

# International Survey on Private Copying



Law & Practice 2012

de Thuiskopie



  
**WIPO**  
WORLD  
INTELLECTUAL PROPERTY  
ORGANIZATION

# **International Survey on Private Copying Law & Practice 2012**

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# Executive Summary

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## 1. Introduction

The present Survey represents a collection of key data on private copying compensation systems around the world. It appears now in its 22nd edition, which for the first time is the result of collaboration between the Private Copying Collection body in the Netherlands, Stichting de ThuisKopie, and the World Intellectual Property Organization (WIPO).

The Survey is intended to provide a global overview of an important element of the copyright and related rights infrastructure: private copying compensation (also known as private copying levies, or just levies). It aims to assist evidence-based decision-making and to offer an update on important developments in the private copying law and practice of various countries across the globe.

Stichting de ThuisKopie (the private copying collection body in the Netherlands) started indexing legal and practical information about the private copying remuneration in neighbouring countries, back in 1991. The Survey quickly expanded, and soon included all European countries that had a levy system in place. Over the years the scope has expanded to countries outside Europe. This 22nd edition covers 30 countries in almost all the continents.

The data compiled in the Survey is exclusively provided by participating collecting societies entrusted with the collection and distribution of the private copying remuneration. Without the support of these societies, production of this rich and varied collection of data would not have been possible. Many societies are long-time participants; some started to participate in the '90s. But there are also new contributors, such as Burkina Faso, Paraguay, Russia, and the USA. We want to express our gratitude to all for their cooperation and their loyalty, and we hope that the 22nd edition – which is also the first WIPO/ThuisKopie edition – will continue to do what earlier editions have done, and will do it even better: improving insight into the global private copying compensation systems; demonstrating the importance of this source of income for authors and other right holders; supporting efforts to unify, and possibly harmonise, collection and distribution practices; and helping to reduce differences between the various systems that may distort regular market conditions. Hopefully the Survey will be as useful as it has been in previous years when it has been used as a reference for data in negotiations on levies, in background reports of the European Commission, in studies of rights holders and user organisations alike, or in policy papers of governmental bodies.

## 2. Methodology and Scope

### 2.1 Introduction

The Survey is an assemblage of input delivered by collecting societies responsible for the administration of private copying compensation. Data collection takes place on the basis of an extensive questionnaire, covering a wide range of fields of interest. Each year, the questionnaire is thoroughly reviewed and updated. Comments from participants, and experience gained from processing information, often provide insights into ways in which the questioning can be improved and made more effective. When necessary and appropriate additional information, and clarifications, have been requested, replies are normally compared with information that has been submitted in earlier rounds, in order to identify and address possible inconsistencies.

The questionnaire has been submitted to societies in 42 countries. At the cut-off date of May 31st 2012, replies had been received from 40 countries, resulting in a return rate of 95.2%.

The information was updated in 25 countries, and societies in 2 countries replied that the situation had remained unchanged. 4 countries are new to the Survey, and 9 either did not reply or replied explaining that they did not have a private copying system in place.

Response rate 95.2%:

Response	Number of countries
Number of questionnaires	42
Number of replies	40
Update of data	27
No changes	2
New data	4
No levies	7

In several countries (e.g. Côte d'Ivoire, Senegal, Republic of Korea) the situation is unclear, and a solid communication needs to be established in order to clarify the situation and reflect it in the next Survey.

## 2.2 *Participation in continents*

Whilst it is expected that in the next round the Survey will be expanded by a few other countries, this edition already covers countries in Europe, North America, South America, Africa, and Asia.

### **Europe**

A private copying compensation system is very common in Europe. Information about levies in 23 E.E.A. countries is included in the Survey, as well as three non-E.E.A. countries. No compensation exists in Cyprus, Ireland, Luxembourg, Malta, or the UK.

### **North America**

Compensation systems can be found in Canada and the US, although these systems are more limited, compared to most European countries. In Canada, the Canadian Private Copying Collective (CPCC/SCPCP) can only collect on audio carriers. The USA has a system of private copying levies in place, in conjunction with the Audio Home Recording Act of 1992. The Alliance of Artists and Recording Companies (AARC) has joined the Survey only this year.

### **South America**

In South-America, Paraguay, Ecuador, and Peru have a legal compensation system in place regarding private copying. These systems have not yet yielded much income for rights owners, although Paraguay collected monies in 2011, for the first time. A summary of the legal information for these countries is included in the Survey.

### **Africa**

Senegal, Burkina Faso, and Côte d'Ivoire either have a compensation system in place, or are working on its introduction. Burkina Faso is the first African country to have joined the Survey, having had a private copying system in place since 2004.

### **Asia**

Other than Japan, no countries in Asia have a private copying remuneration system in place, but the matter is under consideration in the Republic of Korea.

## 2.3 *Large variety of systems in the world*

The private copying compensation systems across the world vary substantially, as a result of a multitude of circumstances. The Survey makes clear that significant differences may occur in key areas, such as rate levels, selection of products that can be levied, liability of market players, methods of reporting, legal tools for monitoring and enforcement, and methods of setting the rates, to mention just a few.

In Europe, in the early '90s, the European Commission attempted unification, but the Commission's efforts never resulted in legislative proposals. The result was a kind of anti-unification tendency: legal and practical developments in the countries involved proceeded, unhindered by any cross-border consideration. The recent appointment in the EU of a mediator to investigate the viability of measures that would further approximation, and possibly harmonisation, of (important parts of) the systems, is of great significance.

### 3. Legal background for private copying remuneration

#### 3.1 Main principles

The Berne Convention allows member-states to provide for exceptions and limitations to the right of reproduction. The conditions of the “three steps test” should be met. Many jurisdictions limit the application of the reproduction right to activities that can be qualified as “private copying”, the reasoning being that it is practically impossible to grant permission to large numbers of individuals, or to monitor the use consequently made of it. In general, the solution was found in an exception or limitation to the exclusive right, under the condition that a fair compensation was paid to authors and other rights holders for loss of revenues or harm caused to the rights owner whose work had been copied. It is currently the only efficient mechanism which allows creators to be compensated for widespread copying of their works for private/domestic use.

#### 3.2 Definition of private copying

The private copying exception’s scope is usually defined as follows: any copy for non-commercial purposes made by a natural person for his/her own use.

A levy was first introduced in Germany, in 1966. In that case, the exclusive reproduction right had been replaced by a right to equitable remuneration. In other jurisdictions, levies were attached to long-existing private copying exceptions, when modern technological developments made it difficult to deny that private copying was affecting the income potential of rights holders.

In general, the exception only applies when the source is legal. Downloads from a peer-to-peer network, newsgroups (usenet) sources, and the like, where music and films have been uploaded without consent from the rights holders, are usually not within the scope of the exception. There are exceptions to this rule; The Netherlands, Russia, Switzerland, and Canada do not have a specific provision regarding the source of the copy, thus all copies made for private use fall within the scope of the exception.

### 4. Practical implementation of compensation systems

For reasons of efficiency, and the impossibility of collecting from individuals, the most common system is where importers and manufacturers, and sometimes the professional traders, are required to pay levies applied to recording equipment or media used by individuals for their private use (all who can be charged for the compensation are indicated as “liable parties” in the Survey). It is assumed that levies consequently will be included in the selling price of the levied products.

In some jurisdictions, the compensation system applies to recording equipment as well as media. In other jurisdictions, levies are limited to media.

	Country	Levies on Media	Levies on Devices
1.	Austria	X	X
2.	Belgium	X	X
3.	Bulgaria	X	X
4.	Burkina Faso	X	X
5.	Canada	X	
6.	Croatia	X	X
7.	Czech Republic	X	X
8.	Denmark	X	
9.	Finland	X	X
10.	France	X	X
11.	Germany	X	X
12.	Greece	X	X
13.	Hungary	X	X
14.	Italy	X	X
15.	Japan	X	X
16.	Latvia	X	X
17.	Lithuania	X	X

Country	Levies on Media	Levies on Devices
18. Netherlands	X	
19. Norway		
20. Paraguay	X	X
21. Poland	X	X
22. Portugal	X	
23. Russia	X	X
24. Slovakia	X	X
25. Slovenia	X	X
26. Spain		
27. Sweden	X	X
28. Switzerland	X	X
29. Turkey	X	X
30. USA*	X	X

\* very limited

It should be noted that the distinction between recording equipment and media is becoming increasingly blurred. In some countries with a media levy system (for instance, Austria and France), hard disks, in equipment such as audiovisual recorders, set-top boxes and TV-sets with integrated hard disks, qualify as 'blank media'. A comparable example is found in countries where a memory unit (flash memory card) is levied only when used in a recording device and sold together with the device, albeit no compensation is due for the device, or for the separately sold memory unit.

Whether a national compensation system applies to a certain product is sometimes a matter of the legislator, or of the government. In other countries, courts determine the scope of the compensation system on the basis of rights holders' claims. A third variation is found in countries where special bodies, appointed by the government, are responsible for selecting the products that can be levied, and the rates.

The Survey reveals that rate setting can differ considerably when comparing one jurisdiction to another. Roughly, rate setting can be distinguished as being either a matter of direct state intervention (lawmaker, minister, designated public body), or being established in negotiations between rights holders (i.e. collecting societies administering the levies) and the industries (consumer electronics, IT-industry). Finally, in some countries rates are set by special bodies appointed by the government, acting as negotiation platforms.

**Table 1: Rate Setting Models**

Models	Number of Countries
Direct State Intervention	21
Negotiations by industries and societies	6
Special government-appointed body	3

## 5. Liability issues

### 5.1 Introduction

Four highly interesting questions regarding the extensions or limits to payment liability are:

- to whom should liability be extended in order to minimise infringement and, consequently, unfair competition?
- what system should be applied – if any – to refund levies when products have been exported?
- does a levy apply when products are used in a professional situation?
- who is liable when a consumer buys equipment or media online from a foreign seller?



## 5.2 *Extended liability*

Importers and manufacturers of recording equipment and media are usually legally liable for payment of the levies.

In some countries the notion of extended liability was introduced into the law, to counter grey imports. If a reseller cannot show who the original importer was, it may be possible to hold the reseller liable for payment.

**Table 2: Extended liability**

Countries	% of total
Czech Republic, Finland, Germany, Hungary, Italy, Netherlands, and Spain	23%

## 5.3 *Exports and exempted liability*

The levies are meant to compensate for private copying in a certain country; rights owners whose works have been copied in that specific country have a right to be remunerated. For this reason, exports are exempt in most countries. Different systems exist for refunding the levies that have already been paid on a product which is later on exported. Usually the exporter can ask for a refund from the collecting society, if he can show proof of the actual export. Another possibility is a contractual relationship that an exporter (often a wholesaler) can have with the importer and/or the collecting society. In the Netherlands, for example, it is possible for an exporter to buy without levies from a registered importer if he exports more than a certain amount of levied products yearly. He only has to report on the sales in his home country. This way the compensation system has less impact on the functioning of the market.

Some countries do not have a refund system in place, and it is up to the exporter to report only the goods sold in the home country. In these cases, exports can often be recuperated in the next report to the collecting society. Finally, some countries, like Finland or the Netherlands, have the possibility of being exempt upfront or asking for a refund.

**Table 3: Exports**

Models	Number of countries
Exemption with refund	13
Upfront exemption	5
No refund and/or exemption	10

## 5.4 *Professional use and reduced liability*

A good example of reduced payment liability is to be found when imported or manufactured products are sold to so-called professional users. Blank media and equipment can be used for purposes wholly unrelated to the private copying exception. For instance, they can be used for the storage of professional data (blue prints, software, and manuals). Or they can be used for professional reproductions where a license would be required. Products are sold in a commercial environment where no private copying is taking place.

In some countries, products sold to professional users are exempt from payment of the levy, or liable parties are entitled to a refund. In the so-called mutualisation systems, however, professional use was incorporated in the rate, resulting in a reduced, relatively low flat rate to be paid over all deliveries of a certain media or device. Without this simple and practical approach, the rate would have been much higher for products destined for private copying. In some countries, exempted liability or mutualisation appeared shoulder-to-shoulder.

The situation has been changed dramatically by the European Court of Justice's verdict in the Padawan-SGAE case (October 21, 2010).

The court ruled that the indiscriminate application of the private copying levy to all types of digital reproduction equipment, devices, and media, including cases in which such equipment is acquired by persons other than natural

persons, for purposes clearly unrelated to private copying, is incompatible with the 2001 Information Society (or Copyright) Directive. "Padawan" has led to changes in the law, for instance in France, and the legal basis for collection in a number of other countries will also be affected (e.g. the Netherlands and Belgium).

**Table 4: Mutualisation/professional use**

Models	Number of countries
Professional use calculated in levies	6
Professional use not taken into account	1
Professional use refunded/exempted	15

### 5.5 *Online sales and cross-border liability*

The key question here is whether, in a case of distance selling in which the buyer is established in a country different to that of the seller, the seller is to be seen as the liable party. Of relevance especially for member states of the European Union, but also interesting for other jurisdictions, is the judgment of the Court of Justice of the European Union in the so-called *ThuisKopie-Opus* case (2011). The Court ruled that the state that has a private copying exception in the law, in conjunction with a levy system, should ensure that the levy is paid. According to the judgment, "[...] it is for the Member State which has introduced a system of private copying levies chargeable to the manufacturer or importer of media for reproduction of protected works, and on the territory of which the harm caused to authors by the use for private purposes of their work by purchasers who reside there occurs, to ensure that those authors actually receive the fair compensation intended to compensate them for that harm". In this case the Dutch court – the country of residence of the buyer, and a country with a private copying compensation system in place – was asked to ensure recovery of the levy from the seller in Germany. Along with the Netherlands, collecting societies in France and Austria are also charging levies from cross-border online sellers, and legal proceedings regarding this issue are ongoing in many countries.

## 6. A few aspects of distribution

In this paragraph, the following issues will be briefly described and explained:

- cost deductions,
- determination of distribution schemes,
- social and cultural deductions.

### 6.1 *Cost deductions*

Private copying remunerations are gathered by collecting societies appointed by the government or by rights holders. They must be representative of each variety of rights holders, and often the board of such a collecting society is comprised of the various rights holders' representatives (authors, performing artists, producers).

Whilst on the one hand, in almost all countries in the Survey, collection is concentrated in one point, to which importers, manufacturers, and other liable parties are required to report, distribution takes place according to a more complicated scheme. Collection by multiple societies occurs in the Czech Republic, Japan (split for audio and video), and Slovakia.

Distribution is often layered; the society responsible for the collection allocates monies to organisations of rights holders, representing the various categories of rights holders (e.g. authors, producers. and performing artists), for distribution to individual rights owners (distributing organisations).

The Survey does not provide full information on the costs of collection and distribution. It is assumed that in many cases the societies responsible for collection, and the single source of information for the Survey, are not fully aware of the expenses involved in the distribution to rights holders by a multitude of distributing societies. Also, in some situations costs may be seen as sensitive information, resulting in societies not readily divulging the requested information. Where costs were reported, it was not yet possible to clarify in all cases what part of the entire collection and distribution process was covered, and what part was not.

The information received can, on the one hand, give an indication that the efficiency and costs levels involved in collection and distribution can be excellent, sometimes reported as low as 1.1%. On the other hand, the information is too scarce to even justify extrapolation. Reporting a reliable overall bandwidth of cost levels is a very challenging task for future Surveys.

## 6.2 *Distribution schemes*

Distribution to different categories of rights holders, represented by collecting societies responsible for distribution to individual rights holders, occurs according to schemes either determined by rights holders' organisations, or by law, ministerial decree, or other state intervention.

Where the distribution scheme is a matter of rights owners, the shares are established in negotiations between the different groups of rights holders.

Sometimes the results have to be validated or approved by the government.

Audio and video remunerations are split, and in most cases two distribution schemes are introduced. Distribution to audio rights owners is split towards authors, performers, and producers. Video rights owners are to be found in more categories, such as authors (directors, screenwriters, music authors, literary authors), producers, and performing artists (actors, dancers). The distribution is not automatically split equally, authors having often a larger part in musical revenues.

Ideally, the split between the categories of rights owners is based upon market research on the type of works copied on the various media. Some countries (like Switzerland) have a distribution scheme in place, decided by the type of blank media the monies were received upon. Mostly, however, the split between audio and video (and sometimes interactive) is made at the "top", based upon the type of media or equipment levied, and the predominant use made thereof by a consumer.

**Table 5: Distribution schemes**

Models	Number of countries
Distribution solely determined by rights owners	13
Distribution by lawmaker	11
Lawmaker after rights owners' consultation	5

## 6.3 *Social and cultural deductions*

In the majority of the participating countries, a percentage is deducted for social and cultural purposes. These cultural funds are intended for the promotion of young artists, or to feed pension funds for artists. In most cases the law dictates these percentages. Cultural government bodies welcome the funds allocated to promoting the cultural society and improving the position of rights holders. The percentages vary from 10% to 100%, the latter being the case only in Turkey, where levies are fully used for cultural purposes by the Ministry of Culture.

Often a separate fund is created to select the cultural events or projects that will be the recipients of the financial support. In many cases, rights holders are members of the selection committees, and their vote is decisive as to how the money is spent.

When it is not the collecting society that deducts cultural funds, the distributing organisations can sponsor activities or events helping their specific category of rights holders.

The funds allocated to the development of the arts, and to cultural events, are substantial, contributing to cultural diversity and growth of the sector. This collective aspect of private copying compensation is very valuable for rights owners, also because of its impact on social conditions. Not only do the arts and culture thrive, as in France where the financial input is considerable, but artists also enjoy more security in their old age, as in Germany where pensions for creators receive substantial sums from private copying incomes.

**Table 6: Collective Purposes**

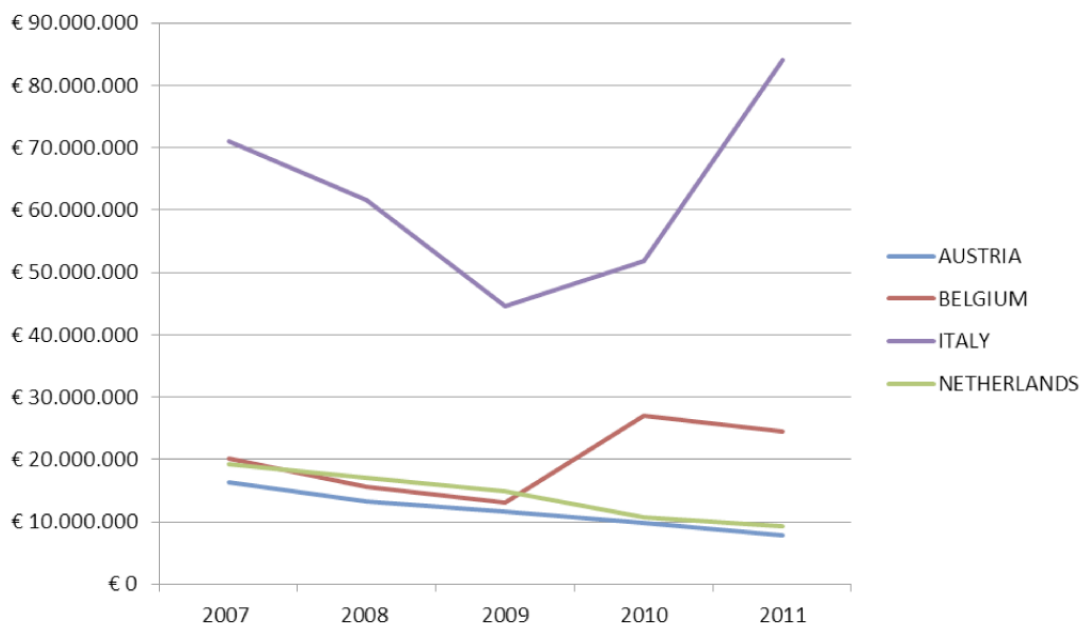
Country with social and cultural funds	% social and cultural purposes	Determined by
Austria	50%	Law
Belgium	--	
Bulgaria	30%	Law
Burkina Faso	50%	Law – rights owners
Canada		
Croatia	30%	Law – rights owners
Czech Republic	15%	Rights owners
Denmark	33%	Law
Finland	50% video 35% audio	Law
France	25%	Law
Germany	--	
Greece	--	
Hungary	10%	Law
Italy	50% video	Performing artists
Japan	20%	Law
Latvia	10%	Music authors
Lithuania	25%	Law
Netherlands	Max.15%	Rights owners' organisations
Norway		
Paraguay	10%	Law
Poland	21%	Rights owners' organisations
Portugal	20%	Law
Russia	15%	Law – rights owners
Slovakia	--	
Slovenia	--	
Spain	20%	Law
Sweden	--	
Switzerland	10%	Rights owners
Turkey	100%	Law
USA	--	

## 7. Revenue trends

In the majority of the participating countries, revenues have been falling over the last few years. Consumer behaviour research supports the assumption that, in the light of technological developments making copying so much easier, private copying has increased rather than declined.

Compared to 2009, the total revenue in the participating countries in 2010 was almost 3% down, but the picture becomes more dramatic when ignoring the countries that have recently introduced new levies applicable to new digital technologies (France, Italy, and Belgium), and where revenues are at least stable and sometimes on the rise. In this case, the total revenue was down by almost 12%.

Example: as we can see in the graph below, in Italy, where new levies were introduced in 2009, we see a significant rise in revenues in 2010, whereas countries like Canada and the Netherlands experienced a fall, due to the fact that levies only exist on blank media.



It appears that the compensation systems are not adapting fast enough to the shift of consumer preference to new digital copying technologies. Legislation is lagging behind, creating a gap between trailing compensation systems and private copying realities. Legislation is based on less popular, if not obsolete, products, and income is sliding downwards.

This phenomenon is not only visible in many European countries (Austria, Denmark, Finland, The Netherlands, to mention just a few), but also in Canada. Rights holders have repeatedly submitted proposals to expand the compensation system to state-of-the-art recordable media used on a large scale by consumers for recording music. A recent example is the case of microSD memory cards, but the matter is not decided yet. An earlier proposal of CPCC, advocating that the *Copyright Act* be amended to include the extension of the private copying levy to MP3 players, was declined by the Copyright Board of Canada.

However, key players in the information technology industry have formed a new and very active opposition to private copying compensation in general, and levies on their products in particular.

In addition, new devices make politicians hesitant to support new levies because of the devices' multifunctionality. Smartphones, for instance, are *inter alia* sold for their capacity to record and store large numbers of songs. Not to mention the easy exchange between memory cards used in these devices, enabling consumers to swap song-lists incredibly easily. Nonetheless, a general agreement to levy smartphones is almost non-existent, and producers of smartphones are at the forefront of businesses combating expansion of the compensation systems, such as in Belgium and Italy, where Nokia and Ericsson were extremely active in this respect.

The internet is enabling consumers to be heard in a manner which was unthinkable 10 to 15 years ago. The payments due to copyright are directly felt by consumers through the private copying compensation schemes. There is, one can presume, also a strongly-felt reluctance to be charged – indirectly as it may be – when copying to enable a platform shift (copy your music to have it available in the car, for instance), or when time-shifting (recording a TV-show for later viewing). These and other circumstances create a climate wherein one can say that private copying compensation schemes are not overly popular, and *vox populi* is a factor to reckon with when considering measures to include new technologies in the system.

Finally, the general attitude towards copyright – and collective administration, including the private copying compensation system, in particular – does have its effect on readiness to change the rules, and include the newer digital technologies in the compensation system.

Of all these circumstances, the result is that rights holders are losing money, whilst reproductions for personal use are on the increase in countries where the pace of change is far too low, or where no change is taking place.

## 8. Final words

The private copying compensation systems in the world are not always undisputed. Over the last couple of years, we have seen governments, industry and rights owners struggle to adapt to the globalisation of the use of protected works, and to the digital environment. In some countries, these adaptations are easier reached than in others; discussions arise about the modalities of the regulations, the scope of the exceptions, and the best way to ensure fair compensation for rights owners whose exclusive rights have been narrowed. On the other hand, we see the appreciation for creative content, the willingness to compensate rights owners for their effort and creativity. It is important to keep following the developments in the field of private copying. It is hoped that this Survey will be a useful tool in negotiations, or a means to broaden the knowledge of this specific copyright, and neighbouring rights, issue.

## 1. REVENUES PER CAPITA

Country	Population 2011*	Revenues 2010	Average revenue per capita
AUSTRIA	8,413,000	€ 9,907,000	€ 1.18
BELGIUM	10,754,000	€ 21,985,492	€ 2.04
BULGARIA	7,446,000	€ 8,880	€ 0.00
BURKINA FASO	16,241,811	€ 244,760	€ 0.02
CANADA	34,350,000	€ 12,215,943	€ 0.36
CROATIA	4,396,000	€ 1,313,477	€ 0.30
CZECH REPUBLIC	10,534,000	€ 2,033,109	€ 0.19
DENMARK	5,573,000	€ 5,054,046	€ 0.91
FINLAND	5,385,000	€ 5,595,600	€ 1.04
FRANCE	63,126,000	€ 188,737,396	€ 2.99
GERMANY	82,163,000	€ 243,751,000	€ 2.97
GREECE	11,390,000	€ 778,200	€ 0.07
HUNGARY	9,966,000	€ 9,584,950	€ 0.96
ITALY	60,789,000	€ 51,802,831	€ 0.85
JAPAN	126,497,000	€ 19,084,892	€ 0.15
LATVIA	2,243,000	€ 73,677	€ 0.03
LITHUANIA	3,307,000	€ 102,534	€ 0.03
NETHERLANDS	16,665,000	€ 10,820,005	€ 0.65
NORWAY	4,925,000	€ 5,215,686	€ 1.06
PARAGUAY	6,000,000	€ 0	€ 0.00
POLAND	38,299,000	€ 1,907,588	€ 0.05
PORTUGAL	10,690,000	€ 2,359,418	€ 0.22
ROMANIA	19,000,000	€ 970,012	€ 0.08
RUSSIA	142,836,000	€ 17,094,833	€ 0.12
SLOVAKIA	5,462,000	€ 691,843	€ 0.13
SPAIN	46,455,000	€ 82,168,801	€ 1.77
SWEDEN	9,441,000	€ 9,889,162	€ 1.05
SWITZERLAND	7,702,000	€ 11,910,711	€ 1.55
UNITED STATES	313,000,000	€ 1,500,000	€ 0.004

\* Turkey: no information

## 2. TARIFFS ON BLANK CARRIERS

Country	Page	Data CD-R	DVD-	Memory Cards
Austria	15	0.23 (per 80 minutes/ 700 MB)	0.36 (per 120 min/4.7 GB)	1.50 < 512 MB – 9.00 > 30 GB
Belgium	20	0.12 (per unit)	0.40 (per unit)	0.15 < 2 GB – 1.35 > 16 GB
Bulgaria	25	1.25% (delivery price unit)	1.25% (delivery price unit)	1.1% (delivery price unit)
Burkina faso	30	10% of price	10% of price	10% of price
Canada	33	0.22 (per unit)	-	-
Croatia	37	0.01 (<1 GB)	0.01 (per unit/< 10 GB)	0.55 < 16 GB – 1.10 > 16 GB
Czech Republic (OSA)	41	0.009 (per unit)	0.024 (per unit)	0.032 (max. 1.939)
Czech Republic (Intergram)	45			
Denmark	48	0.30 (per unit)	0.48 (per unit)	0.68 (per unit)
Finland	51	0.20 (< 1 GB)	0.60 (per 4.7 GB)	
France	56	0.35 (per 700 MB)	1.00 (per 4.7 GB)	0.144 < 512 MB – 0.059 > 10 GB
Germany	61	0.062 (up to 900 MB)	0.0139 ( per 4.7 GB)	0.10 per piece
Greece	65	6% of the value	6% of the value	6% of the value
Hungary	69	0.14 (< 700 MB) – 0.20 (> 700 MB)	0.051 (< 4.7 GB) – 0.24 (4.7 GB)	0.13 < 64 MB – 10.49 > 32 GB
Italy	74	0.15 (per 700 MB)	0.41 (per 4.7 GB)	0.05 > 32 GB to 0.03 > 5 GB
Japan	80	3% of base price	1% of base price	-
Latvia	86	0.14 (per unit)	0.28 (per unit)	-
Lithuania	90	6% of import price	6% of import price	0.14 < 1 GB – 2.90 > 32 GB
The Netherlands	97	0.14 (per unit)	0.60 (per 4.7 GB), DVD + 0.40	-
Norway	102	Annual compensation by Government (no levies)		
Paraguay	104	0.5% of the price	0.5% of the price	0.5% of the price
Poland	107	1.72% of sale price	2.53% of sale price	0.42% of sale price
Portugal	112	0.05 (per unit)	0.14 (per unit)	–
Romania	114	3% (per unit)	3% (per unit)	0.5% (per unit)
Russia	118	1% of customs price	1% of customs price	1% of customs price
Slovakia	121	6% of sale price or import price	6% of sale price or import price	6% of sale price or import price
Slovenia	124	0.03 (per GB/max € 16.69)	0.03 (per GB/max € 16.69)	0.03 (per GB/max € 16.69)
Spain (levies annulled 2012)	127	0.17 (per unit)	0.44 (per unit)	0.30 (per unit)
Sweden	132	0.07 (900 MB)	0.29 (4.7 GB)	0.06 > 2 GB – 2.22 > 40 GB
Switzerland	136	0.040 (525 MB)	0.251 (4.7 GB)	0.202 per GB up to 0.526 per GB
Turkey	141	Amount of compensation set by Government (< 3% of import/manufacture's price)		
United States of America	144	No levies on cd-r, dvd-r or memory cards		



### 3. TARIFFS ON DEVICES (All the amounts in this report are in Euros [€].)

Country	Page	Mp3 player	Hard disc DVD-recorder	
Austria	15	1.50 (< 512 MB) – 9.00 (< 30 GB)	6.00 (< 80 GB) – 20.00 (< 600 GB and more)	
Belgium	20	1.00 < 2 GB – 3.00 > 16 GB	3.30 < 256 GB – 13.00 > 1 TB	–
Bulgaria	25	1.1%	1.4%	As of March 2011 no longer subject to levies
Burkina Faso	30	10% of price	10% of price	
Canada	33	–	–	–
Croatia	37	1.93 (per unit)	4.13 (per unit)	
Czech Republic (OSA)	41	1.5% of sale price	1.5% of sale price	
Czech Republic (Intergram)	45	1.5% of sale price	1.2% of sale price	
Denmark	48	–	–	
Finland	51	4.00 (< 512 MB) – 36.00 (> 750 GB)	4.00 (< 512 MB) – 36.00 (> 750 GB)	–
France	56	1.00 (< 128 MB) – 20.00 (40 GB)	10.00 (< 40 GB) – 50.00 (560 GB)	Levies on memory not on device
Germany	61	5.00 (per unit)	39.00 (per unit)	Lawsuits on all levies
Greece	65	6% of the value	6% of the value	
Hungary	69	0.32 (< 32 MB) – 28.96 (80 GB)	10.30 (< 80 GB) – 23.17 (> 250GB)	
Italy	74	0.64 (< 128 MB) – 12.88 (30 GB)	6.44 (< 40 GB) – 32.20 (1000 GB)	Levies increase if capacity rises
Japan	80	–	1% of base price	–
Latvia	86	1.42 (per unit)	1.42 (per unit)	–
Lithuania	90	0.43 (< 1 GB) – 11.58 (1 TB)	0.43 (< 1 GB) – 11.58 (1 TB)	–
The Netherlands	97	–	–	–
Norway	102	Annual compensation by Government (no levies)		
Paraguay	104	0.5% of price	0.5% of price	
Poland	107	3% of sale price	2.23% of sale price	
Portugal	112	–	–	–
Romania	114	0.5% of the price	0.5% of the price	
Russia	118	1% of customs price	1% of customs price	Customs price = av. sales price
Slovakia	121	3% of sales price or import price	3% of sales price or import price	
Slovenia	124	4.17 (< 2 GB) – 8.35 (> 2 GB)	6.26 (per unit)	
Spain	127	3.15 (per unit)	15.40 (per unit)	Note: levies annulled
Sweden	132	0.39 (40GB) – 33.33 (> 250GB)	0.39 (per GB < 40GB) – 33.33 (> 250GB)	
Switzerland	136	0.526 (per GB < 8 GB) – 0.243 (per GB > 32 GB)	0.081 (per GB) plus 0.064 per GB > 250 GB	
Turkey	141	Amount of compensation set by Government		
United States of America	144	2% of transfer price		

## 4. AUSTRIA

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### Contact Information

Country	: Austria
Currency	: Euro
Population	: 8,440,465
Name of organisation	: Austro Mechana
Website	: <a href="http://www.aume.at">www.aume.at</a>
Contact person 1	: Ursula Sedlaczek CEO
Contact person 2	: Peter Dienstl
Email 1	: <a href="mailto:ursula.sedlaczek@aume.at">ursula.sedlaczek@aume.at</a>
Email 2	: <a href="mailto:peter.dienstl@aume.at">peter.dienstl@aume.at</a>
Address	: Baumannstraße 10
Postcode	: 1030
City	: Wien
Phone	: +431 717 87
Fax	: +431 712 71 36

### Legislation and fundamental facts

#### *Legal basis:*

Copy Right Act 1980. The exception does not apply when the source is illegal and the carriers (media and/or equipment) are to be used by natural persons.

The remuneration is collected through levies on the media – integrated memory, memory cards, or hard disc too – not on devices.

The manufacturer or the importer is responsible for payment at the time of the first distribution in Austria. The responsibility for reporting and payment may be transferred to the supplier. The reseller can also be liable when purchasing more than 5,000 hours audio or 10,000 hours video carriers in half a year.

#### *Collecting Society:*

Austro Mechana

Austro Mechana has a legal monopoly, and special authorisation, controlled by, and reporting to, the Ministry of Justice.

Austro Mechana is responsible for the collection and distribution of private copying remunerations for all rights owners.

## Levies/rates

Levies are set in free negotiations between rights owners and the Chamber of Commerce, or by determination of an arbitration court.

A market research regarding the use of the media is helpful but not obligatory.

## Collection

The obligation to report lies with: importers and manufacturers, via monthly reporting. The reporting and payment is stipulated in the General Contract concluded between rights owners and the Chamber of Commerce.

