

# International Survey on Private Copying



Law & Practice 2016

Acknowledgment and thanks for front cover illustrations  
Top right image courtesy of Carlos Porto at FreeDigitalPhotos.net  
Top center image courtesy of Stuart Miles at FreeDigitalPhotos.net  
Top right image courtesy of tungphoto at FreeDigitalPhotos.net  
Lower left image courtesy of stockimages at FreeDigitalPhotos.net  
Lower center image courtesy of xedos4 at FreeDigitalPhotos.net  
Lower right image courtesy of watcharakum at FreeDigitalPhotos.net

de Thuiskopie



  
**WIPO**  
WORLD  
INTELLECTUAL PROPERTY  
ORGANIZATION

# International Survey on Private Copying Law & Practice 2016



Hester Wijminga  
Wouter Klomp  
Marije van der Jagt  
Joost Poort



## Table of Contents

---

<b>PREFACE</b>	<b>2</b>
<b>EXECUTIVE SUMMARY</b>	<b>3</b>
1. Introduction	3
2. Methodology and Scope	3
3. Legal background for private copying remuneration	5
4. Practical implementation of compensation systems	8
5. Liability	11
6. Collection and distribution	13
7. Revenue trends	15
8. Conclusion	26
<b>COUNTRY REPORTS</b>	<b>28</b>
<b>1. AUSTRIA</b>	<b>28</b>
<b>2. BELGIUM</b>	<b>33</b>
<b>3. BULGARIA</b>	<b>40</b>
<b>4. BURKINA FASO</b>	<b>44</b>
<b>5. CANADA</b>	<b>46</b>
<b>6. CROATIA</b>	<b>51</b>
<b>7. CZECH REPUBLIC</b>	<b>56</b>
<b>8. DENMARK</b>	<b>60</b>
<b>9. ESTONIA</b>	<b>64</b>
<b>10. FINLAND</b>	<b>68</b>
<b>11. FRANCE</b>	<b>71</b>
<b>12. GERMANY</b>	<b>78</b>
<b>13. GREECE</b>	<b>83</b>
<b>14. HUNGARY</b>	<b>88</b>
<b>15. ITALY</b>	<b>95</b>
<b>16. JAPAN</b>	<b>101</b>
<b>17. LATVIA</b>	<b>107</b>
<b>18. LITHUANIA</b>	<b>110</b>
<b>19. NETHERLANDS</b>	<b>117</b>
<b>20. NORWAY</b>	<b>123</b>
<b>21. PARAGUAY</b>	<b>125</b>
<b>22. POLAND</b>	<b>128</b>
<b>23. PORTUGAL</b>	<b>133</b>
<b>24. RUSSIA</b>	<b>137</b>
<b>25. SLOVAK REPUBLIC</b>	<b>140</b>
<b>26. SLOVENIA</b>	<b>144</b>
<b>27. SWEDEN</b>	<b>147</b>
<b>28. SWITZERLAND</b>	<b>152</b>
<b>29. TURKEY</b>	<b>158</b>
<b>30. UKRAINE</b>	<b>160</b>
<b>31. UNITED STATES</b>	<b>163</b>
<b>ANNEX: RELEVANT CASE LAW FROM THE COURT OF JUSTICE OF THE EUROPEAN UNION</b>	<b>166</b>

## PREFACE

---

The World Intellectual Property Organization (WIPO) and the Dutch collecting society for private copying remunerations, *Stichting de Thuiskopie*, are pleased to present the fourth joint publication on the law and practice of private copying systems around the world. This survey aims to provide an actual worldwide overview of private copying compensation systems (also known as private copying levies).

These remuneration systems are an important element of copyright and related rights infrastructure. This report aims to facilitate evidence-based decision-making and to provide an update on important developments in the private copying law and practice of countries that have such an exception in place.

*Stichting de Thuiskopie* started collecting legal and practical information about private copying remuneration in neighbouring countries in 1991. The survey quickly expanded to include all European countries with a levy system. Over the years, the scope has been expanded to embrace countries outside Europe. This 25th edition covers countries on almost all continents.

