

Fair Practice

Esther Gottschalk, Nieuw Geneco Noud van de Rhee, platform ACCT

'When it comes to art, money is an unimportant detail. It just happens to be a huge unimportant detail'

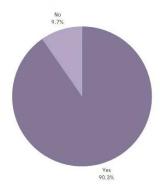
Iggy Pop (John Peel lecture, BBC, 2013)



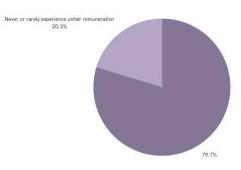
Questions

- Have you ever been asked to create a work for free?
- Have you been confronted with unfair renumeration more than once?
- Who claims to earn sufficient income as an artist?
- Do you believe the artistic sector will provide a sustainable future for you?

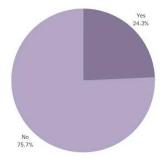
As a composer and songwriter, have you ever experienced unpaid work?



As a composer and songwriter, how often have you experienced unfair remuneration?



Are you able to earn sufficient income exclusively from your composer and songwriter profession?



Only 31.3% of respondents working in the music sector are convinced that their career will provide a sustainable future for them.



Navigiating the Path to Fair Practice

European Composers & Songwriters

Alliance, 2023







Fair Practice Code: Challenges and opportunities



Kunsten'92

2024

Origins of the Fair Practice Code



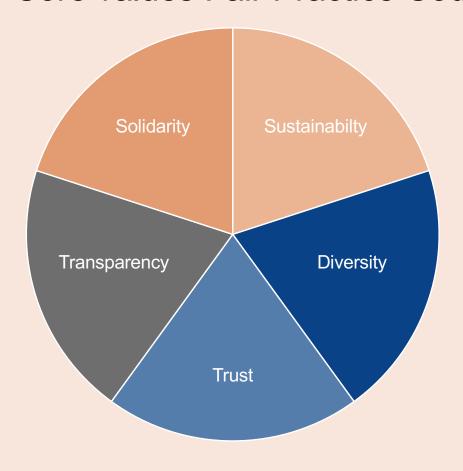




Goals of the Fair Practice Code

- 1. Future-proof the working conditions of the sector, while maintaining artistic quality
- 2. To improve collaboration within the sector
- 3. To secure better funding for the arts, leading to fairer pay for artists

Core values Fair Practice Code





Principles Fair Practice Code





10 Themes







Key achievements Fair Practice Code



Key achievements 2017-2024

- 1. Empowering the artists
- 2. Taboos broken
- 3. Tools, agreements and laws
- 4. Apply and explain
- 5. Money
- 6. Adopted by funding bodies
- 7. Insights for advocacy
- 8. Insights in the ecosystem

Ecosystem insights

- Value of art and culture in general (f.i., share of national gross product)
- High ratio of self-employed (and what does that mean)
- High ratio of funding that goes towards bricks vs programming
- Additional costs fair pay: 50% is in the rate and 50% in unpaid overtime
- Large institutions have fewer problems, problem for small institutions is relatively less money
- Small institutions sometimes no longer dare to apply because they are afraid of not getting the money
- Damage of big tech to artists' revenue model



Fair Practice in Music Esther Gottschalk

Nieuw Geneco, 2024, November 25

Nieuw Geneco

- Dutch Composers Association, since 1911
- 350 members, composers in art music
- We work for:
 - artistic, political and economical interests of professional composers working in the Netherlands
 - Professional support & community for members
 - Tools for Fair Practice
 - Foster circumstances under which composers may practice their profession in a climate of artistic freedom and independence.