### *Control of obligated parties:*

Austro Mechana is allowed to check the reports by the General Contract.

### *Deliveries exempted:*

If material is not privately used – companies, public institutions, and similar.

### *Objects exempted:*

There is not an exhaustive list of media/devices not levied. Memory cards, for example, are not levied unless used in Mp3 players of mobile phones (there are court proceedings in this case). All other memory cards are currently not subject to the levies.

## **Types of recording objects where rights owners claim compensation, and importers or manufacturers deny responsibility.**

Computer hard discs and mobile phones.

## Distribution

Setting of distribution schemes is the matter of rights owners. Funds for collective purposes are used for social and cultural aims (by law).

### *Distribution scheme Audio:*

New percentage rates have yet to be determined, lastly valid:

- 47.92% Austro Mechana (musical works)
- 1.58% Literarmechana (literary works)
- 49.50% LSG (neighbouring rights)
- 1.00% VGR (broadcast)

### *Distribution scheme Video:*

- 14.87% Austro Mechana
- 13.63% Literarmechana
- 6.25% LSG
- 47.00% VAM (producer) and VDFS (performing rights, directors)
- 1.75% VBK (photographs)
- 16.50% VGR

### ***Distribution scheme other:***

#### **Audio**

84.44% of CDR revenues  
45.04% of DVD revenues  
96.58% of portable Audio (MP3)/Video player revenues  
29.12% of HD-Recorder revenues  
81.29% of USB stick revenues

#### **Video**

15.56% of CDR revenues  
54.96% of DVD revenues  
3.42% portable Audio (MP3)/Video player revenues  
70.88% of HD-Recorder revenues  
18.71% of USB stick revenues

### ***Additional Comments:***

The percentage rates of the various media represent the results of a market study.

### **Collective purposes**

Deductions for social and cultural purposes are stipulated by law: 50% is deducted. SKE Fund is responsible for the distribution.

### **Export**

Exports are exempted by law. A refund is possible on presentation of export invoices.

### **Cross-border trade**

The first distributor in the Austrian Market is liable for payment. If there are no direct consumer sales by a national distributor, the supplier is liable, even if he is based abroad. So if a consumer buys from an online retailer abroad, the foreign e-tailer is liable for payment of the levies

### **Professional uses/exemptions**

There is a Legal Exemption for professional use.

### **Developments**

In 2005, the Supreme Court rejected the claim in the Gericom case for a private tape levy on computer hard discs. Reasons: no predominant use of relevant content. Market research shows that the use made of computer hard discs for private copying has significantly risen since 2005. However, in relation to the higher storage capacities, it is not predominant. The verdict of 2005 would result in no levies on multimedia carriers. Currently the case is pending judgement by the Supreme Court. Concerning mobile phones we are waiting for a decision at the first instance. The considerations of the Supreme Court on multimedia use in the Gericom case will have an effect on all court proceedings. The rights owners are aiming for a clarification of the Copyright act.

**Table 7: Remunerations/Levies**

Audio	Tariff	Capacity
Audiocassette	€ 0.12	60 minutes
Minidisc	€ 0.24	80 minutes
CD-R/-RW Audio	€ 0.24	80 minutes/700 MB
CD-R/-RW Data	€ 0.23	80 minutes/700 MB
Memory Cards (Only in combination with MP3-Player)	€ 1.50 € 2.50 € 5.25 € 9.00	< 512 MB 512 MB – 1 GB 1 – 4 GB 4 – 30 GB
<b>Video</b>		
Videocassette	€ 0.18	60 minutes
DVD+R/+RW	€ 0.36	120 minutes/4.7 GB
DVD-R/-RW	€ 0.36	120 minutes/4.7 GB
DVD-RAM	€ 0.36	120 minutes/4.7 GB
DVD DL	€ 0.72	240 minutes/8.5 GB
Blu Ray Disc	€ 1.91	640 minutes/25 GB
Devices	Tariff	Capacity
MP3 Audio-Player	€ 1.50	< 512 MB
	€ 2.50	< 1 GB
	€ 5.25	< 4 GB
	€ 9.00	< 30 GB
MP3/MP4-Player (Audio/Video)	€ 1.50	< 512 MB
	€ 2.50	< 1 GB
	€ 3.50	< 4 GB
	€ 6.00	< 30 GB
	€ 7.00	< 60 GB
	€ 8.00	< 90 GB
	€ 9.00	< 120 GB
€ 10.00	< 160 GB and more	
Hard disc-Rec. (DVD-Recorder, Sat-Receiver)	€ 6.00	< 80 GB
	€ 10.00	< 160 GB
	€ 12.00	< 250 GB
	€ 15.00	< 400 GB
	€ 20.00	< 600 GB and more
Ext. Multimedia Hard disc with recording function	€ 17.10	< 250 GB
	€ 19.40	< 500 GB
	€ 22.50	< 750 GB
	€ 24.30	< 1 TB and more
USB Stick	€ 0.10	< 1 GB
	€ 0.20	< 4 GB
	€ 0.20	< 8 GB
	€ 0.40	< 16 GB
	€ 0.50	< 32 GB and more

Additional Comments:

Levy on the integrated memory/hard disc, not on the device.

**Table 8: Revenues**

<b>Audio Revenues</b>	<b>2009 (€)</b>	<b>2010 (€)</b>	<b>2011 (€)</b>
Audiocassette	114,000	77,000	58,000
CD-R/-RW Audio, MD	169,000	148,000	90,000
CD-R/-RW Data	3,630,000	2,855,000	1,948,000
MP3 Player	1,837,000	1,392,000	1,225,000
<b>Total "Audio"</b>	<b>5,750,000</b>	<b>4,472,000</b>	<b>3,321,000</b>
<b>Video Revenues</b>	<b>2009 (€)</b>	<b>2010 (€)</b>	<b>2011 (€)</b>
Videocassette	443,000	340,000	210,000
DVD (all types)	4,373,000	3,774,000	2,799,000
Hard disc Recorder	972,000	1,022,000	1,033,000
<b>Total "Video"</b>	<b>5,788,000</b>	<b>5,136,000</b>	<b>4,042,000</b>
<b>Device Revenues</b>	<b>2009 (€)</b>	<b>2010 (€)</b>	<b>2011 (€)</b>
USB Stick	161,000	299,000	475,000
<b>Total "Devices"</b>	<b>161,000</b>	<b>299,000</b>	<b>475,000</b>
<b>Total Revenues</b>	<b>11,699,000</b>	<b>9,907,000</b>	<b>7,838,000</b>

Additional Information

The 2011 revenues are extrapolated based on the period from January to October.

## 5. BELGIUM

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### Contact Information

Country	: Belgium
Currency	: Euro
Population	: 10,879,200
Name of organisation	: Auvibel
Website	: www.auvibel.be
Contact person 1	: François Stroobant
Contact person 2	: Maro Schrauwen
Email 1	: fst@auvibel.be
Email 2	: msc@auvibel.be
Address	: Havenlaan 86c B201a/Avenue du Port, 86c B201a
Postcode	: 1000
City	: Brussels
Phone	: +3226500950
Fax	: +3226500958

### Legislation and fundamental facts

#### *Legal basis:*

1. Law of June 30, 1994 about authors' rights and neighbouring rights.
2. Royal Decree of March 28, 1996 about private copy remuneration for authors/composers, performing artists, and producers of phonograms and audiovisual works.

Private use is defined as the use within, and reserved to, the family circle. The exception does not apply when the source is illegal.

Remuneration is collected through levies on media and/or equipment.

Payment is due at the time of the import for retailers (including e-commerce) or at the time of the distribution by factory or by wholesalers.

Contractually the liability moment is:

- For the manufacturer, the importer, and the intra EU-purchaser who are listed as wholesalers, upon first sale.
- For the importer and EU-purchaser who are listed as purchasers, upon first purchase.
- For the foreign webshops selling to Belgian web users, upon first sale.

### ***Collecting Society:***

Auvibel

Auvibel is responsible for the collection and distribution of private copying remunerations for all rights owners.

Legal monopoly. Royal Decree of January 21, 1997 appointed Auvibel for the collection and distribution of the levies for private copying.

### ***Administrative Costs:***

4.89% (2010)

### **Levies/rates**

Levies are set by the Belgian federal Government/Ministry of Economy on the advice of the Private Copy Commission regrouping all stakeholders: industry, consumers, distribution and rights holders.

Levies are based on Market analysis. Monthly sales' report: units, price per unit, total value of the market.

### **Collection)**

#### ***Obligation to report:***

For the manufacturer, the importer and the intra EU-purchaser who are listed as wholesalers, before the 20th of the month following the first sale.

For the importer and EU-purchaser who are listed as purchasers, before the 20th of the month following the first purchase.

For the foreign webshops selling to Belgian web users, before the 20th of the month following the first sale.

#### ***Control of obligated parties:***

Part of the mission of Auvibel is to undertake regular checks on the declaration by auditing the reporting process and the accounting of the legally responsible parties.

#### ***Deliveries exempted:***

No delivery is exempted.

#### ***Objects exempted:***

Computers, servers, Blu Ray discs, tablets, pocket PCs, game consoles with internal HDD. DVD-R-CAM, DVD-RAM CAM, and DVD for authoring are also exempted.

Until now, there is a general agreement on the exemption of computers (in fact, the tariff was set to 0.00 e in 1996), and DVD-R-CAM, DVD-RAM CAM, and DVD for authoring as well (typical professional use). There is no agreement about the other exempted media/equipment for which rights owners claim compensation, and importers or manufacturers deny responsibility.

### **Distribution**

Distribution shares are set as follows: at the first step, the shares between categories of works (audio and video) are determined by the rights holders.

At the second step, the shares between categories of rights holders are determined by law: 1/3 for authors, 1/3 for performers, and 1/3 for producers.



At the third step, each category of rights holders for each category of works determines the rules of distribution schemes. These rules are submitted for governmental approval. The approved rules are then applied by the rights holders.

***Distribution scheme Audio:***

For 2005: 40.79%  
For 2006: 40.88%  
For 2007: 40.01%  
For 2008: 40.36%  
For 2009: 43.49%  
For 2010: 43.59%

***Distribution scheme Video:***

For 2005: 59.21%  
For 2006: 59.12%  
For 2007: 59.99%  
For 2008: 59.64%  
For 2009: 56.51%  
For 2010: 56.41%

**Collective purposes**

There is currently no deduction for collective (social and/or cultural) purposes.

**Export**

Exports are exempted by law. Exports from a wholesaler or a manufacturer are exempted as their responsibility starts only upon the first sale in Belgium.

Article 4 of the Royal Decree of March 28, 1996 imposes reimbursement of the levy, for export or sales in foreign countries, for retailers. The following documents are requested by Auvibel: purchase and sales invoices of the liable goods, and every other document that provides reasonable evidence that the goods were effectively exported abroad. Previous payment to Auvibel is required for any refund.

**Cross-border trade**

The distant seller is liable for the sales towards Belgian end-consumers.

**Professional uses/exemptions**

Media and equipment that are clearly professional are not selected to be submitted to levies.

For media and equipment that are submitted to levies, limited categories of professional users are designated by law to be refunded.

***How is professional use taken into account when determining the level of remuneration?***

A percentage of use as private copy is calculated for each media/equipment. Professional use is part of the "a contrario" percentage. The percentage used for private copying is taken as basis for the level of remuneration (the levy), thus professional use is excluded.

**Developments**

A joint recourse of Nokia and Sony-Ericsson against the Royal Decree of December 17, 2009, setting the new tariffs including mobile phones and memory cards, was rejected by the Belgian Council of State on December 1, 2011.

**Table 9: Remunerations/Levies**

Audio	Tariff	Capacity
Audiocassette	€ 0.12	Per unit
Audiocassette DAT	€ 0.12	Per unit
Minidisc	€ 0.12	Per unit
Audio-CD R/RW	€ 0.12	Per unit
Recording device, integrated or not, without hard disc	€ 2.00	Per unit
<b>Video</b>		
Videocassette	€ 0.40	Per unit
Digital video tape	€ 0.40	Per unit
Recording device, integrated or not, without hard disc	€ 2.00	Per unit
Multimedia levies	Tariff	Capacity
Data-CD R/RW	€ 0.12	Per unit
DVD+ R/RW	€ 0.40	Per unit
DVD- R/RW	€ 0.40	Per unit
DVD RAM	€ 0.40	Per unit
DVD double-layer	€ 0.40	Per unit
Memory cards and USB sticks	€ 0.15	Per unit < 2 GB
	€ 0.50	Per unit 2– 16 GB
	€ 1.35	Per unit > 16 GB
MP3, MP4 players, obile phones with MP3 and/ or MP4 function	€ 1.00	Per unit < 2 GB
	€ 2.50	Per unit 2 – 16 GB
	€ 3.00	Per unit > 16 GB
	€ 1.30	Per unit < 256 GB
External hard discs	€ 6.75	Per unit 256 GB – 1 TB
	€ 9.00	Per unit > 1 TB
Home devices with integrated hard discs	€ 3.30	Per unit < 256 GB
	€ 10.75	Per unit 256 GB – 1 TB
	€ 13.00	Per unit > 1 TB

**Table 10: Revenues**

<b>Audio Revenues</b>	<b>2009 (€)</b>	<b>2010 (€)</b>	<b>2011 (€)</b>
Audio carriers	250,795.69	103,646.17	133,179.68
Audio devices	105,929.63	125,575.87	125,675.35
<b>Total "Audio"</b>	<b>356,725.32</b>	<b>229,222.04</b>	<b>258,855.03</b>
<b>Video Revenues</b>	<b>2009 (€)</b>	<b>2010 (€)</b>	<b>2011 (€)</b>
Video carriers	430,934.68	249,019.41	181,736.70
Video devices	358,434.55	4,327,779.19	6,799,854.58
<b>Total "Video"</b>	<b>789,369.23</b>	<b>4,576,798.60</b>	<b>6,981,591.28</b>
<b>Device Revenues</b>	<b>2009 (€)</b>	<b>2010 (€)</b>	<b>2011 (€)</b>
<b>Multimedia levies</b>			
CD Data	3,143,273.26	2,330,901.00	1,718,265.40
DVD	8,830,982.79	4,747,153.67	3,449,555.35
Memory cards and USB sticks	0.00	1,418,299.30	1,923,296.45
MP3, MP4 players, mobile phones with MP3 and/or MP4 function	0.00	4,437,299.50	5,156,697.50
External hard discs	0.00	3,868,096.55	4,770,563.84
Home devices with integrated hard discs	0.00	377,722.05	150,425.05
<b>Total "Devices"</b>	<b>11,974,256.05</b>	<b>17,179,472.07</b>	<b>17,168,803.59</b>
<b>Total Revenues</b>	<b>13,120,350</b>	<b>27,020,734</b>	<b>24,409,249</b>

Additional Information  
 Figures for 2011 are provisional.

## 6. BULGARIA

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### Contact Information

Country	: Bulgaria	
Currency	: BGN	€ 1.00 = 1.95583 BGN
Population	: 7,364,570	
Name of organisation	: COPY-BG	
Website	: www.copy-bg.org	
Contact person 1	: Mariana Lazarova	
Email 1	: mariana,lazarova@copy-bg.org	
Email 2	: office@copy-bg.org	
Address	: Triaditsa Str. 5b	
Postcode	: 1000	
City	: Sofia	
Phone	: +359 2 44 16 983	
Fax	: + 359 887 176 492	

### Legislation and fundamental facts

#### *Legal basis:*

Law on Copyright and Neighbouring Rights, 1993. Last amended March 25, 2011.

Definition of private copy is: reproduction of works, no matter on what carrier, by a natural person for his personal use, under the condition that this is done without commercial aim (Art.25, Par.1, Item 2)

The law provides that the free use of works (including private copying) shall not involve removal, damage, destruction, or distortion of technical means of protection without the consent of the copyright holder. The provision was introduced in 2005.

Remuneration is collected through levies only on media. Products that are not listed in the tariff are not subject to remuneration.

Importers and manufacturers of recording media are liable at the time of introduction onto the market.

#### *Collecting Society:*

COPY-BG. It has no legal monopoly. The law provides only that the private copying levy and the reprography levy are collected by different organisations.

COPY-BG is responsible for the collection and distribution of private copying remunerations for all rights owners.

#### *Administrative Costs:*

The collections do not cover the administrative costs. Additional financing by member organisations.

### Levies/rates

The rate of the remuneration is initially set by the law: no less than 1% and not higher than 1.5% of the delivery price of the respective blank carrier. The kinds of carriers for which remuneration is due, as well as the rate of remuneration for each kind of carrier (within the framework set by the law), are set every year in a tariff by the collecting society, negotiated with representative organisations of the liable persons (importers and manufacturers). The tariff is to be approved by the Minister of Culture and published on the internet site of the collecting society. In case no agreement on the tariff is reached within 3 months from the beginning of the negotiations, the Minister of Culture appoints a Commission composed of two representatives from the negotiating parties, and three experts, nominated jointly or approved by the negotiating parties. If negotiating parties cannot agree on the experts, the Minister appoints them *ex officio* from the list of mediators at the Ministry of Culture.

No market research has been used for determining the level of remuneration. When negotiating the rate of remuneration, the memory capacity of the carriers has to be considered as well as the extent to which the carriers are used for reproduction for private use.

### Collection

The law obliges importers and manufacturers of blank carriers to report twice a year, within one month of the expiration of the respective half-year period.

#### *Control of obligated parties:*

No possibility to audit the reports. The collecting society has no legal controlling instruments to check the obligated parties.

#### *Deliveries exempted:*

Exempt from payment of remuneration, or subject to refund if collected are:

- deliveries from the territory of a country member of the European Union;
- deliveries from the territory of a country party to the European Economic Area Agreement;
- deliveries from the territory of countries not part of the EU or EEA, where private copying remuneration has been calculated, but is not subject to refund under their national legislation;
- purchases by RTV operators, producers of sound recordings and film producers;
- purchases by medical institutions, specialised hospitals for rehabilitation, social institutions and penitentiaries;
- purchases by free traders, legal entities or natural persons exercising liberal professions, whose activities do not presume the use of the blank carriers for private copying.

#### *Objects exempted:*

There is no list of exempted products. Some carriers are under negotiation.

Negotiations ended in the beginning of December 2011. The tariff was approved by the Minister of Culture on February 1st, 2012. The rate of remuneration for each product has been negotiated and fixed within the framework set by the law: between 1% and 1.5% of the delivery price of the product. Negotiations on the tariff for 2013 are envisaged to start in September 2012.

#### *Additional Comments:*

Under the amendments to the law introduced on March 25, 2011 liable persons are obliged to present only general information on the different kinds of carriers sold during the half year-period, and the total delivery price of the respective carriers (not the sale price). The collecting society may not request more detailed information apart from that needed for the distribution of the remuneration.

The law does not oblige the liable persons to present any information or documentation in proof of the exemptions from payment except when they claim refund. No instruments to exercise control over liable

persons, neither by the collecting society, nor by an independent auditor, or administrative body. The fulfilment of the obligations of liable persons is left to their discretion and good will.

## Distribution

Distribution shares of categories of rights owners are determined in the law: 1/2 – to authors; 1/4 – to performers; 1/4 – to producers

### *Distribution scheme Audio:*

1/2 – authors: Musicautor (musical works), Teaterautor (dramatic, dramatico-musical, literary works);

1/4 – performers: Prophon (performers), Artistautor (actors);

1/4 – producers: Prophon (record producers).

### *Distribution scheme Video:*

1/2 – authors: Filmautor (audiovisual works), Teaterautor (dramatic, dramatico-musical, literary works);

1/4 – performers: Prophon (performing artist), Artistautor (actors);

1/4 – producers: Filmautor (film/audiovisual works producers), Prophon (record producers).

### *Additional Comments:*

According to the Distribution Rules of COPY-BG the shares of the different groups of rights owners within one and the same category are determined by an agreement signed between the respective distributing societies every year before the distribution (no distribution has been made till present).

## Collective purposes

30% is deducted for collective purposes. It is stipulated in the law. The amount is transferred to the National Cultural Fund at the Ministry of Culture.

## Export

Exports are exempted. In the case that remuneration for exported carriers has been collected, the amount is subject to refund, under the condition that the person who claims refund proves the facts and circumstances on which the right to refund is based.

## Cross-border trade

No provisions regarding cross-border purchases.

## Professional uses/exemptions

Remuneration is not due when blank carriers are purchased by RTV operators, sound recordings and film producers, hospitals, social institutions, penitentiaries, free traders, legal entities, and natural persons exercising liberal professions (journalists, lawyers, etc.), whose activities do not presume the use of the carriers for private copying.

### **How is professional use taken into account when determining the level of remuneration?**

It is not taken into account directly. However, when the rate of remuneration is determined, it should be considered to what extent the blank carrier is used for private copying.

## Developments

On March 25, 2011 amendments to the Law on Copyright and Neighbouring Rights were introduced. The Bill submitted initially by the Government to the Parliament, for consideration, provided for the deletion of the compensation scheme, though keeping the private copying and reprography exception in the law. The expected judgment of the European Court of Justice on the SGAE/Padawan case was used as a pretext. After

the ECJ judgment was published, the compensatory remunerations were reintroduced in the Bill and voted by the Parliament.

Despite the efforts of the national organisations, representing the interests of the creators in all artistic fields, and notwithstanding the interventions of the international creative community (CISAC, BIEM, GESAC, IFFRO, IFPI, ICMP, AARC) in clarifying the value of the private copying and reprography remunerations, and explaining the best European practices in the field, the Parliament adopted provisions that are detrimental for the rights holders and contradict the EU Information Society Directive and the Padawan judgment. In particular:

1. In contrast with the former law the adopted amendments provide for application of the remuneration only for blank information carriers and not on reproduction devices. The remuneration applies only to separate information carriers which are intended predominantly for reproduction for private use.
2. The newly-adopted remuneration rate is from 1% to 1.5% of the delivery price of imported blank information carriers (formerly 5% for carriers and 2% for devices). The carriers subject to remuneration, and the rate for each kind of carrier, are set in a tariff negotiated with liable persons, and approved by the Minister of Culture. The tariff may provide for additional discounts! In the case that no agreement on the tariff is reached between the collecting society and liable persons within 3 months from the beginning of the negotiations, the Minister of Culture appoints a Commission to decide on the tariff.
3. The private copying remuneration is due for the carriers sold, but is calculated on their delivery price, not on the sale price.
4. Excluded from the application of the remuneration are intra-community deliveries, as well as deliveries from the territory of the countries from the European Economic Area.
5. Exempt from payment of remuneration, or subject to refund if collected, are:
  - Deliveries from countries not part of the EU or the EEA, where private copying remuneration has been calculated, but is not subject to refund under their national legislation;
  - Exports to “third countries” and deliveries to EU countries;
  - Information carriers purchased by legal entities or physical persons, exercising liberal professions, whose activities do not presume the use of the carriers for private copying;
  - Information carriers purchased by RTV operators, sound recording and film producers, as well as by hospitals, social institutions, prisons.
6. At the same time, the law does not oblige the liable persons to present any information or documentation in proof of the aforementioned exemptions, except when they claim refund.
7. Liable persons have to provide only general information on the kind of carriers sold during a half-year period, and the total delivery price for each kind of carrier. Besides, the collecting society may not request more detailed information apart from that needed for the distribution of the remuneration.
8. The amended law does not provide instruments for exercising any effective control on the liable persons, thus leaving the fulfilment of their obligations to their discretion and good will.
9. Before distribution, 30% from the collected amount is transferred to the National Cultural Fund (formerly 20%).
10. The distribution scheme has been changed — 1/2 for authors, 1/4 for performers, 1/4 for producers (formerly 1/3 for each category of rights holders).

A number of big companies operating on the market are only distributors/retailers. They, however, are not liable in whatever form for the payment of the remunerations.

Other important companies supply blank carriers only from the territory of EU countries, but intra-community deliveries are exempt from payment. Thus the amended private copying system seems to prove even less efficient than the previous one. Our main purpose now is to initiate amendments to the unworkable law. We are preparing a report to the Parliamentary Committee for Culture, as well as to the Minister of Culture, on the results of the introduced amendments to the law. However, we fear that the private copying mediation

process that has started at European Commission level will be used as a pretext not to re-open the law for amendments. Contrastingly, the lobby of importers is very powerful. In fact, it dictated all the present amendments adopted by the Parliament. We plan as well to approach the Commission on Protection of Competition, on the issue of exempted deliveries from EU countries (as a provision that contradicts the Law on Protection of Competition). It is within the capacity of this Commission to propose to the Parliament to amend the respective provision in the Copyright act. At present we do not plan legal proceedings as we cannot finance them.

**Table 11: Remunerations/Levies**

Audio	Tariff	Capacity
Audiocassette	1.5% of the delivery price	Per unit
Minidisc	1.5%	Per unit
Hi-MD	1.25%	Per unit
CD R/RW	1.25%	Per unit
Floppy Disk	1.0%	Per unit
Video		
Videocassette	1.5% of the delivery price	Per unit
Digital Videocassette	1.5%	Per unit
DVD R/RW	1.25%	Per unit
DVD RAM	1.25%	Per unit
DVD double layer	1.25%	Per unit
Blu Ray	1.25%	Per unit
HD DVD	1.25%	Per unit
Devices	Tariff	Capacity
Memory card	1.1% of the delivery price	Per unit
USB Flash Drive	1.1%	Per unit
Standard External Hard Disk	1.1%	Per unit
Multimedia External Hard Disk with Audio/Video OUT plugs	1.4%	Per unit
Multimedia External Hard Disk with Audio/Video IN and OUT plugs	1.4%	Per unit
External Solid State Drive (SSD)	1.1%	Per unit

**Additional Comments:**

Since March 25, 2011 devices are no longer subject to levies. Remuneration is due only for blank carriers intended predominantly for private copying of protected material. The carriers and the remuneration rate are determined in negotiations with importers/manufacturers. During the negotiations the items listed above as "devices" are considered to meet the characteristics of carriers under the definition given by the law.

The remuneration rate has been reduced dramatically (formerly 5% for carriers and 2% for devices). At the same time the deductions for cultural purposes have been raised from 20% to 30%.

**Table 12: Revenues**

Audio Revenues	2009 (€)	2010 (€)	2011 (€)
<b>Total "Audio"</b>	<b>1,678</b>	<b>1,466</b>	–
Video Revenues	2009 (€)	2010 (€)	2011 (€)
<b>Total "Video"</b>	<b>629</b>	<b>629</b>	–
Device Revenues	2009 (€)	2010 (€)	2011 (€)
<b>Total "Devices"</b>	<b>12,017</b>	<b>6,785</b>	–
<b>Total Revenues</b>	<b>14,324</b>	<b>8,880</b>	–

**Additional Information**

We do not provide a split of the total revenues due to the very small amount of collections. Main source for Audio revenues are Audio/Data CDs and Hi-MDs. Main source for Video revenues are DVDs. Main source for Device revenues are MP3 Players and Internal Hard Disc memory. However devices are no longer subject to remuneration.



## 7. BURKINA FASO

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### Contact Information

Country	: BURKINA FASO	
Currency	: FRANC CFA	€ 1.00 = 655.957 FCFA
Population	: 16,241,811	
Name of organisation	: BUREAU BURKINABE DU DROIT D'AUTEUR (BBDA)	
Website	: www.bbda.bf	
Contact person 1	: Balamine OUATTARA, Directeur Général	
Contact person 2	: Solange DAO, Secrétaire Général	
Email 1	: bbda@fasonet.bf	
Email 2	: balaminouattara@yahoo.fr	
Address	: 04 rue de Victoire	
Postcode	: 01 BP 3926	
City	: OUAGADOUGOU	
Phone	: 00226 50302223/00226 50324750	
Fax	: 00226 5030682	

### Legislation and fundamental facts

#### *Legal basis:*

Act No. 032/99/AN of 22 December 1999 on the Protection of Literary and Artistic Property in Burkina (Articles 82 and following).

The perception of copying remuneration is effective in Burkina since July 4, 2003, following the signing of an agreement between BBDA and the General Directorate of Burkina Customs regarding the collection of compensation for private copying.

Definition of private use: use in strictly the familial circle

The remuneration for private copying in Burkina is only on blank recording media. To be paid by importers and manufacturers at the moment of import.

#### *Collecting Society:*

BBDA

The BBDA receives compensation for private copying, in collaboration with customs, and distributes the remuneration towards rights owners.

Administrative Costs: The cost of collecting customs: 10%; management fees: 25%.

## Levies/rates

Collection rates of remuneration for private copying are set by ministerial decree.

Collection rates are proposed by the BBDA.

## Collection

Customs provide reports on collections on behalf of BBDA, as regards remuneration for private copying.

Control of obligated parties: collections are certified by the General Directorate of Customs.

### *Deliveries exempted:*

Exemption from payment of the remuneration for private copying is granted:

- \* When the media are acquired by a business for their own use or production,
- \* When recording media are acquired for purposes of the visually-, or hearing-impaired.

## Distribution

Distribution rules of the private copying remuneration are set by Law No. 032: Protection of Literary and Artistic Property in Burkina.

Distribution rules are proposed by the BBDA and approved by the Board of BBDA.

### *Distribution scheme Audio:*

Beneficiaries of the remuneration for private copying are authors, performing artists, and phonogram producers, at a split of 50% for rights holders and 50% for the fund of cultural promotion. The rights holders' share shall be distributed at 50% to authors, 25% to performing artists, and 25% to producers.

### *Distribution scheme Video:*

Beneficiaries of the remuneration for private copying are authors, performing artists, and producers of video recordings, and the monies are shared equally between authors, performers, and producers of videograms.

## Collective purposes

A deduction of 50% of the remuneration for private copying feeds the cultural promotion fund.

This levy rate is set by Law 032 of 22 December, 1999 on the Protection of Literary and Artistic Property in Burkina.

The BBDA itself manages the fund for promoting cultural purposes.

Statutory deductions are proposed by the BBDA and approved by the Minister of Culture.

## Cross-border trade

Importers are liable for cross-border purchases.

## Professional uses/exemptions

When the recording media are acquired for purposes of the visually-, or hearing-impaired, or acquired by a business for professional uses.

The amount of remuneration for private copying is based on media type, and duration of the recording possible, and is evaluated by a fixed price system. These terms are determined by regulation and cannot be less than 10% of the price of the media.

**Table 13: Remunerations/Levies**

Audio	Tariff	Capacity
Cassette audio	10% of price	
Cassette data	10% of price	
Minidisc	10% of price	
CD-R audio, CD-RW	10% of price	
Bande magnétique	10% of price	
DVD-RAM, DVD RW, DVD RW data	10% of price	
Lecteur MP3, Cles USB	10% of price	
Téléphone portable	10% of price	
<b>Video</b>		
Cassette video	10% of price	
Disquettes	10% of price	
DVD, DVD R/RW, DVD R/RW video	10% of price	
Bande magnétique	10% of price	
CD-R data, Decodeur, Magnéscope, Téléviseur à disque dur intégré (DDI)	10% of price	
Baladeur, Appareil de salon à disque dur intégré, Support informatique de stockage de données	10% of price	
Lecteur MP4, SD card, Micro SD, Mini SD, MMC, Memory stick, Telephone portable	10% of price	

**Table 14: Revenues**

Audio Revenues	2009 (€)	2010 (€)	2011 (€)
<b>Total "Audio"</b>	<b>233,651.25</b>	<b>178,471.46</b>	<b>303,593.84</b>
Video Revenues	2009 (€)	2010 (€)	2011 (€)
<b>Total "Video"</b>	<b>86,784.75</b>	<b>66,289.4</b>	<b>112,763.4</b>
Total Revenues	2009 (€)	2010 (€)	2011 (€)
<b>Total</b>	<b>320,435</b>	<b>244,760</b>	<b>416,356</b>

Additional Information

The amounts mentioned above are the amounts to be distributed (net).

## 8. CANADA

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### Contact Information

Country	: Canada	
Currency	: CAD	€ 1.00 = CAD 1.3139
Population	: 34,108,752	
Name of organisation	: Canadian Private Copying Collective	
Website	: www.cpcc.ca	
Contact person 1	: Anna Bucci, Executive Director	
Contact person 2	: Laurie Gelbloom, General Counsel	
Email 1	: abucci@cpcc.ca	
Email 2	: lgelbloom@cpcc.ca	
Address	: 150 Eglinton Avenue East, Suite 403	
Postcode	: M4P 1E8	
City	: Toronto, Ontario	
Phone	: +1 416 486 6832	
Fax	: +1 416 486 3064	

### Legislation and fundamental facts

#### *Legal basis:*

Copyright Act of Canada as amended in 1997. The first private copying levy was set by the Copyright Board in December 1999.

#### *Definition of private use:*

Pursuant to section 80 of the Copyright Act, a copy made onto an audio recording medium for the private use of the person who makes the copy, does not constitute an infringement of the copyright in the musical work, the performer's performance, or the sound recording.

Pursuant to section 80(2) of the Copyright Act, the act of making a copy does constitute an infringement of the copyright in the musical work, the performer's performance, or the sound recording, if the copy is made for the purpose of doing any of the following:

- (a) selling or renting out, or by way of trade exposing or offering for sale or rental;
- (b) distributing, whether or not for the purpose of trade;
- (c) communicating to the public by telecommunication; or
- (d) performing or causing to be performed, in public.

The private copying levy is payable regardless of whether the source is legally or illegally obtained.

Remuneration is collected through a levy on blank CD-R, CD-RW, CD-R Audio, and CD-RW Audio.

Manufacturers and importers of blank audio recording media are liable for payment, upon first sale or distribution in Canada, of blank audio recording media imported into Canada or manufactured in Canada.

In certain circumstances, companies can register in the CPCC's Zero-Rating programme. The programme allows levy-free purchases for organisations such as educational institutions, broadcasters, law enforcement agencies, advertising agencies, the music, film and video industries, courts, tribunals and court reporters, religious organisations, telemarketing firms, software companies, duplication facilities, medical institutions, technology companies, conference and training companies, governments, and other firms that duplicate of audio or data not for personal use. <http://www.cpcc.ca/en/zero-rating>

***Collecting Society:***

Canadian Private Copying Collective.

