

SACD

SOCIÉTÉ DES AUTEURS ET
COMPOSITEURS DRAMATIQUES

OPCA FICTION SUMMARY

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September 12, 2016

OPCA TV FICTION, KEY TAKEAWAYS

- French fiction has a solid audience but is often difficult to finance;
- There's inconsistency between the value of writers and the amount they actually account for in production budgets;
- Proportional pay, aside from collective management, remains a fiction for most writers;
- The 2012 protocol for contractual practices sets a positive framework but isn't applied optimally and includes some irregularities;
- The durations of rights are increasingly long



THE CURRENT STORYLINE OF FRENCH FICTION

FRENCH FICTION HAD AN IMPRESSIVE SHOWING IN 2015...

- French fiction accounts for **24.6% of all programs** on free national channels and is the number one genre in terms of programs and audience;
- **39.8% of primetime fiction programs on TV** are French fictions;
- **59 of the top 100 fiction audiences** in 2015 were French fictions;
- The **52-minute format** is the leading fiction format (36.8% covering 273 hours), followed by 26 minutes (23.9% at 178 hours), 90 minutes (22.2% at 165 hours) and short format (15.4% at 115 hours, including 97 hours of series).

Overall, in 2015, fiction was the most watched category in replay (27.9% of videos viewed, all nationalities combined).

FINANCING IN DECLINE

- The financing of French fiction has **dropped by 10%** between 2013 (€711M) and 2015 (€639M) with a continuous drop in financing by broadcasters (8% less);
- In 2015, **the amount of fictions produced remained stable** at 743 hours (748 hours in 2014);
- The **average hourly cost has fallen by 10.3%** to €859,300

A LACK OF NEW PLAYERS IN THE AUDIO-VISUAL LANDSCAPE

- In 2015, TNT channels accounted for 27.1% of the television audience, 36.5% of gross advertising investment in television and (excluding France 4) totaled **a mere 2.1% of fiction financing!**
- The Internet giants are barely tuning in



**COSTS OF PRODUCTION: A SMALL SHARE FOR WRITERS
& DIRECTORS**

FIXED PAY IN PRODUCTION COSTS

Average portion of copyrights paid in production cost

Writer

Writer + Director

Fiction series

52'

3.3%

4.9%

Fiction series

90'

3.0%

4.4%

Fiction film

90'

2.9%

4.5%

GLOBAL

3.0%

4.5%



In the USA, writing accounts for about 10% of the total budget in a 52' production (source: WGA)

Data doesn't include portions of guidelines or non-hired directors; analysis based on more than 220 productions in the OPCA database

4.5%, A DROP IN THE BUCKET!

Example of expenses for a fiction work that's more than 70% financed by the broadcaster

- Overhead costs: **10%**
- Unexpected fees: **7%**
- Executive producer pay for typical prime-time broadcasts:
 - ✓ **€70K** for a 90' work
 - ✓ **€35K** for a 52' work
 - ✓ **€17.5K** for a 26' work
- Finance fees: **1.5%**