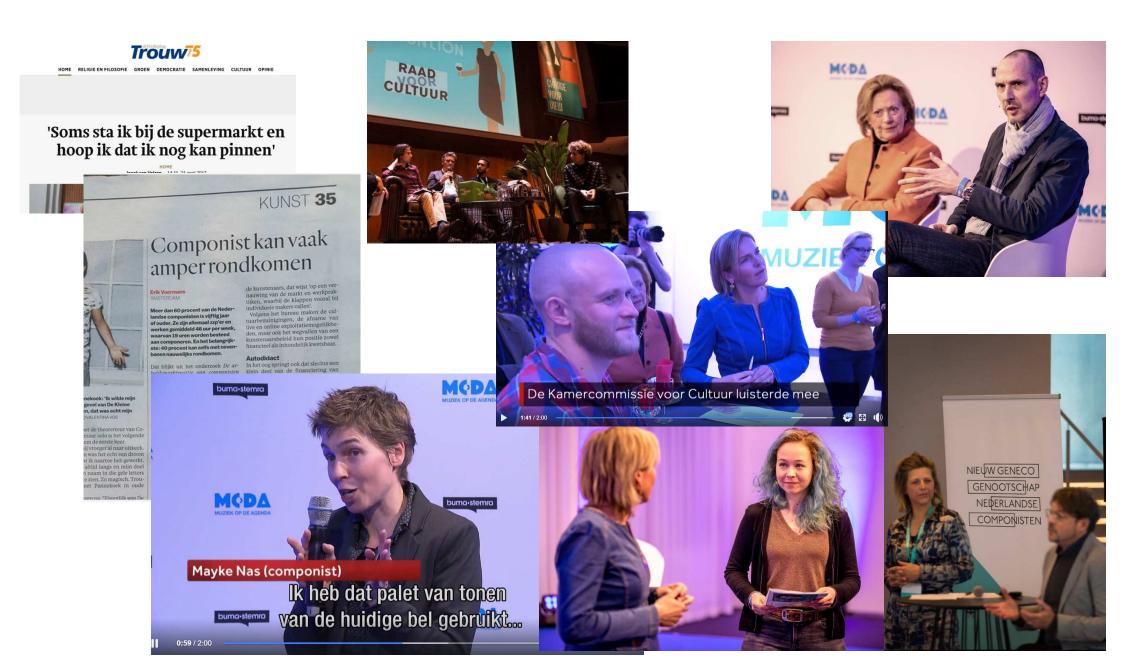
www.nieuwgeneco.nl

Fair Practice Code + Fee Table + Award

- Nieuw Geneco develops own Fair Practice Code for new music Commissions
- Within overall moral frame work of the national Fair Practice Code
- Practical checklist and fee schedule
- Specified for composition commissions
- Nieuw Geneco Fair Practice Award (since 2019)
- Raising European awareness and action

Composer's Monitor

- Survey on working conditions of composers, University Tilburg
 & Berenschot Consultancy (2017)
 - 40% under average income
 - 14% below poverty line
 - Mixed practice; combining with teaching, musician, other jobs
 - Only 7% only composer
- Debates and buzz



Commission from Performing Art Fund

- Performing Arts Fund asks Nieuw Geneco to coordinate process (2017-2019)
 - Create a specified Fair Practice Code Composition
 - Tools for Fair Tariffs for composition commissions
 - Debates on good commissioning practices
 - Together with fellow composers associations pop, Jazz, world, publishers
- Ownership lies within the sector
- Collective process

Broad accord on Tariffs

- Sharpend the existing tool for commissioning fees
- Adjustments to make it fit all genres
- Agreement signed by fellow author organisations in pop, jazz, singersongwriting and publishers
- Under the condition that Fund Performing Arts will respect the directive (!)
- Annual indexation (new)

Golden triangle

- Nieuw Geneco Tariffs Composition Commission are set as the standard reference
- 2. Full committment of fellow organisations in pop, jazz, songwriting and publishers
- Fund Performing Arts adopts the Fair Practice Code and refers to the Nieuw Geneco recommended tariffs as thé standard reference; all grant applicants have to comply to the Nieuw Geneco fee schedule

