

HISTORY OF FRAPA

IN THE BEGINNING...

It all started after someone lost a bet.

At the end of the last century, as game shows returned to network prime time lineups and *Who Wants to Be A Millionaire?* took Britain – and the world – by storm, companies large and small realized that something called “a format” could become quite a valuable, returnable asset.

There had been long-running game shows before (*Jeopardy*, *Wheel of Fortune*, *Pyramid*, *Family Feud*/*Family Fortunes*, etc.) and there was always money to be made. But with the rise of *Millionaire*, *Pop Idol* and other game and competition shows, the modern format business was blossoming and companies who owned the underlying rights to those ideas saw increased potential for monetization. Take a show, create a bible, give it a distinct look, sell it around the world, offer consultancy to make the show feel similar in each territory, then sit back and watch the cash roll in.

At the same time, small companies were joining big groups, and studios were looking at long-ignored assets to see what kind of coin they could shake out of them.

David Lyle was working at Pearson (later Fremantle) and Paul Gilbert was working at Sony. Both were entertainment veterans, and both were involved in the distribution of formats.

As Paul tells it, “Sony and Fremantle were suing each other over *Pyramid*. Sony had given Fremantle the rights to their library to distribute. I was hired to get Sony in the format business which included taking back the rights as they expired.”

Paul and David were friends. But business was business. “During the time that Fremantle had the rights, they had added an element to *Pyramid* which they claimed they owned. We disagreed and then a lawsuit ensued. Lyle said to me whomever wins the suit, the other party has to buy lunch. I enjoyed my FREE lunch.”

During the time of the lawsuit, David and Paul met at NATPE (National Association of Television Program Executives) to talk about the suit. David said to Paul, “There has to be a way to solve issues like these and to keep the lawyers out of it!”

Meanwhile, Michel Rodrigue (who was operating the independent distribution company Distraction Formats) and David Lyle met at the Monte Carlo TV Festival and saw how people were ripping one another off... simply because they could get away with it.



FRAPA's Founding fathers: David Lyle, Paul Gilbert and Michel Rodrigue

“David Lyle and I meet in Monte Carlo (in) February 1999 to discuss the situation with formats non-existing copyright protection,” says Michel. “(We) discussed a plan to lobby the European union to install some sort of copyright directly applicable to formats as well as to build a membership, sort of a club where the members would engage in not copying other people’s formats.”

“From then we both recruited different format producers to support the idea of a Format Protection Association, David pinned down the name Format Recognition and Protection Association (FRAPA) which was officially launched in Cannes at MIP TV 2000,” says Michel.

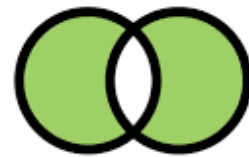
Joanna (Jo) Lyle (David’s daughter and the first Managing Director of FRAPA) recalls the beginning. “FRAPA was born right as formats were trading wildly across territories and copycats started popping up,” she remembers. “With courts in all jurisdictions the last place to give ‘unscripted’ formats protection it was evident the industry would have to do it itself. The Intellectual Property legal system would happily espouse the significance and defense of literature or scripted content, but no

judge was interested in the cultural significance of clap-o-meters, or gameshow graphics packages. Always one to fight for the producers' rights Dad worked with some other brave like-minded execs to launch FRAPA with the backing of Pearson."

By April 2000 at MIP TV David, Paul, Michel and Ute Biernat (of Pearson Germany) had brought together a small group of other like-minded "format industry pioneers" (as Ute calls them), to debate the creation of an international body to combat the growing problem of TV format piracy.

"After 6 months of development FRAPA opened for membership at MIPCOM 2000 with three main objectives," says Ute. The first was to arbitrate disputes in a pseudo-legal setup. The second was to educate the industry in regard to "format trading." And the third objective was to lobby the EU and in turn other bodies to have television formats "respected as intellectual property and therefore protected by law."

www.frapa.org



FRAPAMEMBER

The founding members of FRAPA were:

David Lyle, Pearson UK (Chairman)
Michel Rodrigue, Distraction Formats, Canada (Deputy)
Paul Gilbert, Columbia Tristar, USA
Robert Chua, Chua Production House, China
Brita Solberg, Mastiff Media, Sweden
Virginia Mouseler, The WIT, France
Roland Willaert, D&D Film and TV Productions, Germany
Ute Biernat, Pearson, Germany.

