140 YEARS LATER, LOOKING AHEAD

WHOSE RIGHT IS COPYRIGHT?

OWNERSHIP AND TRANSFER OF COPYRIGHT AND RELATED RIGHTS

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Opatija, Croatia

QUESTIONNAIRE

The Netherlands, by Board Vereniging voor Auteursrecht (Dutch ALAI group)

Please send your responses to igor.gliha@pravo.hr and tomori.pal@eji.hu by June 30, if possible, but in any case, by August 31 at the latest.

Introduction:

This questionnaire is based on the Congress program and follows its structure:

- *Day 1 – Discussion of principles of copyright ownership*
- *Day 2 – The practical implementation of these principles*

The first day – and therefore the first part of the questionnaire – is divided into three sections corresponding to Sessions 2, 3 & 4 of the Congress program:

- *1 – Original ownership (To whom are copyright and neighbouring rights attributed?)*
- *2 – Transfer of Ownership (How are rights granted or transmitted?)*
- *3 –What corrective measures, subsequent to transfers of rights, do laws accord authors or performers in view of their status as weaker parties?*

The second day focuses on the practical implementation of these rights, particularly in relation to the question of streaming (Session 5).

Each reply to these questions should indicate if the answer is the same or different (if so, how) with respect to neighbouring rights compared with authors' rights.

I. INITIAL OWNERSHIP [SESSION 2]

A. To whom does your country's law vest initial ownership? (Please indicate all that apply.)

1 — The author (human creator) of the work

a. Does your country's law define who is an author?

Not in the Copyright Act itself, but courts (and legal scholarship) regard only the natural person(s) whose creative choices are expressed in the work.

The Neighbouring Rights Act (WNR 1993) defines performing artist as "the actor, singer, musician, dancer and any other person who performs, sings, recites or in any other way performs a work of literature, science or art or an expression of folklore, as well as the artist, who performs a variety or circus number or a puppet show."

b. For joint works (works on which more than one creator has collaborated), does your law define joint authorship? What is the scope of each co-author's ownership? (may joint authors exploit separately, or only under common accord)?

In case of co-authors, each other is entitled to enforce the copyright by her/himself, but the authors can only jointly exploit the work (Art. 26 Dutch Copyright Act). The law itself does not specify when someone qualifies as co-author.

For performing artists, in case 6 or more artists take part in a performance, they must appoint (by majority vote) one of them to exercise the exclusive rights (Art.13 WNR) . This does not apply to a solist, director or conductor. Every perfomer can independently enforce the rights.

2 — Employers

a. Under what conditions, e.g., formal employment agreement, in writing and signed? Creation of the work within the scope of employment?

Article 7 Dutch Copyright Act designates the employer as 'maker' (author) and therefore first owner of copyright in works created by employees in the course of their duties, unless agreed otherwise. Article 8 contains a presumption of authorship for legal persons by stipulating that "If a public institution, an association, foundation or company discloses a work as originating from it without naming any natural person as its author, it shall be deemed to be the author of that work, unless it is proved that the disclosure was unlawful under the circumstances.". There has long been debate in literature about the exact nature of this provision, especially as regards the position of the actual creator (natural person-employee) and what it means for moral rights.

For someone to qualify as employee there has to be a labour relationship (as per labour law, this does not require a written agreement per se but usually this will be the case). The employee has to be tasked with creating particular (types of) works, but this can be on an incidental basis eg a temporary change of tasks. Works created outside the scope of employment do not fall under Art 7 DCA.

Article 3 Neighbouring Rights Act has a regime different from that for copyright works. This does not regard the employer as initial owner, but contains a presumption that the employer can exercise the economic rights. It provides with respect to performances that "the employer is entitled to exploit the rights of the performer [...], insofar as this has been agreed between the parties or arises from the nature of the employment contract concluded between them, custom or the requirements of reasonableness and fairness. Unless otherwise agreed or unless the nature of the contract, custom or the requirements of reasonableness and fairness dictate otherwise, the employer shall owe the performer or his assignee equitable remuneration for any exploitation of his rights. The employer shall respect the performer's rights referred to in Article 5 [ie moral rights].