The CPCC represents all rights holders that are eligible for remuneration under the Canadian private copying regime, and is responsible for distribution to these rights owners.

The CPCC is designated as the collecting body by the Copyright Board of Canada, pursuant to paragraph 83(8)(d) of the Copyright Act.

***Administrative Costs:***

In 2010, the CPCC retained 21.70% of revenue for expenses. The CPCC's administrative costs pertain only to those costs incurred by the CPCC in distributing the funds collected to its member collectives.

***Additional Comments:***

The CPCC is a non-profit corporation that represents songwriters, recording artists, music publishers, and record companies through its member collectives. The CPCC only withholds those funds necessary to defray its costs of administration.

**Levies/rates**

The Copyright Board of Canada sets the levy rate after considering evidence submitted by the CPCC and other parties at Tariff hearings.

The CPCC has commissioned Circum Network Inc. to conduct monthly surveys that collect information about the private copying of music in Canada.

**Collection**

Pursuant to the Private Copying Tariffs, manufacturers and importers of blank audio recording media are required to submit reports and levy payments on a bi-monthly basis. Any manufacturer or importer who paid less than \$2,000 in the previous six month period may opt to make payments bi-annually after having so notified the CPCC.

***Control of obligated parties:***

Pursuant to the Private Copying Tariffs, the CPCC may audit the records of manufacturers and importers to verify the accuracy and completeness of the reports and payments submitted to the CPCC. Manufacturers and importers must keep records for a period of six years from which the CPCC can readily ascertain the amounts payable and the information required under the Tariff.

***Deliveries exempted:***

Blank audio recording media sold to associations that represent persons with a perceptual disability.

**Distribution**

The Copyright Board of Canada sets the distribution schemes after considering evidence submitted by the CPCC at Tariff hearings.

The CPCC distributes levies collected to its member collectives. The member collectives distribute those levies to their members, the rights holders. The CPCC's administrative costs pertain only to those costs incurred by the CPCC in distributing the funds collected to its member collectives.

#### ***Distribution scheme Audio:***

58.2% – SOCAN (Composers, Authors and Music Publishers), CMRRA (Publishers), and SODRAC (Authors, Composers and Publishers).

23.8% – Re: Sound Music Licensing Company (Eligible Performers) and 18.0% – Re:Sound Music Licensing Company (Eligible Makers).

The CPCC's constituent member collectives submit claims to the CPCC for the rights holders that they represent. The CPCC distributes the levies in accordance with the CPCC's distribution policy.

#### ***Collective purposes:***

There is currently no deduction for collective (social and/or cultural) purposes.

### **Export**

No levy is payable if blank audio recording media is exported. The units exported are reported bi-monthly.

### **Cross-border trade**

Importers are liable for cross-border sales; pursuant to Canada's Copyright Act, the liability to pay the levy is imposed upon every person who for the purpose of trade imports a blank audio recording media into Canada and sells that media in Canada. No liability is imposed upon an individual in Canada who purchases a blank audio recording media over the internet from a foreign business for their own use. In the case where a person in Canada ("Person A") purchases blank audio recording media from a foreign seller, for example over the internet, and then sells that media to a Canadian purchaser, Person A would be responsible for reporting and remitting the levy to the CPCC.

### **Professional uses/exemptions**

There is no Legal Exemption for professional use but companies may register in the CPCC's Zero-Rating programme by entering into agreements with the CPCC.

#### **How is professional use taken into account when determining the level of remuneration?**

The private copying levy only applies to blank media that is ordinarily used for private copying. The Copyright Board applies a discount to the rate of the levy to reflect that the media is used for other uses, such as data storage and professional use.

### **Developments**

The CPCC has filed a proposed Tariff for 2012 – 2013 which maintained the levy on CD-R, CD-RW, CD-R Audio, and CD-RW Audio at the current rate, and proposed a levy on microSD electronic memory cards. Should the Copyright Board certify a tariff on microSD memory cards, it will be effective from January 1, 2012 for all microSD memory cards sold, or otherwise disposed of, in Canada by manufacturers and importers.

On December 19, 2011, the Copyright Board issued an Interim 2012 – 2013 Tariff which extended the 2011 Tariff until the Board has certified the 2012 – 2013 Tariff.

**Table 15: Remunerations/Levies**

Audio	Tariff	Capacity
CD-R/RW	e 0.22	Per unit
Audio CD-R/RW	e 0.22	Per unit

**Table 16: Revenues**

Audio Revenues	2009 (€)	2010 (€)	2011 (€)
CD-R/RW	15,225,167.82	11,428,414.64	Not Available
CD-RA/RWA	658,310.37	782,500.95	Not Available
Audiocassette	140,523.63	4,526.98	n/a
Minidisc	1,248.19	500.80	n/a
<b>Total "Audio"</b>	<b>16,025,250.01</b>	<b>12,215,943.37</b>	
<b>Total Revenues</b>			

Additional Information

Currency: 1 EUR = 1.3139 CAD

## 9. CROATIA

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### Contact Information

Country	: CROATIA	
Currency	: KN	€ 1.00 = 7.40 KN
Population	: 4,437,460	
Name of organisation	: HDS ZAMP	
Website	: www.zamp.hr	
Contact person 1	: Katarina Matanovac Furic	
Contact person 2	: Nenad Marcec, general director	
Email 1	: katarinamf@hds.hr	
Email 2	: nenad.marcec@hds.hr	
Address	: Heinzelova 62a	
Postcode	: 10 000	
City	: Zagreb	
Phone	: +385 1 6387-056	
Fax	: +385 1 6387-001	

### Legislation and fundamental facts

#### *Legal basis:*

Provisions of Articles 32 and 82 of Croatian Copyright Law, of Official Gazeta Narodne

Novine no.167/03; 79/07. Implementation started on 12th of January, 2007, but the agreement between rights holders and importers includes the year 2006.

The reproduction is to be made only by a natural person, for noncommercial, private use, no matter if reproduction was made in an analogue or digital environment. Private use implies usage/exploitation in the private sphere, in a circle of people that are personally connected in any way to the consumer.

The exception does not apply when the source is illegal.

Remuneration is collected through levies on media and/or equipment.

The law says that responsibility for reporting and payment can be arranged at the import, or at time of resale. Our agreement with importers is that responsibility for payment comes at the time of resale. If not, we sue from the day of the first import of products that can be used for private copying.

According to the law, the responsible party is the importer or producer of media or equipment.



### ***Collecting Society:***

HDS ZAMP – collective society that administers authors' rights. It has a legal monopoly and collects remunerations for all rights holders in Croatia:

HUZIP – performers

ZAPRAF – phonogram producers

ZANA – publishers of literary works

DHFR – film producers or film directors

HDS-ZAMP distributes directly to authors of musical works and other rights owners, towards the respective collecting societies.

### ***Administrative Costs:***

Cost of collection and distribution is 20%. Collections for all years are shown after the deduction of our costs.

### **Levies/rates**

Rates are set in free negotiations between stake holders. An analysis of the level of remuneration was made for EU countries.

### **Collection**

Reporting is not stipulated in the law. It was set out in negotiations, so it is a part of the contract. We receive quarterly reports from importers.

### ***Control of obligated parties:***

We also have quarterly reports from our customs service. And the contract allows us to control all the documents of importers connected to the import of such products.

### ***Deliveries exempted:***

Exemptions are made by law, only for medical or educational purposes, or in the care of invalids.

### ***Objects exempted:***

Only XD cards.

Importers do not deny any responsibility at this time, for any product.

### **Distribution**

The distribution scheme is set out by agreement of the rights holders. No governmental approval is needed.

### ***Distribution scheme Audio:***

HDS – authors – 39.67%

HUZIP – performers – 29.67%

ZAPRAF – phonogram producers – 29.67%

ZANA – publishers of literary works – 1%

### *Distribution scheme Video:*

DHFR – movie co-authors and movie producers – 70%  
HUZIP – performers – 30%

### *Collective purposes:*

30% of authors' revenues are deducted for social and/or cultural purposes. This is stipulated in the law, but the percentage is set by rights holders.

The Croatian Composers' society – the board members decide on allocation of the funds.

### **Export**

Exports are exempted because we consider them as imports to other countries. They are reported quarterly as exemptions.

### **Professional uses/exemptions**

There is a legal exemption for medical or educational purposes, in case of invalids.

**Table 17: Remunerations/Levies**

Audio	Tariff	Capacity
Audiocassette	€ 0.01	Per unit
Audio CD R/W	€ 0.01	Less than 1 GB
<b>Video</b>		
Videocassette	€ 0.08	Per unit
DVD R/W	€ 0.01	Per unit/less than 10 GB
Devices	Tariff	Capacity
MP3 player	€ 1.93	Per unit
CD writer (internal)	€ 0.55	Per unit
CD recorder (external)	€ 2.75	Per unit
DVD writer (internal)	€ 0.55	Per unit
DVD recorder (external)	€ 4.13	Per unit
Computer hard disk	€ 0.27	Per unit
Memory card	€ 0.55	Less than 16 GB
	€ 1.10	More than 16 GB
USB stick	€ 0.55	Less than 16 GB
	€ 1.10	More than 16 GB
Analogue audio recorder	€ 0.82	Per unit
Analogue video recorder	€ 1.37	Per unit
Personal computer	€ 0.82	Per unit
Hifi HD recorder	€ 5.50	Per unit
Apple iPod	€ 1.95	Per unit
Mobile phone with MP3 function	€ 1.37	Per unit

**Table 18: Revenues**

<b>Audio Revenues</b>	<b>2009 (€)</b>	<b>2010 (€)</b>	<b>2011 (€)</b>
Data-CD R/RW	91,005	86,779	49,105
Audiocassette	1,189	381.62	295.40
<b>Total "Audio"</b>	<b>92,194</b>	<b>87,160</b>	<b>49,400</b>
<b>Video Revenues</b>	<b>2009 (€)</b>	<b>2010 (€)</b>	<b>2011 (€)</b>
Videocassette	15,526	5,037	444.53
DVD	129,249	119,956	69,987
<b>Total "Video"</b>	<b>144,775</b>	<b>124,993</b>	<b>70,431</b>
<b>Device Revenues</b>	<b>2009 (€)</b>	<b>2010 (€)</b>	<b>2011 (€)</b>
Memory card	218,295	174,061	174,082
USB stick	79,437	73,171	79,944
hkDVD hard disc recorder	21,874	24,689	4,093
Devices with MP3 player: Digital audio/video player Cell phone with MP3 player	1,240,618	694,449	713,539
Other devices: Analogue audio/video player Hi-fi CD recorder CD recorder for PC DVD recorder for PC PC Hard disk	147,125	134,954	106,618
<b>Total "Devices"</b>	<b>1,707,349</b>	<b>1,101,324</b>	<b>1,078,276</b>
<b>Total Revenues (net revenues)</b>	<b>1,944,318</b>	<b>1,313,477</b>	<b>1,198,107</b>

## 10. CZECH REPUBLIC

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### Contact Information

Country	: Czech Republic	
Currency	: CZK	€ 1.00 = 24.586 CZK (avrg. in 2011)
Population	: 10,532,770 in January 2011	
Name of organisation	: INTERGRAM	
Website	: www.intergram.cz	
Contact person	: Miroslav Hampl	
Email	: miroslav.hampl@intergram.cz	
Address	: Na Porici 21	
Postcode	: 110 00	
City	: Prague 1	
Phone	: +420 221 871 943	
Fax	: +420 221 871 906	

### Legislation and fundamental facts

#### *Legal basis:*

Law Nr. 121/2000 Coll. as amended.

Definition of private use: copyright shall not be infringed by whoever for his own personal use makes a recording, reproduction, or imitation of a work.

Remuneration is collected through levies on media and/or equipment.

#### *Legally responsible parties:*

- (a) Producers of devices made for reproducing and recording, importers of such devices from third countries (hereinafter the "importer"), or consignees of such devices from member states of the European Communities (hereinafter the "consignee");
- (b) Producers, importers, and consignees of technical devices used for printing reproductions;
- (c) Producers, importers, and consignees of blank record carriers;
- (d) The carrier or forwarder in lieu of the liable person, pursuant to Paragraphs (a) to (c), unless that person informed the relevant collective rights manager without undue delay, upon written request about the details necessary for the identification of the importer, consignee or producer;
- (e) The provider of paid reproduction services, in the case of printed reproductions; provider of paid reproduction services shall also mean the person who makes available, for a consideration, the device for making printed reproductions.

The liable parties have to pay the levies according to the agreement between INTERGRAM and the liable party. The due date is 20th February for the second half-year and 20th August for the first half-year.

### *Collecting Society:*

**INTERGRAM:** legal monopoly; civil association of rights holders with authorisation of the Ministry of Culture.

INTERGRAM is not responsible for the collection and distribution of private copying remunerations for all rights owners, only those for producers and performers.

### *Administrative Costs:*

30%. INTERGRAM is a collection association, and an organisation responsible for distribution to the represented rights owners.

### **Levies/rates**

The Legislator determines the levies; no market research is used.

### **Collection**

Reports given to the relevant collective rights manager – always in summary for half of the calendar year and not later than by the end of the following calendar month – include information relevant for determining the amount of remuneration, including, but not limited to, information on the type and number of the sold, imported or received devices for making reproductions or fixations, devices used for printing reproductions, and blank carriers, and also the total number of the printed reproductions made by the devices.

### *Control of obligated parties:*

The only control is the customs clearance statistics from the Czech Statistical Office. The author may require the customs authorities, and the authorities responsible for the state statistical service, to provide him with information on the content and extent of importing or receiving a commodity that:

- (a) is a reproduction of his work or an audio, audiovisual, or any other fixation of the work;
- (b) is intended to serve as a carrier for the making of such a reproduction (blank record carrier);
- (c) is a device for making audio, or audiovisual, or other fixations or printed copies; or
- (d) is a device, product or component defined in Article 43 (2); and shall have access to the customs and statistical documents to the extent necessary to find out whether the import or receiving of such commodities, for utilisation in the entire territory of the Czech Republic, is in compliance with this Act, or to learn details necessary for the enforcement of rights ensuing from this Act, or to learn the data needed for claiming the rights ensuing hereof.

### *Deliveries exempted:*

Remuneration shall not be paid in the case of export of the technical devices referred to in paragraph (3) a) and b), or of export of empty carriers of audio, or audiovisual fixations, for the purpose of their further sale. Remuneration shall also not be paid in the case of devices and empty carriers, if these are intended to be used within the country only for operational purposes by persons in their own company.

### *Objects exempted:*

According to the decree 408/2008 Coll., the provisions shall not apply to digital camcorders, digital cameras, mobile telephones, and cordless telephones. Where such devices are supplied with an embedded memory medium, the remuneration shall be paid only for the capacity of the embedded medium.

### **Distribution**

The distribution schemes are set by the law.

### *Distribution scheme Audio:*

Technical devices for the fixation of sound recordings and blank carriers used for sound recordings:

- 50% Authors
- 50% Performers and Producers (on a 50-50 basis).

### *Distribution scheme Video:*

Technical devices for the fixation of audio-visual recordings and blank carriers used for audiovisual recordings:

- 60% Authors (including, but not limited to, directors of audiovisual works, authors of literary, dramatic and musical-dramatical works, authors of musical works with and without text, camera operators, architects, set designers (scenographers), costume designers, art directors, and authors of choreographic and pantomime works).
- 40% Performers and Producers of audiovisual fixations (split into 25% for the producers of audiovisual fixations, and 15% for the performers).

### *Collective purposes:*

15% is deducted for collective (social and/or cultural) purposes before distribution. The deductions are determined by rights owners. This is set by General Assembly.

## **Export**

Remuneration shall not be paid for exports or resales. The liable parties pay only for goods sold in the Czech Republic territory. The liable parties exclude the exports from their reports.

## **Cross-border trade**

This matter is not settled yet in our jurisdiction.

## **Professional uses/exemptions**

Remuneration shall also not be paid in the case of devices and empty carriers, if these are intended to be used within the country only on the base of licence contracts by persons in their own undertaking. If the liable body proves the carriers are for professional use, then these carriers are exempt from the levy payment.

**Table 19: Remunerations/levies**

<b>Audio</b>	<b>Tariff</b>	<b>Capacity</b>
Audiocassette	€ 0.031	Under 60 min.
Audiocassette	€ 0.041	Over 60 min.
CD-R	€ 0.009	
CD-RW	€ 0.041	
Minidisc	€ 0.081	
<b>Video</b>		
Videocassette	€ 0.073	Under 180 min.
Videocassette	€ 0.098	Over 180 min.
DVD-R	€ 0.024	
DVD-RW	€ 0.119	
Memory card, flash disk	€ 0.032 but max 1.939	Per 1 GB
HDD under 1 TB (external)	€ 0.004	Per 1 GB
HDD over 1 TB (external)	€ 3.54 + 0.003	Per 1 GB
<b>Devices</b>	<b>Tariff</b>	<b>Capacity</b>
Audio devices	1.5%	
Radios with audio devices	0.75%	
Audiovisual devices	1.2%	
TV sets with recordable devices	0.6%	

**Table 20: Remunerations/levies (Continued)**

CD writers	141%	
DVD writers	1.26%	
Memory card writers	1.41%	
HDD	1.26%	

Additional Comments:

Tariff is a percentage of the sale price. Devices are charged according to whether they are used for image or sound recording only, or a combination of different types of recordings.

**Table 21: Revenues**

Audio Revenues	2009 (€)	2010 (€)	2011 (€)
<b>Total "Audio"</b>	<b>1,341,270.87</b>	<b>586,218.06</b>	<b>870,054.64</b>
Video Revenues	2009 (€)	2010 (€)	2011 (€)
<b>Total "Video"</b>	<b>546,649.82</b>	<b>418,024.83</b>	<b>356,445.75</b>
Device Revenues	2009 (€)	2010 (€)	2011 (€)
Audio	434,448.37	421,527.96	481,202.17
Video	1,028,739.08	607,340.35	538,982.54
<b>Total "Devices"</b>	<b>3,351,106</b>	<b>2,033,109</b>	<b>2,246,683</b>
<b>Total Revenues</b>			

Additional Information

The rates of CZK/EUR (annual average rates according to the Czech National Bank)

in 2009: 26,445 CZK per 1 EUR

in 2010: 25,290 CZK per 1 EUR

in 2011: 24,586 CZK per 1 EUR

2011 – is an expected revenue for 2011

## 11. CZECH REPUBLIC

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### Contact Information

Country	: Czech Republic	
Currency	: CZK	€ 1.00 = 24.60CZK
Population	: 10,532,770 in January 2011	
Name of organisation	: OSA	
Website	: www.osa.cz	
Contact person 1	: Matěj Záhorský	
Contact person 2	: Peter Dvornický	
Email 1	: matej.zahorsky@osa.cz	
Email 2	: peter.dvornicky@osa.cz	
Address	: ěs. armády 20	
Postcode	: 160 56	
City	: Praha	
Phone	: 00-42-220315231	

### 11.1 Legislation and fundamental facts

**Legal basis:**

Copyright law and Ministerial regulation.

**Legal liability moment:**

At the time of import.

**Contractual liability moment:**

Arranged only by law.

**Legally responsible party:**

Importers or producers or receivers.

**Collecting Society:**

OSA (OSA collects also on behalf of DILIA and OOA-S).

OSA collects for all authors and rights holders (including DILIA and OOA-S). INTERGRAM collects for performers and producers. OSA distributes to the authors of musical works with or without lyrics.



***Administrative Costs:***

Deduction for expenses – 8%

**Levies/rates**

The Legislator – Government/Ministry of culture determines the levies.

**Collection*****Obligation to report:***

Importers and local producers, based on Copyright law.

***Control of obligated parties:***

Auditing activities of OSA.

***Deliveries exempted:***

No.

***Objects exempted:***

Mobile phones, digital camcorders, and cameras.

Equipments are exempted by a Ministerial regulation.

***Exports exempted:***

Exports are exempted by the law.

No refund levies. Companies can deduct exports from next report.

**Distribution**

The schemes of distribution are set by OSA, Dilia, OOA-S by their internal regulation.

***Distribution scheme Audio:***

OSA's distribution schemes are distributed to the rights holders according to mechanical revenues (90%) and revenues from public performances (10%) from the last 2 years.

***Distribution scheme Video:***

OSA's distribution schemes are distributed to the rights holders according to mechanical revenues (90%) and revenues from public performances (10%) from the last 2 years.

***Distribution scheme other:***

OSA's distribution schemes are distributed to the rights holders according to mechanical revenues (90%) and revenues from public performances (10%) from the last 2 years.

**Collective purposes:**

OSA deducts 8% from collective levies to cover its costs. The Supervisory Board decides what to do with it.

**Export**

No refund levies. Companies can deduct exports from next report.

## Cross-border trade

Importers are liable for cross-border sales.

## Professional uses/exemptions

There is no legal exemption for professional use.

## Developments

In January 2012, the Ministry of Culture began to prepare the revisions of the Copyright Act through public discussions. The topics are: Legal register of the importers and producers, exceptions for professional use, sanctions, etc.

**Table 22: Remunerations/Levies**

Audio	Tariff	Capacity
Audiocassette	0.031	Under 60 min.
Audiocassette	0.041	Over 60 min.
CD-R	0.009	
CD-RW	0.041	
Minidisc	0.081	
<b>Video</b>		
Videocassette	0.073	Under 180 min.
Videocassette	0.098	Over 180 min.
DVD-R	0.024	
DVD-RW	0.119	
F Memory card, kFlash disc	0.032 but max 1.939	Per 1 GB
HDD under 1 TB (external)	0.004	Per 1 GB
HDD over 1 TB (external)	3.54 + 0.003	Per 1 GB
Devices	Tariff	Capacity
Audio	1.5%	Without radio
Audio	0.75%	With radio
Video	1.5%	Without TV tuner
Video	0.75%	With TV tuner
CD writer	1.5%	
DVD writer	1.5%	
HDD (internal)	1.5%	

**Table 23: Revenues**

Revenues	2009 (€)	2010 (€)	2011 (€)
<b>Total carriers</b>	<b>2,472,206</b>	<b>1,363,320</b>	<b>1,556,674</b>
<b>Total "Video" Device Revenues</b>	<b>2009 (€)</b>	<b>2010 (€)</b>	<b>2011 (€)</b>
<b>Total "Devices"</b>	<b>1,844,772</b>	<b>1,432,611</b>	<b>1,378,039</b>
<b>Total Revenues OSA</b>	<b>4,316,978</b>	<b>2,795,931</b>	<b>2,934,713</b>
<b>Total Revenues INTERGRAM</b>	<b>3,351,106</b>	<b>2,033,109</b>	<b>2,246,683</b>
<b>Total Czech Republic</b>	<b>7,668,084</b>	<b>4,829,040</b>	<b>5,181,406</b>

In case of carriers we do not have division between audio and video.

## 12. DENMARK

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### Contact Information

Country	: Denmark	
Currency	: DKK	€ 1.00 = 7.44
Population	: 5,580,516	
Name of organisation	: Copydan KulturPlus	
Website	: <a href="http://www.copydankulturplus.dk">www.copydankulturplus.dk</a>	
Contact person 1	: Gunver Heimdal-Kej	
Contact person 2	: Steen Gori	
Email 1	: <a href="mailto:ghk@copydan.dk">ghk@copydan.dk</a>	
Email 2	: <a href="mailto:sgo@copydan.dk">sgo@copydan.dk</a>	
Address	: Bryggervangen 8, 1. sal	
Postcode	: 2100	
City	: Copenhagen Ø.	
Phone	: +45 354 414 95	
Fax	: +45 354 414 03	

### Legislation and fundamental facts

#### *Legal basis:*

Consolidated Act on Copyright no. 202 of February 27th, 2010, with later changes, & Ordinance no. 731 of June 27th, 2006. The Danish private copying and remuneration system has existed since January 1993.

The definition of private use differs in relation to digital copies and analogue copies. Digital copies are restricted to the copier's personal use or that of his household. In regards to analogue copies, the definition is a bit broader being the copier and his closest circle of acquaintances. The exception applies only when the source is legal.

Remuneration levied on media. Plus additional state funding, to compensate for difference in proceeds on DVDs between a given year and the year 2005.

Manufacturers and importers are obliged to pay levies unless the blank tapes are sold to wholesalers, who have an agreement with Copydan Kulturplus. Wholesalers without such an agreement are obliged to pay levies when they sell blank media. Payment is due at the time of the import or of the distribution from the factory.

The due date for paying the levies is the last day in the month following the month in which the blank tapes were sold.

Retailers are obliged to disclose the name of the party delivering the blank media in order for KulturPlus to be able to control that all reports are correct.

### ***Collecting Society:***

Copydan Kulturplus.

Copydan is responsible for the collection and distribution of private copying remunerations for all rights owners.

Copydan Kulturplus has legal monopoly, upon authorisation of the Ministry of Culture. Copydan Kulturplus is obliged to provide the Ministry with all requested information.

### **Levies/rates**

The levies are set by law. The levies are adjusted once a year.

### **Collection**

The liable parties have an obligation to report their sales during the month following the month in which the blank tapes were sold.

### ***Control of obligated parties:***

Copydan Kulturplus may choose an external publicly-authorized accountant, or an administrative employee within the organisation, who has an undisputed right to make both announced and unannounced control visits. When making a control visit the accountant or administrative employee has the right to examine any accounting material which is believed to have any value in relation to undertaking the control.

### ***Deliveries exempted:***

Professional users, including educational institutions are exempted, provided they have a valid agreement with Copydan Kulturplus

### ***Objects exempted:***

Devices such as computers, MP3 players, and hard drives are not levied.

### **Distribution**

It is determined by law that 33% of the collected levies are to be distributed for collective purposes. Besides this, the distribution schemes are determined by the rights owners.

### ***Distribution scheme Audio:***

- 33.33% – Authors
- 33.33% – Performers
- 33.33% – Producers

### ***Distribution scheme Video:***

- 33.33% – Authors
- 33.33% – Performers
- 33.33% – Producers

### ***Collective purposes:***

The law states that 33% of the collected levies should be used for cultural purposes, e.g. supporting upcoming artists, musicians, etc.

### **Export**

Exports are exempted by law. Upon presentation of export documentation the levies are refunded.

## Cross-border trade

The importer is liable for cross-border purchases. When the cross-border purchase is carried out by consumers, no remuneration is currently collected. The Opus case (C-462/09) might change this.

## Professional uses/exemptions

There is a legal exemption for professional use. Companies and educational institutions with an agreement with Copydan Kulturplus are exempt from paying levies.

### How is professional use taken into account when determining the level of remuneration?

It is not taken into account since there is a legal exemption.

**Table 24: Remunerations/Levies**

Audio	Tariff	Capacity
Audiocassette	€ 0.57	Per hour
Minidisc	€ 0.30	Per unit
Hi-MD	€ 0.30	Per unit
Audio-CD R/RW	€ 0.30	Per unit
Data-CD R/RW	€ 0.30	Per unit
Video		
Videocassette	€ 0.80	Per hour
DVD+ R/RW	€ 0.48	Per unit
DVD- R/RW	€ 0.48	Per unit
DVD RAM	€ 0.48	Per unit
DVD double-layer	€ 0.48	Per unit
Blu Ray	€ 0.48	Per unit
HD-DVD	€ 0.48	Per unit
Devices	Tariff	Capacity
Memory Card	€ 0.68	Per unit
USB Stick	€ 0.68	Per unit

**Table 25: Revenues**

Audio Revenues	2009 (€)	2010 (€)	2011 (€)
Data-CD R/RW	1,258,750.19	925,638.13	716,503.35
Audiocassette	23,164.12	14,244.46	7,405.23
Minidisc	1,228.26	995.72	888.71
<b>Total "Audio"</b>	<b>1,283,142.58</b>	<b>940,878.31</b>	<b>724,797.29</b>
Video Revenues	2009 (€)	2010 (€)	2011 (€)
Videocassette	214,816.08	78,258.07	38,345.47
DVD	2,724,785.01	2,955,587.09	804,507.50*
<b>Total "Video"</b>	<b>2,939,601.09</b>	<b>3,033,845.16</b>	<b>842,852.97*</b>
Device Revenues	2009 (€)	2010 (€)	2011 (€)
Memory Card	581,730.81	509,338.84	377,538.92
USB Stick	577,684.61	569,984.46	626,840.76
<b>Total "Devices"</b>	<b>1,159,415.42</b>	<b>1,079,323.30</b>	<b>1,004,379.67</b>
<b>Total Revenues</b>	<b>5,382,158</b>	<b>5,054,046</b>	<b>2,572,028</b>

#### Additional Information

\* The Minister of Culture is compensating the rights holders for any fall in the DVD proceeds (regardless of whether the fall is caused by the reduction in the remuneration itself or by a fall in sale of DVDs). The compensation is regarded as a guarantee ensuring that the rights holders will be compensated the same income as in 2005. The amounts for 2011 have not been adjusted with this compensation yet. The 2009 compensation added up to e 1,263,440.86 and the 2010 compensation e 1,639,784.95.

## 13. FINLAND

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### Contact Information

Country	: Finland
Currency	: EURO
Population	: 5,375,276 (2010)
Name of organisation	: Teosto
Website	: <a href="http://www.hyvitysmaksu.fi">www.hyvitysmaksu.fi</a>
Contact person 1	: Turo Pekari, Researcher
Contact person 2	: Olli Valkama, Director of the Private Copying Unit
Email 1	: <a href="mailto:turo.pekari@teosto.fi">turo.pekari@teosto.fi</a>
Email 2	: <a href="mailto:olli.valkama@teosto.fi">olli.valkama@teosto.fi</a>
Address	: Lauttasaarentie 1
Postcode	: 00200
City	: Helsinki
Phone	: +358 9 681 011
Fax	: +358 9 677 134

### Legislation and fundamental facts

#### *Legal basis:*

Amendments 442 (1984), 34 (1991), 1254 (1994), 663 (2008) of the Copyright Act 404 (1961), the Copyright Decree 574 (1995), and a decree given by the ministry of Education. The Copyright Act was revised with the amendment 821 (2005). The new provisions concerning private copying remuneration became active on January 1st, 2007.

#### *Definition of private use:*

The definition of "fair compensation" is very open to interpretation in Finland.

- The law states that remuneration levels should be ratified to a level that can be considered fair compensation.
- Before setting the level of private copying remuneration, the available survey material about the frequency of private copying and the scope of DRMs used in different devices and equipment, should be taken into account.
- Fair compensation is dependent on the device sales, storage capacity of the devices, available research data, and also the society's interpretation of fair compensation, since the level and scope of remuneration is set by the Finnish Government.
- The exception does not apply if the source of the copy is illegal.

The remuneration is collected through levies on media and equipment.

The manufacturer or the importer is responsible for payment. The retailer must pay the remuneration in the case that the importer or the manufacturer fails to do so. However, the retailer may claim a repayment

from the importer or the manufacturer. Payment is due upon import, when products leave the site of the manufacturer, and upon distribution to the local market.

### ***Collecting Society:***

Teosto

Association approved by Ministry of Education for a period of max. 5 years.

Teosto is responsible for the collection and distribution of private copying remunerations for all rights owners.

### ***Administrative Costs:***

2010: 730 000 EUR (11%)

2011: 695 000 EUR (11%)

### **Levies/rates**

The Finnish Government sets the level and scope of the remuneration. Before the decision, negotiations with manufacturers, importers, and organisations representing authors are held by the Ministry of Education and Culture.

The negotiations have been traditionally held in December. Teosto invites a number of interested parties, such as importers, resellers and rights holders, to an informal group to discuss issues relating to the level and scope of the remuneration. This group meets quarterly.

The Finnish Copyright Act expressly states that the remuneration should be based on the available research data. One of the main goals of the informal body is to provide this information.

Within the scope of the compensation, are audio or video carriers manufactured or imported to be distributed to the general public, or other equipment that enables the reproduction of a work, and which is to a significant extent used to make copies for private use.

Research on digital private copying has been conducted since 1999.

Annual surveys on private copying are designed and supervised by a research working group, operating under Finland's advisory board for private copying remuneration. The delegations represented in the advisory board for private copying remuneration are the copyright organisations, manufacturers, and importers, as well as the Ministry of Education, Ministry of Employment and the Economy, Ministry of Transport and Communications, and the Consumer Agency.

The research working group is responsible for designing and monitoring the surveys. In 2012, the research working group has representatives from Nokia, the Confederation of Finnish Industries EK, the Finnish Composers' Copyright Society Teosto, The Copyright Society Kopiosto, The Copyright Association for Audiovisual Producers in Finland Tuotos, Phonogram Producers and Performers Gramex, and IFPI Finland.

### **Collection**

The obligation to report lies with:

- Primarily: manufacturers and importers;
- Obligation to give notification on own initiative.
- Secondly: retailers;
- Obligation to prove that compensation has been paid.
- This ensures a level of self control for the market.

Legal obligation for importers/manufacturers to report to Teosto.

Dealers/retailers are legally obliged to report when requested by Teosto.

### ***Control of obligated parties:***

Customers with a contract are audited annually, or, in the case of the biggest customers, biannually.

The contract gives Teosto the right to conduct an inspection on the company's premises, for the purposes of authenticating the company's monthly reports, and verifying compliance with its contractual obligations. If there is need to audit a company that has no contract, the provincial government has the right to conduct an investigation on the premises of a party liable to pay the remuneration. This is very seldom used.

### ***Deliveries exempted:***

The purpose of the private copying remuneration is to compensate the private copying of works. Accordingly, in certain situations the remuneration will not be applied. These situations are defined in paragraph §26 of the Copyright Act.

The Copyright Act provides an exemption from the private copying remuneration when the products are:

- exported,
- used to store material that is protected by the Copyright Act if the copy is made for – professional use, teaching or scientific purposes,
- used to store material for disabled persons,
- used as memory or storage devices in professional data processing (for example, all digital storing of data that is part of normal business practices).

### ***Objects exempted:***

There is no private copying remuneration on mobile phones, computers, navigators, tablets, game consoles, and USB sticks.

## **Distribution**

Distribution shares of categories determined by rights owners.

