7. RIGHTS & OWNERSHIP

7.1 INTRODUCTION

In every commercial production, different types of rights need to be respected. These rights determine who can use the final film, under which conditions, and who must be paid for that use.

The Production Company, acting on behalf of the Advertiser or its Communication Agency, is contractually responsible for securing and clearing all necessary rights before the film is delivered. The Advertiser (or its Agency) funds these rights through the production budget.

To avoid misunderstandings, it is important to distinguish between:

- Usage and portrait rights of talent and other contributors >> contracted and sold by the Production Company, unless otherwise agreed upon.
- Other copyrights (e.g., music, artworks, photographers, architects) >> also cleared by the Production Company.
- Neighbouring rights and ownership of rushes >> retained by the Production Company.
- Informative frameworks >> collective rights (Sabam, PlayRight, ...) and Belgian tax rules on authors' rights.

The first sections below cover the rights that are directly managed and sold by the Production Company.

7.2 TALENT USAGE RIGHTS / PORTRAIT RIGHTS

These are the most important rights in commercial production, since they determine how and where the film may be shown.

- Talent usage rights cover actors, models, and featured extras.
- Conditions (duration, territories, media types, versions) must be agreed before production starts.
- Extensions or renewals require new agreements, ideally one month before expiry.
- Re-cuts, new edits, or additional assets not agreed before production starts are treated as new content unless explicitly agreed upfront.
- Fees are calculated according to industry standards in Belgium (see schedule agreed by Belgian casting directors, agencies, and Production Companies) or local practice abroad.

Responsibility

The Advertiser (or its Agency) must pay all talent usage fees to the Production Company before the commercial is released.

7.3 OTHER CONTRACTUAL USAGE RIGHTS

Besides talent, other contributors may charge usage rights for their creative work, for example:

- Photographers
- Voice-over artists
- Graphic designers or illustrators
- Certain architects or artists whose work is visible in the film

These usage rights are based on the Advertiser's media plan and specified in the Production Company's offer.

Important: If the creative idea provided by the Advertiser/Agency contains third-party elements (brands, artworks, objects), the Advertiser/Agency is solely responsible for clearing those rights..

7.4 NEIGHBOURING RIGHTS OF THE PRODUCTION COMPANY

The Production Company always retains neighbouring rights in the final film. These rights protect the Production Company's investment and ensure control over the use and distribution of the work.

- Any additional use (new territory, medium, or format) must be agreed in writing.
- If content is reused outside the original scope, the Production Company may charge Production Royalties (see Section 9).

7.5 TERMS FOR THE TRANSFER OF RUSHES

- Rushes remain the property of the Production Company and are not transferred as part of the standard deliverables unless their transfer has been expressly agreed at the briefing stage.
- Project files remain the exclusive property of the Production Company and cannot be made available to third parties.
- The final master file is delivered as part of the standard deliverables and is included in the production budget.
- A Clean Master Version (aka International Version) may be delivered upon request and is subject to an additional fee covering its preparation and creation.

7.6 MUSIC RIGHTS (SEE ALSO SECTION 8)

Music involves several different rights (composer, publisher, master owner, library rights), all of which must be cleared before delivery. The Production Company handles this process and integrates the costs into the production budget.

7.7 RIGHTS IN AI AND EMERGING TECHNOLOGIES

When AI or other new technologies are used (e.g., modifying footage, creating synthetic talent, generating voices, or replicating likenesses), this creates new works and new rights. Proper contracts and fair compensation must always be negotiated in advance.

If AI is applied on the basis of existing talent (e.g., digital doubles, synthetic voices, likeness recreation) or any other copyrighted work (e.g., images, music, scripts, artworks), this can never be done without the explicit consent of the rights holders.

- Such use requires the prior agreement of the individuals or authors concerned.
- The necessary usage fees must be negotiated and paid, just as with conventional production methods.
- Any absence of consent or payment constitutes an infringement of rights.

These uses may also raise ethical questions, particularly regarding transparency and the protection of talent and creators. Such issues must be contractually addressed to ensure clarity and fairness for all parties involved.

The BCP will continue to closely monitor developments and regulations in this field to protect fair practice and safeguard the interests of all stakeholders in advertising film production.

7.8 COLLECTIVE RIGHTS (INFORMATIVE)

Collecting societies (e.g., Sabam, De Auteurs, PlayRight) collect royalties when films are broadcast or shown in public.

- These are not paid by the Production Company or Advertiser but by broadcasters, platforms, or venues.
- They are distributed directly to authors and performers.
- They exist independently of the contractual usage rights described above.

7.9 AUTHOR'S AND PERFORMER'S RIGHTS – BELGIAN TAX REGIME (INFORMATIVE)

In Belgium, some creative professionals (directors, composers, actors, designers) may invoice part of their fee as "author's or performer's rights" for tax reasons.

- This tax regime is separate from contractual usage rights.
- It does not affect who owns the rights; it only affects how the income is taxed.
- The percentage is legally limited and is a matter between the individual and the tax authorities.

7.10 SUMMARY

- The Production Company sells and manages usage rights (talent, other contributors, music) and retains neighbouring rights and rushes.
- Advertisers/Agencies must pay these rights before release.
- Collective rights (Sabam, PlayRight, ...) and the Belgian tax regime are only background frameworks. They do not form part of the contracts managed or sold by the Production Company.