3 — Commissioning parties

a. All commissioned works, or limited to certain categories?

b. Under what conditions, e.g., commissioning agreement, in writing and signed by both parties?

N.A.

4 — The person or entity who takes the initiative of the work's creation (e.g. Producers; publishers) of certain kinds of works, e.g., audiovisual works; collective works

For works created after the design and under the supervision and guidance of a person, the copyright rests with that person, not with co-creators (Art 6 Dutch Copyright Act). For works that are collections, eg of previously existing works or new works (an anthology of poems), the author of the collection has his/her own copyright, notwithstanding the copyright of the individual contributors (Art 5 Dutch Copyright Act). An unauthorized communication of a work contained in the collection also constitutes and infringement of the collection as a whole, unless it is the author/right owner of the individual work doing the act. Special rules exist for filmworks (Art 45A ff Dutch Copyright Act).

The Neighbouring Rights Act has no equivalent provision with respect to performances.

a. scope of ownership of, e.g. all rights, or rights only as to certain exploitations; what rights do contributors to such works retain?

See point 4.

5 — Other instances of initial ownership vested in a person or entity other than the actual human creator? (Other than 6, below.)

Art 45o Dutch copyright act grants the publisher of a previously unpublised work that is no longer protected under copyright (eg old manuscript) a copyright for 25 years. This provision implements EU Term Directive of 1993 (No. 93/98/EEG).

6 — If your country's law recognizes copyright in AI-generated works, who is vested with original ownership? (e.g., the person providing the prompts to request an output? The creator of the LLM model and/or training data? someone else?)

To the extent that AI generated outputs qualify as works to begin with, the normal rules apply. Typically this will mean that the person providing the prompts and editing the outputs to the desired result will be regards as author.

[b. For presumptions of transfers, see II (transfers of ownership, below)]

B. Private international law consequences

1 — To what country's law do your country's courts (or legislature) look to determine initial ownership: Country of origin? Country with the greatest connections to the work and the author(s)? Country(ies) for which protection is claimed?

The Copyright Act itself is not clear on this, but generally courts apply lex loci protectionis ie decide initial ownership for each country for which protection is claimed seperately, as this is in keeping with territoriality of copyright as expressed in Art 5(1) Berne Convention. For lex loci protections see eg Court of Appeal The Hague, https://uitspraken.rechtspraak.nl/details?id=ECLI:NL:GHDHA:2015:2592 (SDC/FEMTO), for an example of where the Arnhem-Leeuwarden Court of Appeal applied lex originis, see ECLI:NL:GHARL:2021:5053 (Atlantic/Marell Boats).

II. TRANSFERS OF OWNERSHIP [SESSION 3]

A. Inalienability

1 — Moral rights

a. Can these be granted to the grantee of economic rights? To a society for the collective management of authors' rights?

Copyright:
Article 25 (1) Dutch Copyright Act stipulates that even after assigning his copyright, the author of a work has the moral rights provided for. Therefore, moral rights are assumed to be inalienable.

National law is not clear about where the moral rights are situated in case of so called "fictional authorship" as provided for in article 7 and 8 Dutch Copyright Act. The Dutch Supreme Court has not ruled on this question. The most "recent" available case law of two Courts of Appeal regarding article 7 of the Dutch Copyright Act (that currently grants both authorship and ownership to the employer) states that in case of applicability of article 7, the moral rights belong to the employer. (Amsterdam Court of Appeal 28 February 1991, BIE 1992, no. 4 (Chanel/Maxis) p.129; 's-Hertogenbosch Court of Appeal 24 May 1978, BIE 1985/25 (Van Gunsteren/Lips) para. 62-63. Implicit: Dutch Supreme Court 20 October 1995, ECLI:NL:HR:1995:ZC1845, NJ 1996, 682, para. 3.6.2.) On the other hand the most recent Court of Appeal case law regarding article 8 (that currently grants authorship and ownership to the public institution, association, foundation or company that lawfully discloses a work to the public as its own without indicating any natural person as the author) determines that in those cases the moral rights remain with the actual creator (Amsterdam Court of Appeal 31 July 2003, ECLI:NL:GHAMS:2003:AP0573 (Tariverdi/Stadsomroep) para. 4.15).