The task of compiling this report was entrusted to Hester Wijminga and Wouter Klomp at *Stichting de Thuiskopie*. Joost Poort (Institute for Information Law (IViR), University of Amsterdam) was entrusted with the economic analysis and Marije van der Jagt, LL.M, lawyer at Griffiths Advocaten provided the legal summary. Representatives of WIPO were also of great assistance.

The collection of data for this study would not have been possible without the support of private copying collecting societies<sup>1</sup>. The authors are grateful to all these collecting societies and collective management organisations for their cooperation and their efforts to improve insight into global private copying compensation systems. The survey demonstrates the importance of this source of income for all right holders. It is hoped that the survey will be as useful as it has been in previous years as a reference for negotiations on levies, in background reports of the European Commission, in studies of right holders and users' organizations alike and in policy papers of governmental bodies.

---

<sup>1</sup> The survey contains the contact information of all the participating collecting societies.

# EXECUTIVE SUMMARY

---

## 1. Introduction

This survey is the 25th edition of a collection and analysis of key data on private copying compensation systems around the world. It is the result of collaboration between the private copying collection body in the Netherlands, *Stichting de ThuisKopie* (Dutch Private Copying Collection Society), and the World Intellectual Property Organization (WIPO).

The data compiled in the survey is provided by participating collecting societies, which are entrusted with the collection and distribution of private copying remuneration. The main objective of the survey is to provide facts and figures regarding the function of private copying collection systems around the world, trends in remuneration collected on behalf of rightholders and practices employed in collecting this important source of income for creators.

Previous editions were used as a reference in European Union (EU) publications as well as by collecting societies and stakeholders in private copying. Physical copies have been distributed to all the participating collecting societies and to relevant research and academic institutions across the globe. The report is available on the websites of WIPO and *Stichting de ThuisKopie*.

## 2. Methodology and Scope

### 2.1 Research method

The survey provides a neutral and impartial presentation and benchmarking of revenues from private copying levies and the organization of such compensation systems. The data was collected through a questionnaire sent to collecting societies responsible for the administration of private copying compensation, covering all aspects of law and practice relevant to determining and collecting remuneration for the private use of protected works. The survey contains revenue data up to 2015 and information about levy systems and tariffs up to 2016. An overview of four years of revenue data is included for each participating country. Two questions were added to the questionnaire, one regarding the leviability of refurbished products and one regarding developments in negotiations on new tariffs. Cloud leviability in particular is widely discussed now that private copies are increasingly being stored in cloud-based services rather than on physical media. Comments from participants and experience gained from processing the information provided offer insights into how the questionnaire can be improved and made more effective, which is reflected in subsequent studies. Where necessary and appropriate, additional information and clarifications have been requested. Replies are compared with information that was submitted in response to earlier surveys in order to identify and address possible inconsistencies. Data on exchange rates, population and income per capita of participating countries was retrieved from World Bank databases.<sup>2</sup>

### 2.2 Participating countries

This edition provides factsheets on private copying systems in 31 countries across the world, of which 21 are EU countries. Private copying compensation systems are most common in Europe. Among EU Member States, only Cyprus, Ireland, Luxembourg, the United Kingdom and Malta have no private copying exception. Outside the EU, revenue information on Burkina Faso, Canada, Japan, Norway, Paraguay, the Russian Federation, Switzerland, Ukraine, and the United States is included. Factsheets, but no revenue information, are provided for Bulgaria, Slovenia and Turkey. For this survey, no new information was received from Burkina Faso and Romania. Information about the levy system and revenues for these countries have been taken from the previous edition of this survey.