### ***Distribution scheme Audio:***

35% Collective purposes  
65% Individual rights holders  
TOTAL AUDIO (100%)

The individual rights holders' revenue is paid via copyright societies, and that revenue (65% of total audio) is divided to the societies as mentioned in the document:

51% Gramex  
44% Teosto  
5% Kopiosto  
TOTAL INDIVIDUAL AUDIO (100%)

### ***Distribution scheme Video:***

50% Collective purposes  
50% Individual rights holders  
TOTAL VIDEO (100%)

The individual rights holders' revenue is paid via copyright societies, and that revenue (50% of total video) is divided to the societies as mentioned in the document:

69.4% Kopiosto  
11.4% Teosto  
11% Tuotos  
8.2% Gramex  
TOTAL INDIVIDUAL VIDEO (100%)



### Collective purposes:

Audio: Collective purposes 35%

Video: Collective purposes 50%

The Ministry of Education and Culture decides the percentage annually.

Teosto is responsible for allocation of funds to artists, cultural productions, or social schemes.

### Export

Exports are exempt by the law.

If the private copy remuneration is paid for a product that will be exported, the exporter can apply for a refund by filling in the form "application for refund". A copy of the purchase invoice and an export document needs to be enclosed with the application.

Clients of the Private Copying Unit who import products, and partly sell them in Finland to retailers, and partly export them, can report the products they have exported in their monthly report. They do not need to fill in an application for refund.

### Cross-border trade

The law does not state who is liable for cross-border sales directly to consumers.

Based on the ECJ ruling on *Stichting de ThuisKopie v Opus GMBH* (Case C-462/09), Teosto considers cross-border retailers responsible for paying the levy.

### Professional uses/exemptions

All company or community-related copying can be considered as professional use, and therefore it is not included in the private copying remuneration scheme. For example, user back-up of files is considered a justification for exemption from private copying remuneration.

#### *Upfront exemption of professional users:*

When a user who has the right for refund, concludes an agreement with the collecting organisation, The collecting organisation maintains a list of contract sellers/buyers.

Simplifying the refund system:

- A seller is able to sell products without the private copying remuneration, to users who have been exempted from the remuneration,
- A user exempted from the remuneration is entitled to buy products from a contract seller without having to pay the remuneration.

#### **How is professional use taken into account when determining the level of remuneration?**

Companies/communities may be granted the right to buy recordable media/carriers without paying private copying remuneration.

To receive the exemption, one must sign a declaration to Teosto, which states that blank media is not used for private copying. Professional users receive a unique ID, which entitles them to purchase recordable media/carriers from importers and manufacturers who have a sales contract with Teosto.

Professional users may apply for refund afterwards. Refunds must be applied for within 3 months after the end of the purchase year.

### Developments

The Government's ministerial working group on educational policy decided, on 13th December 2011 at its meeting, the guidelines under which the private copying remuneration system will be reformed during 2012. The new system is intended to launch in the beginning of 2013.

**Table 26: Remunerations/Levies**

Audio	Tariff	Capacity
C-cassettes	€ 0.30	60 min tape
	€ 0.45	90 min tape
	€ 0.60	120 min tape
Video		
VHS-cassettes, S-VHS cassettes, JA Beta-cassettes	€ 0.91	120 min tape
	€ 1.37	180 min tape
	€ 1.82	240 min tape
Devices	Tariff	Capacity
Recordable CD-, DVD-, Blu Ray and Minidiscs	0.20 euros	Memory max. 1 GB
	0.60 euros	Memory over 1 GB, max. 10 GB
	1.20 euros	Memory over 10 GB, max. 25 GB
	1.80 euros	Memory over 25 GB
External Hard Discs	9 euros	Memory min. 50 GB, max. 250 GB
	12 euros	Memory over 250 GB, under 1 TB
	18 euros	Memory min. 1 TB, max. 3 TB
Digital audio and video recorders with integrated storage capacity	4 euros	Memory max. 512 MB
	7 euros	Memory over 512 MB, max. 1 GB
	10 euros	Memory over 1 GB, max. 20 GB
	12 euros	Memory over 20 GB, max. 50 GB
	15 euros	Memory over 50 GB, max. 150 GB
	18 euros	Memory over 150 GB, max. 250 GB
	25 euros	Memory over 250 GB, max. 500 GB
	30 euros	Memory over 500 GB, max. 750 GB
36 euros	Memory over 750 GB	

Additional Comments:

DVD: tariff is for units with capacity of over 1 GB (max 10 GB).

There is no remuneration on 8cm discs.

There is no private copying remuneration on mobile phones, computers, navigators, tablets, game consoles, and USB sticks.

**Table 27: Revenues**

Audio Revenues	2009 (€)	2010 (€)	2011 (€)
C-Cassette	41,000	23,000	25,000
CD-R	1,260,000	945,000	692,000
Blu-ray/HD-DVD	8,900	12,500	11,400
Minidisc	2,200	600	600
<b>Total "Audio"</b>	<b>1,312,100</b>	<b>981,100</b>	<b>729,000</b>
Video Revenues	2009 (€)	2010 (€)	2011 (€)
VHS	133,000	58,000	43,000
DVD	2,222,000	1,787,000	1,414,000
<b>Total "Video"</b>	<b>2,355,000</b>	<b>1,845,000</b>	<b>1,457,000</b>
Device Revenues	2009 (€)	2010 (€)	2011 (€)
MP3 player	2,298,000	1,641,000	997,000
Video Hard Disc Recorder	2,822,000	2,009,000	2,245,000
External Hard Disc			1,100,000
Television with Hard Disc	9,400	2,500	400
<b>Total "Devices"</b>	<b>5,129,400</b>	<b>3,652,500</b>	<b>3,242,400</b>
<b>Total Revenues</b>	<b>8,796,500</b>	<b>6,478,600</b>	<b>5,428,400</b>

## 14. FRANCE

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### Contact Information

Country	: France
Currency	: Euro
Population	: 65,001,000
Name of organisation	: Copie France
Web site	: <a href="http://www.copiefrance.fr">www.copiefrance.fr</a>
Contact Person 1	: Charles-Henri LONJON
Contact Person 2	: Cecile KREMNIKY
Email 1	: <a href="mailto:charles.henri.lonjon@copiefrance.fr">charles.henri.lonjon@copiefrance.fr</a>
Email 2	: <a href="mailto:cécile.kremnicki@copiefrance.fr">cécile.kremnicki@copiefrance.fr</a>
Address	: 225 Avenue Charles de Gaulle
Postcode	: 92210
City	: Neuilly sur Seine
Phone	: (33) 1 47 15 87 53/(33) 1 47 15 87 56
Fax	: (33) 1 47 15 87 97

### Legislation and fundamental facts

#### *Legal basis:*

Articles L311-1 up to L311-8 CPI, Livre III, Titre I, du Code de la Propriété Intellectuelle (Intellectual Property Code).

The scope of the exception, in accordance with the Padawan decision, has been redrafted last December (IPC, L 311-8 II- law enacted on Dec 23rd, 2011): the obligation to pay remuneration shall not apply to carriers or devices acquired notably for professional use, and which are not presumed to be used for private purposes.

All families of carriers are not included in the scope of the decisions of the administrative commission and specific decisions, excluding DAT, C10 & C15 Tapes, 8cm DVD.

The definition of private use is in article (IPC L 122-5): the copy is reserved strictly for the private use of the copier and not intended for collective use.

The remuneration is collected through levies on media and equipment with internal storage capacity, determined by the extent of the capacity.

Liable for payment, are importers and manufacturers of submitted carriers/devices, at the time of distribution on the territory, by the manufacturer or the importer.

### ***Collecting Society:***

Copie France is responsible for the collection of private copying remunerations for all rights owners (of audio, video, written works, and visual arts).

Regarding distribution, Copie France is responsible for the first step of the distribution process (i.e. from Copie France to collecting rights societies' board members).

No legal monopoly. Societies are obliged to be constituted according to specific provisions of the intellectual property code regarding collecting rights societies.

Administrative Costs: Average of 1.1%.

### **Levies/rates**

The tariffs are set up by a specific administrative commission composed of 24 members: 12 are representatives of rights holders' organisations, 6 of manufacturers and importers, and 6 of consumers' organisations. A President, with a specific voting power, represents the State and the "general interest". Decisions are discussed in a contradictory process, then voted and officially issued.

IPC, L 311-4: obligation to determine the level of the remuneration on the basis of usage studies.

### ***Collection:***

The obligation to report lies with importers and manufacturers, who are responsible to report their outgoings of stock each month.

### ***Control of obligated parties:***

Reports are audited on a voluntary basis, or through court decisions.

### ***Deliveries exempted:***

The scope of the exception, in accordance with the Padawan decision, has been redrafted last December (IPC, L 311-8 II- law enacted on Dec 23rd, 2011).

The obligation to pay remuneration shall not apply to carriers or devices acquired notably for professional use, and which are not presumed to be used for private purposes.

### ***Objects exempted:***

All families of carriers are not included in the scope of the decisions of the administrative Commission, and specific decisions, excluding DAT, C10 & C15 Tapes, 8cm DVD.

### **Distribution**

Distribution schemes are set by the law.

#### ***Distribution scheme Audio:***

- 50% to authors' organisations
- 25% to performers' organisations
- 25% to phonogram producers' organisations

#### ***Distribution scheme Video:***

- 1/3 to authors' organisations
- 1/3 to performers' organisations
- 1/3 to videogram producers' organisations

### *Written works and visual arts:*

50% authors  
50% publishers

### **Collective purposes:**

Percentage deducted for collective (social and/or cultural) purposes, before distribution to the rights owners: 25%.

Deductions are stipulated in the law.

Authors', producers', and performers' organisations are responsible for the distribution of the funds.

### **Export**

French manufacturers and importers who sell carriers or equipment abroad do not have to pay levies.

When distributors/retailers export the levied products bought in France, they must pass to Copie France a proof that the levied products have been exported, and that the remuneration has been paid by their supplier. Copie France checks that the remuneration has been paid to them by the supplier, and then refunds to the supplier the sums involved, informing the exporting company that their supplier has to refund them in return.

### **Cross-border trade**

For several years previous to the OPUS case, the importer located in France was responsible.

Copie France filed lawsuits against websites artificially located just across the French border in neighbouring countries (but whose activity and logistics remained in France) with the sole purpose of circumventing the French legal framework.

Since the OPUS case, Copie France has summoned several foreign-based websites, to stop them selling without levies to French consumers, and to force them to report all deliveries to the French market. Court cases are in process.

### **Professional uses/exemptions**

A legal exemption applies in the CPIICP, L 311-8- Law enacted on Dec 23rd, 2011.

According to the law, professionals have to sign an agreement to be exempted.

### **How is professional use taken into account when determining the level of remuneration?**

Copie France supplies information on the amount of professional use of a levied carrier.

**Table 28: Remunerations/Levies**

<b>Analogical carriers</b>		
Audio tape	For 100 hours (i.e. 0.43 € / C90 tape )	€ 28,51
VHS tape	For 100 hours (i.e. 1.29 € / E180 tape)	€ 42,84
<b>Digital carriers</b>		
CD R & RW data	For 100 000 Mb (i.e 0.35 € / 700 Mb)	€ 50,43
DVD Ram, DVD R, RW data	For 100 Gb (i.e. 1€ / 4.7 Gb)	€ 21,27
Minidisks, CD R Audio	For 100 hours (i.e 0.56 € / 74 mn)	€ 45,73
Micro floppy disc 3' 1/2	For 1.44 Mb	€ 0,015
Digital VHS	For 100 hours (i.e 3.77 € / 180 mn)	€ 125,77
Memory or hard discs integrated in TV set, decoder or video-recorder	≤	€ 10,00
	> 40 GB -	€ 15,00
	> 80 GB -	€ 20,00
	> 120 GB -	€ 25,00
	> 160 GB -	€ 35,00
	> 250 GB -	€ 45,00
Memory or hard discs integrated in audio-only walkman	≤	€ 1,00
	> 128 MB -	€ 2,00
	> 256 MB -	€ 3,00
	> 384 MB -	€ 4,00
	> 512 MB -	€ 5,00
	> 1 GB -	€ 8,00
Memory or hard discs integrated in audio/video walkman	≤	€ 5,00
	> 1 GB -	€ 6,00
	> 5 GB -	€ 7,00
	> 10 GB -	€ 8,00
	> 20 GB -	€ 10,00
	> 40 GB -	€ 15,00
USB keys	≤	0,300 € / GB
	> 512 MB -	0,225 € / GB
	> 1 GB -	0,180 € / GB
	> 2 GB -	0,144 € / GB
	> 5 GB -	0,130 € / GB
	> 10 GB	0,125 € / GB
Memory cards	≤	0,144 € / GB
	> 512 MB -	0,090 € / GB
	> 2 GB -	0,072 € / GB
	> 5 GB -	0,062 € / GB
	> 10 GB	0,059 € / GB
<b>Memory cards sold in "Bundle" with a device</b>		
Application of the tariff scheme applied on the device, by addition of the storage capacity of the memory card and the storage capacity of said device.		
Standard external hard discs	≤	0,0597 € / GB
	> 80 GB -	0,0507 € / GB
	> 120 GB -	0,0403 € / GB
	> 160 GB -	0,0333 € / GB
	> 200 GB -	0,0272 € / GB
	> 320 GB -	0,0237 € / GB
	> 400 GB -	0,0200 € / GB
	> 1000 GB -	0,0160 € / GB
> 5000 GB -	0,0120 € / GB	
Multimedia external hard discs including audio/video and/or registered jack(s) output interfaces	≤	€ 7,00
	> 80 GB -	€ 10,00
	> 120 GB -	€ 12,00
	> 160 GB -	€ 15,50
	> 250 GB -	€ 20,00
Multimedia external hard discs including audio/video and/or registered jack(s) output interfaces and audio/video input interfaces	≤	€ 5,00
	> 1 GB -	€ 6,00
	> 5 GB -	€ 7,00
	> 10 GB -	€ 8,00
	> 20 GB -	€ 10,00
	> 40 GB -	€ 15,00
	> 80 GB -	€ 20,00
	> 120 GB -	€ 25,00
	> 160 GB -	€ 35,00
	> 250 GB -	€ 45,00
> 400 GB -	€ 50,00	
Mobile phones enabling the display of music and videograms	≤	€ 0,09
	> 128 MB -	€ 0,35
	> 512 MB -	€ 0,70
	> 1 GB -	€ 1,40
	> 2 GB -	€ 3,50
	> 5 GB -	€ 5,60
	> 8 GB -	€ 7,00
	> 10 GB -	€ 8,00
	> 20 GB -	€ 10,00
	> 40 GB -	€ 15,00
	> 80 GB -	€ 20,00
	> 120 GB -	€ 25,00
Regarding memory cards sold with mobile phones in one single bundle,		
Memories and hard discs dedicated to the storage and display of audio integrated in a global positioning system (GPS) or a car radio and separated from the capacity devoted to other elements such as the navigation software and road map information.	≤	€ 1,00
	> 128 MB -	€ 2,00
	> 256 MB -	€ 3,00
	> 384 MB -	€ 4,00
	> 512 MB -	€ 5,00
	> 1 GB -	€ 8,00
	> 5 GB -	€ 10,00
	> 10 GB -	€ 12,00
Multimedia Tactile tablets running with a specific operating system or a mobile device operating system (applicable for outgoings of stocks up to December 31st 2011)	≤	€ 0,09
	> 128 MB -	€ 0,35
	> 512 MB -	€ 0,70
	> 1 GB -	€ 1,40
	> 2 GB -	€ 3,50
	> 5 GB -	€ 5,60
	> 8 GB -	€ 7,00
	> 10 GB -	€ 8,00
> 20 GB -	€ 10,00	
> 40 GB -	€ 12,00	
Warning: are submitted to the remuneration		
- External hard discs with USB or Firewire interface		
- SSD (Solid State drive) systems		
- Network storage systems (NAS & NDAS) for households (desktop version)		

**Table 29: Revenues**

Audio Revenues	2009 (€)	2010 (€)	2011 (€)
Data-CD R/RW	21,375,602	17,010,859	12,204,878
Audiocassettes	400,827	257,716	148,114
Audio CD	455,442	158,347	150,977
Minidiscs	53,937	33,795	158,564
<b>Total "Audio"</b>	<b>22,285,808</b>	<b>17,460,717</b>	<b>12,662,533</b>
Video Revenues	2009 (€)	2010 (€)	2011 (€)
Videocassette	4,501,047	2,599,503	1,125,196
DVD data	34,007,428	27,094,288	19,425,738
<b>Total "Video"</b>	<b>38,508,475</b>	<b>29,693,791</b>	<b>20,550,934</b>
Device Revenues	2009 (€)	2010 (€)	2011 (€)
Hard discs or Memory inserted into digital audio (MP3) player	7,745,926		
	7,500,688		
	5,660,384		
Hard disc inserted into a Video Recorder	10,192,989		
	8,962,197		
	6,325,305		
Memory or hard disc inserted into a multimedia Walkman or devices	20,126,195		
	19,539,832		
	14,312,834		
Hard disc inserted into a Decoder and TV set	10,763,050		
	8,276,640		
	13,632,102		
Memory or hard disc inserted into Hi-Fi devices	225,440		
	159,941		
USB sticks and removable memory cards	10,357,557		
	13,021,887		
	15,261,407		
External hard discs	34,744,682	47,235,690	50,063,382
Walkman Phones	16,886,264	36,868,149	50,501,477
Others	524,925	17,864	41,579
Tablets			3,593,538
Memory in a global positioning system (GPS) or a car radio			175,066
<b>Total "Devices"</b>	<b>111,567,028</b>	<b>141,582,888</b>	<b>159,567,074</b>
<b>Total Revenues</b>	<b>172,361,311</b>	<b>188,737,396</b>	<b>192,780,541</b>

Additional information

- 1) For hybrid devices (data CD-R, data DVD, USB key, external hard discs, and memory cards), revenues are split between audio, video, written works, and visual arts remunerations. For memory or hard discs inserted into multimedia devices, revenues are split between audio and video remunerations.
- 2) In France we do collect on carriers inserted into devices, never on devices by themselves.

## 15. GERMANY

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### Contact Information

Country	: Germany
Currency	: Euro
Population	: 82 Mio.
Name of organisation	: ZPÜ – Zentralstelle für private Überspielungsrechte
Website	: www.zpue.de
Contact person 1	: Erich Wulff, Director
Contact person 2	: Dr. Till Zimmer, Legal Director
Email 1	: info@zpue.de
Address	: Rosenheimer Str. 11
Postcode	: 81667
City	: München
Phone	: 089-48003-416
Fax	: 089-48003-988

### Legislation and fundamental facts

#### *Legal basis:*

Copyright Act from 9/9/1965, amended on 24/06/1985, with further amendments in 1990, 1994, 1995, 1998, 2003, 2007. Latest revision in force since 01.01.2008 with new regulations for private copying remunerations.

The definition of a private copy can be found in article §53 UrhG. The exception does not apply when the source is illegal, or manifestly illegal.

The remuneration is collected through levies on media and equipment.

Legal obligation for importers to report types and numbers of imported media and equipment. Manufacturers, importers, wholesalers and retailers are legally bound to provide information upon request. Joint and several liability of importers, manufacturers, wholesalers, and retailers. They have to report upon distribution into local market.

#### *Collecting Society:*

ZPÜ – Zentralstelle für private Überspielungsrechte. It has a legal monopoly.

ZPÜ is only responsible for collection of private copying remunerations for audio and video rights owners. Responsible for collection of private copying remunerations for reprographic rights are VG WORT and VG BILDKUNST.

ZPÜ distributes to partners representing all rights holders. Rights holders are members of ZPÜ-partners. Distribution to rights holders is an obligation of the partners.



## Levies/rates

Levies are set by ZPÜ as a result of negotiations between ZPÜ and associations of manufacturers and importers. If the negotiations are unsuccessful then tariffs will be set by ZPÜ based on market research data. This regularly leads to judicial proceedings, so that in the end a new and valid tariff is suggested/ set by the arbitration board or the court.

Empirical studies on the usage of devices and storage mediums are performed by market research institutes.

## Collection

Legal obligation for importers to report types and numbers of imported media and equipment.

Manufacturers, wholesalers and retailers are legally bound to provide information about their producing figures or sources upon request. Joint and several liability of importers, manufacturers, wholesalers, and retailers.

### *Control of obligated parties:*

Importers and manufacturers could be testified by accountants in case of reasonable doubts concerning correctness of reports. The reports of the importers and manufacturers are cross-checked with the figures reported by the retailers.

### *Deliveries exempted:*

Certain exemptions for professional or industrial users.

### *Objects exempted:*

PCs for industrial users, PCs in ATMs, etc.

Abstract specifications of exemptions in general agreements.

### *Exports exempted:*

Exports are exempted by law, §54 II UrhG.

## Distribution

### *Distribution schemes:*

Negotiations between ZPÜ-Partners are in progress. Our relevant rights holders are: GEMA, GÜFA, GVL, GWFF, TWF, VFF, VGF, VG Bild-Kunst, and VG Wort.

## Export

In case of exports the importer is entitled to a refund. ZPÜ does not refund retailers or consumers. ZPÜ only refunds already-paid remunerations to the manufacturer or importer who has paid the levy to ZPÜ. A German retailer or distributor who has bought goods from a German source can claim refund from the source – the German manufacturer or importer.

## Cross-border trade

The German party is responsible for cross-border purchases, if the recipient is a commercial entity. The party abroad is responsible if the German recipient is a private consumer.

## Professional uses/exemptions

There is no Legal Exemption for professional use, but some contractual exemptions.

See above under Collection → Objects exempted. E.g. PCs for industrial users, PCs in ATMs, etc. Abstract specifications of exemptions in general agreements.

### How is professional use taken into account when determining the level of remuneration?

Since 1/1/2008 ZPÜ has to negotiate the remunerations with associations of manufacturers and importers before setting new tariffs. By setting new tariffs new criteria has to be considered:

- actual use of devices and blank media for private copying,
- capacity of devices and blank media,
- whether blank media is writeable or rewriteable,
- levies may not impair manufacturers,
- remuneration must be economically proportional to the price of the product.

### Developments

New tariffs for all types of media and equipment valid from 01.01.2008/01.01.2010/01.01.2011

Lawsuits in progress for all types of media and equipment.

**Table 30: Remunerations/Levies**

*All Tariffs in €*

Blank Media	Tariff valid from 01.01.2008	Capacity
Audiocassette	0.0614	Per hour
DAT/MD	0.0614	Per hour
Audio-CD-R/RW	0.0614	Per hour
VHS	0.0870	Per hour
Optical storage media	Tariff valid from 01.01.2010	
CD-R up to 900MB	0.062	Per piece
CD-RW up to 900MB	0.197	Per piece
DVD+/-R GB	0.139	Per piece
DVD+/-RW 4.7GB	0.271	Per piece
DVD-RAM 4,7GB	0.550	Per piece
DVD-RAM 9.4GB	1.264	Per piece
DVD Double Sided 9.4GB	0.117	Per piece
DVD Double Layer/Dual Layer 8.5GB	0.386	Per piece
Blu Ray 25GB	3.473	Per piece
Flash media	Tariff valid from 01.01.2008	
USB Stick	0.10	Per piece
Memory Card	0.10	Per piece
PCs etc.	Tariff valid from 01.01.2008	
PC with CD/DVD-writer	17.0625	Per piece
PC without CD/DVD-writer	15.1875	Per piece
Internal CD/DVD-writer	1.8750	Per piece
Multi-Media HDD with recording function	34.00	Per piece
Multi-Media HDD without recording function	19.00	Per piece
Network HDD < 1TB	5.00	Per piece
Network HDD ≥ 1TB	17.00	Per piece
External HDD < 1TB	7.00	Per piece
External HDD ≥ 1TB	9.00	Per piece
	Tariff valid from 01.01.2010	
External CD/DVD-writer	7.00	Per piece
Consumer electronics	Tariff valid from 01.01.2008	

**Table 30: Remunerations/Levies (Continued)**

Set-Top-Box with external HDD	13.00	Per piece
	<b>Tariff valid from 01.01.2010</b>	
VHS-Recorder	15.00	Per piece
DVD-Recorder	22.00	Per piece
DVD+VCR-Recorder	30.00	Per piece
DVD-HDD-Recorder	39.00	Per piece
DVD+VCR+HDD-Recorder	49.00	Per piece
Set-Top-Box+HDD-Recorder	34.00	Per piece
HDD-Recorder	34.00	Per piece
TV with HDD	34.00	Per piece
AC-Recorder	7.00	Per piece
MD-Recorder	25.00	Per piece
CD-Recorder	13.00	Per piece
MP3-Player	5.00	Per piece
MP4-Player Display < 3"	5.00	Per piece
MP4-Player Display ≥ 3" ≤ 4"	15.00	Per piece
	<b>Tariff valid from 01.01.2011</b>	
<b>Mobile phones</b>		
Mobile phones with touch screen < 8 GB storage	16.00	Per piece
Mobile phones with touch screen ≥ 8 GB storage	36.00	Per piece
Mobile phones without touch screen	12.00	Per piece

Additional Comments:  
Lawsuits in progress for all types of media and equipment.

**Table 31: Revenues**

	2009 (€)	2010 (€)	2011 (€)
Audio blank media	-795,000	1,698,000	6,722,000
Video blank media	1,992,000	673,000	
DVD-R/RW	38,206,000	-185,000	
CD-R/RW	11,187,000	18,000	
USB/Flash Media	0	3,853,000	7,195,000
Audio devices	13,674,000	3,152,000	6,041,000
Video devices	15,559,000	231,000	
PCs	160,358,000	228,963,000	3,520,000
CD/DVD-writer	49,797,000	5,348,000	
HDD	0	0	1,569,000
Mobile phones	0	0	5,251,000
<b>Total</b>	<b>289,978,000</b>	<b>243,751,000</b>	<b>30,298,000</b>

Additional Information  
Figures show revenues, not payments. Due to lawsuits, payments tend towards zero.

## 16. GREECE

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### Contact Information

Country	: GREECE
Currency	: Euro
Population	: 11,329,600
Name of organisation	: AEPI
Website	: www.aepi.gr
Contact person 1	: Christine Mergoupi
Email 1	: privatecopy@aepi.gr
Email 2	: info@aepi.gr
Address	: 51, Samou Str. & Fragoklissias,
Postcode	: 15125
City	: Amaroussio, Athens
Phone	: 0030-21110 29265
Fax	: 0030-210 6851576

### Legislation and fundamental facts

#### **Legal basis:**

Article 18 of Law 2121/1993 on Intellectual Property and Neighbouring Rights, as amended by laws 2435/1996, 3049/2002, 3207/2003, is still in force.

See paragraph 1 of Article 18 of our law below. Therefore, the reproduction of a “lawfully published work” for private use is the object of the exemption.

Definition of private use: according to par. 1 of Article 18: “Without prejudice to the provisions laid down in the following paragraphs, it shall be permissible for a person to make a reproduction of a lawfully published work for his own private use, without the consent of the author and without payment. The term private use shall not include use by an enterprise, a service or an organisation.”

Remuneration is collected through levies on media and/or equipment.

#### **Legal liability moment:**

Importers or manufacturers are liable for payment upon import or distribution by the manufacturer.

Responsibility for reporting and payment can be arranged contractually on a more regular basis, either on an annual or semestrial basis.

### ***Collecting Society:***

AEPI S.A.

AEPI is responsible for the collection and distribution of private copying remunerations for authors, composers and rights owners of musical works. It has no legal monopoly.

### ***Administrative Costs:***

Standard 8% commission.

### **Levies/rates**

The Legislator sets the levies.

### **Collection**

The liable parties (as mentioned above, i.e. importers) must report to the Hellenic Organisation of Intellectual Property (OIP), whenever a Collecting Society serves them a written notification with such a request, within one month from the date of notification. Responsibility for reporting and payment can be arranged contractually on a more regular basis, either annually or semi-annually.

### ***Control of obligated parties:***

Each collecting society is entitled to request verification of the accuracy of the contents of any statutory statement, by a certified accountant appointed by the Organisation of Intellectual Property (OIP), declaring the true total value of the equipment of reproduction of sound and/or image, and of the carriers fit for such reproduction, which they imported or produced in Greece. In the case that the liable party fails to submit that declaration, the one-member district Court, judging the procedure of injunction measures, orders the liable party to immediately submit the above statutory statement, providing for a pecuniary fine, varying from € 3.000 to € 30.000 in favour of the applicant Collecting Society, in case of non-compliance. Further sanctions are provided.

### ***Deliveries exempted:***

According to par. 1 of Article 18: "Without prejudice to the provisions laid down in the following paragraphs, it shall be permissible for a person to make a reproduction of a lawfully published work for his own private use, without the consent of the author and without payment. The term private use shall not include use by an enterprise, a service or an organisation."

### ***Objects exempted:***

Levies are imposed for consumer products as per the non-restrictive list of media/devices levied, below.

**Is there a general agreement about exempted media/equipment, e.g. in the form of a list of exempted products? Please indicate types of recording objects from which rights owners claim compensation, and importers or manufacturers deny responsibility.**

Mobile phone importers are denying responsibility, whilst some video cameras importers are arguing against the imposition of the levy.

### **Distribution**

#### ***Distribution schemes:***

The legislator has settled the following distribution scheme (applied to both audio and video sectors):  
55% to creators (all categories of rights owners)  
25% to interpreters and performers  
20% to producers of audio and video carriers.

As to the 20% pertaining to the producers of audio and video carriers, the latest information we have (valid until at least 2009) is the following:

GRAMMO (audio and video carrier producers) 36% (info@grammo.gr)

DIAS (producers of audiovisual works) 12.5% (dias@diassynpe.gr)

ERMEIAS (film producers) 6% (ermias10@hol.gr)

IRIDANOS (audiovisual works) 8% (info@pap.gr)

PROMEDIA (Producers of audiovisual works) 3% (info@fsprod.net)

TELEVISION RIGHTS S.A. (TV producers) 34.5% (contact@tvrighths.gr)

As to the 25% pertaining to interpreters and performers we have only the following information:

ERATO (Singers) (eratospe@otenet.gr)

DIONYSSOS (Actors) (dionact@otenet.gr)

APOLLON (Musicians) (info@apollon.org.gr)

#### ***Distribution scheme Audio:***

(out of the 55% attributed to creators: 85% music authors (AEPI), 7% AFTODIAXEIRISI (music authors), 5% OSDEL (writers/publishers), 1.5% THESPIS (theatrical writers/translators of plays), 1.5% ATHINA (directors/scriptwriters).

#### ***Distribution scheme Video:***

(Out of the 55% attributed to creators: 19.1% music authors (AEPI), 1.5% AFTODIAXEIRISI (music authors), 4% OSDEL (writers/publishers), 5.4% THESPIS (theatrical writers/translators of plays), 52.5% ATHINA (directors/scriptwriters), 3% OSDEETE (artists of fine arts), 11.5% FIVOS (photographers).

#### ***Collective purposes:***

There is currently no deduction for collective (social and/or cultural) purposes.

### **Export**

Exports are exempted (not in the law). Levies already paid for items re-exported are offset with levies of the following period by submitting copies of re-export invoices.

### **Cross-border trade**

The issue of who is liable for cross-border purchases has not been dealt with yet in our country.

### **Professional uses/exemptions**

Legal exemption for professional use; see definition of private copy exemption as per Par. 1 of Article 18 of the National Law nr. 2121/1993.

Professional devices have been “left out” of the levy, the importers and particularly the collecting societies being unable yet to determine how to distinguish between professional and private uses, as well as monitoring the declarations made by importers.

**Table 32: Remunerations/Levies**

Audio	Tariff	Capacity
6% on all products/devices		
Audio CD-R, Audio CD-RW, DAT, DVD-Audio, Digital Audio Recorders – MP3 players, Hi-Fi, CD writer, Hi-Fi tape recorder, Car Hi-Fi, HD or memory slots, Music servers (jukeboxes), ICD (digital voice recorder), Micro PA, Hi-Fi minidisc, Mini micro systems, Music Mobile phones, Cassettes (MC).		
<b>Video</b>		
Cassettes (VHS, HI8, Mini DV, Video8), DVD-R, DVD+ RW, DVD+ R, DVD + RAM, DVC, Mini DVD, Blu Ray disk, PC Discettes > 100MB, DDS tapes, Travan disc, CD-R data, CD-RW data, DVD writer external (PC), CD-ROM recorder external (PC), TV with HD recorder,		
DVD- HD recorder, Video –HD recorder (cameras), Digital recorders (MP3, I-pods, MP4, etc.), VHS recorders, Digital receiver with HD (PVR), Hard drive media players, Blu Ray recorder external, Digital camcorders, Digital cameras with SD cards, Game Consoles, Digital recorders for IPTV and VOD services, Media Box, Minidisc, compact Flash memories, Memory stick, Smart media Memory cards, Portable hard disc (external), ZIP drive, USM (Sony Data USB), Jazz drives, Mobile phones (not music phones).		

**Table 33: Revenues**

Audio Revenues	2009 (€)	2010 (€)	2011 (€)
<b>Total "Audio"</b>	<b>736,937.49</b>	<b>548,949.24</b>	<b>1,045,324.60</b>
Video Revenues	2009 (€)	2010 (€)	2011 (€)
<b>Total "Video"</b>	<b>839,082.30</b>	<b>229,251.87</b>	<b>137,393.16</b>
<b>Total Revenues</b>	<b>1,576,019</b>	<b>778,200</b>	<b>1,182,717</b>

**Additional Information**

Audio and video categories contain both carriers and devices belonging to each category, pertaining only to the % allocated to AEPI (85% in the audio sector out of the 55% for creators and, 19.1% in the video sector respectively). Also, the sums mentioned in each category include royalties for past periods, collected retroactively.

## 17. HUNGARY

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### Contact Information

Country	: HUNGARY	
Currency	: Hungarian forint	€ 1.00 = 310.77 HUF
Population	: 9,986,000	
Name of organisation	: ARTISJUS	
Website	: www.artisjus.hu	
Contact person 1	: David Kitzinger	
Contact person 2	: Brigitta Puskas	
Email 1	: dkitzinger@artisjus.com	
Email 2	: bpuskas@artisjus.com	
Address	: Mészáros u. 15-17.	
Postcode	: 1016	
City	: Budapest	
Phone	: + 361 488 26 60	
Fax	: + 361 212 1542	

### Legislation and fundamental facts

#### *Legal basis:*

Copyright Act LXXVI. of 1999.