Nieuw Geneco Honorariumtabel

			Fee table Con	nmissioned Con	positions as of	1 July 2024			
Ensemble/Band/	Duration	1-4'	5-10'	11-20'	21-30'	31-45'	46-60'	61-90'	91' +
Group	Complexity								
1-2 (unique) parts	Low	€ 700	€ 1.200	€ 2.350	€ 3.550	€ 5.350	€ 7.100	€ 9.500	€ 11.850
	Average	1.200	2.350	4.150	5.950	8.300	10.650	13.050	15.400
	High	1.900	4.750	8.300	10.650	14.250	17.800	21.350	24.900
3-8 parts	Low	950	2.350	3.550	4.750	6.500	8.300	10.650	13.050
	Average	1.400	3.550	5.350	7.100	9.500	11.850	14.800	17.800
	High	2.950	7.100	10.650	14.250	17.800	21.350	26.100	30.800
9-17 parts	Low	1.300	2.950	4.150	5.350	7.100	8.900	11.250	13.650
	Average	2.000	4.750	6.500	8.300	10.650	13.050	16.000	18.950
	High	4.150	9.500	13.050	16.600	21.350	27.250	33.200	39.100
Large ensemble/ orchestra	Low	1.650	3.550	4.750	5.950	7.700	9.500	11.850	14.250
	Average	2.750	5.950	7.700	9.500	11.850	14.250	17.200	20.150
	High	5.950	13.050	16.600	21.350	27.250	34.400	42.700	49.800
Large ensemble/ orchestra plus	Low	2.150	4.750	5.950	7.100	8.300	10.650	13.050	15.400
	Average	3.200	7.100	8.900	10.650	13.050	15.400	18.400	21.350
	High	6.500	14.250	18.950	23.700	30.800	37.950	45.050	52.150

https://nieuwgeneco.nl/en/feeschedule-for-compositioncommissions/Nieuw Geneco

















Nieuw Geneco Fair Practice Code

_ROADMAP

FAIR PRACTICE CODE COMPOSITIE OPPRACHT

follow the nieux geneco fee schedule small or grand commission Sustainability! cover separately 1 developing performance materials performance separate agreement opportunities online? streamed! report Performances cover media separately! broadcasts

Nieuw Geneco Fair Practice Award

- Since 2019 Code+Debate+Award
- Composers submit nominations, based on their recent experiences and tested it against the New Geneco Fair Practice Code.
- The jury (composers/publisher) selects the shortlist of nominees. From these, the jury choses two winners.
- The two awards are equal and honour the fact that both large and smaller players can have a fair practice policy.
- Award is a composition, playing from a LP record sleeve



PRACTICE AWARD 2024













Martijn Padding handing the prize to Orkest De Ereprijs



PRESENTATION - OMC REPORT



ON THE STATUS AND WORKING CONDITIONS OF ARTISTS AND CULTURAL AND CREATIVE PROFESSIONALS

Federal Ministry
Republic of Austria
Arts, Culture,
Civil Service and Sport

Dansk Komponist Forening Copenhagen, 25 November 2024

Heidi Meissnitzer
Co-chair of the OMC Group





Policy background and context

- ➤ Workplan for Culture 2019-2022 strategic instrument for cooperation
- ➤ International context: UNESCO (Artists status since the 80s, periodic review), ILO, SDGs, Mondiacult, G-20,...
- ➤ EU context: EC study PANTEIA/EENCA (end-2020), "Voices of Culture" civil society dialogue (mid-2021), European Parliament Resolutions, social partners' dialogue, stakeholders demands
- **≥27 Member States nominated experts** (53 in total) from both cultural and employment/social affairs
- > Mandate from CAC in the Council
- **▶6 plenary meetings** took place between **September 2021** and **January 2023**
- Report was published in July 2023



Challenges of working conditions

- Precarious working conditions, low, irregular and unpredictable incomes (even unpaid (over) work), weak bargaining power
- Self-employment, free-lancer, project-based careers, multiple jobs
- Lack of social protection and other rights
- > Lack of sustainable frameworks for career development

➤ Rules and regulations are very different both in Member States and in the various CCS – common challenges and shared interest for improvement



Content and focus of the OMC report

The **OMC report** is **structured** along the following **priorities**:

- > Status of the artist and social security
- > Fair practice
- Skills and life-long learning and
- > Artistic freedom

Crosscutting issues (equality, diversity, cross-border mobility, digital and green transition, lessons learned from the Covid-19 crises)

Lack of data - a survey was carried among the OMC experts



Findings and recommendations in each priority area

Artist Status and Social Security

Status provides **a potential way** to regulate the working conditions

No uniform definition or **regulation** of the **status of artists** in the **EU** – different approaches exist in Member States