In a number of countries, such as Bulgaria and Slovenia, there is no active system of collection, although a private copying exception has been provided for in law. Lastly, some countries only have levies on blank media

---

<sup>2</sup> <http://data.worldbank.org/>, update 16 December 2016. Since no exchange rates for 2016 were available when closing the analysis for this report, averages for January–November 2016 have been used (based on monthly averages retrieved from <http://www.imf.org/en/Data> on 19 January 2017).

and recording devices and as these products are disappearing from the market, revenues have fallen to the point where the cost of collection is higher (Estonia). A similar situation can be found in Iceland, which has a private copying provision in the law. However, the regulations governing blank tapes have not been updated to reflect the media and devices used nowadays for private copying.<sup>3</sup>

There have been many developments in private copying in the EU. The Court of Justice of the European Union (CJEU) has demarcated boundaries and clarified many issues in the last couple of years. Copyright reform remains a hot topic for the European Commission and systems are being adapted to the digital environment, leading some countries to abandon levy systems altogether and turn towards state-funded remuneration systems as a means of compensating rightholders for private copying.

### **North America**

Compensation systems exist in Canada and the United States, although these systems are more limited than those of most European countries. In Canada, the Canadian Private Copying Collective (CPCC/SCPCP) can only collect on audio carriers. The United States has a very limited system of private copying levies, in conjunction with the Audio Home Recording Act of 1992. The Alliance of Artists and Recording Companies (AARC) has been included in the survey for the first time this year.

### **South America**

Paraguay, Ecuador and Peru have a legal compensation system for private copying. Paraguay has participated in the survey.

### **Africa**

Burkina Faso, Nigeria, Côte d'Ivoire and Morocco have established a compensation system. In Senegal, a new collective management organization, SODAV, was established in October 2016. It will initiate the implementation of the private copying exception.

### **Asia**

With the exception of Japan, no countries in Asia have established a private copying remuneration system and discussions on copyright reform have been going on for some time now in Japan with no expansion of levies. In South Korea, a user may reproduce works for personal, family or similar uses within a limited circle and for non-profit purposes, under Article 30 of the Copyright Act. However, no remuneration system exists to compensate for such uses.

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

Private copying compensation systems vary substantially across the world because of a multitude of circumstances. Remuneration is funded either by importers and manufacturers of devices on which consumers make copies, or by State funds. Either way, the intention is that consumers should pay directly or indirectly for private copying. Levies on products are collected either as a percentage of the sales price or as a flat rate. The survey clearly demonstrates that significant differences exist in key areas such as tariff levels, the selection of products for which levies can be collected, the liability of market players, methods of reporting, legal tools for monitoring and enforcement and methods of setting the tariff, to mention just a few.

In the early 1990s, the European Commission attempted to harmonize private copying compensation systems in the EU, but the Commission's efforts have not yet resulted in legislative proposals. On the contrary, legal and practical developments in the countries involved have proceeded unaffected by any cross-border considerations. The recent renewed interest of the European Commission and the European Parliament in investigating the viability of measures that would further the approximation and possibly the harmonization of (the important parts of) the private copying systems in the EU is of great significance for the future of levy systems, as is the multitude of rulings issued by the Court of Justice of the European Union.

---

<sup>3</sup><http://www.ihm.is>.

### 3. Legal background for private copying remuneration

#### 3.1 Main principles

The Berne Convention<sup>4</sup> allows Member States to provide for exceptions and limitations to the right of reproduction, provided that the conditions of the three-step-test are met. Many jurisdictions limit the application of the reproduction right for activities that can be qualified as “private copying” because it is practically impossible to grant permission to large numbers of individuals or to monitor how such permission is subsequently used. In general, the solution was found in an exception or limitation to the exclusive right on condition that fair compensation was paid to authors and other rightholders for loss of revenues or harm caused to the rightholder whose work had been copied. This is currently the only efficient mechanism for compensating creators for the widespread copying of their works for private or domestic use.

#### 3.2 Definition of private copying

A private copy is usually defined as any copy for non-commercial purposes made by a natural person for his/her own personal use. This survey provides the definition set forth in the copyright acts of the various countries included in the study.