The first steering committee of FRAPA, based in the UK, were:

Gary Carter, Endemol, NL
Fred Cohen, King World, USA
Cesar Diaz, Telefe, Argentina
Paul Gilbert, Columbia Tristar, USA
Alex Lee, Pearson TV, UK
David Lyle, Pearson TV, UK
Denis Mermet, Expand, FR
Brita Solberg, Mastif Media, Sweden

From 2000 to 2003 FRAPA was based at the Pearson TV offices in London, where David was working. David was the first Chairman of FRAPA, and his daughter Jo was the first Managing Director, based in both the US and Monte Carlo.

But it was a challenging time, even for the format luminaries who came together to try and solve what was becoming a global problem. “When I say brave,” adds Jo, referring to the FRAPA founders, “that’s because some of the original board members and supporters were working at companies that had often been accused of indiscretions themselves. Companies that were large and had reputations of unfairly treating the little guys. But by joining FRAPA they allowed the smaller producers and indies to have an equal playing field for mediating disputes. Size was no longer a factor. I’m sure there were some hard-fought battles internally to get the business execs to understand the value of paying to join an association that was going to very publicly call out any bad behavior.”

Jamie Bennett, who at the time was CEO of Pearson TV supported the mission and allowed FRAPA to be hosted at their offices. But soon there was the feeling that it might not be worth it to support such an organization. And other large companies were worried that if they became a FRAPA member it meant that they would be agreeing to let any and all format disputes be mediated by FRAPA.

“After the first year of support from Pearson it was clear that the appearance of any one company or territory support was a deterrent to some potential members,” offers Jo Lyle. Rivalries, jealousy, mistrust and fear ruled the format waves.

Other initial supporters of FRAPA were forced to leave the organization, again since their parent companies did not want to be bound by the egalitarian mission of settling format disputes via mediation by an impartial group.

FRAPA Registration System



“Never one to give up, Dad and the board worked to find a solution to keep the association moving forward,” says Jo. “We were then invited by the Monte Carlo Television Festival to be based in their offices for a year. It was an excellent base for growing membership with attendances at nearby markets, like MIP, Cologne, Montreux who all embraced and supported the organization’s goals, giving

us a platform to connect with creators of all sizes. During that year we created the Format Registry, an important step in providing members with security for their paper formats.”

But still, FRAPA was having difficulties staying afloat – despite the annual board meetings on the Distraction Boat (courtesy of Michel Rodrigue).

With support in Cologne of Grundy TV and UFA Germany, Ute led the charge and helped reconstitute the association under German law with financial support from the government of North Rhine Westphalia, home to a significant presence of the German television industry.

PART TWO: GERMAN HQ

According to Ute, “Because there were mixed paper works in the UK, and Germans – especially formal institutions – (take) everything so serious, it took ages to get a “serious constitution,” all paperwork and original signings from the founding members done.”



Former FRAPA MD Christoph Fey

With David moving from the UK to the US in 2001, and the association now operating under German law, Jo passed the Managing Director duties over to a young attorney named Christoph Fey.

Registered constitution in Cologne: July 25, 2002

Legally registered as an association in Cologne: August 28, 2003

Members of the first Steering Committee (starting in Germany 2003):

David Lyle

Michel Rodrigue

Robert Chua

Paul Gilbert (Columbia Tristar International TV)

Virginia Mouseler
Alison Rayson (Target Distribution, UK)
Brita Solberg

Members of the first Management Board (starting in Germany 2003)

David Lyle
Roland Willaert
Andreas Fischer, Solicitor (RTL group)
Frank Nierenberger, Treasurer (RTL Group)
Ute Biernat, Grundy Light Entertainment

Things were busy for FRAPA as its reputation and outreach were growing. The initial mission that brought them together – that was inspired by David losing a lunch bet to Paul, and by Michel and David wanting to find ways to protect formats – was fueled by a common desire to educate the greater legal world about the proprietary nature of formats.

Getting large companies to agree to mediation, to avoid enormous legal battles with even larger legal bills, was the initial draw. Eventually, it became a drawback.

But first, FRAPA needed money to stay afloat. And in Germany, for an association to get funding from the government, FRAPA decided it needed to write a report on what a format is.

David was introduced to an attorney who had just written about copyright law. “Do you know what a format is?” he asked Christoph Fey. At the time, Christoph was a criminal defense attorney. He told David he had no idea what a format was. “But there was a dispute everywhere you looked,” said Christoph about the television business. FRAPA was going to educate the world about what a format is!” Soon Christoph was named Managing Director of FRAPA, based in Cologne.