Different social security schemes are in place but **not covering all aspects** like unemployment, sickness, age, care duties

Key Recommendations:

- Artists and creative professionals, regardless of their labour/employment regime, should have access to adequate social protection
- ➤ Broad scope of eligibility of artists and covering all areas of their work : include professionals who create, give creative expression to, or re-create works of art, as a minimum
- > Collect data about the situation of artists for evidence-based policy making



Artist Status and Social Security

EU FRAMEWORK for working conditions in the CCS:

Recommendation to set up an **EU Framework for artists' and creative professionals' working conditions**, providing guidelines and minimum standards via a Council Recommendation or Council Conclusions for non-binding measures:

- Status and labour regime of artists and creative professionals
- Social protection schemes (such as unemployment, sickness, parental leave, pension,...)
- Taxes
- Public funding
- Cross-border mobility



Fair Practice

Precarious work practices have put "fairness" on the agenda

Key challenges go beyond **fair pay**, including fair **opportunities**, **safety** and **health** at work, **equality** and **diversity**, fair **representation** and a fair **regulatory environment**

Key recommendations

- Terms and conditions on the use of public funding to promote fair practices
- Support capacity-building and empowerment of service and representative organisations in the CCS, including independent structures where artists and CCS professionals can confidentially report unfair practices
- Develop **good practice guides** that promote a **fair, dignified** and **safe** working **culture** and **environment** *measures against buyout practices*



Skills and Life-Long Learning:

Digital transformation and **shifting mindsets** are causing changes in the labour markets (e.g. European Year of Skills focus on up- and re-skilling to equip the European workforce)

CCS labour markets are affected by skills and labour shortages

Keeping skills and **life-long learning** up to date – competitiveness and harness the CCS potential

Key recommendations:

- Skills building and life-long learning to be developed in a **systemic way** and provide **investment** in **education** and **capacity building**
- Make learning opportunities **visible** and **accessible** through **funding** and **evaluate** qualifications systems to learn and improve



Artistic Freedom

Artistic freedom is a **core human right**, closely linked to working conditions as they provide the scope for individuals to create and perform art

Restrictions on freedom of artistic expression: political, ideological, religious and socioeconomic

No constitutional protection across EU, rights and constraints vary between Member States and situation has worsened recently under multiple challenges

Key recommendations

- Artistic freedom should be **better protected** by European and national **legislation**, and policy practices
- >Add freedom of artistic expression in the EU rule of law reports



Conclusions and Progress since the publication

- Creating decent working conditions is a long-term process requires cooperation in the EU and Member States together with CCS stakeholders
- Limited **EU competences** and the **transversal dimension** require **interdisciplinary** and **cross-sectorial policy approach,** including **social partners** and **international partners** (UNESCO, ILO, SDGs, G-20,...)
- ▶ Improving the data situation creation of an online platform on the basis of the data collected
- Further actions are anchored in the current Work Plan for Culture 2023-2026 at EU level policy debatte under ES and workshop under BE Presidency
- ➤ Additional initiatives by the European Parliament a legislative report was published, 21 Nov 2023 "EU framework for artists and creative workers")
- Commission reaction to the EP report and proposal of various measures, 28 Feb 2024



Artists' working conditions platform

New online plattform was launched Nov 23

Unique **EU-wide knowledge resource** solely focused on **working conditions** in the CCS in the **EU 27 Member States**

Provides an **overview of existing initiatives** in the **27 EU MS** and is **regularly updated**

establishment of a *Network of country correspondents – 27 EU MS*

Allows for comparative mapping and issue-based analysis focosing on

- regulatory status
- social security
- labor relations
- learning and skills
- artistic freedom



Fairness Process Austria

Fair Pay Strategy was anchored in the government program 2020-2024

- > 2020 Launched in at political level two parallel committees
 - representatives of local, regional and federal levels
 - stakeholders and interest groups in arts & culture
- > 2021 different actions Symposium, Fairness Codex, Office of Trust for victims of harassment and violence, study on the "Fair-Pay-Gap"
- 2022 nationwide Fair Pay Strategy in June agreement of all federal states and municipalities with the federal government