A levy on products used for copying was first introduced in Germany in 1966, replacing the exclusive reproduction right with a right to equitable remuneration. In other jurisdictions, levies were attached to long-standing private copying exceptions when modern technological developments made it difficult to deny that private copying was affecting the income potential of rightholders.

In general, the exception only applies when the source is legal. Downloads from a peer-to-peer network, newsgroups, torrent sites and the like, where music and films have been uploaded without consent from the rightholders, are usually not within the scope of the exception. There are exceptions to this rule: the Russian Federation, Switzerland and Canada do not have a specific provision regarding the source of the copy, and thus all copies made for private use fall within the scope of the exception.

In the 2015 judgment in Case No. C-435/12, the CJEU held that Directive 2001/29/EC (Copyright Directive) precludes national legislation which does not distinguish the situation in which the source from which a reproduction for private use is made is lawful from that in which that source is unlawful<sup>5</sup>.

After several judgments of the CJEU clarified practical aspects of the implementation of levy systems, the national and international debate regarding private copying is now dominated by the concept of “harm”. The CJEU held in Case No. C-467/08 that the remuneration to which rightholders have a claim must be calculated on the basis of the criterion of the harm caused to authors of protected works by the introduction of the private copying exception<sup>6</sup>. This concept requires uniform interpretation, but this has not yet been achieved: is this harm to be interpreted economically as the harm associated with the rightholders’ lost licensing opportunities for the additional private copies, or as the value consumers attach to the possibility of making a private copy? The CJEU further held that a link is necessary between the application of the levy intended to finance fair compensation with respect to digital reproduction equipment, devices and media and the deemed use of them for the purposes of private copying<sup>7</sup>.

As online business models shift from ownership to access-based models, often offering streaming content or temporary downloads instead of physical carriers or permanent downloads, the discussion will further be complicated by determining whether copies made in the cloud and from online licensed services are within the scope of the private copying exception. In 2016, preliminary questions regarding cloud services were referred to the CJEU in the VCAST Ltd/R.T.I. SpA case (C-265/16). Thus, the CJEU is likely to be called upon to further delineate the boundaries of private copying systems.

<sup>4</sup> [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698).

<sup>5</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:62012CJ0435&from=EN>, para. 37.

<sup>6</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:62008CJ0467&from=EN>, para. 2.

<sup>7</sup> *Ibid.*, para. 59.



### 3.3 Legal developments in the European Union

The European Commission has been reviewing the copyright framework for a long time. In 2012, the issue of private copying levies was the subject of an industry mediation process fostered by the Commission and led by former Commissioner António Vitorino. Mr. Vitorino delivered a report on this issue in February 2013, including several recommendations<sup>8</sup>, although it has not led to any legislation; to date, the aim is to make EU copyright law and practice fit for the digital age. The debate on levy systems has continued through stakeholder dialogue. In 2014, the European Parliament published the Castex Report. It describes private copying levies as a virtuous system, which is nonetheless in need of modernization and harmonization. It focused especially on cross-border situations, the scope of the exception and the need for transparent and effective exemptions for professional uses. July 2014 saw the results of the Consultation on Copyright in the 2013-14 3rd consultation (review of EU copyright rules).

On December 9, 2015, the communication “Towards a modern, more European copyright framework” was published. The levy systems are not much discussed in the communication and are no longer a priority on the copyright agenda for the new EU Commission. For the most part, the possible impact on the Digital Single Market is a concern and even though the CJEU clarified some issues, some disparities remain.

### 3.4 Relevant Jurisprudence from the European Court of Justice

The table below provides a schematic overview of the case law from the Court of Justice of the European Union on private copying levies. More extensive information about these cases is presented in the Annex of this report.

