

Made for



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A brief look on

“ The Danish Model “

DUE TO NEW RIGHTS AGREEMENTS 2022

What did negotiators in Denmark do, to break through the streaming wall. And what basis did they have to build their rights claim on ? Please find statements from the news, headlines from a stormy season on rights agreement in DK. And some deeper explanations on what happened in 2021 and 2022 and all the way back in 1977, written by :

Jakob Pelch, Head of Secretariat at Danske Scenografer DK.

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Lone Amtrup, Legal, chief negotiator on Rights DK.

Copy Dan

Since 1977

Flow tv Agreements

Create Danmark

Since 2016

Streaming Agreements

Nov. 22

Lone Amtrup, Legal, chief negotiator on Rights DK.

“We have now succeeded in closing an agreement with Viaplay +TV2 and we are also very far in the negotiations with Netflix.....

So after long runs, we are close to being happy and now Amazon, Disney+ and the other new players on the market are also waiting.....”

Layout, Peter de Neergaard PD. DK

11. APR. 2022 | 18:02

Expensive requirements can lead to a flight of Danish talent.

https://politiken.dk/kultur/film_og_tv/art8807240/Netflix-tr%C3%A6kker-sig-fra-dansk-tv-produktion

Netflix withdraws from Danish TV production

Netflix refuses to accept the new Danish rights agreement and has now informed its partners in Denmark that no new series or films will be started for the time being.

Netflix now joins TV 2 and stops the development of new series and films in Denmark.

Jørgen Ramskov, director of the Producers Association

"The worst case is that the fronts stiffen. Then we risk producers going bankrupt, and there are a lot of artists who don't make any money at all," he says.

Streaming services on the strip pull the plug on Danish content:

'We'll have to do something'

Viaplay is the latest platform to stop production of Danish fiction due to a new rights agreement.

“Rights payment ensures Danish content”

“For example, SAG-AFTRA (the American Federation of Screen Actors and Actresses) has a collective agreement that involves ongoing payment. Ongoing payment is therefore nothing new for the streaming services.”

“It is a showdown with an industry that works in a different way out in the world”

Benjamin Boe Rasmussen, chairman of the Danish Actors' Association

"Shut up, I'm mad!" writes the chairman. "This shows why it is so important for our culture and identity to set limits for the tech giants. Otherwise, it will be a race towards Dante's inferno and the bottom."

“The good thing for the creative industry is that the streaming services need more new content for their fickle and impatient subscribers. This will inevitably create even more demand for new productions.

But it is naive to imagine that it would not have an impact on Danish films and TV series, if rights settlement in Denmark becomes more costly than in other countries.”

Pop. Did the film bubble just burst?

Layout, Peter de Neergaard PD. DK

Lone Amtrup, Legal, chief negotiator on Rights

Create Denmark founded in 2016 by 10 rights organisations:

DS, Danish Film Directors, Danish Dramatists, Danish Actors' Association, Danish Film Photographer's Association, Danish Journalists' Association, Danish Film Clipper's Association (they were not involved from the start, but are now involved due to intensive rights work), Danish Association of Musicians, Danish Artists' Association and Danish Stage Directors.

The purpose was to enter into agreements with the streaming services.

The producers are not involved in the same way as they otherwise are under Copydan's auspices. The artist organizations tried to get them involved for several years, but in 2016 they decided to go solo.

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So after long runs, we are close to being happy and now Amazon, Disney+ and the other new players on the market are also waiting.....

Jakob Pelch, Head of Secretariat at Danske Scenografer

Create Denmark. A bit of background story:

Since Create Denmark was founded, the main goal was to create a "collective agreement" (a framework agreement) for all artists and streaming services at once. A system where everybody would work with the same rules and payments. But as long as that wasn't in place, Create Denmark's role was to negotiate payment for the artists rights, from project to project. Every project that was launched (for a streaming service), has an agreement for that single project.

The Filmeditors, Cinematographers and PD's was tied into a "collective agreement" made by the film workers union (FAF) i 2019. That collective agreement dictated a buy-out on 17% of the filmeditors/cinematographers/PDs basic salary.

This collective agreement (with the buy-out) was a huge problem for every artist, because as long as there is a buy-out for these three groups, they couldn't be a part of Create Denmark's negotiations, because the streaming services could claim that we (Filmeditors, Cinematographers and PD's) had no rights up for negotiations. Because these rights were sold to the producers in our collective agreement.

And worst of all, all the artists were not united. That's why these three groups in the beginning of 2020, started to claim their own "collective agreement". We did that through our lawyer: She got every streaming-contract, that was offered these three groups. She contacted the producers to negotiate the rights - of course we were forced to use the collective agreement. But we were still allowed to negotiate better deals if we could.

Basicly we tried to stress the producers. In the end of 2021 the old collective agreement ran out (the one done by the FAF- The Filmworkers union) and we: "Society of danish filmeditors", "Danish cinematographers", "Danish Scenographers" and "The Danish Union of Journalists" got our own collective agreement. And so we were able to ask Create Denmark to negotiate our rights.

13 july. 2022

Film and TV-series development halted in Denmark! 1.

Jakob Pelch, Head of Secretariat at Danske Scenografer

Situation report summer 2022

In Denmark, there has been a lot of talk about streaming services and artists' rights. At this point we regard it as one of the most important rights struggles in recent times.

For the past 5 years, Danish rights-holders have tried to negotiate a rights agreement for Subscription Video On Demand (SVOD). The negotiations take place under the auspices of the organization Create Denmark - an umbrella organization, consisting of actors, directors, screenwriters, film editors, cinematographers and production designers.