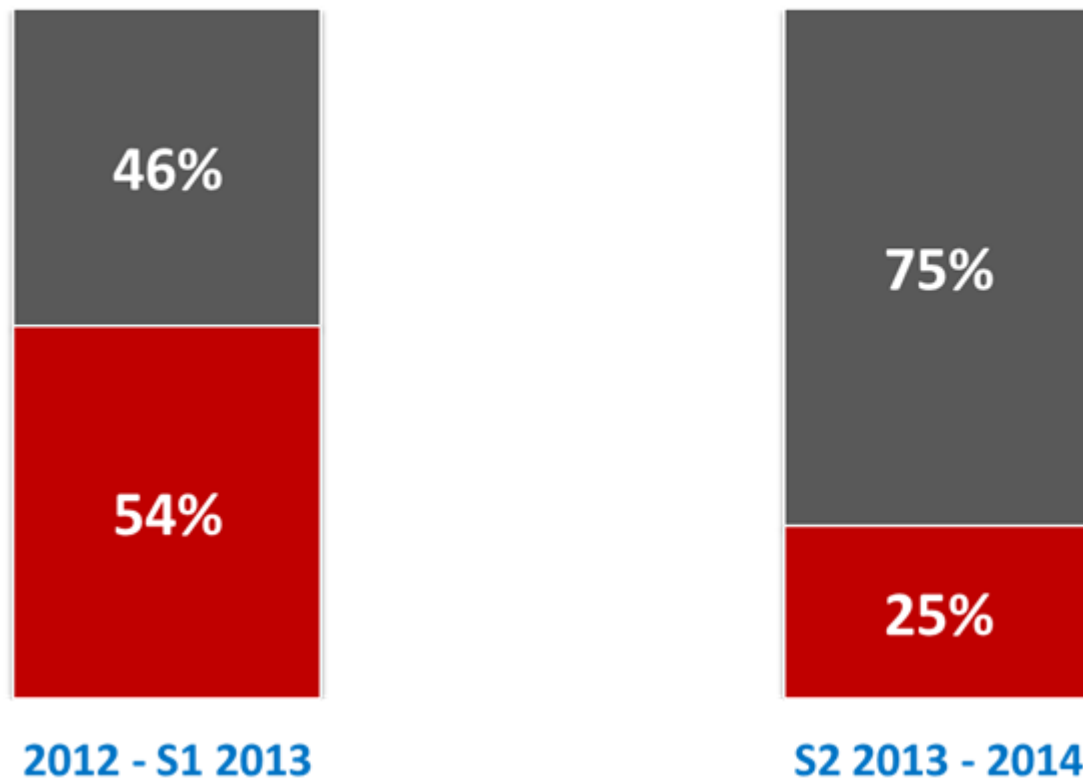
No BONUS IN 25% OF CONTRACTS

THE 2012 PROTOCOL DEFINES MANDATORY PAY IN THE FORM OF A BONUS

AN IMPROVEMENT, BUT 25% OF CONTRACTS FAIL TO COMPLY

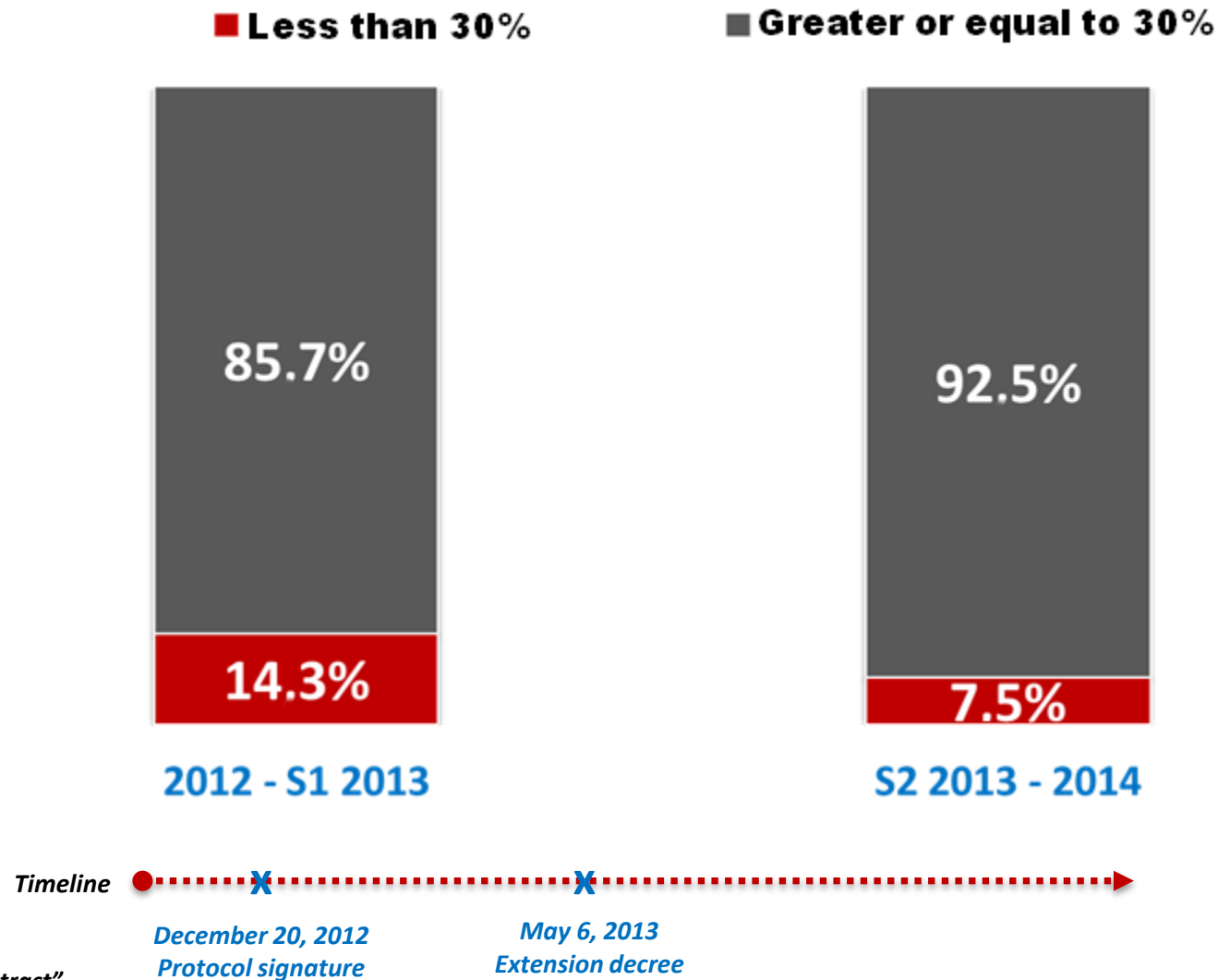
Portion of bonuses in writers' contracts

■ **Contracts without bonus** ■ **Contracts with bonuses**



BUT RECEPTION ISN'T ALWAYS GOOD... (1/2)

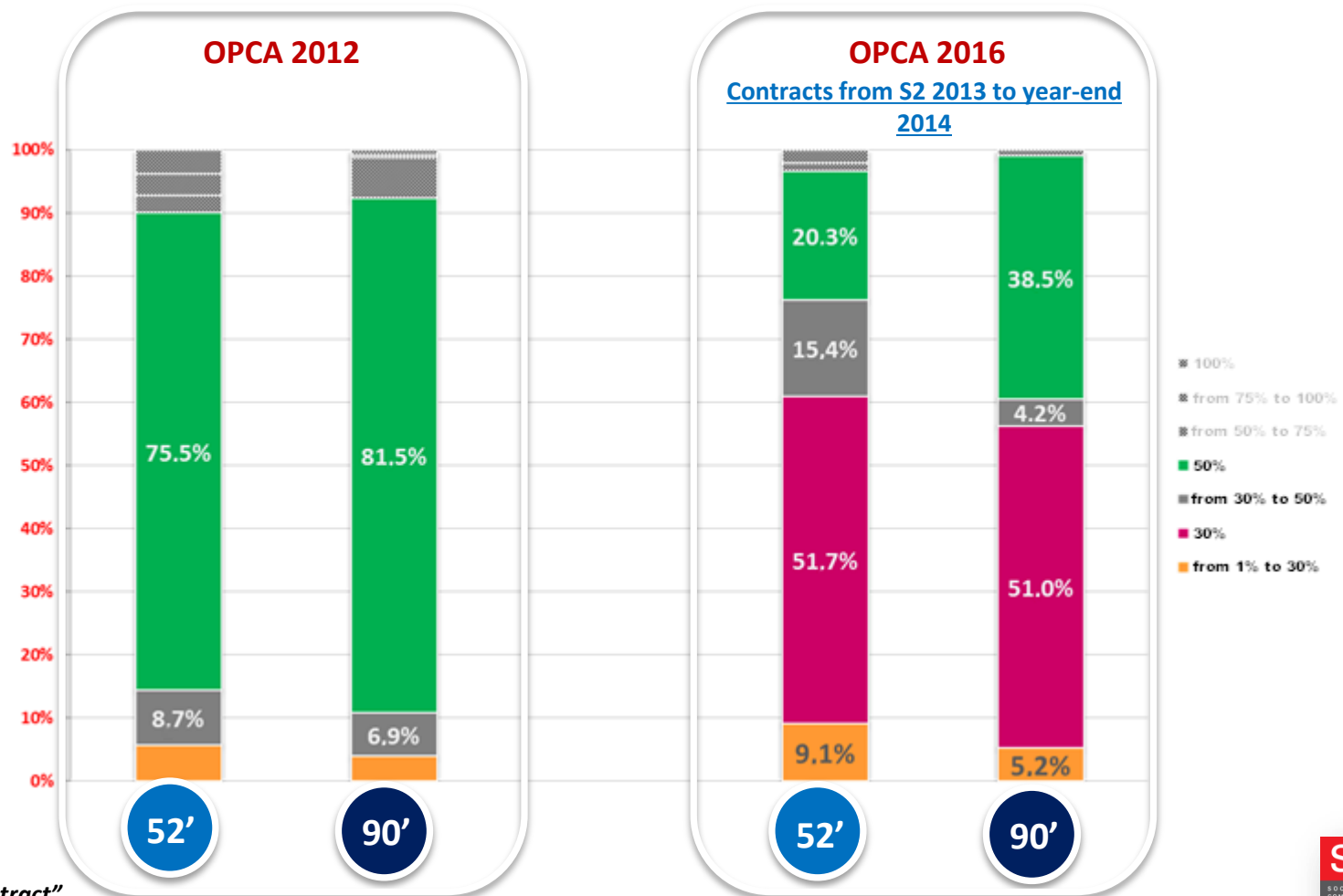
- *Bonuses were provided, but below what the protocol calls for*