Granting moral rights to a society for the collective management of author's rights is not possible.

Neighboring rights:
Article 5 (1) of the Dutch Neighboring Rights Act stipulates that a performer shall be entitled to certain moral rights, even after he has assigned the right referred to in article 2. The Neighboring Rights Act contains no provision similar to articles 7 and 8 Dutch Copyright Act.

b. May the author contractually waive moral rights?

Copyright:
Article 25 (3) Dutch Copyright Act states that the right referred to in the first subsection sub a (the right to oppose disclosure to the public of the work without reference to his name or other indication as author, unless such opposition would be unreasonable) may be waived. Furthermore it states that the rights referred to sub b (the right to oppose disclosure to the public of the work under a name other than his own, as well as any alteration to the title of the work or the indication of the author, insofar as these appear on or in the work or have been disclosed to the public in connection with the work) and c (the right to oppose any other alteration to the work, unless the nature of the alteration is such that opposition would be unreasonable) may be waived insofar as alterations to the work or its title are concerned. It is inferred that other moral rights cannot be waived. However, in practice this does occur. For example in case of ghost writing, that demands a waiver of the right to

oppose disclosure to the public of the work under a name other than his own. Moral rights are presumed to be inalienable.

Neighboring rights:

Article 5 (3) Neighboring Rights Act provides that the rights referred to in paragraph 1, sub a-c may be waived in writing. It concerns the following rights:
a. to oppose the communication to the public of a performance without acknowledgement of his name or other designation as a performer, unless such opposition would be unreasonable;
b. to oppose the communication to the public of a performance under a name other than his own, and any alteration in the way in which he is designated, in so far as such name or designation is mentioned or communicated to the public in connection with the performance;
c. to oppose any other alteration to the performance, unless the nature of the alteration is such that opposition would be unreasonable.

2 — Economic rights

a. May economic rights be assigned (as opposed to licensed)?

Copyright
Yes, article 2 (1) Dutch Copyright Act states that copyright is assignable in whole or in part.

Neighboring rights
Yes, article 9 (1) Dutch Neighboring Rights Act provides that the rights conferred in this Act are assignable in whole or in part.

May an author contractually waive economic rights?

Copyright
It depends on what is meant by "waive" in this regard. Both licensing and transfer of rights are essentially a waiver of the economic rights. Licensing, in whole or in part, is permitted by article 2 Dutch Copyright Act.

Neighboring rights

Idem. According to article 9 (2) Dutch Neighbouring Rights Act licensing, in whole or in part is permitted for the rights mentioned in art. 2, 6, 7a, 7b and 8 of that Act.

b. Limitations on transfers of particular economic rights, e.g., new forms of exploitation unknown at the time of the conclusion of the contract.

Copyright
Article 2 (3) Dutch Copyright Act currently provides that whole or partial assignment, as well as the grant of an exclusive licence, may only be effected by means of a deed

*executed for that purpose. The assignment or the grant of an exclusive licence comprises only the rights that are stated in the deed or that necessarily derive from the nature and purpose of the title or the grant of the licence.**

As a consequence (the right to perform) future forms of exploitation that were not foreseeable unknown at the time of the conclusion of the contract are only permitted/transferred if that is explicitly stipulated in the contract/deed.