Under §20 (1) and (2) CA the definition reads as follows:

The private copy remuneration shall be due, on the private purpose copying of their works, performances, films and sound recordings, to the authors of works, the performers of performances, and the producers of films, and sound recordings that are broadcast in radio programmes and television organisations, included in the programmes of the entities communicating their own programmes to the public by cable, and released for distribution on audiovisual or audio carriers.

The remuneration shall be determined by the responsible collective management society (Artisjus) in agreement with the other affected collective management societies representing film authors, film producers, visual artists, performers, sound recording producers.

At the determination of the remuneration, it shall be taken into account whether effective technological measures for the protection of copyright and related rights are applied to the works, performances, films, and sound recordings concerned.



***Remuneration system:***

The private copy remuneration, under §35 (1), (4), (5), (7), (8) CA, shall compensate the losses caused by a number of cases of free reproduction:

- Private copying by private persons,
- LAMS free reproductions,
- Reproductions made in schools for teaching/exam purposes,
- Ephemeral reproduction by broadcasting entities.

In addition please see the terms and conditions of the exemptions provided for, in the Tariff Chart.

***Legal liability moment:***

Liability moment due on the 8th day after the import (for importers), or after stocking the goods in order to put them into circulation (for producers).

***Legally responsible party:***

Importers or producers of recording media or equipment. Resellers, wholesalers and retailers also bear a universal liability.

***Collecting Society:***

Artisjus is responsible for the collection and distribution of private copying remunerations to all rights owners, and has a legal monopoly.

***Administrative Costs:***

Our overhead is 17%. No further deduction applies in our distribution. The other licensors might apply a deduction.

**Levies/rates**

Initial rates are set by rights owners' organisations. These are annually approved by the Ministry of Justice via the Hungarian Intellectual Property Office, after a consultation process.

Artisjus conduct at least three user surveys per year, focusing on media usage patterns. We also monitor prices.

**Collection**

Legal obligation to report for importers and manufacturers. Dealers/retailers are legally bound to provide information upon request.

***Control of obligated parties:***

1. Hologram stickers on the products.
2. Regular audits in shops, markets, shopping centers, etc.

***Deliveries exempted:***

Even professional users and exporters are requested to report.

***Objects exempted:***

There are media devices that are not levied but no explicit exemptions.

## 17.1 Distribution

Setting of distribution schemes is a matter for rights owners. No further governmental approval required.

### *Distribution scheme Audio:*

1. 45% – Authors (ARTISJUS)
2. 30% – Performers (EJI)
3. 25% – Producers (MAHASZ)

### *Distribution scheme Video:*

1. 20% – Authors (ARTISJUS)
2. 80% – Rights owners, such as:
  - 13% – Film producers (FILMJUS)
  - 22% – Cinematographic creators (FILMJUS)
  - 4% – Visual artists (HUNGART)
  - 16% – Script writers (FILMJUS)
  - 20% – Authors of music and literature (ARTISJUS)
  - 25% – Performers (EJI)

### *Collective purposes:*

Artisjus deducts 10% of its own share before distribution for social and cultural purposes. Deductions are stipulated in the law.

The majority of the fund is distributed by the Hungarian Government's National Cultural Fund; the remaining part is distributed by Artisjus' own foundation. Deduction schemes are regulated by law since January 2012.

## Export

Exports are exempted by law. No refund scheme in the Copyright Act. In daily practice Artisjus accepts refund claims when authentic invoices and delivery notes (EU exports), or statements of customs clearance are submitted in conjunction with the clearance.

## Cross-border trade

The importer/manufacturer is liable for cross-border purchases. A consumer cannot be liable.

## Professional uses/exemptions

The law defines exemption cases but an individual contract has to be made in each case.

### **How is professional use taken into account when determining the level of remuneration?**

We apply either 100% or 0%.

**Table 34: Remunerations/Levies**

Audio	Tariff	Capacity
Audiocassette	0.080	Per unit
Mindisc	0.20	Per unit
Audio-CD	0.20	Per unit
CD-R/RW	0.051	< 300 MB
DATA CD-R/RW	0.14	< 700 MB
DATA CD-R/RW	0.20	> 700 MB

**Table 34: Remunerations/Levies (Continued)**

<b>Video</b>		
Videocassette	0.19	Per unit
DVD+R/RW	0.051	< 4.7 GB
DVD+R/RW	0.24	4.7 GB
DVD-R/RW	0.051	< 4.7 GB
DVD-R/RW	0.24	4.7 GB
DVD RAM	0.24	4.7 GB
DVD double layer	0.58	< 9.4 GB
<b>Devices</b>	<b>Tariff</b>	<b>Capacity</b>
MP3-player	0.32	< 32 MB
	0.64	32 – 64 MB
	1.29	64 MB – 128 MB
	1.93	128 MB – 256 MB
	3.21	256 MB – 512 MB
	4.82	512 MB – 1 GB
	5.79	1 GB – 2 GB
	9.65	2 GB – 4 GB
	12.87	4 GB – 8 GB
	19.30	8 GB – 16 GB
Memory card	22.52	16 GB – 40 GB
	25.74	40 GB – 80 GB
	28.96	> 80 GB
	0.13	< 64 MB
	0.26	64 MB – 128 MB
	0.32	128 MB – 256 MB
	0.38	256 MB – 512 MB
	0.48	512 MB – 1 GB
	0.96	1 GB – 2 GB
	1.61	2 GB – 4 GB
USB Stick	2.57	4 GB – 8 GB
	3.86	8 GB – 12 GB
	5.15	12 GB – 16 GB
	10.30	16 GB – 32 GB
	10.94	> 32 GB
USB Stick	0.32	< 1 GB
	0.64	1 GB – 2 GB
	1.29	2 GB – 4 GB
	1.93	4 GB – 8 G
USB Stick	3.86	8 GB – 16 GB
	7.72	16 GB – 32 GB
	8.04	> 32 GB

**Table 34: Remunerations/Levies (Continued)**

Mobile phones	1.03	64 MB – 128 MB
	1.54	128 MB – 256 MB
	2.58	256 MB – 512 MB
	3.86	512 MB – 1 GB
	4.63	1 GB – 2 GB
	7.72	2 GB – 4 GB
	10.29	4 GB – 8 GB
	15.44	8 GB – 16 GB
	18.02	16 GB – 40 GB
	20.59	40 GB – 80 GB
Storage capacity integrated into electronic devices for storing audio and/or audiovisual content*	23.17	> 80 GB
	10.30	< 80 GB
	12.87	80 GB – 160 GB
	18.01	160 GB – 250 GB
	23.17	> 250 GB

Additional Comments:

Other video levies (and other high capacity optical discs): Blu Ray levies: < 4.7 GB: 0.24 €; 4.7 – 9.4 GB: 0.58 €; 9.4 GB – 15 GB: 0.96 €; 15 GB – 25 GB: 1.29 €; 25 GB – 50 GB: 1.61 €; 50 GB – 100 GB: 2.25 €; 100 GB – 200 GB: 2.57 €; > 200 GB: 2.73 €.

\* e.g. video recorders with integrated memory, DVD recorders/burners with integrated memory, televisions with integrated memory, set top boxes and satellite receivers with integrated memory.

**Table 35: Revenues**

Audio Revenues	2009 (€)	2010 (€)	2011 (€)
Data-CD R/RW	1,349,463	1,110,189	868,551
Audiocassette	22,544	42,203	31,070
Minidisc	1,266	918	580
Audio-CD R/RW	4,057	2,672	2,035
<b>Total "Audio"</b>	<b>1,377,330</b>	<b>1,155,982</b>	<b>902,236</b>
Video Revenues	2009 (€)	2010 (€)	2011 (€)
Cassettes	108,193	98,078	69,758
DVD+/-R/RW, DVD RAM	2,055,494	1,964,090	1,465,798
Other high capacity optical discs (Blu Ray)	5,830	7,961	15,769
<b>Total "Video"</b>	<b>2,169,517</b>	<b>2,070,129</b>	<b>1,551,325</b>
Device Revenues	2009 (€)	2010 (€)	2011 (€)
MP3-player	1,839,627	2,080,831	1,544,646
Memory card	1,295,617	1,714,575	1,822,944
USB Stick	672,900	1,152,726	1,215,244
Storage capacity integrated in consumer electronic devices for storing audio and/or audiovisual content*	1,587,101	1,410,707	909,830
Mobile phones**	–	–	–
<b>Total "Devices"</b>	<b>5,395,245</b>	<b>6,358,839</b>	<b>5,492,664</b>
<b>Total Revenues</b>	<b>8,942,092</b>	<b>9,584,950</b>	<b>7,946,225</b>

Additional Information

\* e.g. video recorders with integrated memory, DVD recorders/burners with integrated memory, televisions with integrated memory, set top boxes and satellite receivers with integrated memory.

\*\* 2009-2010 they were counted under MP3 players.

Currency rate: revenues 2009 € 1 = 273.1 HUF

Currency rate: revenues 2010 € 1 = 272.55 HUF

Currency rate: revenues 2011 € 1 = 310.77 HUF

## 18. ITALY

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### Contact Information

Country	: Italy
Currency	: Euro
Population	: 60,340,328 (2010)
Name of organisation	: S.I.A.E. – Società Italiana degli Autori ed Editori
Website	: <a href="http://www.siae.it">www.siae.it</a>
Contact person 1	: Renato Montesano
Contact person 2	: Roberta Luise
Email 1	: <a href="mailto:renato.montesano@siae.it">renato.montesano@siae.it</a>
Email 2	: <a href="mailto:roberta.luise@siae.it">roberta.luise@siae.it</a>
Address	: Viale della Letteratura, 30
Postcode	: 00144
City	: Rome
Phone	: +39 06 59902598
Fax	: +39 06 59903683

### Legislation and fundamental facts

#### *Legal basis:*

Copyright Law (L.633/41, Art.71-septies); Legislative Decree n. 68, April 9th, 2003 (effective April 29th, 2003); Decree of Minister of Culture and National Heritage of December 30th, 2009 (effective January 14th, 2010).

Italian Copyright Law (Art.71-sexies) allows reproductions made by a natural person for private use, non-profit making, and for ends that are neither directly nor indirectly commercial.

The exception applies only when source is legal – Italian Copyright Law allows private copy of protected works on the condition of the lawful sources of those works.

Remuneration is collected through levies on media and/or equipment.

Manufacturers and importers have to pay the private copy levy upon their sales. The liability moment is when the goods are put on the market. Distributors are also liable when the manufacturer or importer does not comply.

According to the agreement between SIAE and professional associations, manufacturers and importers have to report their sales and pay the levies within 75 days from the end of the quarter.

### ***Collecting Society:***

S.I.A.E. – Società Italiana degli Autori ed Editori

S.I.A.E. is responsible for the collection and distribution of private copying remunerations for all rights owners. It has a legal monopoly.

Administrative Costs: According to Copyright Law, SIAE distributes private copying remunerations net of collection costs. Due to appeals against the Ministerial Decree 30.12.2010, for the year 2010 SIAE decided to reserve the PC remunerations collected, so these are not recorded. For 2011 the balance is not yet consolidated. For 2010 and 2011 SIAE kept a percentage of about 5%.

### **Levies/rates**

The remuneration for Private Copying, according to the second paragraph of Art.71-septies of the Italian Copyright Law, is set by decree of the Minister of Culture and National Heritage (subjected to a three-yearly update) and issued based on the advice expressed by the Permanent Consulting Committee for Authors' Rights (Art. 190 of Copyright Law). The last Decree that set tariffs in force was in 2010.

Among the elements considered in the approval procedure of the Decree, there was a poll regarding consumer behaviour in private copying, and market research on the sales of the subjected products.

### **Collection**

Manufacturers and importers have to report their sales quarterly.

### ***Control of obligated parties:***

According to Italian Copyright Law (Art.183-bis) SIAE can make controls regarding import/export, and manufacture activity.

### ***Deliveries exempted:***

Exemptions: \*Cd-R/Dvd-R for medical use (since 2011), \*carriers or equipment purchased by pressing plants (since 2003).

### ***Objects exempted:***

- \*Videogames consoles (until March 2012)
- \*Memory Cards with capacity 0 – 32 MB
- \*USB Sticks with capacity 0 – 256 MB
- \*Floppy discs
- \*Audio microcassettes (for answerphones)

### **Distribution**

Distribution schemes are set by law.

### ***Distribution scheme Audio:***

50% authors 50% producers and performers (half to be paid to performers)

### ***Distribution scheme Video:***

30% to the authors 70% in three equal parts to the original producers of audio-visual works, to the producers of videograms, and to performing artists

## Collective purposes

50% of the video revenues distributed to the Association of Artists and Performers have to be allocated for study and research, professional training, and promotion and aid for artists/performers. SIAE is not involved in the management of these funds.

## Export

### *Exports exempted:*

Italian manufacturers and importers that sell carriers or equipment abroad do not have to pay levies. Companies that purchase carriers or equipments in Italy, pay the levy to their supplier, and sell them abroad, can apply for a refund to SIAE, filling in a specific form (since 2003). They need to exhibit the purchase invoice, and the sale invoice that shows the export of carriers/devices.

## Cross-border trade

According to the Decree of the Ministry of Culture and National Heritage (January 2010) companies abroad that sell on-line carriers or equipment to Italian consumers have to pay levies.

## Professional uses/exemptions

Legal Exemption for professional use: According to Decree 30.12.2009, SIAE has to promote a general agreement about exemption in specific cases, e.g. professional use, medical use. Some companies did not accept the reimbursement system for professional use.

## Developments

Last March 2, 2012, the administrative court turned down the appeals, lodged by the biggest companies of the industry, against the Ministerial Decree. The same companies could appeal against this sentence.

**Table 36: Remunerations/Levies**

Audio	Tariff	Capacity
Audiocassette	€ 0.23	1 hour
Audio CD-R/RW	€ 0.22	1 hour
Minidisc	€ 0.22	1 hour
Data CD-R/RW	€ 0.15	700 MB
Video		
Videocassette	€ 0.29	1 hour
D-VHS	€ 0.29	1 hour
DVD+R/RW	€ 0.41	4.7 GB
DVD-R/RW	€ 0.41	4.7 GB
DVD Ram/DL	€ 0.41	4.7 GB
Blu Ray/RW	€ 0.41	25 GB
HD-DVD/RW	€ 0.41	15 GB
Devices	Tariff	Capacity
Devices with no memory or hard disc integrated	5% of price	
Memory Card*	€ 0.00	0 – 32 MB
	€ 0.05/GB	> 32 to < 5 GB
	€ 0.03/GB	5 GB and more
USB Stick*	€ 0.00	0 – 256 MB
	€ 0.10/GB	> 256 MB to < 4 GB
	€ 0.09/GB	4 GB and more
External HDD*	€ 0.02/GB	> 400 GB
	€ 0.01/GB	400 GB and more

**Table 37: Remunerations/Levies (Continued)**

Memory or hard disc inserted into a multimedia (audio/video) walkman or other multimedia devices	€ 3.22 € 3.86 € 4.51 € 5.15 € 6.44 € 9.66 € 12.88 € 16.10 € 22.54 € 28.98 € 32.20 € 32.20 will increase by € 2.76 every 200 GB	Up to 1 GB > 1 to 5 GB > 5 to 10 GB > 10 to 20 GB > 20 to 40 GB > 40 to 80 GB > 80 to 120 GB > 120 to 160 GB > 160 to 250 GB > 250 to 400 GB > 400 to < 700 GB 700 GB and more
Memory or hard disc inserted into MP3 Music Player or other Hi-Fi devices	€ 0.64 € 2.21 € 3.22 € 5.15 € 6.44 € 7.73 € 9.66 € 12.88 € 12.88 will increase by € 2.76 every 10 GB	Up to 128 MB > 128 MB to 512 MB >512 MB to 1 GB >1 GB to 5 GB >5 GB to 10 GB >10 GB to 15 GB > 15 GB to 20 GB > 20 GB to < 30 GB 30 GB and more
Multimedia external hard disc with audio/video OUT plugs allowing the display of audio/video content on a TV or Hi-Fi device	€ 4.51 € 6.44 € 7.73 € 10.42 € 12.88 € 14.81 € 14.81 will increase by € 1.84 every 200 GB	Up to 80 GB > 80 GB to 120 GB > 120 GB to 160 GB > 160 GB to 250 GB > 250 GB to 400 GB > 400 GB to < 700 GB 700 GB and more
Multimedia external Hard Disc with audio/video IN & OUT plugs allowing record and display of audio/video content on a TV or Hi-Fi device	€ 3.22 € 3.86 € 4.51 € 5.15 € 6.44 € 9.66 € 12.88 € 16.10 € 22.54 € 28.98 € 32.20 € 32.20 will increase by € 2.76 every 200 GB	Up to 1 GB > 1 GB to 5 GB > 5 GB to 10 GB > 10 GB to 20 GB > 20 GB to 40 GB > 40 GB to 80 GB > 80 GB to 120 GB > 120 GB to 160 GB > 160 GB to 250 GB > 250 GB to 400 GB > 400 GB to < 700 GB 700 GB and more



**Table 37: Remunerations/Levies (Continued)**

Memory or hard dDisc inserted into a video recorder, a decoder, or a TV	€ 6.44	Up to 40 GB
	€ 9.66	> 40 GB to 80 GB
	€ 12.88	> 80 GB to 120 GB
	€ 16.10	> 120 GB to 160 GB
	€ 22.54	> 160 GB to 250 GB
	€ 28.98	> 250 GB to 400 GB
	€ 32.20	> 400 GB to < 1000 GB
	€ 32.20 will increase by € 2.76 every 500 GB	1000 GB and more
Memory or hard dDisc inserted in other devices not included in previous categories allowing record and display of audio or video content	€ 0.64	Up to 256 MB
	€ 0.97	> 256 MB to 384 MB
	€ 1.29	> 384 MB to 512 MB
	€ 1.61	> 512 MB to 1 GB
	€ 1.93	> 1 GB to 5 GB
	€ 2.25	> 5 GB to 10 GB
	€ 2.58	> 10 GB to 20 GB
	€ 3.22	> 20 GB to 40 GB
	€ 4.83	> 40 GB to 80 GB
	€ 6.44	> 80 GB to 120 GB
	€ 8.05	> 120 GB to 160 GB
	€ 11,27	> 160 GB to 250 GB
	€ 14,49	> 250 GB to 400 GB
€ 16,10	> 400 GB to < 700 GB	
€ 16,10 will increase by € 1.84 every 200 GB	700 GB and more	
Memory or Hard disc inserted into devices having communication as main purpose (mobile phone)	€ 0.90	Per piece
Computer with integrated burner	€ 2.40	Per piece
Computer without integrated burner	€ 1.90	Per piece

Additional Comments:

\*Memory Card: the maximum levy applicable for each unit is € 5.00;

\*USB Stick: the maximum levy applicable for each unit is € 9.00;

\*External HDD: the maximum levy applicable for each unit is € 20.00

**Table 38: Revenues**

Audio Revenues	2009 (€)	2010 (€)	2011 (€)
CD-R	16,150,137	8,776,833	5,929,101
Other Audio carriers (from 2010 including Minidisc)	288,709	406,613	256,580
Minidisc	9,261		
<b>Total "Audio"</b>	<b>16,448,107</b>	<b>9,183,446</b>	<b>6,185,681</b>
Video Revenues	2009 (€)	2010 (€)	2011 (€)
Other Video carriers	2,427,102	1,297,382	485,289
DVD	19,027,794	10,942,586	8,179,638
Blu Ray		19,989	33,497
<b>Total "Video"</b>	<b>21,454,896</b>	<b>12,259,957</b>	<b>8,698,424</b>
Device Revenues	2009 (€)	2010 (€)	2011 (€)
Memory Card		759,442	2,384,533
USB Stick		1,788,097	4,181,062
External HDD		4,404,375	12,335,612
Mobile Phone		9,192,148	15,560,813

**Table 38: Revenues (Continued)**

Computer		5,442,131	9,782,451
DVD Writer and Recorder	4,224,892	1,686,257	613,016
CD Writer and Recorder	30,483	13,353	19,652
MP3 Player	926,791	1,573,006	4,116,949
Other Audio Recording Equipment	502,238	1,203,120	523,151
Other Video Recording Equipment	940,295	4,297,499	19,607,770
<b>Total "Devices"</b>	<b>6,624,699</b>	<b>30,359,428</b>	<b>69,125,009</b>
<b>Total Revenues</b>	<b>44,527,702</b>	<b>51,802,831</b>	<b>84,009,114</b>

## Additional Information

- 1) For hybrid devices – data CDs, data DVDs, USB Sticks, external HDD and Memory Cards – and for memory or hard discs inserted into devices, revenues are split between audio and video remunerations.
- 2) In Other Video Recording Equipment are included Memory/hard discs integrated into Decoders/TVs, Media Centers, MP4 Players.

## 19. JAPAN

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### Contact Information

Country	: Japan	
Currency	: Yen	€ 1.00 = 102.4Yen
Population	: 127,450,460	
Name of organisation	: SARAH/SARVH	
Website	: <a href="http://www.sarah.or.jp">www.sarah.or.jp</a> (SARAH)/ <a href="http://www.sarvh.or.jp">www.sarvh.or.jp</a> (SARVH)	
Contact person 1	: Kazuyuki KINOSHITA(SARAH)	
Contact person 2	: Akio TAKAHIRA(SARVH)	
Email 1	: <a href="mailto:sarahkino@zc.wakwak.com">sarahkino@zc.wakwak.com</a> (SARAH)	
Email 2	: <a href="mailto:sarvh02@mint.ocn.ne.jp">sarvh02@mint.ocn.ne.jp</a> (SARVH)	
Address	: Kojimachi YK bldg. 2F, 1-8-14, Kojimachi, Chiyoda-ku, Tokyo, 102-0083(SARAH)/Akasaka Mitsuji Bldg. 6F, 5-4- 6, Akasaka, Minato-ku, Tokyo, 107-0052(SARVH)	
Phone	: +81 332 613 444 (SARAH)/+81 335 603 107 (SARVH)	
Fax	: +81 332 613 447 (SARAH)/+81 355 702 560 (SARVH)	

### Legislation and fundamental facts

#### *Legal basis:*

The Copyright Law, amended in 1992. Private use means “personal use, family use or other similar uses within a limited circle.”

Copyright law provides that private copy exceptions do not apply, (i) where reproduction is made by means of automatic reproduction machines placed for this use by the public; (ii) where reproduction is made by a person who knows that such reproduction becomes possible by the circumvention of technological protection measures, or that it ceases to cause obstruction, by such circumvention, to the results of acts deterred by such measures; (iii) where a digital sound or visual recording is made by a person who knows that such recording is made upon reception of an interactive transmission which infringes copyright (including an interactive transmission which is made outside this country and which would constitute an infringement of copyright if it were made in this country).

Remuneration is collected through levies on media and/or equipment.

### ***Legal liability moment:***

- i. Purchasers of the media/devices specified by the Cabinet Order have to pay, at the time of the purchase, and on receiving a claim by the designated association (SARAH/SARVH), a lump-sum compensation for private recording;
- ii. Manufactures/importers have to cooperate with the designated association (SARAH/SARVH) in claiming and receiving the compensation, by including the compensation in the prices of the specified media/devices, when they ship the specified devices/media, and by sending the compensation to the designated association (SARAH/SARVH).

### ***Contractual liability moment:***

Manufactures/importers have to report and send the compensation to SARAH/SARVH every 6 months, based on a contract.

### ***Legally responsible party:***

- i. Users/purchasers take payment responsibility; (ii) Manufacturers/importers take cooperation responsibility in claiming and receiving the compensation, by including the compensation in the prices of the specified media/devices when they ship the specified media/devices, and by sending the compensation to the designated association (SARAH/SARVH).

### ***Additional comments:***

Copyright law makes it obligatory for those who make sound or visual recordings for the purpose of private use, by making use of a digital recording device/medium specified by the Cabinet Order, to pay compensation to the relevant rights owners.

However, as it would be too troublesome for users to pay the compensation to all rights owners individually, the following mechanism was also introduced:

- i. Purchasers of the specified media/devices have to pay, at the time of the purchase, and on receiving a claim by the association designated by the Government (SARAH/SARVH), a lump-sum compensation for private recording;
- ii. Compensation is included in the prices of the specified media/devices and sent to the designated association (SARAH/SARVH) by manufactures/importers of the specified media/devices (manufacturers/importers take cooperation responsibility);
- iii. The designated association (SARAH/SARVH) distributes the compensation received to the relevant rights owners.

### ***Collecting Society:***

SARAH (Soc. for Administration of Remuneration for Audio Home Recording) SARVH (Soc. for Administration of Remuneration for Video Home Recording). They have a legal monopoly.

They are responsible for the collection and distribution of private copying remunerations for all rights owners.

### ***Administrative Costs:***

2010: 7.5% (SARAH), 4.7% (SARVH); 2011: 8.4% (SARAH), 3.8% (SARVH).

### **Levies/rates**

The designated association (SARAH/SARVH) negotiates rates with organisations which are composed of manufactures/importers. When they reach an agreement, the designated association (SARAH/SARVH) submits the agreed rates to the Agency for Cultural Affairs for approval. No market research is conducted.

### **Collection**

Manufacturers (organisations of manufacturers, or manufacturers individually)/importers have to report and send the compensation every 6 months, based on a contract.

**Control of obligated parties:**

No control.

**Deliveries exempted:**

Professional use or educational use is legally exempted.

**Objects exempted:**

- i. analogue media/devices, (ii) devices with special efficiency, generally not for private use but for professional use, (iii) devices with sound or visual recording functions incidental to the primary functions, are all legally exempted.

In recent years, personal computers which can record works over long hours, television sets with built-in recording facilities, and portable players with large storage capacities, such as iPods, have increased. And now there are a variety of recording media. Rights owners claim compensation to such objects, but manufacturers deny these claims, and as a result they are not levied.

**Additional Comments:**

Copyright law provides that any person, who for the purpose of private use makes a sound or visual recording on a digital recording medium/device specified by Cabinet Order, shall pay a reasonable amount of compensation to the copyright owners concerned. Therefore, the specific media/devices for a purpose other than that of private use, such as professional use, educational use or export, are shipped by manufactures/importers without compensation. In addition to that, copyright law provides a repayment system. That is, any person who has paid compensation by purchasing a specific media/devices which includes compensation may claim its repayment from the designated association (SARAH/SARVH), by certifying that he/she uses such a specified device/medium exclusively for a purpose other than that of private recording. So far, there have been one claim for CD-R and MD respectively, and two claims for DVD, which have been judged appropriate by the designated association (SARAH/SARVH) and repaid.

**Distribution**

Setting of distribution schemes is a matter for rights owners. Governmental approval is not required.

**Table 39: Distribution scheme Audio:**

34.5%	Copyright owners of musical works	Japanese rights owner, Foreign rights owner	Japanese Society for Rights of Authors, Composers and Publishers.
1.5%	Copyright owners of literary works	Japanese rights owner, Foreign rights owner	i. Writers' Guild of Japan. ii. The Japan Writers' Association. iii. Japan Writers' Guild.
32%	Performers	Japanese rights owner, Foreign rights owner	Japan Council of Performers' Organisations.
32%	Producers of Phonograms	Japanese rights owner, Foreign rights owner	Recording Industry Association of Japan.

**Table 40: Distribution scheme Video**

36%	Copyright owners of visual works	Japanese rights owner	<ul style="list-style-type: none"> <li>i. The Japan Commercial Broadcasters' Association.</li> <li>ii. Japan Broadcasting Corporation.</li> <li>iii. Association of All Japan TV Programme Production Companies.</li> <li>iv. Motion Picture Producers' Association of Japan, Inc.</li> <li>v. The Association of Japanese Animations.</li> <li>vi. Japan Video Software Association.</li> <li>vii. Japan Film Makers' Association.</li> </ul>
16%	Copyright owners of musical works	Japanese rights owner, Foreign rights owner	Japanese Society for Rights of Authors, Composers and Publishers.
16%	Copyright owners of literary works	Japanese rights owner, Foreign rights owner	<ul style="list-style-type: none"> <li>i. Writers' Guild of Japan.</li> <li>ii. The Japan Writers' Association.</li> <li>iii. Japan Writers' Guild.</li> </ul>
39%	Performers	Japanese rights owner, Foreign rights owner	Japan Council of Performers' Organisations.
3%	Producers of Phonograms	Japanese rights owner, Foreign rights owner	Recording Industry Association of Japan.
–	Copyright owners of visual works	Foreign rights owner	SARVH
–	Copyright owners of works in other fields (e.g. artistic work)	Japanese rights owner, Foreign rights owner	SARVH

**Collective purposes:**

Copyright law provides that the designated association (SARAH/SARVH) shall allocate an amount corresponding to the rate fixed by Cabinet Order, within 20% of the compensation received for such activities, as contributing to the protection of copyright and neighbouring rights, as well as to the promotion of the creation and dissemination of works (the fixed rate by Cabinet Order is 20%).

**Export**

Exports are legally exempted but not reported.

**Cross-border trade****Who is liable for cross-border purchases?**

Import: users/ purchasers (payment responsibility); importers (cooperation responsibility). Export: exports are exempted

**Professional uses/exemptions**

Professional use is legally exempted.

**How is professional use taken into account when determining the level of remuneration?**

Professional use is not taken into account when determining the level of compensation.

**Developments**

Japanese copyright makes it obligatory for those who purchase digital media/devices specified by the Cabinet order to pay, on receiving a claim by the designated association (SARAH/SARVH), a lump-sum compensation for private recording. The compensation is included in the prices of the specified media/devices, and sent to the designated association (SARAH/SARVH) by manufacturers/importers. As manufacturers/importers take cooperation responsibility for claiming and receiving the compensation by including the compensation in

the prices of the specified media/devices when they ship the specified media/devices, and by sending the compensation to the designated association (SARAH/SARVH), the agreement of the organisation representing manufacturers/importers is required before the specification of the devices/media by the Cabinet Order. In spite of the expansion of the recording media/devices, with the development of technology, or strong requests from rights owners, manufacturers/importers deny making new media/devices subject to compensation. Under such circumstances, objects subject to compensation are limited in Japan. A Commission set up under Japanese government, composed of the representatives of rights owners, manufacturers, consumers, and academic experts, discussed the revision of the private recording compensation system. But the Commission could not reach a conclusion due to a conflict of opinions between rights owners and manufacturers. There is no substantial progress in the revision of the private recording compensation system so far. In addition to that, in recent years, a dispute has arisen between SARVH and manufacturers, with respect to the interpretation of the copyright law and Cabinet order concerning the private recording compensation system. Therefore, it is now very difficult to get cooperation from manufacturers.

**Table 41: Remunerations/Levies**

Audio	Tariff	Capacity
MD	3%	Per unit
CD-R/RW	3%	Per unit
DAT	3%	Per unit
Digital Compact Cassette	3%	Per unit
Video		
Digital Video Cassette	1%	Per unit
Digital VHS	1%	Per unit
DVD-R/RW	1%	Per unit
DVD+R/RW	1%	Per unit
DVD-RAM	1%	Per unit
Blu Ray Disc	1%	Per unit
Devices	Tariff	Capacity
MD recorder	2%	Per unit
CD recorder	2%	Per unit
Digital Compact Cassette recorder	2%	Per unit
DAT recorder	2%	Per unit
Digital Video Cassette Recorder	1%	Per unit
Digital VHS recorder	1%	Per unit
DVD recorder	1%	Per unit
Blu Ray Disc recorder	1%	Per unit

Additional Comments:

Audio:

Tariff is percentage of the base price.

Base price = first sale price or 50% of the standard price indicated in the catalogue.

Video:

Tariff is percentage of the base price.

Base price = first sale price or 50% of the standard price indicated in the catalogue.

<=Devices:

Tariff is percentage of the base price.

Base price = first sale price or 65% of the standard price indicated in the catalogue.

Maximum = 1,000 Yen.

**Table 42: Revenues**

Audio Revenues	2009 (€)	2010 (€)	2011 (€)
MD	1,209,860	857,748	628,956
Audio CD-R/RW	1,011,947	770,973	776,544
DAT	10,881	6,664	5,761
DCC	3	0	0

<b>Total "Audio"</b>	<b>2,232,691</b>	<b>1,635,385</b>	<b>1,411,261</b>
<b>Video Revenues</b>	<b>2009 (€)</b>	<b>2010 (€)</b>	<b>2011 (€)</b>
Digital Video Cassette	814	517	350
D-VHS	527	256	115
DVD-R/RW/RAM. DVD+R/RW.	3,059,290	2,883,774	2,083,368
HD-DVD	3,361	-11	0
Blu Ray Disc	–	828,397	1,306,458
<b>Total "Video"</b>	<b>3,063,992</b>	<b>3,712,933</b>	<b>3,390,291</b>
<b>Device Revenues</b>	<b>2009 (€)</b>	<b>2010 (€)</b>	<b>2011 (€)</b>
MD	2,110,070	1,164,646	636,773
Audio CD-R/RW	32,988	32,138	23,176
DAT	0	0	-359
DCC	0	0	0
Digital Video Cassette Recorder	0	-9	38
D-VHS recorder	15	85	0
DVD recorder	11,645,136	4,284,622	2,190,391
Blu Ray Disc Recorder	–	13,704,698	16,696,346
<b>Total "Devices"</b>	<b>13,788,209</b>	<b>19,186,180</b>	<b>19,546,289</b>
<b>Total Revenues</b>	<b>19,084,892</b>	<b>24,534,498</b>	<b>24,347,841</b>

Additional Information

2009 Exchange rate used for 2009: 1 EUR = 124.34 Yen (annual average)

2010 Exchange rate used for 2010: 1 EUR = 114.98 Yen (annual average)

2011 Exchange rate used for 2011: 1 EUR = 111.13 Yen (annual average)



## 20. LATVIA

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### Contact Information

Country	: Latvia	
Currency	: LVL	€ 1.00 = 0.702804 LVL
Population	: 2,068 milj.	
Name of organisation	: AKKA/LAA	
Website	: www.akka-laa.lv	
Contact person 1	: Anita Sosnovska	
Contact person 2	: Ivars Maculis	
Email 1	: anita.sosnovska@akka-laa.lv	
Email 2	: ivars.maculis@akka-laa.lv	
Address	: A.Caka iela 97	
Postcode	: LV- 1011	
City	: Riga	
Phone	: 37167506131	
Fax	: 37167315620	

### Legislation and fundamental facts

#### *Legal basis:*

Copyright Law, Cabinet Regulation No.321.