RECEPTION ISN'T ALWAYS GOOD... (2/2)

➤ Bonuses increasingly stuck at the protocol minimum (30%)

A breakdown of contracts by the proportion of the bonus as part of total rights paid





**NO PROPORTIONAL PAY FOR WRITERS &
DIRECTORS FROM PRODUCERS**

GROSS RECEIPTS NECESSARY TO REACH MINIMUM GUARANTEE REPRESENT 35 TIMES THE REVENUE EARNED INTERNATIONALLY

International distribution, key source of proportional pay

OPCA data – Writer base

Total gross receipts needed to reach minimum guarantee in TV fiction

€1,843 M*

VS

CNC data

International distribution of fiction programs (sales and pre-sales)

€52.6 M

* *Estimation of gross receipts producer needs to earn in order to pay out minimum guarantee. Once the gross receipts estimate is applied to the entire OPCA base, the totals are added up and compared to programs exported on the international market.*

EVEN COMPARED TO THE MOST EXPORTED SERIES IN 2015, THE MINIMUM GUARANTEE COVERAGE IS MERELY A FICTION IN MOST CASES

● **€150,000** The average amount a 52' episode of France's most exported series earned internationally in 2015.

● **€2,700,000** The average gross receipts necessary to reach the minimum guarantee for a writer of a 52' episode (OPCA data).



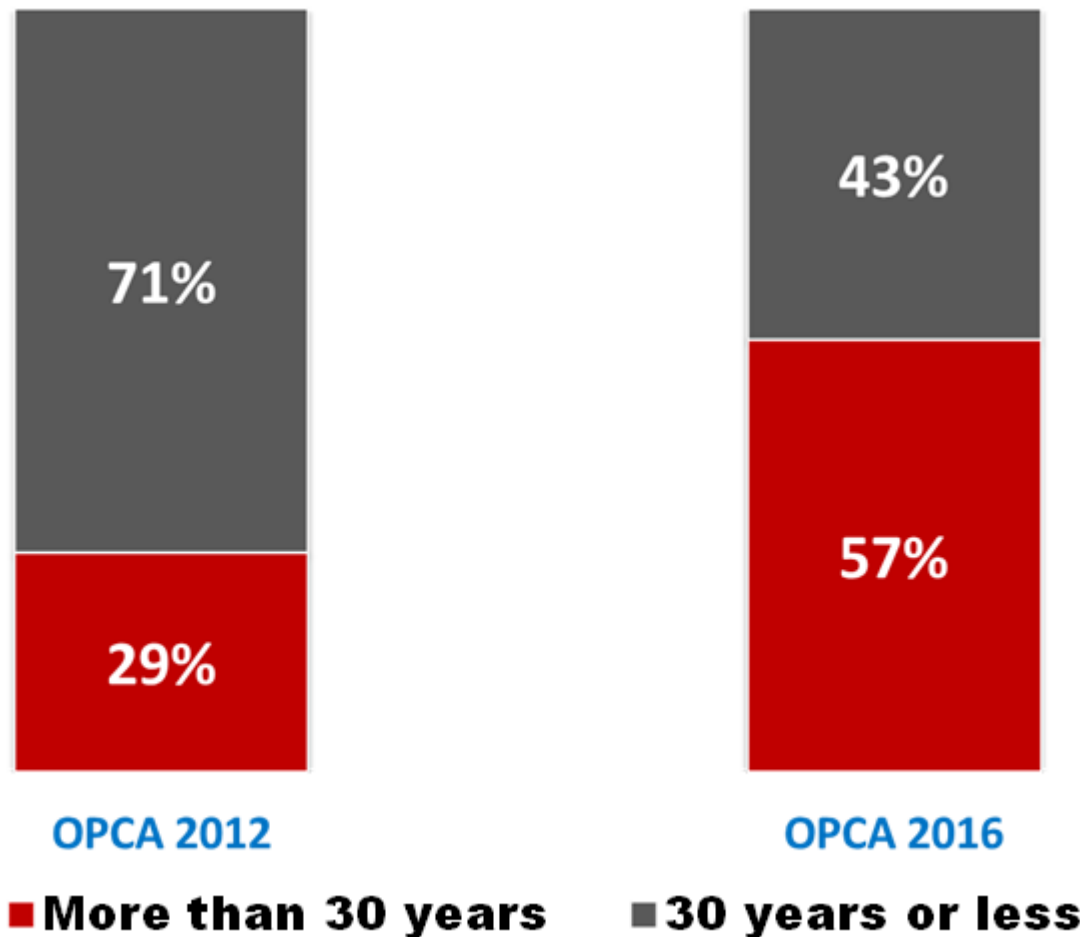
So, in order to cover their minimum guarantee, writers have to hope that their work will earn **18 times more** than the most successfully exported French series.