In 2004, Christoph helped to steer the first FRAPA Report: “The Global Trade in Television Formats.” It was supported financially by the local government of North Rhine Westphalia. It was the format industry’s first major analysis for the format market, prepared by the law firm Olswang LLP and Screen Digest. It was an instant hit. Says Christoph, “The word “format” is an invention of independent producers as a way to protect ideas and hold rights.” It is meant to be a way to “claim rights and protect something he or she has created.”

Before *Millionaire*, there were not a lot of independent format distributors, with even the big global studios paying little attention to their potential asset. “Networks were doing bad behavior,” says Christoph. In his opinion, “They were inspired by ideas all the time, changing titles, hosts, subtle things. No one was truly knowledgeable at the time. And hardly anyone was paying format fees.”

Christoph told me that the first mediation performed by FRAPA involved two of the biggest and earliest entertainment formats in the world.

At around the time FRAPA began attracting attention to its mission, there was a huge dispute between the formats *Pop Stars* and *Pop Idol*. The feeling on behalf of those who worked in the entertainment industry was that format creators could not truly rely on the law or judges to understand the inner workings of a television program. The general public would watch shows of course, but understanding the differences in structure, rounds, rules, production, branding, etc. were too specific for ordinary tribunals and judges to fully appreciate.



Gary Carter

David Lyle was once again on the Fremantle side, representing *Pop Idol*. Alison Rayson (then of Target Distribution, UK) was representing *Pop Stars*, a format that pre-dated the launch of *Idol*. Leading the mediation was Gary Carter, a legendary producer/executive and international format expert who was at that time working at Endemol, NL, the genre-changing format giant.

While the results of the mediation remain confidential, a few fun facts are public. Fremantle's format brought over a television judge from the Irish version of *Pop Stars* to serve the same role on *Pop Idol* (Simon Cowell!), and since the mediation,

nowhere else in the world can Fremantle call their show *Pop Idol*, hence *American Idol* is how it is known in the US, *Australian Idol* in Australia, and so on!

Other companies looked on that mediation with envy. Over the next few years, FRAPA conducted 35 different mediations, with a success rate of 80% (*meaning the mediations were successfully concluded between all parties 80% of the time*).

The FRAPA AWARDS were soon launched (2003) at the Monte Carlo TV Festival to recognize the best new formats in various categories produced around the world. In 2005, the awards moved to the Rose d'Or Television Festival in Lucerne, Switzerland. The cooperation with C2I that moved the awards to Cannes began in 2007 where they have been ever since. The big award of the event, the Gold Award, has over the years been awarded to David Lyle (2012), Gary Carter (2016) and Paul Gilbert (2017).



FRAPA Awards Winners MIPCOM 2012

In 2005, with guidance from Michel Rodrigue and other board members, FRAPA launched a “[Bible Generator](#)” on its website as a tool to help guide independent producers and creators in developing an industry-standard bible for their original formats.

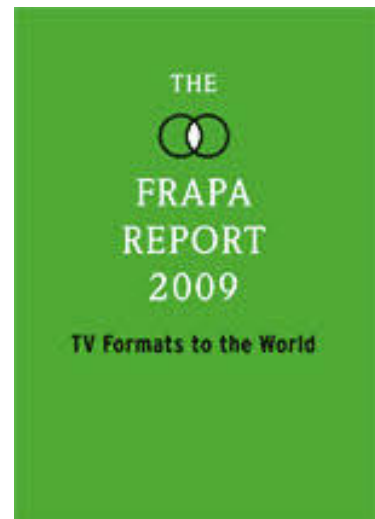
After helping to establish the association and lead its growth, David stepped down as Chairman in 2006, remaining active on the board for the rest of his life. Sadly, for his family and the entire industry, David passed away in 2017.

With the association now based in Germany, Ute took over the reins as Chair, guiding the group's growth and finding ways to keep it financially afloat from 2007-2012. Christoph served as Managing Director from 2003-2005, replaced in Germany by Eva Stein (who served as MD from 2005-2010).

In 2009, FRAPA published its second report, "TV Formats to the World."

Mike Beale (ITV, UK) joined the FRAPA board in 2007 (until 2012 for his first tenure). Patty Geneste (Absolutely Independent, NL) joined the board in 2009.