It has been very difficult negotiations.

In December 2021, we succeeded in landing an framework agreement for payment of rights with the Producers' Association - an industry association for Danish film and TV producers with which we normally make collective agreements. But the streaming services have not been happy with the agreement.

One of their main issues is that the agreement requires that the streaming service pay the rights based on its subscription figures, considering that payment must be made in relation to how much a production is screened/aired/viewed. The services have NOT wanted to collaborate on the numbers for the number of views (streams) on specific productions. Subscription numbers are therefore the second best we could use.

As a reaction to our agreement all streaming services have now announced a stop, for all new development of TV-series and films in denmark! A pretty radical move, with only one goal: to force all rights holders to drop their claims, because we cannot pay our rent, buy food etc, because there is no work.

The Producers Association is a part of the existing rights system (COPYDAN). But when the international streaming services entered Denmark, these streaming services would not acknowledge COPYDAN. Therefore Create Denmark was founded, simply because it wasn't possible to bring the producers and the artists together.

The streaming services created a huge gab between their needs at that time. The artists wanted to protect their IP and the producers (at least some of them) wanted to enter the streaming market and was therefore "forced" to agree on buy-outs, which is the opposite of what Create Denmark wishes.

That is why COPYDAN wasn't able to handle the artists rights payment.

Because the producers IS A PART OF COPYDAN.

If the streaming services had to negotiate with COPYDAN, they would negotiate with producers as well. And that would lead to a situation where the producers would not be able to agree on an "buy-out", because they had to be loyal to the other members of COPYDAN (the artists).

There is a difference in why the different services are dissatisfied. For the local TV2 it is mostly a question of price, but for the international ones, like Netflix, it is more of a principle nature. They simply do not want an ongoing payment. They want buy out. The international services challenge us in all the areas that mean that we as rights holders can retain the rights to our works.

Layout, Peter de Neergaard PD. DK

Film and TV-series development halted in Denmark! 2.

Jakob Pelch, Head of Secretariat at Danske Scenografer

Situation report summer 2022

The very basic principle that when someone makes money from our content, we must also have a share, is fundamental to the Danish rights model.

The principle has also become part of EU legislation, where the EU's DSM directive clearly states that: "payment for the use of rights must be in reasonable proportion to the actual use" - also mentioned as "fair compensation". That is: the foreign services will have to comply with it, regardless of whether they say no to the Danish agreement now.

As a giant player in Europe, Netflix should also be aware of this.

Therefore, we also see Netflix's announcement as an attempt to put up a hard fight and an attempt to remove the Danish rights model. So not only the new SVOD agreement, but also the COPYDAN system. We see it as an attempt to put pressure on both artists and producers. Pressure on the entire Danish production environment.

Status for now is that Netflix, Viaplay and our local TV2 has launched a development halt due to the framework agreement between Create Denmark and the Producers' Association.

Up until 1. september 2021, the screenwriters, directors and actors have negotiated their rights from project to project. But they stopped these single negotiations at 1. september 2021. The result is, that all projects that were put into DEVELOPMENT before 1. september 2021, is seen as "a transition", and can therefore be put into production WITHOUT FURTHER NEGOTIATION! Our local TV2 had 40 projects "in development" before 1. september 2021. That is why they now have "time on their side", because they "can afford to halt all development" for now to increase the pressure on the industry.

The development stop has naturally attracted a great deal of attention in Denmark and not least in the industry. All non-rights holders in Denmark also rightly feel taken hostage, as the streaming services have stopped all activity in the industry. This puts a huge strain on the rights holders internally in the industry.

The artists have now agreed to suspend the agreement negotiated between Create Denmark and the producers association, as an attempt to approach the streaming services again. In doing so the artists acknowledge that different services bring different needs and demands to the table. The goal being to negotiate with the services individually and reach sensible rights agreements that can get the industry going again, but still avoid a buy-out.

Jakob Pelk, Head of Secretariat at Danske Scenografer

Brief history of Copydan Audiovisual

Copy Dan since 1977

Flow-tv

- Founded in 1977
 - Initially licensing of recorded tv on shipping vessels
 - Licensing of education in 1981 (7,9 million)
 - Licensing of cable retransmission in 1986 (169 million)
 - Collecting remuneration for private copying 1992 (3,5 million)
 - Licensing broadcasters digital use of own archive 2007 (7,33 million)
- Revenue in 2018 : approx. 188 million €

2022

The DK income in € is:
 16 million € From VTV
 12,2million € from culture plus
 9,2million € from Archives
 10,5million € from AVU media

TOTAL 48 MILLION €

Introduction to Copydan AV (audiovisual), to The Danish Model concerning copyright, payment to the artists, producers and broadcasters

- Collective management organisation, a collective society
- Represent and negotiate rights in audio-visual works
- 4 different AV (audiovisual) -societies
 - World TV (licensing reuse of broadcast and digital services)
 - AVU-media (licensing use in education, research and public institutions)
 - Archive (licensing broadcaster's reuse of own archive)
 - CulturePlus (collecting compensation for private copying)
- 30 full-time employees

Organisation of Copydan AV

- Generally controlled equally by producers and artists
 - 50 % of votes each at general assembly
 - General assembly decisions require majority
 - 50 % of seats in the board
- Unusual in European context to have both producers and artists
- Close cooperation with Union of Broadcasting Organisations
- Remuneration generally split with:
 - 1/3 to artist - 1/3 to producers -1/3 to broadcasters