INCREASING DURATIONS OF RIGHTS

INCREASING DURATIONS OF RIGHTS HAS RESULTED IN LOWER PAY FOR WRITERS

- *Longer durations of rights limits the renegotiation of contracts and thus the pay for writers.*



CONCLUSION: OUR WRITERS NEED A HAPPIER STORYLINE!

- The financing of writing remains marginal compared to total production costs, and far from the 10% average for fiction in the USA;
- Writers don't get to fully share in the success of their work or in the revival of French fiction;
- Because of the prolongation of rights, producers must be under obligation to broadcast the work in a reasonable timeframe;
- Despite some irregularities in their application and an overly limited scope, the relations-improving efforts between writers and producers (development charter for French TV fiction, protocols for screenwriter contracts) are headed in the right direction;
- The recent professional agreements concluded between channels and producers have lengthened the barrier between well-regulated independent productions and writers unprotected by regulations;
- It's time to implement protective measures for writers in their contractual relations with producers.



ANNEX

More than 2,000 contracts analyzed

(main broadcasting from January 1, 2013, to June 30, 2015)

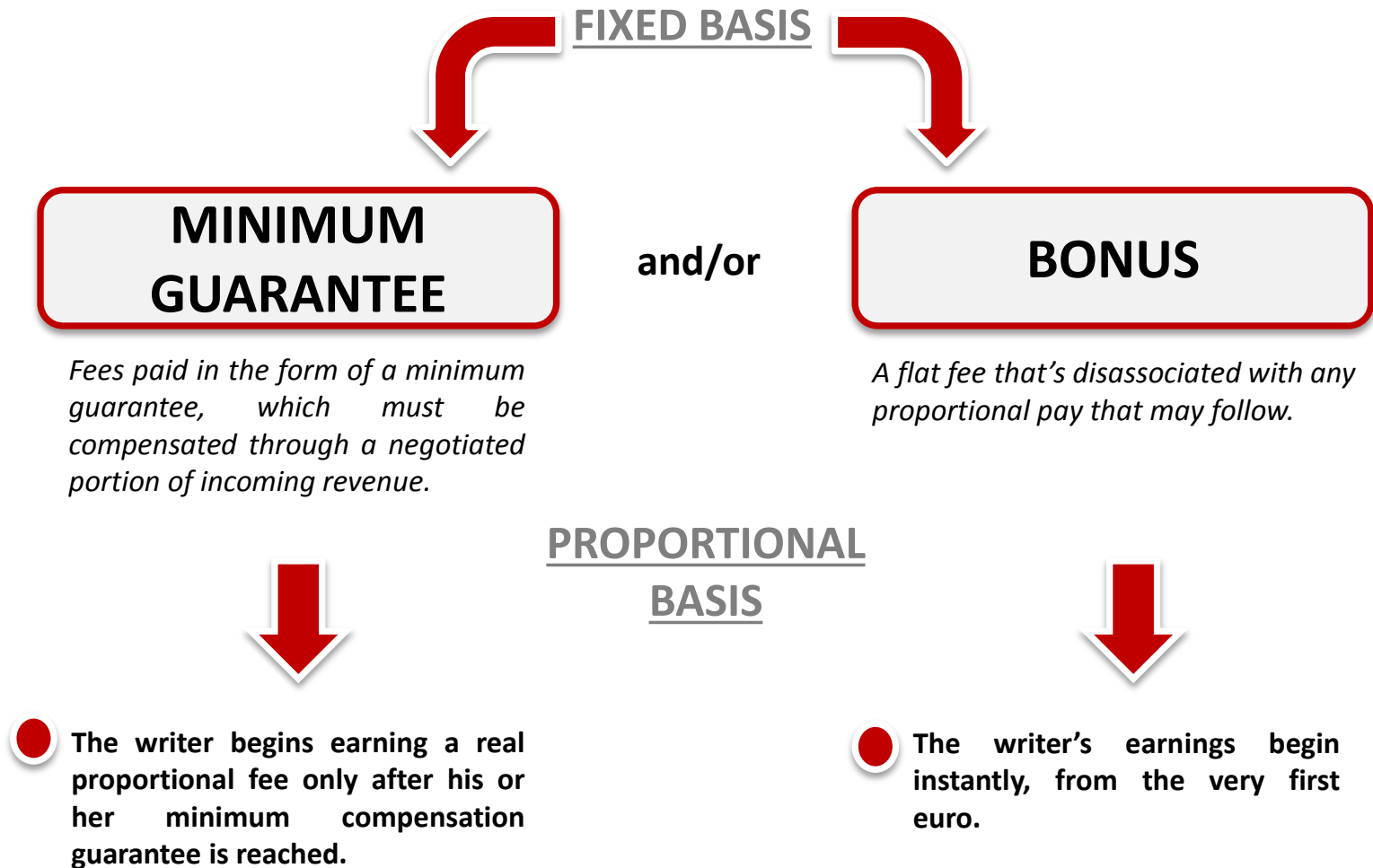
	SERIES				UNITS		
	# of series	# of episodes	# of screen-writer contracts	# of director contracts	# of productions	# of screen-writer contracts	# of director contracts
TF1	20	128	341	180	4	9	4
France 2	23	129	360	141	22	44	22
France 3	16	66	287	69	50	98	47
France 4	1	19	38	19			
CANAL +	5	24	123	7	2	5	1
ARTE	7	27	43	26	11	23	11
M6	3	18	29	16			
TMC	2	16	37	6			
W9	1	6	18	12			
TOTAL	78	433	1276	476	89	179	85