In 2009, FRAPA began its cooperation with WIPO (the World Intellectual Property Organization) in Germany. The association with this globally recognized organization enriched the FRAPA slate of services to encourage reluctant aggrieved companies to seek out a legally recognized mediation for format disputes.



In 2010, FRAPA added a "[Contract Generator](#)" to the website, designed to help producers and creators determine deal parameters in different territories for various platforms.

Also, in 2010, Eva stepped down as MD and was replaced by Yvonne Seggweiss.

Phil Gurin (The Gurin Company, USA) joined the board in 2010 (*and is writing this brief history during the Pandemic of 2020!*)

In 2011, FRAPA published its third report, "Protecting Format Rights" with financial assistance from the local government of North Rhine Westphalia.

By 2011, the funding situation in Germany was changing, and it was decided at Board level to move the organization once again, this time to Amsterdam in The Netherlands, home of the third Chairperson, Patty Geneste. A long, arduous legal process unfolded yet again, as the organization needed to change its legal reporting, financial activities, and insurance requirements to satisfy Dutch law.

NEXT STOP: AMSTERDAM

By January 2012, Ute had handed all the legal materials of FRAPA to Patty and the new (and current Managing Director) Bianca Rootsaert, both based in Amsterdam. Jan Salling (Missing Link, Denmark) joined the board in 2012.



FRAPA Managing Director Bianca Rootsaert

Robert Chua, a founding member from Hong Kong, stepped down in 2013. For years the organization's lead representative in Asia, he spoke on behalf of FRAPA at many conferences including ones in Singapore and Korea, always attending FRAPA meetings bearing tiny "collectible gifts" for each board member. He was named the first FRAPA Ambassador in 2013.

In 2014, the FRAPA "[Price Calculator](#)" was added to the website, providing a basic guide for creating budgets for your formats.

As in boards all across the world, the strong personalities who were passionate about the format industry sometimes found themselves in conflict with other board member. The early years of FRAPA based in Amsterdam were a time of often difficult growing pains for the organization.

As Michel tells it, "During the period of 2000 to 2009, all the physical board meetings were held in Cannes during MIP and MIPCOM at 8:00 AM on Tuesday mornings on the Distraction boat with coffee and croissants provided by Distraction. I acted as Vice-President of the board from 2000 to 2014, often replacing the President for board meetings, conferences or whenever the President needed me to step in." However, according to Michel, it was Patty who asked him to resign from the board in 2014.

Meanwhile, as the large, multi-national format companies grew reluctant to have their disputes mediated by an impartial non-profit beholden to them, FRAPA sought to increase its services and outreach by other means.

It became clear that the world needed an organization to actively and vocally promote the higher ideals of being good global citizens in the format world. To

become, as Phil Gurin has often said, “*the conscience of the format industry.*” Helping small and mid-size companies became an inspiring guiding mission.

The FRAPA “[Code of Conduct](#)”, written by Phil, was published on March 4, 2015 at an annual member meeting in Cannes. This 10-point guide to what it means to be a FRAPA member was the first in what would become a series of written “foundational documents,” initiatives and articles designed to lay the groundwork for how members should conduct themselves. To be a FRAPA member indicated you would adhere to this code of honor, a kind of “Good Housekeeping Seal of Approval.” Members were encouraged to proudly display the FRAPA logo on their documents and their websites.

THE FOURTH WAVE

It was a tumultuous time in the formats business, as well as a complicated time for merges and acquisitions throughout the entertainment world. And it was a tough time within FRAPA. By 2015 Patty stepped down as Chairman after selling her distribution company. Ute stepped off the board in 2015 and was named the second FRAPA Ambassador in 2015. An existential crisis loomed for FRAPA.

This time, for the first time, with members in time zones now spanning the globe, it was decided to have two people serve as co-chairman. Since 2015, Jan Salling in Copenhagen and Phil Gurin in Los Angeles have divided and conquered a wide array of responsibilities. And an era of great expansion was about to begin.