** In the near future (at the time of writing it is unclear when) this article will be adapted. The new provision will read: "The contract under which copyright is assigned in whole or in part or under which an exclusive license is granted, shall be in writing. The transfer or grant of an exclusive license by the creator or by a natural person who has acquired the copyright as an heir or legatee of the creator, shall include only those rights that are expressly stated in the agreement or that necessarily result from its nature and scope.[...]"*

Neighboring rights
*Article 9 (3) Dutch Neighboring Rights Act currently stipulates that the transfer or grant of an exclusive licence by the performer or the natural person who has acquired the exclusive right referred to in Article 2 as an heir or legatee only includes those powers of which this is stated in the deed or necessarily follows from the nature or scope of the title.**

** In the near future (at the time of writing it is unclear when) this article will be adapted. The new provision will read: "Paragraph 2 shall apply mutatis mutandis to the natural person who has acquired the exclusive rights referred to in Article 2 as an heir or legatee." Paragraph 2 will be amended to: "The agreement under which the performer transfers all or part of the rights referred to in Article 2 or under which he grants an exclusive licence shall be in writing. The transfer or grant of an exclusive licence shall include only those powers which are expressly set out in the written agreement or which necessarily result from its nature and scope. [...]"*

B. Transfers by operation of law

1 — Presumptions of transfer:

a. to what categories of works do these presumptions apply?

b. are they rebuttable? What must be shown to prove that the presumption applies (or has been rebutted)?

c. Scope of the transfer: all rights? Rights only as to certain forms of exploitation?

d. Conditions for application of the presumption (e.g. a written audiovisual work production contract; provision for fair remuneration for the rights transferred)?

2 — Other transfers by operation of law?

Section 45d of the Copyright Act currently contains a single statutory presumption of transfer of certain rights from the creator to the producer in film works.

This statutory presumption of transfer of rights is rebuttable. The creator and producer of a film work may agree otherwise in writing.

The legal presumption of transfer is, as stated above, limited to certain rights. Creators are deemed to have transferred to the producer the right to rent out and otherwise disclose the film work, reproduce it, attach subtitles to it and dub its texts. The presumption of assignment does not apply in respect of the person who created the music for the purposes of the film work and the person who created the lyrics accompanying the music.

The producer shall owe an equitable remuneration to the creators regardless of the manner of transfer of rights and exploitation of the film work. The right to equitable remuneration cannot be waived.

C. Transfers by contractual agreement

1 — Prerequisites imposed by copyright law to the validity of the transfer, e.g., writing, signed, witnessed, recordation of transfer of title?

Authors' rights
Article 2(3) of the Dutch Copyright Act (Auteurswet) stipulates that a transfer of rights as well as the grant of an exclusive license is valid only if concluded in writing ("by deed"). No witness, notarization, or public recordation is required. The deed must be signed, at least by the one who transfers (or grants an exclusively license).

Neighbouring rights
Same. Article 9(2) of the Dutch Neighbouring Rights Act (Wet op de naburige rechten) imposes an identical requirement: a written deed, with no extra formalities.

2 — Do these formal requirements include an obligation to specify what rights are transferred and the scope of the transfer?

Authors' rights
Yes. According to Article 2(3) DCA, the deed "comprises only those powers expressly mentioned or necessarily implied by the deed's nature or purpose". Dutch courts apply a rule of restrictive interpretation: if the deed is vague, the transfer will be limited to what is clearly stated. Ambiguity is construed contra proferentem, i.e., against the drafter of the clause.

Neighbouring rights
Same. Article 9(3) DNR imposes the same requirements. The restrictive-interpretation rule

is applied equally to neighbouring-rights deeds; rights pertaining to unspecified uses remain with the original rightsholder.

3 — Does your country's law permit the transfer of all economic rights by means of a general contractual clause?