Summary of key points

- Producers can only propose broadcasters projects that are **under copyright and paid commissioning or option contracts**;
- All commissioning of work beyond the pitch must take place **at the signing of the commissioning and copyright agreement**, unless otherwise agreed;
- The provider of the work's topic must be specified in the contract preface;
- **A genealogical record of writing (FGE in France)** must be included in the contract. This information, which outlines the full history of the project, must be updated via notification or validation;
- If the writer fails to meet delivery deadlines, the producer can **pair or replace him or her with one or more co-writers**;
- A commissioning contract must be associated with **the entirety of work up until the final version of the script**, except in the event of organized writing workshops, or if the writer takes over the drafting of the script or revisions of the screenplay;
- When **collaboration is discontinued** due to the non-validation of the author's work by the producer, the latter can continue the writing using the author's work provided that the author:
 - has been paid for all steps that he or she carried out;
 - has received a percentage of the total amount of revenue received at the time of the contract's discontinuation:
 - 20% if discontinued after the synopsis is submitted
 - 15% if discontinued after the storyboard is submitted
 - 10% if discontinued after the script is submitted
- The initial pay specified in the writer's contract must be comprised of at least **30% of the premium edict**

FIXED AND PROPORTIONAL PAY

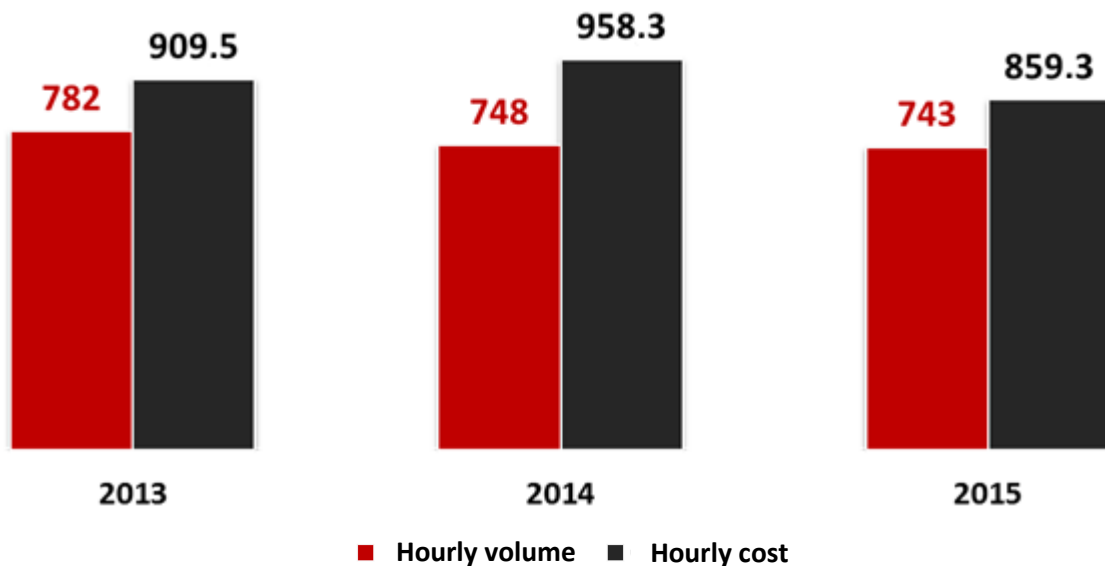
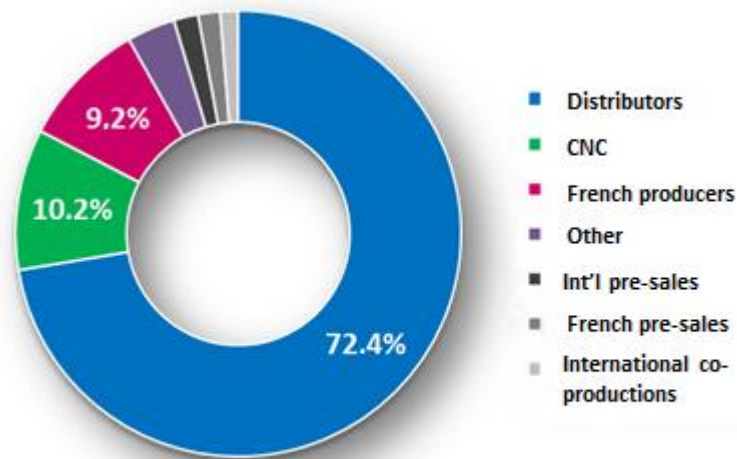
Copyright fees can be set on two bases: a fixed basis and proportional to revenue. The proportional basis is a requirement in French copyright law.



AUDIO-VISUAL PRODUCTION FINANCED

The financing of fiction (in €M)