Members of the Current Management Board 2015-Present:

Phil Gurin, The Gurin Company, USA (Co-Chair)
Jan Salling, Missing Link/BBC Nordics, Denmark (Co-Chair)
Lisette Van Diepen, Marphes Media, Netherlands (Treasurer)
Mike Beale, ITV, UK (rejoined the board in 2015)
Hayley Babcock, A+E Networks, USA
Jin Woo Hwang, Something Special, Korea
Keri Lewis Brown, K7, UK
Michael Schmidt, Total Schmidt Show, Germany/USA
Nicolas Smirnoff, Prensario, Argentina



*FRAPA Management Board 2020, from top left: Phil Gurin, Jan Salling, Lisette van Diepen, Mike Beale
From bottom left: Hayley Babcock, Jin Woo Hwang, Keri Lewis Brown, Michael Schmidt, Nicolas Schmirnoff*

Phil wrote the “[Declaration of Cooperation](#),” published in Cannes on October 16, 2018, which has now been translated into 18 languages. This statement of global principals is meant for members and non-members alike, serving as a guide for the entire format industry. It is meant to be “a foundational document and aspirational outline, a statement of defining principals to make the world a better and safer place to do business.”

Returning to the world of deeply researched, industry-standard reports, the current management board has initiated and published three significant volumes.

“[Understanding Latin America](#)” (in collaboration with Prensario), 2016. It was the first global report of its kind to illuminate the entirety of the Latin American format market. Nicolas Smirnoff, FRAPA Board Member and Managing Director of Prensario, remembers it this way. “In 2016, FRAPA requested Prensario International, the leading player about market information, figures and trends in Latin America, to generate a complete report about the evolution of the content industry in the region.”

It was major undertaking for a part of the world that was growing quickly but was little understood outside the territory. Adds Nicolas, “After 5 months, Prensario sent FRAPA a report that revealed for instance that a telenovela one-hour episode produced by a broadcaster costs USD 80,000 average, while the Pay TV premium

series cost USD 200,000 per one-hour episode. The unscripted sector is more flexible, with costs of USD 35,000 to 50,000 average the chapter in broadcasters, though in the smaller countries the costs can go down to USD 5,000 per episode, or less.”

The specificity was unique, and the insights invaluable. Says Nicolas, “The production costs used to be covered 80% by the local markets, so the players need the international market sales to cover the difference. If sales go well, there is a good profit. If sales are mid-level, just the costs are covered. So, (the) big players need format sales and ancillary business to make a real difference.” Concluded Nicolas, “The LatAm report provided not only unique figures to get, but also the business story behind the numbers.”

Format awareness continued to pop up in places far and wide, leading to the next report. Managing Director Bianca Rootsart participated in a roundtable conference on format protection and the legal framework of the industry at a conference in Moscow, April 2016.

Organized by the Russian International Chamber of Commerce, including diplomatic delegates from Europe and the US, it provided Bianca the opportunity to meet the head of Baker McKenzie Russia, where they discussed the value of a FRAPA legal report about protecting formats. In the event, the “FRAPA Legal Report” (in collaboration with Baker & McKenzie), was released in November 2017 to instant acclaim.



In fact, the “FRAPA Legal Report” was in such demand at events, Jan and Phil presented it at MIP TV in Cannes 2018 to a packed house. Jan and other board members have subsequently toured the world presenting its findings in a powerful and succinct PowerPoint presentation. Bianca presented it at the 2nd Asian Pacific Broadcast Union in Teheran in 2018, and again in Rome in 2019 at an event in collaboration with the APT (Television Producers’ Association of Italy).



Evolving with the fast-changing landscape, FRAPA’s most recent – and relevant – report was published in 2019: “FRAPA Guide to producing for VOD.” A useful and practical in-depth analysis of working with streaming services around the world, it has been widely referred to by companies both large and small. Clearly, with streamers taking more and more format rights, distributors everywhere are concerned about the future of their business – and this guide talks about that brave, new future.

About this report, Mike Beale (ITV, UK) offers this insight: “The decision by the general board to pull a report together on working with the VOD market came at a very important time, as some of the key players started to shift from a scripted

commissioning regime to one of non-scripted and specifically formats. This report was so timely around the shift in the market towards formats, and is exactly what FRAPA should be delivering for its members and the wider market.”

In 2017, FRAPA instituted a “[Format Analysis Service \(FAS\)](#)”. With a step-by-step protocol developed by David Lyle, Keri Lewis Brown (K7, UK) and Bianca, the FAS has quickly become the “industry standard” for side by side comparisons between produced – and disputed – formats. Offers Co-Chair Jan Salling, “FRAPA wants to be relevant to the format industry and listen to its needs. One of our newest services is the FAS (Format Analysis Service) which provides a comparison between two formats to judge if one format could be a copy of another format.