Authors' rights
This is legally possible, but courts apply the restrictive approach: a sweeping clause ("all present and future rights worldwide") is upheld only if the language is unambiguous and specific; otherwise any doubt works in the authors' favour.

Neighbouring rights
Same: A blanket clause can cover all neighbouring rights, yet the grantee must show that the parties really intended such scope; ambiguity is resolved against the transferee.

4 — Does your country's law permit the assignment of all rights in future works?

Authors' rights
Yes. Dutch property law (Civil Code art. 3:97) allows transfer by anticipation, provided the future works and exploitation forms are sufficiently determinable (Civil Code art. 3:87(2)). Copyright contracts often provide that "all rights in works to be created within the employment/commission period" pass automatically once the work exists.

Neighbouring rights
Same. The same legal mechanism applies to neighbouring rights. Future performances, phonograms, or broadcasts may be assigned in advance, provided that the contract clearly identifies the future subject matter. Courts will require specificity and clear intent.

D. Private international law

1 — Which law does your country apply to determine the alienability of moral or economic rights and other conditions (e.g. the country of the work's origin? The country with the greatest connections to the work and the author(s)? The country(ies) for which protection is claimed?)

Authors' rights
Contractual aspects, such as the validity of the transfer and the parties' obligations, are governed by the Rome I Regulation. Parties may choose the applicable law. In the absence of a choice, the law of the country most closely connected to the contract applies, often the habitual residence of the author.

For non-contractual or proprietary issues (e.g., whether rights can be transferred, whether moral rights can be waived), Dutch courts apply the lex protectionis principle under the

Rome II Regulation, meaning the law of the country where protection is claimed governs the issue.

Moral rights are considered inalienable under Dutch law (Article 25 DCA). Even if a foreign law permits waiver or transfer of moral rights, Dutch courts will not recognise such waiver for uses in the Netherlands.

Neighbouring rights
Same. Neighbouring rights are subject to the same conflict-of-law rules (Rome I and Rome II). When Dutch law applies, performers' moral-type interests, such as the right to attribution or to object to distortion, are non-transferable (Article 5 DNR), in line with copyright doctrine.

III. CORRECTIVE MEASURES, SUBSEQUENT TO TRANSFERS OF RIGHTS, ACCORDED TO AUTHORS OR PERFORMERS IN VIEW OF THEIR STATUS AS WEAKER PARTIES [SESSION 4]

1 — Does your law guarantee remuneration to authors and performers?

a. By requiring payment of proportional remuneration in certain cases (which)?

Yes. The Dutch Copyright Act contains specific provisions on fair remuneration, particularly in the context of exploitation agreements (i.e. agreements by which an author grants exploitation rights to a third party).

Article 25c of the Dutch Copyright Act establishes a general right: "The author is entitled to fair remuneration for granting the right of exploitation." This article can serve as the basis for stand-alone remuneration claims. Under certain conditions, the Minister of Education, Culture and Science may also set standard remuneration rates for a specific sector and period.

In addition, the author is entitled to additional fair remuneration:

- *if the agreement covers a mode of exploitation that was unknown at the time it was concluded (Article 25c);*
- *if the agreed remuneration is disproportionately low compared to the revenues generated from the exploitation of the work (Article 25d).*

Article 45d of the Dutch Copyright further provides that producers must pay unwaivable fair remuneration to the authors of a cinematographic work.

The Dutch Neighbouring Rights Act also guarantees fair to performers in several situations, including:

- *the lending of recordings of performances, phonograms, films, or broadcasts;*
- *the transfer of the rental right in phonograms to a producer (Article 2a);*
- *the use of performers' rights by an employer (Article 3);*
- *broadcasting or public communication of commercially released phonograms, with equitable remuneration shared (Article 7);*
- *remuneration beyond the 50th year following first publication if only a lump-sum payment was initially agreed (Article 9b);*
- *the new right for press publishers to receive remuneration for online use of their publications (Article 7b).*

b. By a general requirement of appropriate and proportionate remuneration?