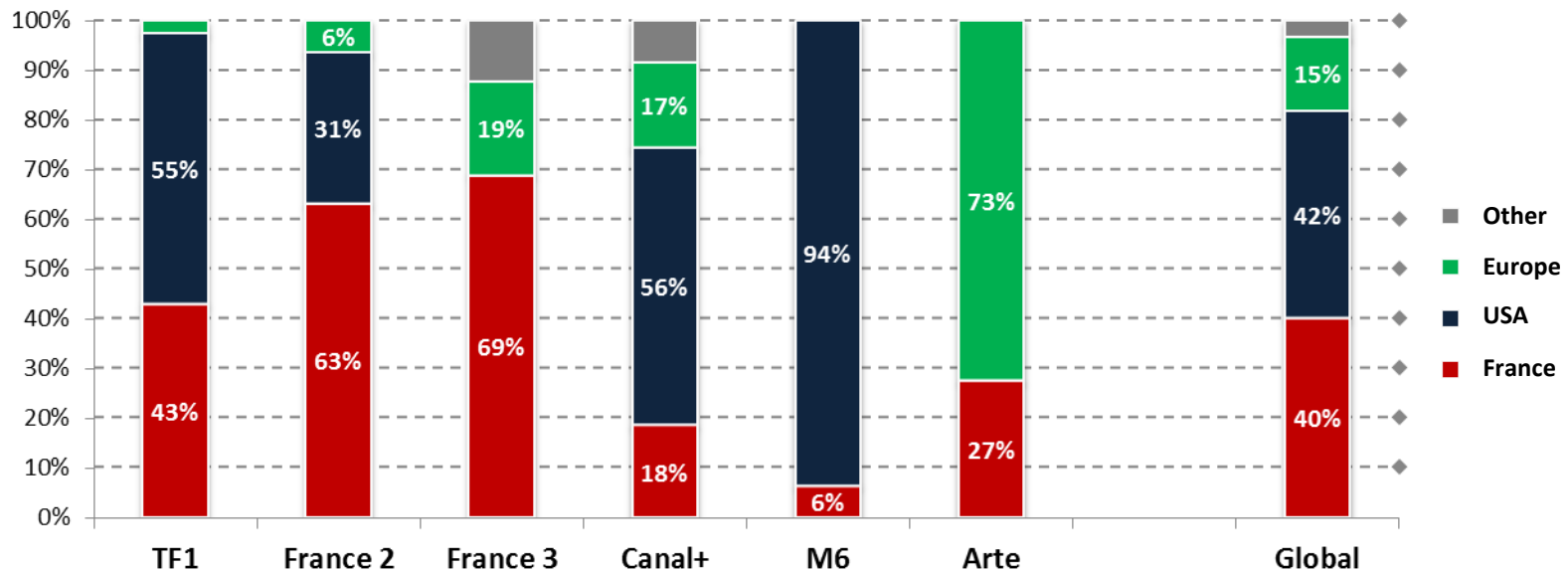
	2013	2014	2015	Varia°
French financing	683.8	671.9	619.2	-8%
French producers	78,2	69,7	58,9	-15%
French pre-sales	5,7	15,8	10,2	-35%
Distributors	500,9	483,9	462,5	-4%
SOFICA	2	2,5	1,1	-56%
CNC	74,9	68,4	65,4	-4%
CNC components	6,1	3,6	0,8	-78%
Other	15,9	28	20,4	-27%
International investment	27.1	45.3	19.6	-57%
International co-productions	21,9	16,7	8,3	-50%
International pre-sales	5,2	28,6	11,3	-60%
Total financing	710.9	717.2	638.9	-11%



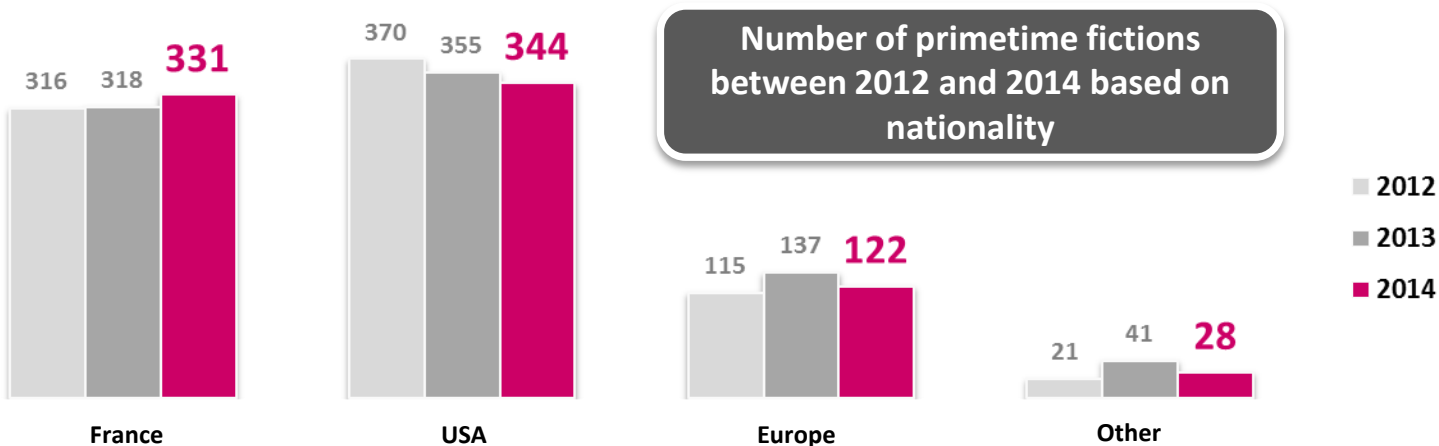
The estimates for fiction programs are in decline (-10.9%) at €638.9M, an average hourly cost decrease of 10.3% at €859.3K.

In 2015, 52' was the leading fiction format (36.8% hours financed at 273 hours).