“This service is a world class facility using the FRAPA analysis methodology overseen by acknowledged experts with decades of experience in all parts of the format business. An impartial and independent expert opinion, accompanied by a numerical score, is highly valued by our members and many infringement cases have been given enough leverage to be solved or settled using the FAS.”

The first public instance of a company using the FAS was the Korean producer CJ E&M in a dispute over their format *Producer 101* launched in 2016. They claimed that a Chinese platform, iQIYI, by launching its format *Idol Producer* in 2018, had infringed on their creation. In a presentation at MIP TV in 2018, a side-by-side comparison, along with the analysis from FRAPA, led to the most public stand taken to date about the proliferation of potential format infringements by Chinese production companies.

In fact, one of FRAPA’s key missions these days is to persuade and educate companies the world over and on every platform about the value of a format and the efficacies of recognizable protectable, intellectual property. Without a shared understanding of what a format is, who created it, who owns it, and who should get paid, the entire underpinning of the global distribution business of intellectual property could collapse.

A key part of this mission is to persuade all cultures that have been resistant to recognizing format creation and ownership. And so, in 2019, Lisette Van Diepen (Marphes Media) represented FRAPA at a trade mission in China.

“In September 2019,” says Lisette, “I was invited to represent FRAPA and join the “EU-China Roundtable on Copyright Protection and Licensing in the Digital Environment Meeting”.

“The event featured copyright experts from the EU and China including government officials, industry groups and rights holders. The aim of the event was to increase exchange and sharing of know-how, which could result in further transparency between the different parties.

“FRAPA was one of the key European partners invited to offer expertise towards the Chinese delegates. My FRAPA presentation was to be an introduction to formats (as opposed to ideas), the lack of legal protection, and the plan of action from FRAPA to help international creators protect their IP as much as possible in order to monetize their IP and work internationally as much as possible.”

In 2016, FRAPA began curating a new kind of semi-annual members’ meeting in Cannes: “The FRAPA MINI SUMMIT.” With speakers from around the world, an introduction to the latest formats via a special presentation from K7, and an international gathering of producers, creators, distributors and executives, this bi-annual event has grown to become a must-attend event every Sunday afternoon at MIP or MIPCOM.

Following several years of planning, FRAPA was pleased to help launch – and provide sponsorship and mentorship to – [The David Lyle Foundation](#). Along with a veritable “Who’s Who” of advisors and organizations leading the board, (including FRAPA board members Phil Gurin, Jan Salling, Keri Lewis Brown and Hayley Babcock), the program launched in 2019 and is designed to help propel successful careers in the



international television business, keeping the inspirational memory of David alive for future generations.

Finally, in 2020, in an attempt to provide a global standard for courts, companies and the general public, FRAPA crafted its third foundational document, a dictionary-friendly definition designed to fulfill the original reason for the organization's existence. "[What is a format?](#)" written by Phil Gurin and Hayley Babcock (A+E Networks, US) is now prominently displayed on the FRAPA website, offering a clear-eyed, direct and easy to understand explanation it hopes will become the internationally recognized standard explanation of the term. "Because, if you can define it," says Phil, "you just might be able to protect it."

THE FUTURE OF FRAPA:

Everything changed in 2020.

The global pandemic upended plans for millions the world over. It was no different for FRAPA. This was to be the year of our "2020 Vision Project."

But while the world may have suffered a horrible shock to the system, we remain ever optimistic about the future.

Cognizant that entertainment (and formats) will help us to sometimes forget our troubles, we know that our industry will be a leader in helping people find joy once again.

FRAPA has been busy.

A new website and app are being developed, with plans to launch by the time you read this history.

Our bi-monthly newsletter includes editorials, profiles on new shows and new members.

A new non-profit foundation structure will alter the management and membership, streamlining the organization to better serve members.

Rodrigue, Ute Biernat, Christoph Fey, Jan Richters, Roland Willaert, Robert Chua, Andy Ruane (*for uncovering many original FRAPA founding documents*), Bianca Rootsaert, Lisette Van Diepen, Mike Beale and Jan Salling. And over the years, the

collaborations with C2I, K7, Reed Midem and NATPE have been invaluable as FRAPA continues to spread its mission and values.)

Written by:

Phil Gurin

Co-Chair, FRAPA

President & CEO, The Gurin Company, USA

September 9, 2020