**Table 1: Case law from the Court of Justice of the European Union on private copying levies**

Case No.	Date	Parties	Issue
C-467/08	October 21, 2010	<i>Padawan v SGAE</i>	Indiscriminate application of the private copying levy
C-462/09	June 16, 2011	<i>Stichting de Thuiskopie v Opus GmbH</i>	Cross-border transactions
C-277/10	February 9, 2012	<i>Luksan/Van der Let</i>	Author is entitled directly and originally to the right of fair compensation
C-457/11-C-460/11	June 27, 2013	<i>VG Wort v Kyocera</i>	Technological measures, consequences of an authorization to reproduce
C-521/11	July 11, 2013	<i>Amazon v Austro-Mechana Gesellschaft</i>	Indiscriminate application combined with a reimbursement scheme, payment of the revenue in part to social or cultural institutions, double payment in cross border transactions
C-435/12	April 10, 2014	<i>ACI Adam/Stichting de Thuiskopie</i>	Lawful nature of the origin of the copy
C-463/12	March 5, 2015	<i>Copydan Båndkopi/Nokia Danmark</i>	Equal treatment, reimbursement scheme, consequences of an authorization to reproduce
C-572/13	November 12, 2015	<i>HP/Reprobel</i>	Allocation of fair compensation to publishers, copying of sheet music
C-470/14	June 9, 2016	<i>EGEDA</i>	Compensation financed from the General State Budget
C-110/15	September 22, 2016	<i>Nokia Italia/SIAE</i>	<i>Ex ante</i> exemption and reimbursement scheme for professional use.
C-37/16		<i>Minister Finansów/SAWP</i>	Value-added tax
C-265/16		<i>VCAST Ltd/R.T.I. SpA</i>	Cloud computing services

<sup>8</sup> [http://ec.europa.eu/internal\\_market/copyright/levy\\_reform/](http://ec.europa.eu/internal_market/copyright/levy_reform/).

### 3.5 Highlights of other legal developments in specific countries

#### 3.5.1. United Kingdom

A private copying exception was introduced in the United Kingdom (UK) in October 2014. The exception permitted individuals to make copies of content they owned, including making copies in the cloud. The transfer of copies to another person was prohibited except on a private and temporary basis. There was no provision for a compensation system.

Under European law – with which UK law must comply – a private copying exception must be accompanied by compensation to rightholders, except where harm to rightholders is minimal. The UK government argued that the harm caused by the scope of the drafted exception would be minimal. Music organizations did not accept this, however, and applied for a judicial review of the decision to introduce the exception without a compensation system. The court found that the government's submissions were not justified by the evidence on which it had relied. It was held that the government's decision was unlawful and the legislation was overturned in July 2015.

#### 3.5.2. Austria

A legal amendment clarifying the claims for digital media, particularly PCs, tablets and smartphones, has entered into force on October 1, 2015. These devices were not previously leviable. Negotiations on network personal video recorders (NPVR) are ongoing and rightholders have reached a settlement with nearly all distributors/direct sellers of new media. The settlement includes memories built into computers, external hard discs and tablets as well as mobile phones enabling the storage of MP3/MP4 files. Austro-Mechana received a substantial amount for past consumption from nearly all market players and thus the settlement can be said to have been successful. More information can be obtained from the survey and from Austro-Mechana.

#### 3.5.3. Lithuania and Slovakia

In Lithuania, new tariffs came into force on January 1, 2016, with updated levies on, for example, gaming consoles, tablets and smartphones.

A new Copyright Act was also introduced in Slovakia as of January 1, 2016 with a very wide range of media and devices for which a percentage levy is collected.

These two countries probably now have the most up-to-date PCR systems in Europe, aiming at increasing revenues for rightholders in the years to come.

#### 3.5.4. France

In France, a new law came into force on July 7, 2016. The most important changes are that refunds for export are directly paid to the exporting societies and for professional uses; Copie France should also exempt exporting societies provided it is able to monitor product exports. The most interesting change is that NPVR services offering cloud storage now fall within the scope of remuneration for private copying.

NPVR services must negotiate the scope of the PCR with TV channels. These negotiations are particularly difficult. Some TV channels require to be paid for private copying and others seek to limit the ability to copy a program. Moreover, in parallel with these negotiations, the administrative commission in charge of setting the PCR tariff in France must initiate a working session to set a new tariff for NPVR.