FICTION PRIMETIME BY NATIONALITY



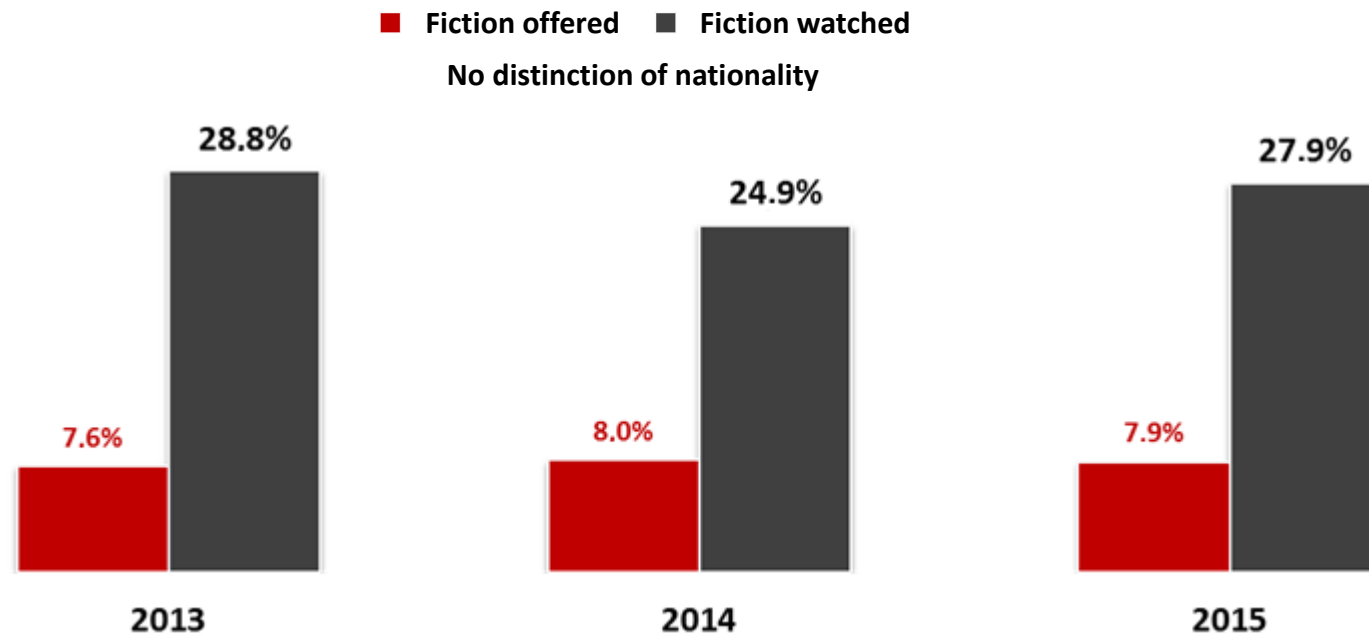
Public channels air mostly French programs while American programs are broadcast on TF1, Canal+ and M6. Overall, French fiction during primetime is running neck and neck with American fiction.



Number of primetime fictions
between 2012 and 2014 based on
nationality

FICTION IN REPLAY

*The replay market was estimated at €900M in 2015
(most revenue from advertising)*



TVR fiction offer, FR share

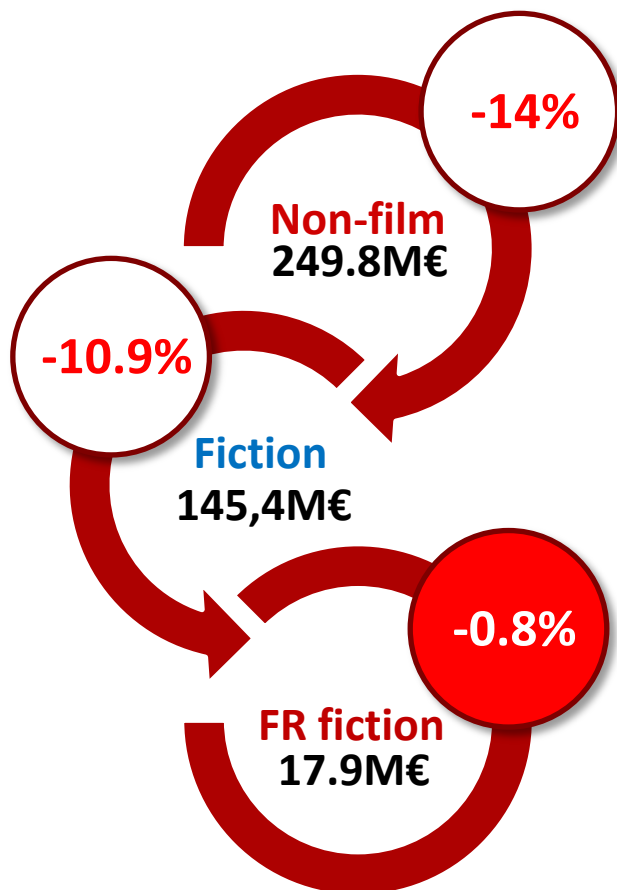
2012	2013	2014
42.8%	41.2%	44.0%

In 2015, fiction was the most watched category (27.9% of videos watched), ahead of entertainment (26.6%), children's programs (20.6%), news (6.9%), magazine (5.8%), sports (2.3%), cinema (1.7%) and documentary (0.8%).

FICTION VIDEO, PHYSICAL VS. DIGITAL

Physical video market in 2015

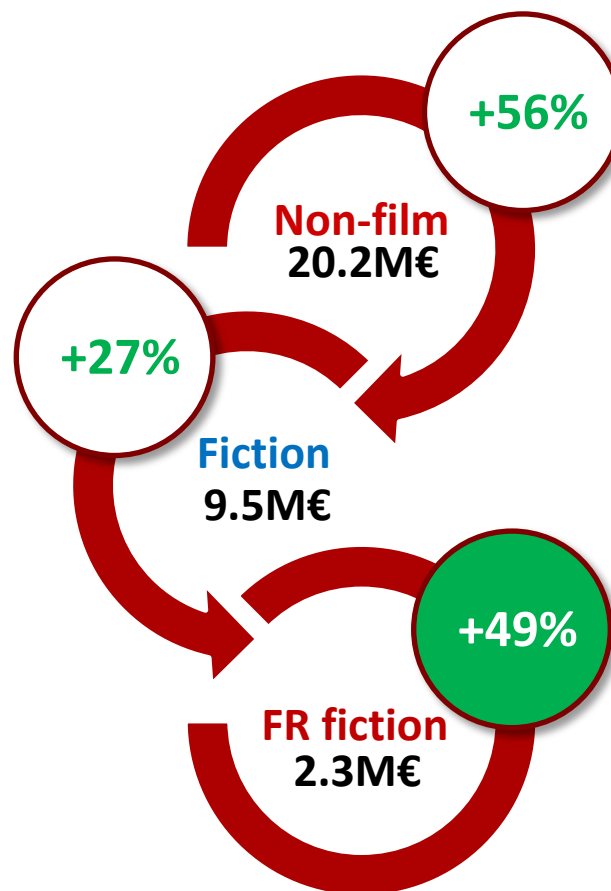
€707.6M



2015

VOD market in 2015

€235M



2015

FICTION PROGRAM EXPORTS IN 2015

French audio-visual program exports (€M)

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	evol. 15/14 (%)
Sales	115.0	118.8	110.0	100.4	105.6	110.6	127.0	137.1	153.8	164.2	+6.8
Pre-sales	42.0	34.0	40.4	35.1	30.5	43.0	38.9	42.4	56.5	36.8	-34.9
Total sales and pre-sales	157.0	152.8	150.4	135.5	136.1	153.6	165.9	179.5	210.3	201.0	-4.4
Co-production income	61.3	63.7	53.6	58.6	62.8	77.4	76.5	69.5	56.3	54.1	-3.9
Total export	218.3	216.5	204.0	194.1	198.9	231.0	242.4	249.0	266.6	255.1	-4.3

Sales figures include TV5 (€2.2M in 2015, €3.2M in 2014) and CFI (€0.0M in 2015, €0.2M in 2014).

