in the negotiations where the "fair and appropriate payments" are defined and agreed upon.

We welcome that the draft guidelines recognize the principle set in the Copyright Directive that authors and performers shall be entitled to receive appropriate and proportionate remuneration when they license or transfer their exclusive rights for the exploitation of their works and any other subject matter protected by copyright and related rights. We support the clarification that the Commission will not intervene against collective agreements concluded by solo self-employed authors or performers with their counterparties in pursuance to the Directive.

**We also want to stress that the draft guidelines should be developed bearing in mind that the visual arts sector lacks employment structures** since there is only very limited number of permanent or fixed-term jobs on the market. Artists are often forced to work in a precarious circumstances and work on a contractual, freelance and intermittent basis, which result in lower income that also has the tendency to fluctuate and remain uncertain.

The professional visual artist's average income in Finland is only 60 % of the Finnish median income — and most of that income comes from non-artistic work, i.e. from having some other job on the side to support the artistic, main profession.

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<sup>5</sup> <https://theconversation.com/music-streaming-has-a-far-worse-carbon-footprint-than-the-heyday-of-records-and-cds-new-findings-114944>

<sup>6</sup> See also chapter 2 "Fair Pay, Collective Bargaining..." in the Voices of Culture report on "Status and Working Conditions for Artists..", June 2021, structured dialogue between the European Commission and the cultural sector, <https://voicesofculture.eu/wp-content/uploads/2021/07/VoC-Brainstorming-Report-Working-Conditions-2.pdf>

The number of cultural professionals and artists is growing, while their working conditions become more and more unstable.<sup>7</sup> The visual arts sector lacks clear framework for appropriate payment standards for the artists' work.

In the guidelines on collective bargaining of self-employed should ensure the option for the recognized and representative organizations for cultural professionals to bargain collectively on behalf of all their self-employed members.

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<sup>7</sup> See also the study "Creating Growth: Measuring Cultural and Creative Markets in the EU", by Studio EY France, commissioned by GESAC in 2014, <https://kreativneindustrije.me/wp-content/uploads/2019/07/07-Measuring-cultural-and-creative-markets-in-the-EU.pdf>