Yes, see above. Article 25c of the Dutch Copyright Act expressly provides that "the author is entitled to fair remuneration, to be determined in the agreement, for granting the right of exploitation."

This article implements the appropriate and proportionate remuneration requirements of Article 18 of the DSM Directive.

There has been little case law on this article to date.

c. By adoption of mechanisms of contract reformation (e.g., in cases of disproportionately low remuneration relative to the remuneration of the grantees?

Yes, see above. Dutch law allows the author to claim additional fair remuneration if the original remuneration is disproportionately low in light of the revenues derived from the exploitation (Article 25d).

d. By providing for unwaivable rights to remuneration in the form of residual rights?

Yes, see above. Several rights to remuneration, such as the right to fair remuneration for film authors and various performer rights under the Neighbouring Rights Act, are explicitly unwaivable under Dutch law.

2 — Does your law require that the grantee exploit the work?

a. Does your law impose an obligation of ongoing exploitation? For each mode of exploitation granted?

The grantee has a continued best efforts obligation to exploit the work or performance. This does not necessarily mean for each mode of exploitation granted.

b. What remedies are there if the grantee does not exploit the work?

The author or performer can dissolve the agreement in whole or in part if the other party does not sufficiently exploit the copyright in the work within a reasonable period of time after the conclusion of the agreement or, after initially performing acts of exploitation, no longer exploits the copyright to a sufficient extent (Article 25e Dutch Copyright Act; Article 2b Neighbouring Rights Act in conjunction with article 25e Copyright Act). This does not apply if it is attributable to the author that the copyright is not sufficiently exploited within the period.

If the grantee does not return the copyright/neighbouring right within a reasonable period of time set for it, the court may, at the request of the author/performer, set a reasonable compensation, in addition to the damages that may be owed to the author/performer.

3 — Does your law impose a transparency obligation on grantees?

Yes.

a. — What form does such an obligation take (accounting for exploitations, informing authors if the grantee has sub-licensed the work, etc)

The grantee or his legal successor has to inform the author or performer at least once a year and taking into account the specific characteristics of each sector about the exploitation of the work, in particular as regards the methods of exploitation, the income generated therefrom and the remuneration due. The information must be up-to-date, relevant and complete (Article 25ca Dutch Copyright Act; Article 2b Neighbouring Rights Act in conjunction with article 25ca Copyright Act).

The obligation does not apply if the author's/performer's share in the creation of the entire work/performance is not significant, unless the author/performer demonstrates that he needs the information to be able to invoke Article 25d.

If the administrative burden of providing the information would be demonstrably disproportionate in view of the operating income of the work, the obligation to provide information is limited to the information that can reasonably be expected under the circumstances.

b. — What remedies are available if the grantee does not give effect to transparency requirements?

The author/performer may claim performance before a court or submit the case to the Copyright Dispute Resolution Committee (Article 25g Copyright Act).The author/performer may announce his intention to dissolve the agreement ((Article 25e Dutch Copyright Act; Article 2b Neighbouring Rights Act in conjunction with article 25e Copyright Act).

4 — Does your law give authors or performers the right unilaterally (without judicial intervention) to terminate their grants?

a. Under what circumstances?

i. After the lapse of a particular number of years?

ii. In response to the grantee's failure to fulfil certain obligations, under what conditions?

iii. As an exercise of the moral right of "repentance"? (Examples in practice?)

IV - STREAMING, TRANSFER OR RIGHTS, AND THE MANAGEMENT OF LARGE CATALOGUES [SESSION 5]

1 — Applicable statutory right

a. What specific statutory right applies to licensing the streaming of works and performances?

i. Is it the right of communication to the public modelled after Article 8 of the WCT for authors, and the right of making available modelled after Articles 10 and 14 of the WPPT for performers and phonogram producers?

Yes.

ii. Another right or a combination of rights?