1. Without the permission of the author, a natural person shall be permitted to reproduce (including in a digital format) in a copy, works that have been included in lawfully-acquired films or phonograms, or in another form of expression that is to be protected, as well as visual works for personal use, without direct or indirect commercial purpose. Third persons shall not be involved in the production of such a copy. The author is entitled to receive a fair compensation (blank tape levy) for the production of such a copy.
2. The amount of the blank tape levy, procedures for collection, repayment, and payment of the levy, as well as proportional distribution among authors, performers, and phonogram and film producers, shall be determined by the Cabinet.

Remuneration is collected through levies on media and equipment from importers and manufacturers of recording devices and equipment. Also from resellers, wholesalers, or retailers, if the importer or manufacturer has not paid the levy.

#### *Legal liability moment:*

At the end of each month, but not later than the fifteenth day of the following month, a manufacturer or importer shall submit the application to the organisation, indicating the imported or manufactured blank recorded media or equipment, and no later than the fifteenth day of the following month they have to make a payment.

### ***Collecting Society:***

AKKA/LAA has a legal monopoly.

AKKA/LAA is responsible for the collection of private copying remunerations for all rights owners. AKKA/LAA distributes to copyright owners.

### ***Administrative Costs:***

2010: 26%

2011: 29%

These costs pertain only to collection of the remuneration.

### **Levies/rates**

Rate of levy is set by the Ministry of Culture after consultations with a working group of rights owners and importers. Distribution schemes are approved by the Cabinet. No market research used.

### **Collection**

#### ***Obligation to report:***

At the end of each month, but not later than the fifteenth day of the following month, a manufacturer or importer shall send a submission to the organisation, indicating the imported or manufactured blank recorded media or equipment, and no later than the fifteenth day of the following month they have to make a payment.

#### ***Control of obligated parties:***

AKKA/LAA carries out regular inspections of business places and storehouses. Sometimes AKKA/LAA cooperates with police authorities.

#### ***Deliveries exempted:***

Professional users.

#### ***Objects exempted:***

Computers, hard discs, memory cards, and mobile phones with MP3 are not levied.

Rights owners are convinced that the blank tape levy has to be applied to computers, hard discs, memory cards, and mobile phones with MP3.

### **Distribution**

Distribution schemes are set and approved by the Ministry of Culture, after consultations with a working group of rights owners and importers.

#### ***Distribution scheme Audio:***

Authors – 40%, performers – 30%, phonogram producers – 30%.

#### ***Distribution scheme Video:***

Authors – 33.33%, performers – 33.33%, film producers – 33.33%.

## Collective purposes

For musical authors, according to the reciprocal representation agreements, there are 10% deductions for the Cultural and Educational Fund. The percentage is determined by the Authors' Council.

## Export

Exports are exempted by law. According to the report, if the levy has been paid, the refund will be received up to 15 days after the application has been submitted.

## Cross-border trade

Sellers are responsible for paying the blank tape levy.

This is not yet regulated in Latvia. There are many problems with it:

1. No one will report having bought something,
2. It is not possible to control the market as to where the goods go, and from where they come, as usually the mail is used for delivery.

## Professional uses/exemptions

A Legal Exemption for professional use: each month professional users send reports, to prove their professional usage.

## Developments

All four Latvian rights owners' societies have applied to the Constitutional Court to change the Cabinet of Ministers' rules, and to include in them the devices created by new technologies.

The session will be on March 13, 2012.

**Table 43: Remunerations/Levies**

Audio	Tariff	Capacity
Audiocassette	0.04	Unit
Minidisc	0.04	Unit
CD-R/RW	0.14	Unit
<b>Video</b>		
Videocassette	0.08	Unit
DVD-R/RW	0.28	Unit
Devices	Tariff	Capacity
Digital jukebox, MP3 players	1.42	Unit
CD writer internal/external	1.42	Unit
DVD writer internal/external	1.42	Unit
DVD Hard disc recorder	1.42	Unit
Video tape recorder	1.42	Unit

**Table 44: Revenues**

<b>Audio Revenues</b>	<b>2009 (€)</b>	<b>2010 (€)</b>	<b>2011 (€)</b>
Minidisks	72.35	10.84	6.4
CD-R/RW	86,393.36	40,887.22	45,377.09
Audicassettes	746.07	615.15	399.54
<b>Total "Audio"</b>	<b>87,211.78</b>	<b>41,513.21</b>	<b>45,783.03</b>
<b>Video Revenues</b>	<b>2009 (€)</b>	<b>2010 (€)</b>	<b>2011 (€)</b>
Videocassettes	3,210.77	10,56.74	619.55
DVD-R/RW	183,669.70	87,515.72	81,640.69
<b>Total "Video"</b>	<b>186,880.47</b>	<b>88,572.46</b>	<b>82,260.24</b>
<b>Device Revenues</b>	<b>2009 (€)</b>	<b>2010 (€)</b>	<b>2011 (€)</b>
Digital jukebox, MP3 players	27,481.35	16,661.83	13,185.75
DVD Hard disc recorder	1,771.48	257.54	34.15
CD writer internal/external	630.33	406.94	589.07
DVD writer internal/external	50,058.05	56,265.28	81,289.25
Video tape recorder	4,393.83	85.37	0
<b>Total "Devices"</b>	<b>84,335.04</b>	<b>73,676.96</b>	<b>95,098.22</b>

## 21. LITHUANIA

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### Contact Information

Country	: Lithuania	
Currency	: Litas	€ 1.00 = LTL 3.4528
Population	: 3,201,344	
Name of organisation	: Lithuanian Neighbouring Rights Association (AGATA)	
Website	: www.agata.lt	
Contact person 1	: Managing director Agnė Masalskytė	
Contact person 2	: Specialist of Public Performance Department Aušra Sadaunykaitė	
Email 1	: agne@agata.lt	
Email 2	: vp@agata.lt	
Address	: S. Žukausko str. 39	
Postcode	: LT-09130	
City	: Vilnius	
Phone	: +370 5 260 84 13	
Fax	: +370 5 263 94 66	

### Legislation and fundamental facts

#### *Legal basis:*

Article 20 of the Lithuanian Law on Copyright and Related Rights and Provisions of Governmental Resolution no. 997 of 29/09/2007 (first version was approved in 29/08/2003). Remuneration for private copying levies from 01/01/2004. Last amendments of Lithuanian Law on Copyright and Related Rights relating to private copying were adopted by Parliament in December of 2011, and will take force from the 1st of March, 2012. In accordance with the amendments of the law, until the 1st of March, 2012 the Government must approve a new Resolution, which will implement new provisions of law.

*Definition of private use:* a natural person, without the authorisation of the author or any other owner of copyright, can reproduce, exclusively for his individual use, and not for direct or indirect commercial advantage, in a single copy, a work published or communicated to the public in any mode where the reproduction is a single action.

In the new law, the Legislator declares that a natural person, without the authorisation of the author or any other owner of copyright, can reproduce, exclusively for his individual use and for non-commercial purposes, a copy of work lawfully published or communicated to the public in any mode.

Reproduction of work for personal use, as a limitation on economic rights, is applied only when a copy is made from a legal source.

Remuneration is collected through levies on media and equipment.

Remuneration is levied on media (audiocassette, videocassette, minidisc, DVD, CD, Blu Ray). From the 1st of March, 2012, remuneration is being paid for the mentioned media, including Memory sticks, USB, HDD, SDD, and equipment (PCs and other equipment with memory devices and audio/video recording capability).

The importer is liable at the time of customs clearance, before the goods are placed in free circulation, unless otherwise provided for in an agreement between the importer and this collective rights management association.

The producer is liable at the time of distribution from the factory.

From the 1st of March, 2012: persons are liable who carry out the first sale in Lithuanian territory.

#### ***Contractual liability moment:***

On a contractual basis importers have to submit a report on imported media in the last month or quarter. Quarterly reports are provided by small importers. Payment is due within 15 days after the invoicing date. There are no manufactures based in Lithuania.

#### ***Legally responsible party:***

Importers or producers of recording media or equipment. Also resellers, wholesalers or retailers, and if so, under what conditions?

#### ***Collecting Society:***

Lithuanian Neighbouring Rights Association (AGATA). No legal monopoly. Special authorisation (controlled by, and reporting to, the Ministry of Culture).

AGATA is responsible for the collection of private copying remuneration for the authors, performers, and the producers of audiovisual works and phonograms.

AGATA is responsible for the distribution of private copying remuneration to the Lithuanian collective copyright management association (LATGA-A) (represents authors), and the Lithuanian Neighbouring Rights Association (AGATA) (represents performers, producers of audiovisual works and phonograms).

The main distribution of remuneration is controlled by AGATA. Distribution sends out a remuneration for authors, and the subjects of related rights. Collection of the remuneration is appointed to LATGA-A and AGATA, which execute the distribution to their represented rights holders.

#### ***Administrative Costs:***

In 2010 (when LATGA-A was the collecting society), the total administrative costs of collection and distribution of the remuneration, was € 29,131.14. AGATA costs for further distribution of the remuneration to their represented rights holders were 0.

In 2011, the total administrative costs of collection and distribution of the remuneration were € 15,176.09.

#### ***Additional Comments:***

From the 25th of February, 2011, AGATA is the association responsible for collecting the private copying remuneration in Lithuanian territory (before that date it was LATGA-A).

#### **Levies/rates**

Levies are set by law, and the list of levied media is determined by the Government. A new law on Copyright and Related Rights, with new rates of remuneration/levies, and the list of levied media and equipment will come into force on the 1st of March. The legislative process allows for reconciliation with stake holders. Levies will be reviewed within two years (a term defined by the law), at which point associations representing parties liable for payment, and collective rights management organisations, will submit their proposals and comments.

## Collection

According to the Governmental Resolution, importers must apply to AGATA at the time of customs clearance, and producers within 7 days after production. But in practice importers make their reports about imported media after this action, because generally media is imported from EU countries, and Customs procedures have not been adjusted. When importers have signed a contract, they have a duty to submit a report about each previous month or quarter's imported media once per month/quarter.

### *Control of obligated parties:*

The Resolution grants the right to the responsible association to get information for the calculation and collection of remuneration, from Customs, the Lithuanian Department of Statistics, importers, manufacturers, and wholesalers.

Moreover, according to contracts with importers, responsible associations have the right to require and check additional documents, connected with the collection and calculation of remuneration, in the case of uncertainties arising.

### *Deliveries exempted:*

The law determines the refund system for the media intended for export (to EU and third countries), professional uses, and the needs of persons with a hearing or visual impairment.

The new law, which will take force from the 1st of March, 2012, regulates that remuneration can be refunded when media and/or equipment are exported from Lithuanian territory, or are bought for professional uses (other than private copying) or for the needs of people with disabilities.

### *Objects exempted:*

Blank media bought by consumers abroad, and taken into the country by them, are not subject to levies, except in the cases where such blank media are brought into the country exclusively for private use (in the luggage of a passenger). Now there is a particular list of levied media established in the Resolution.

As of the 1st of March, 2012, a new list of levied media and devices will be indicated in the law. Media for professional uses are not included in this list. The Lithuanian Law on Copyright And Related Rights determines that remuneration should not be paid for hard disc drives (HDD) with SCSI, iSCSI, SAS, FC, SATA, FATA interfaces for the servers, data arrays, and similar professional engineering purposes, except for SATA drives no bigger than 2.5 inches.

### *Additional Comments:*

Until the 1st of March, 2012, new provisions for the Resolution of the Government pursuant to the new law will be approved. At the moment the Ministry of Culture is preparing new provisions for the Resolution, and the final refund system is not confirmed yet. Collective rights associations and representatives of remuneration payers are participating in this procedure. For this reason, achieving results suitable for both sides will be very complicated.

## Distribution

Currently, certain shares of categories of rights holders are set out in the Resolution. A responsible association makes a distribution according to these shares, and, according to this distribution, the responsible association sends out the remuneration to LATGA-A and AGATA for further distribution. From the 1st of March, 2012, shares of rights holders for distribution will be indicated in the law.

### ***Distribution scheme Audio:***

40% – Authors (LATGA-A)  
30% – Performers (AGATA)  
30% – Producers of phonograms (AGATA)

From the 1st of March, 2012, the new law indicates the following shares:

1/3 – Authors (LATGA-A)  
1/3 – Performers (AGATA)  
1/3 – Producers of phonograms (AGATA)

### ***Distribution scheme Video:***

40% – Authors (LATGA-A)  
30% – Performers (AGATA)  
30% – Producers of audiovisual works (AGATA)

From the 1st of March, 2012, the new law indicates the following shares:

1/3 – Authors (LATGA-A)  
1/3 – Performers (AGATA)  
1/3 – Producers of phonograms (AGATA)

## **Collective purposes**

Provision 20 of the Governmental Resolution establishes that 25% of royalties collected from the audiovisual recording media, shall be assigned to the National Cinema Sponsorship Programme. Pursuant to the Governmental Resolution, collective rights associations can designate 25% of the remuneration, which they get from the responsible association, to programmes of creative activities.

The new law declares that 25% of collected remuneration shall be assigned to programmes of creative activities, and copyright and related rights protection programmes (valid from the 1st of March, 2012).

Deductions are determined by the Government.

According to the current legal system, the Ministry of Culture coordinate funds assigned to the National Cinema Sponsorship Programme.

## **Export**

Exports are exempted; the right to a refund of the remuneration for export is established by law; detailed refund procedure is fixed in the Resolution. The same will apply from the 1st of March, 2012.

According to the Resolution of the Government, an exporter can apply to a responsible association with the request to register him in a list of persons who have the right to refund remunerations. After registration, he has a right to submit to the responsible association an application for refunding to him the remuneration, along with export documents, and purchase documents of the exported media. The term for refunding is three months from the export day.

## **Cross-border trade**

No practice yet.

## **Professional uses/exemptions**

The method for refunding remuneration, when the media is bought for professional purposes, is the same as for export. The term for refunding is three months from the purchase day.

The definition of professional uses is set out in the Resolution of the Government, as: the needs of broadcasting organisations and persons, who make copies of audiovisual works and phonograms, for the producers of



audiovisual works and phonograms; and the needs of persons, who buy media obviously for public safety, public administration, and research purposes.

In the new law professional uses are defined as follows (the new definition will take force from the 1st of March, 2012): the needs of broadcasting organisations and persons, who make copies of audiovisual works and phonograms, for the producers of audiovisual works and phonograms; and the needs of persons, who buy empty carriers and equipment for purposes clearly unrelated to private copying (e.g. when the works are reproduced for public administration, and defense institutions and organisations, hospitals, educational institutions, libraries and state archives, museums, research institutions and organisations, and when the reproduction is intended exclusively for the uses of those institutions and organisations).

**Table 45: Remunerations/Levies**

Audio	Tariff	Capacity
Audiocassette	6%	Per unit
Minidisc	6%	Per unit
Hi-MD	6%	Per unit
Audio-Cd R/RW	6%	Per unit
Data-CD R/RW	6%	Per unit
<b>Video</b>		
Videocassette	6%	Per unit
DVD+ R/RW	6%	Per unit
DVD- R/RW	6%	Per unit
DVD RAM	6%	Per unit
DVD double-layer	6%	Per unit
Blu Ray	6%	Per unit
HD-DVD	6%	Per unit
Devices	Tariff	Capacity
Non-integrated Memory Card	0.14	Up to 1 GB
	0.29	From 1 GB to 2 GB
	0.58	From 2.1 GB to 4 GB
	0.87	From 4.1 GB to 8 GB
	1.45	From 8.1 GB to 16 GB
	2.03	From 16.1 GB to 32 GB
	2.90	More than 32 GB
USB	0.14	Up to 1 GB
	0.29	From 1 GB to 2 GB
	0.58	From 2.1 GB to 4 GB
	0.87	From 4.1 GB to 8 GB
	1.45	From 8.1 GB to 16 GB
	2.03	From 16.1 GB to 32 GB
	2.90	More than 32 GB
External and internal non-integrated Solid-state drive (SSD)	1.45	Up to 250 GB
	2.32	From 250.1 GB to 500 GB
	2.90	From 500.1 GB to 1 TB
	4.34	More than 1 TB
External and internal non-integrated hard disc drive (HDD)	1.45	Up to 250 GB
	2.32	From 250.1 GB to 500 GB
	2.90	From 500.1 GB to 1 TB
	4.34	More than 1 TB

**Table 45: Remunerations/Levies (Continued)**

Digital and analogue audio and video player with a memory device, and audio and video recording capability (audio cassettes, VCRs, CDs, DVDs, HD-DVD drive, Blu Ray players, home theater, musical centers, car radio, car radio receivers, MP3 players, MP4 players, HD media players and other players)	0.43	Less than 1 GB
	1.01	From 1 GB to 2 GB
	1.45	From 2.1 GB to 8 GB
	4.34	From 8.1 GB to 32 GB
	5.79	From 32.1 GB to 250 GB
	7.24	From 250.1 GB to 500 GB
	8.69	From 500.1 GB to 750 GB
	10.14	From 750.1 GB to 1 TB
	11.58	More than 1 TB
Mobile phones with a memory device and audio and video recording capability	0.43	Less than 1 GB
	1.01	From 1 GB to 2 GB
	1.45	From 2.1 GB to 8 GB
	4.34	From 8.1 GB to 32 GB
	5.79	From 32.1 GB to 250 GB
	7.24	From 250.1 GB to 500 GB
	8.69	From 500.1 GB to 750 GB
	10.14	From 750.1 GB to 1 TB
	11.58	More than 1 TB
TV with a memory device and audio and video recording capability	0.43	Less than 1 GB
	1.01	From 1 GB to 2 GB
	1.45	From 2.1 GB to 8 GB
	4.34	From 8.1 GB to 32 GB
	5.79	From 32.1 GB to 250 GB
	7.24	From 250.1 GB to 500 GB
	8.69	From 500.1 GB to 750 GB
	10.14	From 750.1 GB to 1 TB
	11.58	More than 1 TB
Set top box with a memory device and audio and video recording capability	0.43	Less than 1 GB
	1.01	From 1 GB to 2 GB
	1.45	From 2.1 GB to 8 GB
	4.34	From 8.1 GB to 32 GB
	5.79	from 32.1 GB to 250 GB
	7.24	From 250.1 GB to 500 GB
	8.69	From 500.1 GB to 750 GB
	10.14	From 750.1 GB to 1 TB
	11.58	More than 1 TB
PC	5.79	Per unit

## Additional Comments:

6% of import price. According to the new law (from the 1st of March, 2012):

the tariff for media (audiocassette, minidisc, Hi-MD, audio-CD R/RW, data-CD R/RW, videocassette, all types of DVD, Blu Ray, HD-DVD is 6% of the first sale price;

there will be collection of levies from equipment with memory devices and audio/video recording capability.

**Table 46: Revenues**

Audio Revenues	2009 (€)	2010 (€)	2011 (€)
	387,474.69	50,769.34	
<b>Total "Audio"</b>	<b>387,474.69</b>	<b>50,769.34</b>	
Video Revenues	2009 (€)	2010 (€)	2011 (€)
	323,537.82	51,765.65	
<b>Total "Video"</b>	<b>323,537.82</b>	<b>51,765.65</b>	
<b>Total Revenues</b>	<b>711,011</b>	<b>102,534</b>	

**Additional Information**

Basic revenues of audio and video media will be separated when distribution of collected remuneration in 2011 will be prepared. A responsible association calculates revenues for audio and video media, on the basis of an independent survey. The independent survey is carried out in accordance with the provision of the Resolution.

## 22. NETHERLANDS

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### Contact Information

Country	: The Netherlands
Currency	: Euro
Population	: 16.7 million
Name of organisation	: Stichting de ThuisKopie
Website	: <a href="http://www.thuisKopie.nl">www.thuisKopie.nl</a>
Contact person	: Hester Wijminga
Email 1	: <a href="mailto:hester.wijminga@cedar.nl">hester.wijminga@cedar.nl</a>
Email 2	: <a href="mailto:thuisKopie@cedar.nl">thuisKopie@cedar.nl</a>
Address	: P.O. box 3060
Postcode	: 2130 KB
City	: Hoofddorp
Phone	: +31 (0)23-7997019
Fax	: +31 (0)23-7997018

### Legislation and fundamental facts

#### *Legal basis:*

Copyright Act 1912, amended last in 2004.

Art. 16c of the Copyright Act: Reproduction of the work or any part thereof shall not be regarded as an infringement of the copyright in a literary, scientific or artistic work provided that the reproduction is carried out without any direct or indirect commercial motivation and is intended exclusively for personal exercise, study or use by the natural person who made the reproduction.

At the moment, copies from illegal sources, such as downloads from the Internet, are within the scope of the private copying exception. The state secretary has proposed to make the practice of downloading copyrighted work from evidently illegal sources unlawful, but not punishable. Enforcement will be aimed at websites and services, not at consumers who upload and download a limited number of files. State Secretary Teeven (April 2011) finds it undesirable to impose new levies on devices like MP3 players, laptops, DVD recorders and USB sticks, and wants to abolish the private copying levies because the harm would be minimal. The proposals have not been accepted by the parliament (February 2012).

Remuneration is collected through levies on blank media only.

Importers or manufacturers of recording media and/or equipment are liable for payment. The law provides for extended liability for resellers, wholesalers or retailers if they cannot show who the original importer is.

Payment is due at import or the moment the manufacturer brings goods onto the market.

Importers and manufacturers with a collection agreement with ThuisKopie are able to report the products after they are sold in the market. Thus they do not have to pay levies on their stock.

### ***Collecting Society:***

Stichting de Thuiskopie. It has a legal monopoly. Thuiskopie is appointed by the Minister of Justice as the sole collector and distributor of private copying remunerations.

Stichting de Thuiskopie is responsible for the collection and distribution of private copying remunerations to all rights owners. The private copying remunerations are distributed by Thuiskopie to organisations of rightsholders.

### ***Administrative Costs:***

From the entire distribution chain, Thuiskopie and the distributing organisation are allowed a total cost deduction of 15%; Thuiskopie's deduction is 7.5%.

### **Levies/rates**

The law appoints a negotiating body (SONT) in which rights holders, and the industry, are equally represented, to negotiate the level of the tariffs. An independent chairman is appointed by the Minister of Justice. If parties cannot come to an agreement, the chairman will decide.

A Market Survey on consumer copying behaviour is commissioned yearly. It is the basis for the tariffs and the distribution. Surveys are by Veldkamp, an independent market research bureau.

### **Collection**

Importers must report upon import; manufacturers at the moment the media can be put onto the market.

Importers and/or sellers with a collection agreement are obligated to report the media they import or sell onto the market on a monthly basis.

### ***Control of obligated parties:***

All importers with a collection agreement can be audited by Thuiskopie.

### ***Deliveries exempted:***

Professional users of analogue media, and audio-visual production companies that use DVDs, can obtain an exemption.

### ***Objects exempted:***

Certain professional products are exempted. A list can be found on our website.

### **Distribution**

#### ***Distribution schemes:***

The distribution scheme is set by rights holders within the board of Stichting de Thuiskopie. The authors, producers and performers decide on the various shares, based on a yearly market study by an independent researcher. This study shows which content is copied by consumers, and the type of carriers they use on which to copy this content.

The distribution schemes have to be approved by the Supervisory board instituted by law.

#### ***Distribution scheme Audio:***

40% authors – Stemra (distribution of Stemra part: Stemra 92.5%, Lira 7.5%).  
30% performing artists – NORMA  
30% producers – STAP

#### ***Distribution scheme Video:***

33.75% authors – Stemra (distribution of Stemra part: Stemra 30.52%, Lira/Vevam 34.96%, Vevam 30.22%, Pictoright 4.3%).  
25.50% performing artists – Norma (video)  
40.75% producers – Sekam video (33.75%) and NOS (7%)

#### ***Distribution scheme Interactive:***

20% authors and performers (50% STEMRA, 50% NORMA)  
45% producers (SPMP)  
25% through audio and video distribution schemes (75% audio and 25% video)

### **Collective purposes**

There is currently no deduction for collective (social and/or cultural) purposes.

The rights holders organisations that distribute the private copying remunerations towards individual rights owners can make a deduction for collective purposes.

The percentage is determined by rights owners but it is stated in the law that it cannot exceed 15%.

### **Export**

By law no remuneration has to be paid on exported products.

Paid levies are refunded if the exporter can show the products have been exported. Documents of proof have to be provided. The original supplier, i.e. the one who has paid the remuneration to ThuisKopie, will be refunded; if his customer is the exporter he should pay the refund to the person who has actually exported.

ThuisKopie has upfront and refund options. Large exporters can obtain a contract which makes it possible for them to buy in the Netherlands without levies, and only report the products sold into the Dutch market. Occasional exporters can ask for a refund through their supplier. The original debtor has to ask for the refund at ThuisKopie.

### **Cross-border trade**

The importer is liable for imports. Consumers are not to be considered importers, and ThuisKopie could in the past not collect on media bought by consumers from e-tailers based abroad. On June 16th, 2011 the European Court of Justice rendered its verdict in the case *Stichting de ThuisKopie (STK) vs. Opus Supplies GmbH* (C 462/09). The court confirmed that the commercial seller is responsible for payment of the levies, regardless of whether or not the seller is located in different Member State than the purchasers. The commercial seller therefore has to declare the amount of levied products sold to consumers in the Netherlands. Since the verdict, ThuisKopie has actively summoned these e-tailers to do so. The commercial buyers are to be regarded importers themselves, and are also summoned to report the products they have imported from foreign-based websites.

### **Professional uses/exemptions**

Professional use is not within the scope of the exception.

For analogue media it is possible to obtain an upfront exemption for professional use. A professional user has to declare in writing that he is in fact not copying for private use, or selling blank media to consumers.

### How is professional use taken into account when determining the level of remuneration?

The levies are decreased by using the percentage used for professional use. The CD-R levy would have been doubled if professional users were exempted.

### Developments

The tariffs have been frozen since 2007 by the government. The reason for this is the wish to reform the Copyright act and adapt it to the information society. As a result of the freezing of the existing tariffs, rights owners whose works have been copied in the Netherlands, do NOT receive adequate fair compensation, as there are no levies established for devices and media like MP3 players and hard disc recorders, which are largely used for private copying purposes, nor has the fair compensation for these copies been taken into account when establishing the existing levies on blank media such as CD-R and DVD-R. ThuisKopie has started legal proceedings against these measures. The case is now before the court of appeal.

On April 11, 2011 State Secretary Teeven published a policy letter containing a proposal to declare downloading from an illegal source illegal. As a consequence, the private copying levies are to be abolished since the harm would be minimal with regard to the copying that would remain. The parliament has voted against a ban on downloading, and the Ministry of Justice has to come up with a new proposal. They do not want enforcement against consumers, and feel the enforcement should be directed at the providers of illegal content. The illegal source copies are still within the private copying exception, but no remuneration is received because the levies are not on devices used for these kind of copies. ThuisKopie maintains the position that the exception should be applied, as in most European countries.

After years of legal proceedings of collecting societies ThuisKopie and NORMA, against the Dutch State, the Court of Appeal of The Hague, on 27th March, 2012, applying the ECJ decisions for *Padawan/SGAE* and *ThuisKopie/Opus*, finally sentenced the Dutch State to pay full damages to performing artists, for failing to set private copying levies on MP3 players and hard disc recorders. A similar case of ThuisKopie versus the State is ongoing, but now looking good.

**Table 47: Remunerations/Levies**

Audio	Tariff	Capacity
Cassettes	0.23	One hour
Audio CD-R/RW	0.42	One hour
Minidisc	0.32	One hour
HI MD	1.10	Per disc
Data CD-R/RW	0.14	Per disc
<b>Video</b>		
Cassettes	0.33	One hour
DVD +R/RW	0.40	4.7 GB
DVD – R/RW	0.60	4.7 GB

Additional comments:

All levies have been frozen by Ministerial decree until January 2013.

**Table 48: Revenues**

<b>Audio Revenues</b>	<b>2009 (€)</b>	<b>2010 (€)</b>	<b>2011 (€) Provisional</b>
Audio (cassette, minidisc, HI-MD, audio CD-R/ RW)	158,000	125,000	102,998
Data CD-R/RW	5,071,000	2,299,000	2,803,719
<b>Total "Audio"</b>	<b>5,229,000</b>	<b>2,424,000</b>	<b>2,906,717</b>
<b>Video Revenues</b>	<b>2009 (€)</b>	<b>2010 (€)</b>	<b>2011 (€)</b>
Video cassettes	524,000	268,000	233,509
DVD	9,132,000	8,129,000	4,395,717
<b>Total "Video"</b>	<b>9,656,000</b>	<b>8,397,000</b>	<b>4,629,226</b>
	<b>2009 (€)</b>	<b>2010 (€)</b>	<b>2011 (€)</b>
<b>Total Revenues</b>	<b>14,885,000</b>	<b>10,820,005</b>	<b>9,210,000</b>



## 23. NORWAY

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### Contact Information

Country	: Norway	
Currency	: NOK – Norske kroner	€ 1.00 = 7.65 NOK
Population	: 4,885,240	
Name of organisation	: Norwaco	
Website	: www.norwaco.no	
Contact person 1	: Hans Fredrik Hag	
Email 1	: hfh@norwaco.no	
Address	: Postboks 8903 Youngstorget	
Postcode	: 0028	
City	: OSLO	
Phone	: +47 23 31 68 07	
Fax	: +47 23 31 68 01	

### Legislation and fundamental facts

#### *Legal basis:*

Section 12 of the Norwegian Copyright Act establishes, in line with Article 5.2 b) of the Copyright Directive, an obligation to compensate rights holders for the private copying of publicly disseminated works. This scheme for compensation was first introduced in Norway in 2005.

#### *Remuneration system:*

The remuneration is funded by the Norwegian Government, as a post on the national budget.

#### *Collecting Society:*

Norwaco

Private Collective Management Organisation approved by the Norwegian Ministry of Church and Cultural Affairs.

Norwaco collects remuneration for artists, authors, and producers.

The remuneration is distributed by Norwaco through representative member organisations, which represent different rights holders' groups in Norway and within the EEA.

### Distribution

The compensation is divided equally between the three groups of rights holders – artist, authors and producers. The compensation is then distributed further, to the different organisations, based on results from a yearly private copying survey and list of works.

The yearly survey on private copying shows the patterns of Norwegian consumers, and the share of the population copying various copyrighted material (films, music, audio books, radio podcasts, etc.).

### Collective purposes

A deduction for administrative costs that arise in connection with the said allocation, can be made in accordance with its statutes.

**Table 49: Revenues**

State granted	2009 (€)	2010 (€)	2011 (€)
€ 1.00 = 7.65 NOK	€ 4,954,248	€ 5,215,686	€ 5,372,549

## 24. PARAGUAY

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### Contact Information

Country	: Paraguay	
Currency	: Guarani	€ 1.00 = 5750
Population	: 6,000,000	
Name of organisation	: Sociedad de Gestion de Productores Fonograficos del Paraguay – SGP-	
Website	: www.sgp.com.py	
Contact person 1	: Maria Elena Ojeda	
Contact person 2	: Silvia Cabañas	
Email 1	: mariaelenaojeda@sgp.com.py	
Email 2	: repartoydistribucion@sgp.com.py	
Address	: Av España 2221	
Postcode	: 1438	
City	: Asuncion	
Phone	: +595 21 233787	
Fax	: +595 21 233788	

### Legislation and fundamental facts

#### *Legal basis:*

Ley 1328/98 y Decreto Reglamentario 6780 del 21 de Junio de 2011.

#### *Definition of private use:*

Reproduction (or other use) of the work of another person, in a single copy, exclusively for own use by an individual, in cases such as research and personal entertainment.

The source has to be legal.

Remuneration is levied on media and equipment to be paid by importers and manufacturers.

#### *Legal liability moment:*

for importers – prior to customs clearance;  
for manufacturers – before distributing.

#### *Legally responsible party:*

Importers and producers of recording media and equipment.

### ***Collecting Society:***

SGP (Sociedad de Gestion de Productores Fonograficos del Paraguay): for phonogram producers; and the society of performers (Entidad Paraguaya de Artistas Interpretes o Ejecutantes), AIE-Paraguay: for all owners, authors, performers and producers of phonograms.

### ***Administrative Costs:***

The SGP does not apply any cost. The society of artists, which is responsible for collecting for the three categories of rights owners, applies a cost of 32%.

The SGP distributes 100% of the amount collected among the phonogram producers rights owners.

### **Levies/rates**

Levies are set by the Government/Ministry.

### **Collection**

#### ***Obligation to report:***

The performers' society, and the society of authors and producers of phonograms, report to the Ministry of Industry.

#### ***Control of obligated parties:***

The performers' society, and the society of authors and producers of phonograms, is audited by the Ministry of Industry.

#### ***Deliveries exempted:***

Are certain deliveries exempted? E.g. professional users, certain categories of users, etc.

Yes. Equipment and media that will be used by producers of phonograms, audio-visual producers, and publishers, are exempt from payment, if these products are for professional uses.

There is a very detailed list of the equipment and media that require levies to be paid. All others are free.

#### **Are exports exempt? By law, or in contracts?**

No. But the regulations impose a 25% discount for domestic manufacturers.

#### **Will your society refund levies for exports, and if so, under what conditions?**

No refunds.

### **Distribution**

Distribution schemes are determined by agreement of the three societies.

#### ***Distribution scheme Audio and Video:***

Authors: 33.3%,

Producers of Phonograms: 33.33%

Performers: 33.33%

### **Collective purposes**

Law 1328/98 sets the maximum deduction for collective purposes at 10% for social and cultural rights, in addition to the administrative discount.

Deductions are stipulated by rights owners and in both societies by the Board of Directors.