Fairness Process Austria

Additional money provided by the Ministry of Culture 2022-2024

- 2022 pilotphase additional 6,5 million € dedicated for fair pay measures under certain conditions
- > 2023 additional 9 million € available for fair pay measures
- > 2024 additional 9 million € available for fair pay measures





CHALLENGES

- Fair pay efforts and progress vary greatly at different political levels
- Recommendations for minimum fees are increasing pressure on small and medium-sized venues and organisations
- Price increases and high inflation in Austria have impaired the closing of the fair pay gap
- Uncertainty as to how the next government will continue this process



Useful links

- Full OMC report on the status and working conditions of artists and cultural and creataive professionals
- https://doi.org/10.2766/46315
- >Artists' working condition platform This is how we work
- https://creativesunite.eu/
- Fairness Process in Austria:
- https://www.bmkoes.gv.at/kunst-und-kultur/Fairness-Fair-Pay.html
- > Fairness Codex:
- https://www.bmkoes.gv.at/kunst-und-kultur/Fairness-Fair-Pay/Codex.html
- vera* office of trust for victims of harassment and violence:
- https://www.bmkoes.gv.at/kunst-und-kultur/Fairness-Fair-Pay/vera-.html

THANK YOU FOR YOUR ATTENTION! ANY QUESTIONS?

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European follow up

- Nieuw Geneco presented process and results at ECSA
- Presentations and knowledge exchange with Denmark, Portugal, Belgium
- ECSA Working group
- Part of 4 year ECSA program funded by Creative Europe
- Survey Navigating the Path to Fair Practice (2023)

Fair Practice in Europe

- Fair Practice Prize (Danish Composers Society); prize for outstanding contractual practices and productions
- Fair Commissioning Manifesto; calling for the end of buy outs. Part of the Fair Score Campaign (Ivors Academy UK)
- Fair Art Campaign (Finland); set of guidelines and models to assist artists, consumers commissioners

- Fair Process (Austria)
 Fairness Forum; working group and gathering for all stakeholders governement and cultural sector. Fairness
 Codex; general guidelines
- Code of Good Practice (France); publishing contracts





- Independent network organisation, founded by the sector
- Funded by the national government
- Mission: Working together on improving the labour market in the cultural and creative sector
- Implementing the Fair Practice Code
- Social dialogue
- Coordinating and implementing projects 'Labour Market Agenda'





- Funding life long learning for creatives
- Financial support for social security of independent professionals (pension, disability)
- Financial support to encourage employement
- Guiding creatives in funding methods
- Research & sharing knowledge
- Facilitating collective arrangements and collaborations



- Operationalising the fair practice code, concretising fair pay
- Creating tools and guidelines for practical application by workers, employers and funding organisations in specific subsectors and disciplines
- Started 2022, recently extended to 2025-2028: phase II
- In addition to existing Collective Labour Agreements (CAO)
- Focus on 'blind spots & free market'
- In collaboration with the sector

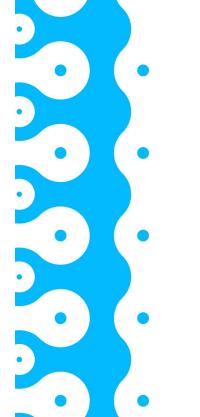






- 'chaintables', formed by formal and informal representatives of the 'economic chain', concerning a particular subsector or discipline.
- Participants represent self employed, employees, employers, contractors, agents, art schools, scientific experts ...
- No government, no funding organisations
- Like a developing 'think tank'





fairPACCT, how?

'chaintables' are facilitated with:

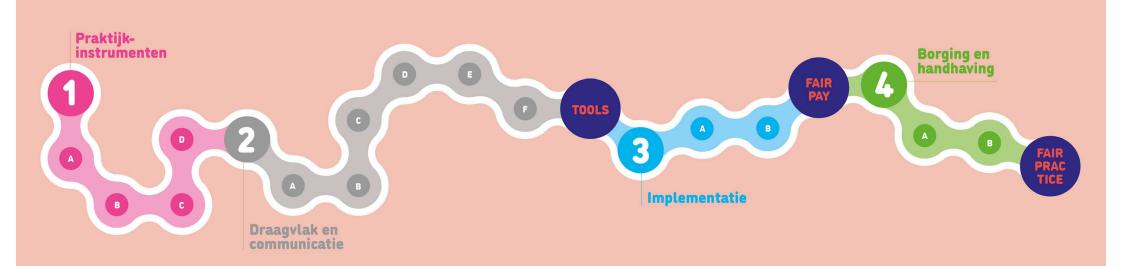
- Budget for research & development (external)
- Financial compensation for participants
- Policy advisor/secretary
- Independent chairperson
- Meeting and communication facilities / website