Source: CNC-TV France International

FICTION SALES



41.2M€ +6%

FICTION PRE-SALES



11.3M€ -60.4%

FICTION TOTAL

52.6M€ -22.1%

PRODUCERS' NET EARNINGS: THRESHOLDS OF GROSS RECEIPTS

Writers

	Low-budget series	26'	52'	90'	90' film
<i>less than €50K</i>	4.5%				
<i>from €50K to €100K</i>	30.3%				
<i>from €100K to €500K</i>	34.1%	46.5%	2.1%		
<i>from €500K to €1M</i>	27.3%	34.9%	3.7%		3.4%
<i>from €1M to €2M</i>	3.8%	7.0%	25.1%	7.7%	6.9%
<i>from €2M to €3M</i>			24.6%	6.4%	10.3%
<i>from €3M to €4M</i>		7.0%	12.8%	11.5%	9.2%
<i>from €4M to €5M</i>		4.7%	4.3%	15.4%	14.9%
<i>from €5M to €7.5M</i>			15.5%	28.2%	28.7%
<i>from €7.5M to €10M</i>			9.6%	19.2%	14.9%
<i>from €10M to €15M</i>			1.1%	7.7%	10.3%
<i>more than €15M</i>			1.1%	3.8%	1.1%

Directors

	Low-budget series	26'	52'	90'	90' film
<i>less than €100K</i>	44.0%				
<i>from €100K to €500K</i>	56.0%	61.3%			
<i>from €500K to €1M</i>			9.1%		
<i>from €1M to €2M</i>		29.0%	7.7%	1.2%	2.5%
<i>from €2M to €3M</i>		9.7%	34.1%	16.0%	12.3%
<i>from €3M to €4M</i>			24.0%	2.5%	7.4%
<i>from €4M to €5M</i>			13.0%	17.3%	23.5%
<i>from €5M to €7.5M</i>			12.0%	37.0%	46.9%
<i>from €7.5M to €10M</i>				19.8%	3.7%
<i>more than €10M</i>				6.2%	3.7%

THE FIXED SHARE OF COPYRIGHT PAY FOR DIRECTORS

Percentage of contracts in which a share of pay in the form of a bonus appears

- Fiction series

52'



23.9% (6.9% in 2012)

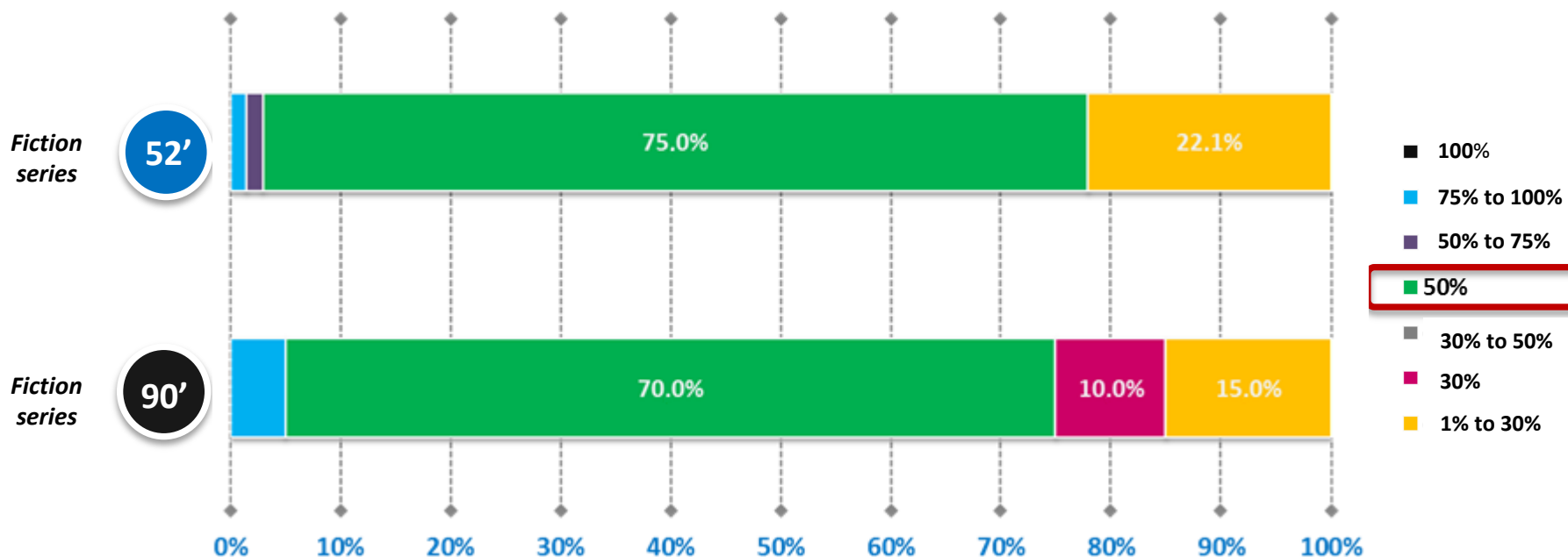
- Fiction series

90'



12.1% (13.8% in 2012)

When a payment is made in the form of a bonus, the OPCA has analyzed the portion it represents in comparison with the total pay.



Analysis by "contract"