### Remunerations/Levies

The tax is 0.5% on the price of the following equipment and media: mobile phones – including apparatus —, sound recording, playback, CD players, recording or reproducing sound (video), recorders, picture and sound players and editors, tapes.

### Revenues

<b>Total Revenues</b>	Collection started in 2011 and yielded approximately € 730,000.
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## 25. POLAND

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### Contact Information

Country	: Poland	
Currency	: PLN	€ 1.00 = PLN 4.4168 (2011)
Population	: 38.2 million	
Name of organisation	: ZAiKS	
Website	: www@zaiks.org.pl	
Contact person 1	: Grzegorz Burakiewicz	
Contact person 2	: Wiesław Janicki	
Email 1	: grzegorz.burakiewicz@zaiks.org.pl	
Email 2	: czystenosniki@czn.neostrada.pl	
Address	: ul. Hipoteczna 2	
Postcode	: 00-092	
City	: Warszawa	
Phone	: +48 228 281 705	
Fax	: +48 228 289 204	

### Legislation and fundamental facts

#### *Legal basis:*

Copyright Law and Law on Neighbouring Rights of 4th of February, 1994, revised on 28th of October, 2002. Regulations of Minister of Culture on 2nd of June, 2003 and on 15th of December, 2008.

#### *Scope of the exception:*

- (a) Does the exception apply when the source is illegal, or manifestly illegal? No.
- (b) Definition of private use:  
Article 23 of the Polish Law on Copyright regulates the scope of the personal use:  
"Article 23.1. It shall be permitted to use free of charge the work having been already disseminated for purposes of personal use without the permission of the author (...)  
2. The scope of personal use shall include use of single copies of works by a circle of people having personal relationships and in particular any consanguinity, affinity or social relationship."

Remuneration is collected through levies on media and equipment.

#### *Legal liability moment:*

Within two weeks at the end of each quarter wherein sales took place.

#### *Contractual liability moment:*

ZAiKS does not conclude contracts with enterprises obliged to make payments.

***Legally responsible party:***

Producers and importers of recording media and equipment.

***Collecting Society:***

ZAiKS (creators),  
SAWP (performing artists),  
ZPAV (producers).

ZAiKS is indicated by the Minister of Culture as a collecting society on behalf of creators only. It has no legal monopoly.

***Administrative Costs:***

Prior to the distribution, administrative costs of the plenipotentiary office of the three organisations collecting payments (ZAiKS, SAWP, ZPAV) are deducted: personal costs, costs of the office staff, office supplies and equipment, energy, rent and audits' costs from the enterprises obliged to make payments, e.g. in 2010 it was 6.95% of the collection.

**Levies/rates**

Article 20 of the Copyright Law and Law on Neighbouring Rights determines level of payments: "not exceeding 3% of amount due on sales of devices and carriers".

The Minister of Culture and National Heritage determines by directive the list of devices and carriers, and also the level of levies paid for them (see attachment).

**Collection**

Producers and importers of recording media and equipment report within two weeks at the end of each quarter wherein sales took place.

***Control of obligated parties:***

Three collecting societies appointed by the Minister of Culture for collection levies order

a professional from outside the company to check the accuracy of settlements made by enterprises paying levies.

***Deliveries exempted:***

Main criterion to remove device from the list is: whether it is used for private copying or not.

**Will your society refund levies at the occasion of exports, and if so, under what conditions?**

No. Such procedures are not implemented in Polish legal regulations.

***Additional Comments:***

The basic criterion in the Polish system for collection levies on sales of devices/carriers by producers and importers, is the accordance of a certain device/carrier with their destination, for purposes of private copying. Levies can be collected on devices and carriers destined for the private use of the purchaser only, regarding the recording of a work.

Such a way of establishing the obligation to pay levies does not require legislation on the scope of the exception for equipment destined for professional use.

## Distribution

### *Distribution schemes:*

Article 20, Section 2 of the Copyright Law and Law on Neighbouring Rights determines the distribution of levies into various categories of rights owners, and their percentage share of the Audio and Video sphere (see below).

The Minister of Culture indicated by his Regulation of 2nd July, 2003 collective management organisations entitled to collect levies (ZAiKS, SAWP, ZPAV; in audio and video sphere) and collective management organisations responsible for levies' distribution (ZAiKS, SAWP, ZPAV in audio sphere; SFP, ZASP, ZPAV in video sphere). In the above-mentioned regulation it is said that the organisations responsible for levies' distribution do this on the basis of agreements concluded between all organisations representing rights owners of the categories in question (e.g. creators), and taking into account survey results concerning the use of works, artistic performances, or recordings.

### *Distribution scheme Audio:*

Authors:	50%,
Performers:	25%,
Phonogram Producers:	25%.

In this sphere the organisations responsible for levies' distribution are: ZAiKS, SAWP and ZPAV.

### *Distribution scheme Video:*

Authors:	35%,
Performers:	25%,
Video producers:	40%.

In this sphere the organisations responsible for levies' distribution are: SFP, ZASP and ZPAV.

## Collective purposes

In the Polish two-grade-distribution system (the first: statutory distribution in two spheres; the second: distribution is made by societies representing various categories of rights holders) possible deductions for social or cultural purposes are applied by societies responsible for distribution to their members. The deductions are not determined by the law enacted by the State, and are made in accordance with the statutes of a society. As for distribution made in ZAiKS, altogether 21% was deducted in 2009 for the Promotion of Works Fund, and for the Social Fund.

## Export

### **How are exports reported and refunded?**

Such procedures are not implemented in Polish legal regulations.

## Cross-border trade

We have hammered out procedures for such sales. An enterprise which is subject to Polish law and deals with imports through the Internet, and then sells products is obliged to pay levies, and not the "foreign distance seller".

## Professional uses/exemptions

### *Legal Exemption for professional use:*

The basic criterion in the Polish system for collection levies on sales of devices/carriers by producers and importers is the accordance of a certain device/carrier with their destination, for purposes of private copying.



Levies can be collected on devices and carriers destined for the private use of the purchaser only, regarding the recording of a work.

Such a way of establishing the obligation to pay levies does not require legislation on the scope of the exception for equipment destined for professional use.

**Table 50: Remunerations/Levies**

List of tape recorders and other similar devices, as well as blank carriers, related thereto, and the amount of fees collected thereof:

No.	Device or carrier Audio	The percentage (%) amount of fee accounted from the sale price of equipment or carrier
1.	MP3 Single Function	3.00
2.	CD-R 12 cm	1.72
3.	CD-RW 12 cm	2.89
4.	DAT Cassette	3.00
5.	MD record (Minidisc)	3.00
6.	Audio Cassette	3.00
7.	Memory card (including pen drive and other semiconducting Massive Storage Devices)	0.47
8.	Stacking hi-fi with tape recorder and CD player	0.76
9.	Stacking hi-fi with tape recorder and DVD player	0.76
10.	Stacking hi-fi with tape recorder and CD player with a recording function	0.70
11.	Stacking hi-fi with DVD/CD player with FLASH recording function	0.17
12.	Stacking hi-fi with tape recorder and DVD player with a recording function	1.04
13.	Stacking hi-fi with hard disc/FLASH	0.19
14.	Radio-cassette recorder with CD player	0.74
15.	Radio-cassette recorder with CD player with a recording function	0.69
16.	Radio-cassette recorder	0.96
17.	Radio with MD player with a recording function	0.98
18.	Radio with CD player with a recording function	0.54
19.	Radio with CD player with a recording function FLASH	0.05
20.	CD player with a MD player with a recording function	0.94
21.	MD player with a recording function	1.71
22.	Computer hard disc STANDARD	1.00
23.	Other than computer hard disc comprised in remaining devices, allowing fixing works or subjects under the neighbouring rights, including audio or audio-visual	1.00
24.	Computer CD recorder	1.54
25.	Computer DVD recorder	2.28
26.	Tape recorder	2.03
27.	Multifunctional multimedia player of MP3 format	1.14
28.	Car stereo set comprising a CD player with recording functions	1.08
29.	Car stereo set comprising a CD player with recording into other carriers function	0.30

List of video recorders and other similar devices, as well as blank carriers, related thereto,  
and the amount of fees collected thereof:

No.	Device or carrier	The percentage (%) amount of fee accounted from the sale price of equipment or carrier
1.	DVD-R 12 cm	2.53
2.	DVD-RW 12cm	2.95
3.	DVD RAM 12 cm	3.00
4.	Blu Ray R 12 cm	2.10
5.	Blu Ray RE 12 cm.	2.10
6.	HD DVD-R 12 cm	2.10
7.	HD DVD-RW 12 cm	2.44
8.	VHS cassette	3.00
9.	VHS/D cassette	3.00
10.	HD DVD or Blu Ray computer recorder	1.89
11.	Video recorder	2.14
12.	Video player with recording function	2.35
13.	DVD player with recording function	1.46
14.	DVD player with recording function into other carrier via USB	0.27
15.	DVD player with recording function and hard disc	2.23
16.	DVD and VHS player with recording function	2.23
17.	DVD and VHS professional player with recording function and hard disc	1.86
18.	High Definition player with recording function	1.21
19.	High Definition player with recording function and hard disc	1.85
20.	Disc memory which registers AV stream (including digital TV decoder with hard disc)	0.87
21.	TV set comprising video recorder	0.51
22.	TV set comprising hard disc	0.51
23.	TV set comprising DVD recorder	0.35
24.	TV set comprising DVD recorder and hard disc	0.87

**Table 51: Revenues**

Audio Revenues	2009 (€)	2010 (€)	2011 (€)
<b>Total "Audio"</b>	<b>1,956,746</b>	<b>1,606,780</b>	<b>1,451,327</b>
Video Revenues	2009 (€)	2010 (€)	2011 (€)
<b>Total "Video"</b>	<b>552,053</b>	<b>300,808</b>	<b>303,208</b>
<b>Total revenue</b>	<b>2,508,799</b>	<b>1,907,588</b>	<b>1,754,535</b>

**Additional Information**

In 2009 "Audio" and "Video" in total: € 2,508,799 (€ 1 = PLN 4,3273 [2009]),  
in 2010 "Audio" and "Video" in total: € 1,907,588 (€ 1 = PLN 3,9603 [2010]),  
in 2011 "Audio" and "Video" in total: € 1,754,535 (€ 1 = PLN 4,4168 [2011]).

## 26. PORTUGAL

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### Contact Information

Country	: Portugal
Currency	: Euro
Population	: 10,738,061
Name of organisation	: AGE COP – Associação para a Gestão da Cópia Privada
Website	: www.agecop.pt
Email 1	: geral@agecop.pt
Address	: Av. Estados Unidos da América, 94, 7.º B
Postcode	: 1700-178 Lisboa
City	: Lisboa
Phone	: +351 21 848 66 05
Fax	: +351 21 848 66 07

### Legislation and fundamental facts

#### *Legal basis:*

The collection of remunerations for private copy is imposed by Law 62/98, amended by Law 50/2004, both approved by the Parliament, pursuant to the established articles 81 and 82 of the Copyright Code. The collection and management of remunerations for private copy is carried out by AGE COP, both for audiovisual and reprography.

Concerning the remunerations on equipment and blank media, which benefit music and audiovisual rights holders, all importers and manufacturers of such are obliged to collect when the first sale of the product takes place. As regards to remunerations that benefit reprographic rights holders, the collection is made by all the public and private entities that sell photocopies, which have entered into contracts with AGE COP.

#### *Collecting Society:*

AGE COP: The incorporation of AGE COP was mandatory and was made in 1998. Our members are all the collecting societies existing in Portugal, representing authors, artists and performers, publishers, and music and video producers.

The remunerations for private copy can only be collected and managed by AGE COP. The legal status of a public utility and collective management society was granted through a registry at the Ministry of Culture.

### Levies/rates

The Legislator determines the levies.

### Collection

Importers and manufacturers of equipment and blank media subject to the private copy remuneration, are obliged to report the number of blank media sold, and concerning equipment, they also have to report the price of sale, as the remuneration is calculated on such amounts (the remuneration is only collected on

analogue equipment and corresponds to 3% of the net selling price). In addition, importers and manufacturers have to report data concerning exports and exemptions for professional uses. All the data has to be reported to AGE COP, and also to the Inspection of Cultural Activities, a body of the Ministry of Culture. Also, the public and private entities that sell photocopies are obliged to report the number of copies of works made each year.

#### *Control of obligated parties:*

AGE COP can audit the accounts of all importers that have entered into contracts with AGE COP. We also have such powers concerning public and private entities that have entered into contracts to pay the remuneration on the selling price of photocopies. All administrative and police authorities are competent to supervise the compliance with private copy legal regulations.

#### **Distribution**

Distribution schemes are set in the law. As the members of AGE COP can only be collecting societies, distribution to rights holders is made by them. AGE COP distributes as follows: remunerations on equipment and blank media – 40% for collecting societies representing authors; 30% for collecting societies representing artists and performers; 30% for collecting societies representing music and video producers. Remunerations on photocopies – 50% for collecting societies representing authors and 50% for collecting societies representing publishers.

#### *Collective purposes:*

The law establishes an obligation to retain 20% of the total amounts collected for collective purposes. The amounts retained are applied in cultural activities, such as workshops, scholarships, etc., and in actions to promote public awareness, and the investigation, of copyright related matters.

#### **Export**

In order to be refunded for exports, importers and manufacturers have to present the same documents that are requested by the VAT services when applying for VAT refund.

**Table 52: Remunerations/Levies**

Audio	Tariff	Capacity
Audiocassette	0.14	Per unit
Minidisc	0.19	Per unit
Audio-CD R	0.13	Per unit
Audio-CD RW	0.19	Per unit
Data-CD R	0.05	Per unit
Data-CD RW	0.14	Per unit
CD 8cm	0.27	Per unit
<b>Video</b>		
Videocassette	0.26	Per unit
DVD+ R	0.14	Per unit
DVD- RW	0.30	Per unit
DVD- R	0.14	Per unit
DVD- RW	0.30	Per unit
DVD RAM	1.00	Per unit

#### Additional Comments:

Concerning devices, and according to the law, only analogue equipment is subject to the remuneration, which corresponds to 3% of the respective selling price. The amounts of the remunerations are set per unit, independently of the respective capacity. No discounts are applicable.

**Table 53: Revenues**

<b>Total Revenues</b>	<b>€ 3,633,984</b>	<b>€ 2,359,418</b>	<b>€ 2,292,392</b>
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## 27. ROMANIA

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### Contact Information

Country	: ROMANIA	
Currency	: LEI	€ 1.00 = 4.2379 LEI
Population	: 19,000,000	
Name of organisation	: The Union of Phonogram Producers in Romania	
Website	: www.upfr.ro	
Contact person 1	: Adina Scriosteanu	
Contact person 2	: Simona Isac	
Email 1	: adina.scriosteanu@upfr.ro	
Email 2	: simona.isac@upfr.ro	
Address	: 88b Nicolae Titulescu Blvd, Sector 1, Bucharest, Romania – Postal Code 011145	
Phone/Fax	: 021.222.20.45/3	

### Legislation and fundamental facts

#### *Legal basis:*

The private copy is subject to a compensatory remuneration established by Law no.8/1996 (14.03.1996).

ORDA's Decision no.107/2005 contains the list of devices and media. Law no. 329/2006 contains new percentages for devices and media. ORDA's Decision no. 61/2009 contains new devices and media.

#### *Collecting Society:*

The Union of Phonogram Producers in Romania

#### *Legal Status:*

Legal Monopoly.

As of 2005, UPFR has been appointed by the Copyright Office in Romania (ORDA) as the sole collecting society for private copying for audiovisual works. The Union of Phonogram Producers in Romania annually distributes the amounts collected from private copying to the other societies entitled to benefit from these remunerations.

#### *Liabile party:*

The importers and manufacturers.

#### **Cooperation by customs?:**

No.

## Collection

### *Obligation to report:*

The importers and manufacturers have an obligation to report monthly.

### *Liability moment:*

At the end of each month, but no later than the 10<sup>th</sup> day of the following month, a manufacturer or importer shall submit a report to the organisation, indicating the numbers of imported or manufactured storage media or devices, and no later than the 15<sup>th</sup> day of the following month they must pay the invoice.

### *Legal penalty:*

Legal penalty: Art. No. 139 of Law 8/1996.

### *Control of obligated parties:*

Part of UPFR's legal tasks is to undertake regular checks on the declaration by checking the accounting documents of the companies.

## Levies/rates

Levies are set by law. The collecting societies, in negotiation with the users' representatives, or by the decision of an arbitration court, establish the list of media and devices.

### *Distribution:*

#### **Who sets the distribution schemes, and how does the decision-making take place?**

Distribution schemes are stated by law:

#### **Analogue process copy**

40% – Authors

30% – Performers

30% – Producers

#### **Digital process copy**

33.33% – Authors

33.33% – Performers

33.33% – Producers

### *Collective purposes:*

There is currently no deduction for collective (social and/or cultural) purposes.

**Table 54: Levies/rates**

Audio levies	Levy	Capacity
Audiocassette	3%	Per unit
Minidisc	3%	Per unit
Audio CD R/RW	3%	Per unit
Data – CD R/RW	3%	Per unit

Additional info:

all tariffs are percentages of the CIF value (import or base price).

**Table 54: Levies/rates (Continued)**

Video levies		Levy	Capacity	
Videocassette		3%	Per unit	
DVD + R/RW		3%	Per unit	
Blu Ray		3%	Per unit	
HD-DVD		3%	Per unit	
Device levies		Levy	Capacity	Remarks
MP3 player		0.5%	Per unit	0% of CIF value
CD writer (internal)		0.5%	Per unit	0% of CIF value
CD writer built in computer		0.5%	Per unit	
CD recorder (external)		0.5%	Per unit	0% of CIF value
DVD writer (internal)		0.5%	Per unit	0% of CIF value
DVD writer built in computer		0.5%	Per unit	
DVD recorder (external)		0.5%	Per unit	0% of CIF value
Computer hard disc		0.5%	Per unit	
Memory card		0.5%	Per unit	0% of CIF value
USB stick		0.5%	Per unit	0% of CIF value
Audio recorder		0.5%	Per unit	0% of CIF value
Minidisc recorder		0.5%	Per unit	0% of CIF value
Video recorder		0.5%	Per unit	0% of CIF value
MP3 recorder		0.5%	Per unit	0% of CIF value
Blu Ray recorder (external)		0.5%	Per unit	0% of CIF value
HD-DVD recorder (external)		0.5%	Per unit	0% of CIF value
External HDD inclusive audio-video with IN/OUT socket		0.5%	Per unit	0% of CIF value
TV and digital recorders with HDD or built-in storage medium, MP4 player, iPod media player with AVI, MPEG-1, MPEG-2, MPEG-4, XVID, DIVX, XVID/VCD, SVCD, DVD, ACC, WMA, WMV, ASF, MP3, MP4, WAV, IMOD, or any recent version		0.5%	Per unit	0% of CIF value
Mobile phone with internal memory (> 64 MB)		0.5%	Per unit	0% of CIF value

**Table 55: Revenues**

<b>Audio Revenues</b>	<b>2009 (€)</b>	<b>2010 (€)</b>	<b>2011 (€)</b>
Audiocassette	652	611	414
Minidisc	10	80	409
CD (blank)	83,799	43,326	40,779
Data – CD R/RW	8,070	578	591
<b>Total "Audio"</b>	<b>92,531</b>	<b>44,595</b>	<b>42,193</b>
<b>Video Revenues</b>	<b>2009 (€)</b>	<b>2010 (€)</b>	<b>2011 (€)</b>
Videocassettes	130	153	10
Dvd+R/RW	77,509	58,996	59,693
Blu Ray disc	88	164	291
<b>Total "Video"</b>	<b>77,727</b>	<b>59,313</b>	<b>59,994</b>
<b>Device Revenues</b>	<b>2009 (€)</b>	<b>2010 (€)</b>	<b>2011 (€)</b>
Memory card	52,275	70,532	132,144
USB stick	14,315	21,314	19,735
HD DVD recorder	1	556	2,344
Audio recorder	5,155	4,714	5,083
Video recorder	996	614	1,792
CD writer/recorder	3,436	351	11
DVD writer/recorder	32,351	10,977	19,098
Mobile phones	155,437	622,634	1,103,496
MP3 recorder	6,806	16,031	12,980
TV and digital recorders	24,765	22,084	43,197
CD writer built in computer	1,284	734	951
DVD writer built in computer	8,162	22,349	20,974
External hard disc	9,730	31,815	38,732
Hard disc built in computer	17,808	41,363	38,937
<b>Total "Devices"</b>	<b>332,521</b>	<b>86,068</b>	<b>1,439,269</b>
	<b>2009 (€)</b>	<b>2010 (€)</b>	<b>2011 (€)</b>
<b>Total Revenues</b>	<b>502,789</b>	<b>970,012</b>	<b>1,541,873</b>
<b>Romania</b>		2010 – 2011	
Revenue increase		60%	



## 28. RUSSIA

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### Contact Information

Country	: Russia	
Currency	: RUBLE	€ 1.00 = 40 RUR
Population	: 145,000 million	
Name of organisation	: Russian Union of Right-holders	
Website	: <a href="http://rp-union.ru/en/">http://rp-union.ru/en/</a>	
Contact person 1	: Erik Valdes-Martines, deputy director, head of international department	
Contact person 2	: Andrey Krichevskiy	
Email 1	: <a href="mailto:valdes@rp-union.ru">valdes@rp-union.ru</a>	
Email 2	: <a href="mailto:ak@rp-union.ru">ak@rp-union.ru</a>	
Address	: bld. 9/2, Trehprudniy lane, Moscow, Russia, 123001	
Postcode	: 123001	
City	: Moscow	
Phone	: +7 (495) 545-40-24,	
Fax	: +7 (499) 256-14-27	

### Legislation and fundamental facts

#### *Legal basis:*

Civil Code of the Russian Federation, part IV, since the 1st of January, 2008.

#### *Definition of private use:*

The authors, performers, and manufacturers of sound recordings and audiovisual works are entitled to receive a fee for a free reproduction/playback of the sound recordings and audiovisual works exclusively for personal purposes. Such a fee is of a compensatory nature, and is payable to rights holders from the funds payable by the manufacturers and importers, of the equipment and material media used for the reproduction/playback.

A copy from an illegal source can be within the scope of the exception.

Remuneration is collected through levies on media and equipment. Liability is at the moment of import and manufacturing. There is a responsibility for reporting and payment mentioned

in the contracts only. Such a responsibility corresponds to the common law stipulations.

No amounts of money for the purpose of paying out the fee, for the free reproduction/playback of sound recordings and audiovisual works for personal purposes, shall be collected from the manufacturers of equipment and material media which are exported, or from the manufacturers and importers of professional equipment not intended for home use.

### ***Collecting Society:***

Russian Union of Right-holders. It has a legal monopoly.

RUR is responsible for the collection and distribution of private copying remunerations for all rights owners.

### ***Administrative Costs:***

15%.

### **Levies/rates**

#### ***Legislator –***

Government/Ministry.

### **Collection**

All users are responsible to report, but due to the law, the method of reporting is printed in the contracts.

#### ***Control of obligated parties:***

No practice for the time being.

#### ***Deliveries exempted:***

All professional users are exempted for the devices that are not used in private aims.

There is no agreement/list.

#### **Will your society refund levies in the case of exports, and if so, under what conditions?**

No.

### **Distribution**

A fee for a free reproduction/playback of sound recordings and audiovisual works, for personal purposes, shall be distributed among the rights holders in the following proportion:

40% authors

30% performers

30% manufacturers of the sound recordings or audiovisual works.

The distribution of the fee among specific authors, performers, and manufacturers of sound recordings or audiovisual works, shall be made pro rata to the actual use of the relevant sound recordings or audiovisual works. The procedure for distributing the fee and for paying it out shall be established by the Government of the Russian Federation.

### **Collective purposes**

15% is deducted; the total amount of the deductions are limited by law. The current deductions are set up by the Council of the organisation (the level of which should not be higher than the limitation in the law).

### **Export**

According to the law, exports are not levied but imports are. They are not refunded.

### **Cross-border trade**

Not applicable.

## Professional uses/exemptions

### *Legal Exemption for professional use:*

See above.

There is a contractual exemption for professional use.

## Developments

No changes in the law expected.

**Table 56: Remunerations/Levies**

Audio/Video	Tariff	Capacity
1% for all devices that can record sound and/or audio. There is a big list of devices (mobiles, computers, CDs, DVDs, etc.)		
1% on all devices with recording functions of a phonogram/work. 1% on so-called customs price which is calculated according to the customs regulations of the Custom Union (Russia, Belorussia, and Kazakhstan) laid down in the EuroAsian Economical Union. Usually the average sales price is taken as a basis.		

**Table 57: Revenues**

Revenues	2009 (€)	2010 (€)	€
<b>Total</b>		<b>952,484.9</b>	<b>17,094,833.38</b>

## 29. SLOVAKIA

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### Contact Information

Country	: SLOVAKIA
Currency	: Euro
Population	: 5,397,036
Name of organisation	: SOZA – Slovak Performing and Mechanical Rights Society
Website	: www.soza.sk
Contact person 1	: Romana Draskovicova
Contact person 2	: Tomas Miks
Email 1	: romana.draskovicova@soza.sk
Email 2	: tomas.miks@soza.sk
Address	: Rastislavova 3
Postcode	: 821 08
City	: Bratislava
Phone	: +42 125 556 93 62
Fax	: +42 125 556 94 09

### Legislation and fundamental facts

#### *Legal basis:*

Copyright Act No. 618/2003 as amended by Act No. 84/2007, No. 220/2007 and No. 453/2008.

*Definition of private use* – Copyright Act No. 618/2003 states only that “Natural person is allowed to make a copy of released work for his personal use and for the purpose that is not directly or indirectly commercial without the author’s consent; such use of the work does not result in obligation to pay remuneration to the author.”

#### *Remuneration is collected through levies on media and/or equipment:*

Remuneration levied on media and equipment.

#### *Legal liability moment:*

The remuneration is due upon the first sale of the levied product within Slovakia or on its import/receipt – i.e. it can be paid on both instances.

#### *Legally responsible party:*

Producer, recipient from a member state, importer from a third country, or other person who places the carriers or devices for the first time for sale purposes on the Slovak market.

### ***Collecting Society:***

SOZA – Slovak Performing and Mechanical Rights Society. No legal monopoly.

SOZA does not collect private copying remunerations on behalf of two collective management societies (*de facto* one group of rights holders): SAPA and AGICOA, both managing audiovisual producers' copyrights.

SOZA collects on behalf of other collective management societies: SLOVGRAM, OZIS and LITA. Beneficiaries are therefore different rights holders: authors of musical, literary, dramatic, audiovisual, choreographic, and photographic works, and works of visual arts, performers and producers of phonograms.

SOZA is responsible for distribution of private copying remunerations to the above-mentioned collective management societies.

### ***Administrative Costs:***

SOZA's administrative costs represent 10% of the collected amount of remuneration.

### **Levies/rates**

Levies are set directly by Copyright Act.

No information available about the legislators' practice for determining the level of remuneration.

### **Collection**

#### ***Obligation to report:***

Legal obligation of producers, recipients from a member state, importers from a third country or other persons who place the carriers or devices for the first time for sale purposes on the Slovak market. This obligation might also concern sellers, consignors, and carriers of levied objects.

#### ***Control of obligated parties:***

The Copyright Act confers on SOZA the right to inspect relevant records of obligated parties for the purpose of determining their compliance with statutory obligations. Obligated parties have to allow the collective management organisation the execution of such activities.

#### ***Deliveries exempted:***

Deliveries that serve for the personal use of the importer or recipient are exempted.

#### ***Types of recording objects for which rights owners claim compensation, and importers or manufacturers deny responsibility:***

Mobile phones, set top boxes.

### **Distribution**

Distribution schemes are agreed between respective collective management societies (*ergo*, rights holders). No governmental approval is required.

26.52% – LITA (literary, dramatic, audiovisual, choreographic, photographic works and visual arts)

24.48% – SOZA (musical works)

9.6% – OZIS (performers)

39.4% – SLOVGRAM (performers and producers of phonograms)

### **Collective purposes**

There is currently no deduction for collective (social and/or cultural) purposes.

## Export

Carriers and devices which are, for the purpose of resale, exported into third countries, or sent into a member state, are exempted from remuneration. No refunds are given.

Exports are reported after the termination of the respective quarter. Exports are not refunded.

## Cross-border trade

### Who is liable for cross-border purchases?

In this case we proceed fully in compliance with the decision of the European Court of Justice, Opus case C-462/09. This means that the payment of remuneration is a responsibility of the foreign seller.

## Professional uses/exemptions

### Legal Exemption for professional use:

The remuneration shall not be paid for levied objects that will be used for the personal use of the importer or recipient.

### How is professional use taken into account when determining the level of remuneration?

The level of remuneration is set by legislators in the Copyright Act.

## Developments

The Slovak private copying system and legislation have remained unchanged since 2007.

**Table 58: Remunerations/Levies**

Audio	Tariff	Capacity
All audio carriers	6% of sale price or import price of the carrier.	
<b>Video</b>		
All video carriers	6% of sale price or import price of the carrier.	
Devices	Tariff	Capacity
Devices in general	3% of sale price or import price of the device.	
Personal computer	0.5% of sale price or import price of the built-in HDD	

**Table 59: Revenues**

Audio Revenues	2009 (€)	2010 (€)	2011 (€)
<b>Total "Audio"</b>	<b>13,024</b>	<b>112,216</b>	<b>141,623</b>
Video Revenues	2009 (€)	2010 (€)	2011 (€)
<b>Total "Video"</b>	<b>209,813</b>	<b>104,560</b>	<b>75,756</b>
Device Revenues	2009 (€)	2010 (€)	2011 (€)
<b>Total "Devices"</b>	<b>389,279</b>	<b>475,067</b>	<b>165,369</b>
<b>Total Revenues</b>	<b>621,116</b>	<b>691,843</b>	<b>382,748</b>

## 30. SLOVENIA

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### Contact Information

Country	: Slovenia
Currency	: Euro
Population	: 2,046,976
Name of organisation	: ZAVOD IPF
Website	: www.zavod-ipf.si
Contact person 1	: Gregor Štibernik
Email 1	: gregor.stibernik@zavod-ipf.si
Address	: Šmartinska 152/6
Postcode	: 1000
City	: Ljubljana
Phone	: +386 1 52 72 930
Fax	: +386 1 52 72 931

### Legislation and fundamental facts

#### *Legal basis:*

- Copyright and related rights act (Official Gazette No. 16/2007, No 68/2008)
- Decree on amounts of remuneration for private and other internal reproduction (Official Gazette RS, No. 103/2006)

#### *Remuneration system:*

Levies on media and devices.

#### *Legally responsible party:*

Manufacturers and importers of media and devices. In the case of importers: unless such imports are intended for private and non-commercial use, as part of their personal luggage.

#### *Collecting Society:*

ZAVOD-IPF

ZAVOD-IPF is not responsible for the collection of private copying remunerations for all rights owners. It collects for performers and producers of phonograms. It also distributes only to performers and producers of phonograms.

ZAVOD-IPF has a temporary license for the collection of the blank tape levy, issued by SIPO in December 2007, for a period of two years. In the case of the private copying of literary works, the levy is collected by the organisation SAZOR. The temporary license expired by the end of 2009, and as yet no new licenses have been issued.

## Levies/rates

Levies are set by the government, based on SIPO recommendations.

## Collection

### *Obligation to report:*

Liable parties shall, on request of a collecting society, at the end of each quarter submit information about the type and number of sold or imported media/devices.

### *Control of obligated parties:*

Market inspection.

## Distribution

### *Distribution schemes:*

Set in a written agreement between collecting societies.

### *Distribution scheme Audio:*

SAZAS- – 40%  
Zavod IPF – 60%  
– performers – 30%  
– producers – 30%

### *Distribution scheme Video:*

No collective society was established. Collected remunerations are reserved.

## Collective

There is currently no deduction for collective (social and/or cultural) purposes.

## Export

### **How are exports reported and refunded?**

No refund for exports.

## Developments

The situation in Slovenia has not changed in 2011. After two quite successful years (2008 and 2009), in which Zavod IPF (managing neighbouring rights) collected c. 2,000,000 €, there was a gap: in the years that followed – 2010 and 2011 – there was no collection at all, despite good legal basis. Zavod IPF, who was holding the provisional licence, was blocked by the authors' society, and afterwards the whole system collapsed.



**Table 60: Remunerations/Levies**

Audio	Tariff	Capacity
Audiocassette	€ 0.10	< 180 minutes
	€ 0.19	> 180 minutes
Minidisc	€ 0.13	Per 90 minutes
HI MD	€ 0.03	Per GB (max € 16.69)
Audio- CD-R/RW	€ 0.13	Per 90 minutes
Data CD-R/RW	€ 0.03	Per GB (max € 16.69)
Video		
Videocassette	€ 0.10	< 180 minutes
	€ 0.19	> 180 minutes
DVD+R/RW	€ 0.03	Per GB (max € 16.69)
DVD-R/RW	€ 0.03	Per GB (max € 16.69)
DVD RAM	€ 0.03	Per GB (max € 16.69)
DVD double layer	€ 0.03	Per GB (max € 16.69)
Blu Ray	€ 0.03	Per GB (max € 16.69)
HD-DVD	€ 0.03	Per GB (max € 16.69)
Devices	Tariff	Capacity
MP3 players	€ 4.17	< 2 GB
	€ 8.35	> 2 GB
CD writer (internal)	€ 0.83	Per unit
CD recorder (external)	€ 6.26	Per unit
DVD writer (internal)	€ 0.83	Per unit
DVD recorder (external)	€ 6.26	Per unit
DVD hard disc recorder	€ 0.83	Per unit
Computer hard disc	€ 0.03	Per GB (max € 16.69)
Blu Ray writer (internal)	€ 0.83	Per unit
Blu Ray recorder (external)	€ 6.26	Per unit
HD-DVD writer (internal)	€ 0.83	Per unit
HD DVD recorder (external)	€ 6.26	Per unit
Memory card	€ 0.03	Per GB (max € 16.69)
USB stick	€ 0.03	Per GB (max € 16.69)

Additional Comments:

Legal basis but no collection.