- 12 tables realised, 9 to come
- 3x freelance musicians & composers / archeology / film & literature festivals / film production / digital culture / arts education & participation / MarCom / photographers / sculpture
- Pre-selected by the government, the sector plus voluntary participation







- **A** Opstellen handleiding over tariefopbouw inclusief normering en richtbedragen
- **B** Ontwikkeling tarievenrichtlijn inclusief brandbreedtes
- **C** Ontwikkeling cao op basis van inventarisatie referentie-cao's
- Opstellen handleiding over transparant onderhandelen en implementatie praktijkinstrumenten

varingenanol

- **B** Klankbordgroep deskundigen en financiers
- C Publiciteit
- **D** Beroepscongressen/(sociale) vakmedia
- E Bestuur Platform ACCT
- **F** Werven ambassadeurs

2

- A Model-overeenkomsten tussen werkverleners en werkenden gelet op tarievenrichtlijnen
- **B** Model-voorwaarden vanuit subsidieverstrekkers voor werkverleners t.b.v. werkenden gelet op tarievenrichtlijnen

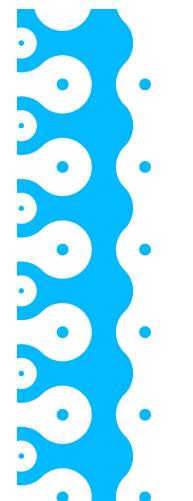
A Voorstellen doen voor borging sociale dialoog en praktijkinstrumenten

B Handhaving fair pay/fair practice door



- Surveys on the professional practice (argumentation!)
- Guidelines, *How to* ...
- Fee calculators, calculations from salary to freelance rate
- Manual of functions and assignments (references)
- Secundary labour conditions
- Private and public co-funding helps and provides support





fairPACCT, lessons learned

- Transparency and trust are crucial, it may take some time to address all interests
- 1,5 or 2 years, 9 to 15 sessions needed
- Budget per table is app. € 75.000 (550.000 DKR)
- Solutions come from within the group
- Formal representations with mandates are nice to have, but not necessary to have for good results.
- But ... securing agreements might be a challenge.





- Fair rates are key, but adressing unpaid overtime is just as important.
- Supporting formal collectives and their members became an important condition and an activity of its own.
- Be prepared to pay so called "learning money" in the beginning, efficiency and smart combinations will follow.
- Being part of the dialogue is very motivating for participants.
- Future continuation of the dialogue becomes part of the plan, sub sectors organising ownership and responsibility.
- Fair share, fair chain! Not just fair pay.





Success factors in NL

- Independent economic SER
 Report on working conditions &
 professional development for
 composers in Europe
- Campaign raise awareness of poor conditions and need for Fair Practice Code in music; Create a buzz
- Political Conference and debate
- Task force set a collective agenda for change and make the art and music sector fair

- Ownership in the sector; bottom up; shared responsability
- Facilitated by Ministery and Funds
- Adoption of the Fair Practice Code by national and cultural funding bodies.
- Extra money to reduce the fair pay gap
- Independent facilitating organization (Platform ACCT)



Please ask us!

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www.platformacct.nl

NIEWW GENECO GENOOTSCHAP NEDERLANDSE COMPONISTEN

Mange tak og held og lykke!