No.

b. For authors, does this right cover both musical and audiovisual works? For performers, does this right cover both performances fixed in phonograms and audiovisual fixations?

Yes, both for authors (works) and for performers (performances).

2 – Transfer of rights

a. Are there any regulations in your country's law that limit the scope of a transfer or license to the forms of use already known at the time of the transfer or license?

Yes, Article 25c(6) of the Dutch Copyright Act stipulates that, if the author has granted exploitation rights with regard to a form of exploitation that was unknown at the time the agreement was concluded and the other party embarks on this type of exploitation, the author is entitled to additional fair remuneration for this exploitation.

b. If there are such regulations, when the statutory right referred to in section 1 was introduced into your law, was it considered a new form of use to which the limitation in subsection 2a. above applies?

No. The right to additional fair remuneration in Article 25c(6) of the Dutch Copyright Act did not exist in its present form at the time the issue of streaming rights arose.

c. Are there any cases in your country's law when the statutory right referred to in section 1 is presumed to have been transferred to the producer of a phonogram or audiovisual fixation?

No. In the case of authors working as employees for the producers, the rules on fictitious authorship in Article 7 of the Dutch Copyright Act may apply – leading to a situation where the producers is regarded as the initial rightsholder.

3 — Remuneration

a. Are authors/performers entitled to remuneration for licensing the streaming of their works/performances?

Yes. Article 25c(1) of the Dutch Copyright Act gives authors a right to fair remuneration for the grant of exploitation rights. This includes streaming rights. It follows from Article 2b of the Dutch Neighbouring Rights Act that performers can also invoke this right to fair remuneration.

b. Do authors and/or performers retain a residual right to remuneration for streaming even after licensing or transferring the statutory right referred to in section 1?

No.

4 — Collective management

a. In your country's law, is collective management prescribed or available for managing the right referred to in section 1? If so, what form of collective management is prescribed (e.g. mandatory or extended)?

Yes - the right to authorize retransmission of a work by cable or other means may only be exercised by a collective management organization (article 26a-c Dutch Copyright Act. For neighbouring rights, article 14a-14b Neighbouring Rights Act applies).

b. If authors and/or performers retain a residual right to remuneration (ss 3 b.), is collective management prescribed for managing this residual right to

remuneration? If so, what form of collective management is prescribed (e.g. mandatory or extended)?

In 2015, mandatory collective management was introduced in article 45d (2) DCA for the claim to a proportionate and fair remuneration for filmmakers and actors (article 4(2) Neighbouring Rights Act) for the linear transmission of film and television productions (article 45d (3) DCA).

Video on Demand is excluded from this claim to a proportionate and fair remuneration. For VOD there has been a system of "voluntary collective management" put in place by RODAP (a collective of distributors, broadcasters and audiovisual producers) on the one hand and a collective of filmmaker cmo's on the other hand.

For musical works, there is no residual right to remuneration after licensing or transferring the statutory right referred to in Section 1.

5 — Transparency and the management of large catalogues

a. Does your law (or, in the absence of statutory regulations, industry-wide collective agreements) guarantee that authors and performers regularly receive information on the exploitation of their works and performances from those to whom they have licensed or transferred their rights? If yes, what is the guaranteed periodicity and content of such information?

Article 25ca DCA provides such a transparency/information requirement. The operator must provide the author with an overview of the exploitation in its entirety, at least once a year, "in particular with regard to the modes of exploitation, the revenues generated by that exploitation and the compensation due. The information should be up to date, relevant and comprehensive."

b. Are you aware of any case law where the complex chains of copyright titles, typical of large streaming catalogues, have made the management of works or performances non-transparent or otherwise challenging, such as, for example, the case of Eight Mile Style, LLC v. Spotify U.S. Inc. (https://casetext.com/case/eight-mile-style-llc-v-spotify-us-inc-1)?

No, we are unaware of such case law in the Netherlands.