**Table 61: Revenues**

Revenues	2009 (€)	2010 (€)	2011 (€)
	978,090	0	0

## 31. SPAIN

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### Contact Information

Country	: SPAIN
Currency	: Euro
Population	: 46 million
Name of organisation	: SGAE
Website	: www.sgae.es
Contact person 1	: Armen Riosalido
Contact person 2	: Maria Jesus Raudona
Email 1	: criosalido@sgae.es
Email 2	: mjraudona@copyespana.es
Address	: Fernando VI, 4
Postcode	: 28004
City	: MADRID
Phone	: 91 349 95 33
Fax	: 91 349 97 15

### Legislation and fundamental facts

#### ***Legal basis:***

Article 25 of the Law on Intellectual Property.

On 19 June, 2008, the Spanish official gazette, Boletín Oficial del Estado, published a Ministerial Order referring to rule 3 in section 6 of Article 25 from (TRLPI) the Consolidated Text of the Spanish Law on Intellectual property (draft of the Law 23/2006, of 7 July), setting royalty rates applicable as of 1 July, 2008 to the following list of equipment, devices and material carriers.

#### ***Scope of the exception:***

- (a) Exception applies only when the access to works has been legal,
- (b) There is no legal definition about private use.

#### ***Remuneration is collected through levies on media and/or equipment:***

On media and equipment.

#### ***Legal liability moment:***

Upon sales by importer or manufacturer in the Spanish territory.

***Legally responsible party:***

Importers or producers of recording media or equipment. Also resellers, wholesalers and retailers, when the former have not paid the levy.

***Collecting Society:***

SGAE

SGAE is not responsible for the collection of private copying remunerations to all rights owners. It collects for authors of musical, audiovisual and dramatic works. It also distributes only to authors of musical, audiovisual and dramatic works.

SGAE has no legal monopoly. Controlled by the Ministry of Culture. Societies are obliged to report regularly to the Ministry of Culture. Collecting societies must be authorised by the Ministry of Culture.

**Levies/rates**

The law for analogue environment, and the Ministry of Culture for the digital environment.

On 19 June, 2008, the Spanish official gazette, Boletín Oficial del Estado, published a Ministerial Order referring to rule 3 in section 6 of Article 25 from (TRLPI) the Consolidated Text of the Spanish Law on Intellectual property (draft of the Law 23/2006, of 7 July), setting royalty rates applicable as of 1 July, 2008 to the following list of equipment, devices and material carriers.

**Collection**

***Obligation to report:***

Every quarter, debtors have to declare the sales of the previous quarter to the collecting societies.

***Control of obligated parties:***

We have a team of people who, in cooperation with the rest of the involved collecting societies, make market surveys to find companies/retailers/importers that are not paying for this right. And when we find them, we audit them to check how much they have not paid. These auditors also go to the companies that are informing and paying, to audit the sales, and to check if they are declaring correctly. SGAE selects what companies to audit and when to do it.

***Deliveries exempted:***

Purchases made by those who have a license for reproduction.

***Objects exempted:***

Computer hard discs.

***Exports exempted:***

By law.

Importers deduct exported units in their statements.

**Distribution**

Determined in the law.

#### ***Distribution scheme Audio:***

AIE – 25% – Music performers  
AGEDI – 25% – Phonomechanical producers  
SGAE – 50% – Authors and editors

#### ***Distribution scheme Video:***

AIE – 6.67% – Music performers  
AISGE – 26.67% – Audiovisual performers  
DAMA – 0.42% – Audiovisual authors  
EGEDA – 33.33% – Audiovisual producers  
SGAE – 32.91% – Authors and editors

#### ***Collective purposes:***

20%, as stipulated in the law.

Distribution decided by the Fundación Autor.

### **Export**

#### **How are exports reported and refunded?**

Importers deduct exported units in their statements.

### **Cross-border trade**

#### **Who is liable for cross-border purchases?**

Whoever makes the purchase is liable, because the Spanish law states that the levy must be paid by those who buy the products outside the national territory, for commercial distribution or use therein.

### **Professional uses/exemptions**

#### ***Legal Exemption for professional use:***

No.

#### ***Contractual exemption for professional use:***

No.

### **Developments**

The above information refers to 2011, because last 30th December, the new Spanish government eliminated the traditional system of private copy, and, at least for 2012, levy is going to be paid by the government from the State's general budget. We are awaiting the development of this new regulation.

**Table 62: Remunerations/Levies**

Audio	Tariff	Capacity
Audiocassette	€ 0.18	Per 60 minutes
Minidisc-R	€ 0.17	Per unit
Minidisc-RW	€ 0.22	Per unit
Audio CD-R	€ 0.17	Per unit
Audio CD-RW	€ 0.22	Per unit
Data CD-r	€ 0.17	Per unit
Data CD-RW	€ 0.22	Per unit
Video		
Videocassette	€ 0.30	Per 60 minutes
DVD-R data	€ 0.44	Per unit
DVD-RW data	€ 0.60	Per unit
DVD-R video	€ 0.44	Per unit
DVD-RW video	€ 0.60	Per unit
Devices	Tariff	Capacity
MP3 player	€ 3.15	Unit
CD writer (internal)	€ 0.60	Unit
CD recorder (external)	€ 0.60	Unit
DVD writer (internal)	€ 3.40	Unit
DVD recorder (external)	€ 3.40	Unit
DVD hard disc recorder	€ 15.40	Unit
Blu Ray writer (internal)	€ 3.40	Unit
Blu Ray recorder (external)	€ 3.40	Unit
HD DVD writer (internal)	€ 3.40	Unit
HD DVD recorder (external)	€ 3.40	Unit
Memory Card	€ 0.30	Unit
USB Stick	€ 0.30	Unit
Hard disc external	€ 12	Unit
MP4	€ 3.15	Unit
Mobile phone/MP3	€ 1.10	Unit

**Table 63: Revenues**

<b>Audio Revenues</b>	<b>2009 (€)</b>	<b>2010 (€)</b>	<b>2011 (€)</b>
Audiocassette	19,998		
Data-CD R/RW (audio share)	5,161,166	3,629,177	1,960,514
Audio CD-R/RW	51,900	45,402	34,032
Memory card (audio share)	3,537,281	3,289,601	2,889,158
DVD R/RW (audio share)	822,666	614,979	316,538
<b>Total "Audio"</b>	<b>9,593,011</b>	<b>7,579,159</b>	<b>5,200,242</b>
<b>Video Revenues</b>	<b>2009 (€)</b>	<b>2010 (€)</b>	<b>2011 (€)</b>
Videocassette	288,819		
Data-CD R/RW (video share)	1,384,868	906,625	489,766
DVD R/RW (video share)	9,739,317	7,280,419	3,747,350
Video DVD R/RW	33,567	16,446	5,592
<b>Total "Video"</b>	<b>11,446,571</b>	<b>8,203,490</b>	<b>4,242,708</b>
<b>Device Revenues</b>	<b>2009 (€)</b>	<b>2010 (€)</b>	<b>2011 (€)</b>
MP3-player	2,161,294	2,041,461	1,816,303
Mobile phone/MP3	16,838,225	18,582,770	17,843,540
MP4 (audio share)	403,994	469,676	251,491
MP4 (video share)	4,781,747	5,559,184	2,976,693
Memory Card (Video share)	309,826	285,581	250,817
USB (Audio share)	2,437,407	2,440,678	2,144,860
USB (Video share)	211,599	211,883	186,202
HiFi tape recorder	166,881		
CD recorder (external)	620	76.20	56.40
CD recorder (Video share)	5,323	10,605	337.54
DVD recorder	1,669	129,053	127,768
CD/DVD recorder (Audio)	3,139,975	3,590,408	2,525,099
CD/DVD recorder (Video)	7,488,009	8,620,682	6,062,843
VHS recorder	323,857		
DVD recorder	143,103	137,567	97,917
External hard disc (Audio)	1,320,139	1,529,133	1,231,108
External hard disc (Video)	15,626,453	18,100,310	14,572,592
TV with DVD recorder	212,616	325,046	215,580
TV hard disc recorder	1,341,024	2,058,708	866,844
TV hard drive recorder with DVD recorder	801,801	272,195	2,371
Digital tuner decoder with hard disc	324,888	2,021,136	1,249,392
<b>Total "Devices"</b>	<b>58,040,450</b>	<b>66,386,152</b>	<b>52,421,814</b>
<b>Total Revenues</b>	<b>79,080,032</b>	<b>82,168,801</b>	<b>61,864,764</b>

## 32. SWEDEN

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### Contact Information

Country	: Sweden	
Currency	: SEK	€ 1.00 = 9 SEK
Population	: 9,500,000	
Name of organisation	: Copyswede	
Website	: <a href="http://www.copyswede.se">http://www.copyswede.se</a>	
Contact person 1	: Tanja Jalamo	
Contact person 2	: Egil Ekbohm	
Email 1	: <a href="mailto:tanja@copyswede.se">tanja@copyswede.se</a>	
Email 2	: <a href="mailto:egil@copyswede.se">egil@copyswede.se</a>	
Address	: Industrigatan 2a	
Postcode	: 112 46	
City	: Stockholm	
Phone	: +46 8 545 667 00	
Fax	: +46 8 667 88 11	

### Legislation and fundamental facts

#### *Legal basis:*

Copyright Act (1960:729), Section 26 k-m.

The provision on the making of private copies in the Swedish Copyright Act does not confer a right to make copies from an illegal source.

Remuneration levied on media and equipment.

#### *Legal liability moment:*

Importers are liable for payment. According to the Copyright Act the liability arises at the moment of import. According to agreements between Copyswede and the industry, the remuneration is paid when the products are sold on. Contractually they pay monthly.

#### *Collecting Society:*

Copyswede

Copyswede is responsible for the collection and distribution of the private copying remunerations.

### ***Administrative Costs:***

6.3%.

According to the Copyright Act, section 26 m, an organisation representing a substantial number of Swedish authors and holders of neighbouring rights is entitled to collect the remuneration. Copyswede is a co-operative economic association, established by fourteen member organisations representing Swedish authors and performers. Under a partnership agreement with organisations representing film and phonogram producers, and with radio and TV companies (IFPI, FRF and UBOS), Copyswede also collects the remuneration on behalf of these organisations.

### **Levies/rates**

Levies are set in negotiations between Copyswede and representatives of the industry. In negotiations with the industry, market surveys have been conducted in order to set the tariffs.

The importer is obliged to report at import; however, both importers and resellers with contracts report monthly for the previous month.

### ***Control of obligated parties:***

Copyswede has the right to audit the accounts of importers and manufacturers through the agreements signed by them. Copyswede has a market controller who regularly audits the liable parties who are registered with Copyswede.

### ***Objects exempted:***

Cassettes for video cameras are excluded.

### **Distribution**

After propositions from Copyswede, there are negotiations between Copyswede and the organisations of rights holders, and both parties set the distribution schemes.

#### ***Distribution scheme Audio:***

5.33% to Union of Broadcasting Organisations (UBOS)

The remaining part is distributed as follows:

33.3% – STIM

33.3% – SAMI

33.3% – IFPI

#### ***Distribution scheme Video:***

5.33% to Union of Broadcasting Organisations (UBOS)

The remaining part is distributed as follows:

33% – Video and film producers

67% – Copyswede/IFPI



Copyswede's and IFPI's part is distributed as follows:

- 18.25% – Play writers
- 3.20% – Writers
- 0.54% – Translators
- 1.71% – Journalists
- 15.45% – Directors
- 1.64% – Stage designers
- 0.59% – Choreographers
- 25.65% – Actors
- 0.46% – Dancers
- 13.52% – STIM (authors of musical works)
- 8.09% – Musicians/conductors
- 3.38% – Singers/performers
- 3.03% – IFPI/SAMI
- 2.36% – Directors of photography
- 0.31% – Editing, cutting and light
- 1.85% – Stills

### **Collective purposes**

There is currently no deduction for collective (social and/or cultural) purposes.

### **Export**

Exports are handled via upfront exemption with no refunds.

### **Cross-border trade**

The importer is liable for cross-border purchases.

### **Professional uses/exemptions**

There is a legal exemption for professional use.

### **How is professional use taken into account when determining the level of remuneration?**

Upfront exemption.

### **Developments**

The remuneration system is largely based on negotiations and agreements between the rights holders and the industry. For a sizeable period of time, Copyswede has taken several initiatives to open discussions with the industry representing USB sticks, external hard discs and mobile phones, with the ambition to include these products in the joint agreements with the industry. However, the industry has shown great reluctance, and no company or organisation has been prepared to shoulder the responsibility of negotiations.

**Table 64: Remunerations/Levies**

Audio	Tariff	Capacity
Audiocassette	0.0027 €/min	
CD-R Audio	0.0022 €/min	
CD-RW Audio		
CD-R Data	0.07 €	Up to 900 MB
CD-RW Data	0.11 €	Up to 900 MB
<b>Video</b>		
VHS	0.002 €/min	
DVD-R	0.29	4.7 GB
DVD-RW	0.47	4.7 GB
DVD-R DL	0.53	8.5 GB
DVD-RAM	0.47	4.7 GB
Devices	Tariff	Capacity
Audio player e.g. MP3-player	0.39 €/GB	Up to 40 GB
Audio player	19.44 €	41 – 80 GB
Audio player	25 €	81 – 160 GB
Audio player	27.77 €	161 – 250 GB
Audio player	33.33 €	Larger than 250 GB
Video player e.g. Set Top Box, DVD w. HDD	0.39 €/GB	Up to 40 GB
Video player	19.44 €	41 – 80 GB
Video player	25	81 – 160 GB
Video player	27.77 €	161 – 250 GB
Video player	33.33 €	Larger than 250 GB
USB Memory *	0.06 €/GB	Larger than 2 GB; smaller than 40 GB
USB Memory*	2.22 €	40 GB and larger
External Hard drive *	2.22 €	40 GB and larger

Additional Comments:

\* USB Memory and external Hard Drives are under arbitration until October 2012.

**Table 65: Revenues**

Audio Revenues	2009 (€)	2010 (€)	2011 (€)
CD-R/RW Data	1,195,210	972,657	717,012
Audiocassette/Minidisc/CD-R/RW	82,408	67,039	54,412
<b>Total "Audio"</b>	<b>3,661,562</b>	<b>1,039,696</b>	<b>771,424</b>
Video Revenues	2009 (€)	2010 (€)	2011 (€)
Videocassette	217,724	188,628	66,099
DVD-R/RW/RAM	3,997,151	3,546,245	2,462,705
<b>Total "Video"</b>	<b>4,214,875</b>	<b>3,734,873</b>	<b>2,528,804</b>
Device Revenues	2009 (€)	2010 (€)	2011 (€)
Audio Player	1,403,468	1,114,710	745,987
Video Player	3,329,324	3,999,883	4,149,836
USB Memory	N/A	N/A	178,786
External Hard Drive	N/A	N/A	301,596
<b>Total "Devices"</b>	<b>4,732,792</b>	<b>5,114,593</b>	<b>5,105,205</b>
<b>Total Revenues</b>	<b>12,609,229</b>	<b>9,889,162</b>	<b>8,405,433</b>

## 33. SWITZERLAND

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### Contact Information

Country	: Switzerland	
Currency	: CHF	€ 1.00 = CHF 1,2343
Population	: 7,800,000	
Name of organisation	: SUISA	
Website	: www.suisa.ch	
Contact person 1	: Frank Dietiker	
Contact person 2	: Daniel Köhler	
Email 1	: frank.dietiker@suisa.ch	
Email 2	: daniel.koehler@suisa.ch	
Address	: Bellariastrasse 48	
Postcode	: 8038	
City	: Zürich	
Phone	: +41 44 485 66 66	
Fax	: +41 44 481 67 44	

### Legislation and fundamental facts

#### *Legal basis:*

Swiss copyright code of 1992, last revised 2008.

#### *Definition of private use:*

Any personal use, and any use within a circle of family members or close friends. Illegal source copies are part of the exception.

Remuneration levied on media to be paid by importers or producers of recording media, at the moment of delivery from the stock of the contracting partner.

#### *Legal liability moment:*

At the time of the import or of distribution from the factory.

#### *Collecting Society:*

SUISA

Legal obligation for copyright societies to collect levies with a common tariff. The responsible society is SUISA. SUISA is the sole body to collect for the common tariffs (of the five Swiss copyright societies) of private copying levies.

SUISA is responsible for the collection and distribution for all rights owners.

### **Administrative Costs:**

Total collection 2010: € 11,910,711

Total cost: € 1,219,679

Percentage: 10.12%

### **Levies/rates**

1. Negotiations between collecting societies and associations of blank media importers or producers.
2. If there is no settlement: Arbitration Commission appointed by the Ministry of Justice decides.

### **What – if any – market research is used for determining the level of remuneration?**

Studies about how consumers are using the carriers, i.e. what kind of repertoire is stored, to what extent. Market research about device prices and memory sizes.

### **Collection**

Customers are obliged to report about the quantity and storage size of the blank carriers they sell. There is no reporting defined in the law; only in the tariffs and the contracts. Reporting terms specify no later than 20 days after the end of each month.

### **Control of obligated parties:**

At SUISA's request, producers and importers shall grant SUISA access to their warehouses and books, for verification purposes. SUISA may request a corresponding confirmation from the producer's or importer's auditors. Verification may be entrusted to an independent third party; if the verifications show that the producer's or importer's declarations were false or incomplete, the latter shall bear the verification costs; otherwise those costs will be on the account of the party who requested the third-party.

### **Deliveries exempted:**

If carriers are verifiably used for commercial copying there is the possibility to get a refund on paid levies, e.g. the Swiss Broadcasting Corporation imports blank DVDs to make copies of their broadcasts.

### **Objects exempted:**

When we first negotiated a tariff for blank audio and video tapes, we exempted tapes that are obviously not meant for private copying but for professional use. But nowadays, with four more tariffs for technically more advanced carriers, there are no exemptions except for hard discs in personal computers. The scope of the tariff is: **digital storage media such as microchips or hard discs in audio and audiovisual recording device** – sound recording devices such as MP3 Walkmans, MP3 Jukeboxes (and devices with similar compression processes), iPods, and hard disc recorders; or video recording devices such as satellite receivers with built-in hard discs, set-top boxes with built-in hard discs, television sets with built-in hard discs, DVD recorders with built-in hard discs, digital video recorders (DVR), and personal video recorders (PVR) with built-in hard discs. An audio or a video recorder, within the meaning of this tariff, is any device with a recording function, which is primarily marketed for recording and playing copyrighted works and services. All other storage media in products like PCs, Laptops, Tablets, etc. are exempt.

There is no current list of exempted products. We currently have five tariffs for blank media:

- common tariff 4a for audio and video blank tapes, (We did have a list of exempted products, e.g. tapes that are not usable with private recording systems. But nowadays these type of carriers are out of date.)
- common tariff 4b for CD-R and CD-RW,
- common tariff 4c for blank DVD and Blu Ray discs,
- common tariff 4d for digital memory in MP3 players, video recorders with hard discs, and similar devices,
- common tariff 4e for digital memory in mobile phones.

We have not collected levies for mobile phones yet. The Swiss Arbitration Committee approved a tariff for mobile phones with MP3 Player, for the first time, in March 2010. The associations of producers and importers appealed against this decision. In April 2011 the case was remanded due to procedural mistakes. The Swiss Administration Court did not decide anything substantial. In November 2011 the Swiss Arbitration Committee decided again about this tariff and approved it again. The appeal period is not exhausted yet – we have not received the written decision. But we expect the associations of producers and importers to appeal again. We are also currently in negotiations about levies for tablets like the iPad. Associations of producers and importers deny the legal basis for a tariff, as they did with mobile phones.

## Distribution

According to Art. 60 of Swiss Copyright Law, the split between copyrights and neighbouring rights is 3:1. The distribution of the copyrights share is a matter for rights owners. The societies negotiate a distribution scheme per tariff, based on studies about how consumers are using the carrier, i.e. what kind of repertoire is stored, and to what extent. There is no government approval required.

### *Distribution scheme Audio:*

At the moment we have five tariffs for blank carriers. The distribution shares vary. As an example, the shares for MP3 players and similar devices are:

- 58.7% SUISA (music copyrights)
- 4.37% Pro Litteris (copyrights for literature and visual arts)
- 2.15% SSA (copyrights for dramatical and audiovisual works)
- 9.78% SUISSIMAGE (copyrights for audiovisual works)
- 25% Swissperform (neighbouring rights)

### *CD-data:*

- 55.050% SUISA
- 6.220% ProLitteris
- 2.480% SSA
- 11.250% SUISSIMAGE
- 25% SWISSPERFORM

### **Distribution scheme Video:**

At the moment we have five tariffs for blank carriers. The distribution shares vary. As an example, the shares for digital storage in audiovisual devices, such as video recorders with hard discs, or set top boxes, are:

- 9.49% SUISA
- 5.325% Pro Litteris
- 2.66% SSA
- 57.525% SUISSIMAGE
- 25% Swissperform

### *Video (VHS):*

- 9.490% SUISA
- 5.330% ProLitteris
- 2.660% SSA
- 57.530% SUISSIMAGE
- 25.00% SWISSPERFORM

### ***DVD, Blu Ray, HD:***

13.200%	SUISA
6.520%	ProLitteris
2.780%	SSA
52.500%	SUISSIMAGE
25.00%	SWISSPERFORM

### **Collective purposes**

There is no such deduction before distribution of the shares to the respective societies. But each society makes a deduction of its own. SUISA deducts 10% for social and cultural purposes.

The deductions are determined by rights owners.

#### ***Allocation for artists, cultural productions:***

SUISA Foundation for Music

#### ***Allocation for social purposes:***

SUISA's pension fund for authors and publishers

The deductions are part of our distribution rules which are determined by rights owners. The distribution rules need approval from the Swiss Federal Institute of Intellectual Property.

### **Export**

Exports are exempted by tariff.

We refund levies if carriers are verifiably exported. The manufacturer or importer has to prove the export by sending customs documents. We set refunds against the next invoice.

### **Cross-border trade**

There are no levies for cross-border purchases in Switzerland, unless a foreign mail order company sells blank media to Swiss customers and acts like a domestic vendor, i.e. price in Swiss Francs, Swiss VAT, no dealing with customs necessary for the consumer.

### **Professional uses/exemptions**

The four common tariffs are only applicable for private copying not for professional use. Thus, there is no exemption for professional use. However, we have to account for possible professional use in the tariffs. This can be done by exemption of certain medias, or by providing a possibility for refund of the levies in the case of professional use.

### **How is professional use taken into account when determining the level of remuneration?**

The common tariffs 4b (CD) and 4c (DVD) include a deduction of 1/3 for carriers used in business.

**Table 66: Remunerations/Levies**

Audio	Tariff	Capacity
Compact Cassette	0.267	60 minutes
Minidisc	0.267	60 minutes
CD audio	0.267	60 minutes
CD R/RW data	0.040	60 minutes
Video		
VHS	0.372	60 minutes
DVD-R	0.251	4.7 GB
DVD-RW	0.712	4.7 GB
DVD-R Blu Ray/HD	0.267	25 GB
DVD-RW Blu Ray/HD	0.753	25 GB
Devices	Tariff	Capacity
Memory Cards and HD in Mobile phones	0.202	1 GB
Memory Cards and HD in audio devices and all portable devices	0.567	per GB > 4 GB
	0.526	per GB: 4 GB > 8 GB
	0.405	per GB: 8 GB > 16 GB
	0.307	per GB: 16 GB > 32 GB
	0.243	per GB: more than 32 GB
HD in audiovisual devices	0.081 plus 0.064 For the capacity of 250 GB it is 250 x 0.081 = total 20.25; For the capacity of 500 GB it is 250 x 0.081 = 20.25 plus 250 x 0.064 = 16.00, total 41.25; We have a little deduction for memory with capacity over 250 GB	per GB > 250 GB per GB for every GB over 250 GB

Additional Comments:

Please leave additional comments on the development of revenues over the years, and contributing factors and developments.

**Table 67: Revenues**

Audio Revenues	2009 (€)	2010 (€)	2011 (€)
CC, Minidisc, CD-Audio	160,212	147,984	107,092
CD R/RW data	1,363,072	1,548,241	1,103,622
<b>Total "Audio"</b>	<b>1,523,284</b>	<b>1,696,225</b>	<b>1,210,754</b>
Video Revenues	2009 (€)	2010 (€)	2011 (€)
Cassettes VHS	404,406	370,200	234,509
DVD R/RW	4,331,123	4,280,822	3,572,743
<b>Total "Video"</b>	<b>4,735,529</b>	<b>4,651,082</b>	<b>3,807,252</b>
Device Revenues	2009 (€)	2010 (€)	2011 (€)
Audio plus all portables	6,947,398	4,543,422	2,852,970
Video without portables	2,927,184	1,019,982	774,522
<b>Total "Devices"</b>	<b>9,874,582</b>	<b>5,563,404</b>	<b>3,627,492</b>
<b>Total Revenues</b>		<b>11,910,711</b>	<b>8,645,498</b>

## 34. TURKEY

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### Contact Information

Country	: Turkey	
Currency	: TL	€ 1.00 = 2.20
Population	: 74,700,000	
Name of organisation	: Phonogram Producers Collecting Society (IFPI national group Turkey)	
Website	:www.mu-yap.org	
Contact person 1	: Asli Devrim Ugurlu	
Contact person 2	: Ahmet Asena	
Email 1	: disiliskiler@mu-yap.org	
Email 2	: genelsekreterlik@mu-yap.org	
Address	: Turnacibasi Cad.Kuloglu	
Postcode	: Mahallesi No:10, Beyoglu	
City	: Istanbul	
Phone	: +90 212 292 46 13	
Fax	: +90 212 292 46 17	

### Legislation and fundamental facts

#### *Legal basis:*

Turkish Copyright Law, Article 38 and Article 44.

Private copying is allowed according to Article 38, but levies are not regulated in the law.

However there is an obligation for importers and manufacturers to pay an amount from the blank carriers and devices to the account of the Ministry of Culture and Tourism (MOCT).

#### *Legal liability moment:*

For importers: before the customs declaration of devices and blank carriers upon CIF amount. For manufacturers: within 15 days after distribution of the devices and carriers to the local market, with an amount based upon the manufacturing prices.

#### *Legally responsible party:*

Importers and manufacturers.



### ***Collecting Society:***

No. Collection of remunerations is done by the Minister of Culture and Tourism (MOCT).

Ministry of Culture and Tourism has the legal monopoly.

### **Levies/rates**

Blank media/devices, and amount of payment are determined by the Government. The tariff is determined by a Government decision based on the General Tariff Statistic Position Number.

### **Collection**

Importers and manufacturers have to report their imports and manufacturing quantities and prices to the Ministry of Culture and Tourism according to the Government decision.

### ***Control of obligated parties:***

No controlling instruments.

### **Distribution**

No distribution scheme.

Rights holders have not got any fair compensation from these payments and all these revenues from blank media and devices are exploited by the Ministry of Culture and Tourism.

### ***Collective purposes:***

Yes, the Ministry of Culture and Tourism is fully authorised to use these amounts for cultural purposes.

### ***Observations:***

Private copying is regulated in Turkish Copyright Law, but fair compensation is not included. Levies are not explicitly regulated. There is an obligation to pay an amount (not exceeding 3% of manufacturing price or importing fee) from the blank media and devices, for manufacturers and importers, but these are not levies in the Copyright Law.

Articles 38 and 44 have to be amended according to the Copyright Directive 2001/29 and international agreements. The articles are provided below, for your information:

Art. 38. (Amendment: 7.6.1995 – 4110/14; 21.2.2001 – 4630/19): It is permitted to reproduce all intellectual and artistic works for personal use without pursuing profit. However, such reproduction may not prejudice the legitimate interests of rights holders without good reason or conflict with the normal exploitation of the work.

Art. 44 (second and other related paragraph), (Amendment: 21.2.2001 – 4630/23): Natural and legal persons who manufacture or import for commercial purposes any kind of materials carrying works such as blank video cassettes, audio cassettes, computer discs, CDs, DVDs and all kinds of technical equipment which serve the reproduction of intellectual and artistic works are obliged to collect every month and deposit, until the middle of the following month at the latest, in a special account to be opened with a national bank in the name of the Ministry of Culture and Tourism, an amount to be determined by the Council of Ministers not exceeding 3% of the manufacturing or importation costs. (Addition: 14.7.2004 – 5217/17): A quarter of the amounts collected in the special account shall be transferred to the account of the Ministry of Culture Central Accounting Office and shall be recorded as revenue in the budget.

(Amendment: 21.2.2001 – 4630/23; 14.7.2004 – 5217/17): The amounts remaining in this account shall be used for the purpose of strengthening the intellectual property system and the execution of cultural and artistic activities. The rules and procedures concerning the distribution and use of these monies shall be determined with a by-law to be issued by the Ministry of Culture and Tourism. The allowance which is

necessary for activities concerning the protection of the cultural heritage within and outside the country shall be placed in the budget of the Ministry.

(Amendment: 3.3.2004 – 5101/15): Rules and procedures regarding the application of this article and the fees to be collected shall be determined with a by-law to be issued by the Ministry of Culture.

## 35. UNITED STATES OF AMERICA

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### Contact Information

Country	: United States of America	
Currency	: Dollars (USD)	€ 1.00 = 1,35126
Population	: 313,000,000	
Name of organisation	: Alliance of Artists and Recording Companies (AARC)	
Website	: <a href="https://www.aarcroyalties.com">https://www.aarcroyalties.com</a>	
Contact person 1	: Linda Bocchi	
Contact person 2	: Mike Stern	
Email 1	: <a href="mailto:lbocchi@aarcroyalties.com">lbocchi@aarcroyalties.com</a>	
Email 2	: <a href="mailto:mstern@aarcroyalties.com">mstern@aarcroyalties.com</a>	
Address	: 700 North Fairfax Street Suite 601	
Postcode	: 22314	
City	: Alexandria, VA, USA	
Phone	: (703) 535-8104	
Fax	: (703) 535-8105	

### Legislation and fundamental facts

#### *Legal basis:*

Audio Home Recording Act of 1992 (DART FUND), is a subsection of Chapter 10 of the US Copyright Act dealing with Digital Audio Recording Devices and Media.

#### *Scope of the exception:*

- Applies to digital audio recording devices and media, whose primary purpose is to make digital audio copies for private use. The law makes private copying for private use legal, so long as royalties are paid and other technical requirements are complied with.
- Copying that is for private, non-commercial use.

#### *Remuneration is collected through levies on media and/or equipment:*

Remuneration in the form of royalties collected on devices and media capable of making copies.

#### *Legal liability moment:*

Royalties must be paid upon the first distribution of the qualifying devices or media.

#### *Contractual liability moment:*

The first importer or manufacturer of the device or media must file a statement and payment with the licensing division of the US Copyright Office. The importer or manufacturer must file quarterly and annual reports along with payments.

***Legally responsible party:***

The first US importer and distributor, or manufacturer and distributor, of the devices or media.

***Collecting Society:***

United States Copyright Office.

The United States Copyright Office does not collect for all rights owners, but for Featured Artists/Sound Recording Copyright Owners (Producers)

No monopoly.

***Administrative Costs:***

AARC does not have an administrative percentage. Under the bylaws, AARC deducts the budget amount approved by the AARC board.

***Additional Comments:***

The sound recordings' fund is allocated 2/3 of the collections of the Audio Home Recording Act of 1992 (The DART fund). The 4% is allocated to the non-featured performers. Featured Artists/Sound Recording Copyright Owners are allocated 96% of the 2/3, which is then allocated 40/60% to the featured artists/producers respectively.

**Levies/rates**

The rate is set by the Audio Home Recording Act.

The levy is determined as a standard fee; artists are given their distribution based on Neilson Soundscan data.

**Collection**

Manufacturers/importers are required to report to the Register of Copyrights on a quarterly basis.

***Control of obligated parties:***

Statements must be certified as accurate by an authorised officer or principal of the importer/manufacturer. The Register of Copyrights issues regulations to verify and audit these statements. If parties do not comply with these requirements they can face civil penalties. Rights owners have audit rights.

***Objects exempted:***

It does not include those devices that are used primarily for fixing non-musical works, such as motion pictures, audiovisual works, computer programmes or databases. It does not include works that consist entirely of the spoken word. It also does not cover any computer-based programme. Professional model products, dictation machines, and other audio recording equipment that is designed and marketed primarily for the fixation of non-musical sounds.

## Distribution

### *Distribution scheme Audio:*

Musical Works Fund (MWF) – 1/3 of total DART funds  
Writers' Sub Fund – 50% of the 1/3 MWF – ASCAP/BMI/SESAC  
Publishers' Sub Fund – 50% of the 1/3 MWF – Harry Fox Agency  
Sound Recordings' Fund (SRF) – 2/3 of total DART fund  
Non-Featured Artists – 4% of the SRF – AFM/AFTRA  
Featured Artists, Sound Recording Copyright Owners – 96% of SRF Sub Fund- AARC  
Featured Artists' Sub Fund – 40% of FASRCO  
Copyright Owners' Sub Fund – 60% of FASRCO

### *Distribution scheme Video:*

No video private copy law.

## Collective purposes

There is currently no deduction for collective (social and/or cultural) purposes.

## Export

Media and devices must be distributed in the US to be subject to payment of royalties.

## Cross-border trade

**Who is liable for cross-border purchases?** N/A

## Professional uses/exemptions

### *Legal Exemption for professional use:*

N/A

### *Contractual exemption for professional use:*

N/A

### **How is professional use taken into account when determining the level of remuneration?**

N/A

**Table 68: Remunerations/Levies**

Audio	Tariff	Capacity
	2% of the transfer price for devices 3% of the transfer price for media	DEVICES ONLY: Not more than \$8 US (Apx. 12 Euro) per device or \$12 (Apx. 18 Euro) per multi-integrated device, under the Copyright Act.
Devices	Tariff	Capacity
	Confidential information per Copyright Office regulations	

**Table 69: Revenues**

Device Revenues	2009 (€)	2010 (€)	2011 (€)
<b>Total "Devices"</b>	<b>1.3 Million Euro</b>	<b>1.5 Million Euro</b>	<b>2.3 Million Euro</b>