Risks

- Inflation, higher costs, extra money is needed. Some organisations blame 'fair practice' as extra burden.
- Minimum adviced tariffs may become the standard or even the maximum. Some sectors use scales or point system
- Just a fair fee is not enough. Also a fair volume of fair paid work is needed to make a living.
- Solve the issues and urgencies for self employed artists, as raised in the economic report

- Turns out that the corona support did not reach the self-employed, even though they were hit the hardest.
- Self employed need fair payment, access to support and cultural funds
- Important to focus on 'a bigger pie', but also focus on fair share and proportionality
- Keep balance in total expenses on building, organization and programming.
- Also focus on context, art policy, earning conditions live, media, online (Big Tech, cultural budgets in cities, broadcasters, etc) and access to funding, both private as public

Recommendations

- Create awareness in sector / buzz
- Take the lead as a sector, not top-down from the government
- Shared responsability
- Government is crucial in facilitating and securing in the sector
 - via professional artist associations/unions / sector organisations
 - · Art policy for artists, creating sustainable context
 - · Make sure FPC is anchored in the specific sectors; facilitate professional artist organizations to monitor, guide, develop
- Remember: Fair Pay, Fair Share, Fair Chain; Is not just a matter of more money. It is a question of proportionality and fair distribution.
- A fairer piece of the pie for creators
- AND a bigger pie for culture.



Fair Practice Lab

- A 'do-it-yourself' workshop
- Helps you translate the code into your own practice
- More than 300 Dutch organizations have already done this workshop
- Helps to form a learning network



Fair Practice Kostencoach

- Project in which we research how to integrate the Fair Practice Code in the policies of foundations and grant givers
- We are trying to determine together what organizations need to explain in their applications
- What is a realistic fair funding request?
- How to monitor in a fair manner?

Learnings

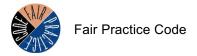


Fair Practice Code > Cultural policy

- Focus on a resilient ecosystem
- Give more room to interdisciplinarity
- Offer more financing for experiment
- Longer funding cycles
- From low to high trust
- Focus more on the process, instead of focusing on the concrete end result
- Create circumstances in which collaboration pays off
- Focus more on a long-term strategy (instead of work cycles from project to project)

Applying our learnings to the Danish context

- Severe funding cuts in 2012 > this led to a real urgency
- SER > official research which expressed the needs and urgencies of the sector in terms that were useful to policy makers
- BUZZ / an growing movement > artists gathered
- The 'Arbeidsmarktagenda', a shared agenda that worked as a useful format > getting from idea to action, getting many partners on board
- Fair pay research > concrete amounts and problems named
- Including the code as a condition in grants > catalyst
- The covid pandemic > displayed the vulnerability of the sector's infrastructure
- Discussions and meetings > providing space for the values debate
- Another round of funding cuts > further fuelling the urgency





Current context in The Netherlands

- Collective labour agreements are not increasing in line with inflation
- A possible VAT increase for cultural products from 2026
- Reduction in general municipal funds
- General subsidy cuts
- Government plans to reduce the number of self-employed
- Regulatory and administrative burden vs fair practice

Challenges



Ongoing challenges in Fair Practice

- 1. When does an artist feel that they are taken seriously? When they are paid well and make art.
- Values go hand in hand: transparency and trust.
- 3. Solidarity is at the basis of all forms of working together. But how far does solidarity stretch, who are you in solidarity with?
- 4. We are much quicker to sacrifice our own income or our pension or insurance.
- 5. Too often, there is no money left for innovation and experimentation, nor for social security or pensions.
- 6. Agreed minimum rates are now often taken as a standard rate.
- 7. Artists do not always recognize their worth.
- Many applications show imbalanced budgets. Realistic funding requests should be encouraged.
- 9. Lack of knowledge regarding labor laws and business innovations.







Accountability





2024 fairpracticecode.nl

Nieuw Geneco Fair Practice Code

- 1. Follow the Nieuw Geneco Fee Schedule, this is the sector standard for Fair Practice
 - Matrix structure; lenght, instruments/voices, complexity
 - Minimum fees
 - Fee is for the creation, other work and costs comes seperately
- 2. Respect author rights
 - · Also in Music theatre productions
- Respect performance materials (score/parts)
- 4. Recorded? Live streamed? Make seperate agreements
- 5. Send in complete programme info
- 6. Focus on sustainable development of repertoire and audiences
 - · Keeping succesful works on the repertoire
 - · Collaboration betw composer, performer, publisher in Promotion and audience outreach
 - · Accessible documentation of the work
- Clear contract arrangements in writing, on forehand