#### 3.5.5. Germany

The most important development in Germany is the reaching of a new agreement with the industry, united under the digital association, BITKOM. As the tariffs in Germany are set retroactively, the setting of – in this case – tariffs as of 2008 for mobile phones and tablets has a huge impact on the collection of revenues for the central office for private transfer rights, ZPUE.

#### 3.5.7. Finland

In 2015, the levy system in Finland was replaced by a state-funded system. The amendment introduced a new financing system for fair compensation. The collection of device-based levies from consumers, which had been applied since 1984, will be replaced by annual State budget financing. The bill to amend the provisions of the Copyright Act pertaining to fair compensation was ratified by the President of the Republic on December 19, 2014 and entered into force on January 1, 2015. Annual fair compensation from the State budget in 2015 and 2016 was 11 million euros. Starting in 2017, the situation will be reviewed annually based on the development of private copying.

The Ministry of Education and Culture will be responsible for the allocation of fair compensation to collective management organizations (CMOs), to be further distributed to rightholders. The Ministry will also assume responsibility for conducting surveys on private copying in cooperation with a consultative committee.

### 3.5.7. Nigeria

In Nigeria, the Copyright Society of Nigeria (COSON) is approved by the Nigerian Copyright Commission (NCC) as the sole CMO for musical works and sound recordings.

A remuneration scheme with levies was introduced by the Copyright Act of 2004. The order required for the implementation of the scheme has since been made by the Attorney General. The tariffs are already specified in the order, depending on the storage media or device. By virtue of the order, NCC will collect and distribute remuneration to the three approved CMOs in music, films and reprography industries – COSON, the Audio-visual Rights society, AVRS, and the Reproduction Rights Society, REPRONIG. The scheme has not yet been activated, so there is no revenue to report for the time being.

As part of efforts to ensure the immediate implementation of the scheme, COSON has been involved in intense advocacy and lobbying to ensure that the private copy levy is activated in Nigeria.

### 3.5.8. Spain

Following the decision of CJEU in the EGEDA case, the Spanish Supreme Court rendered a judgment annulling Royal Decree No. 1657/2012, which set forth the legal structure underpinning the compensation system financed by the State budget.

This means that until the law is reformed, Spain finds itself in an irregular situation in light of the Copyright directive: citizens can make private copies without authorization under the limit of private copying; however there is no system allowing for economic compensation for the harm actually caused.

This irregularity can only be remedied with a new reform of the Intellectual Property Law, which is an initiative of the Government. The Ministry of Culture has already announced its intention to find a solution that comes into force in 2017.

## 4. Practical implementation of compensation systems

For reasons of efficiency and given the impossibility of collecting compensation from individuals, the most common system is one under which importers and manufacturers, and sometimes professional traders, are required to pay levies that apply to recording equipment or media used by individuals for their private purposes (all parties that can be charged for the compensation are indicated as “liable parties” in the survey). It is assumed that levies will consequently be included in the sales price of the levied products. In Europe, the European Parliament proposed that the levy be made visible to consumers in the sales price as a way of achieving more transparency.

In some jurisdictions, the compensation system applies to recording equipment and media. In other jurisdictions, such as Canada and Denmark, levies are limited to blank media.

It should be noted that the distinction between recording equipment and media has become increasingly blurred. In some countries with a media levy system (such as Austria and France), hard discs in equipment such as audio-visual recorders, set-top boxes and TV sets with built-in hard discs 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, although no compensation is due for the device or for the memory unit if sold separately. Multifunctional devices such as tablets, smartphones and media players are increasingly included in the systems.

The discussion on the cloud and on refurbishment is new. Refurbishment is a thriving new business model where used products like smartphones and tablets are repaired and resold “as new”. Often a new hard disc or new flash memory is inserted and the product is then sold to consumers. The act of refurbishment can be classified as “manufacturing” and thus fall within scope of the private copying exception. In this edition of the survey, a question was added as to whether these products are exempted. In most cases they are not, as they can be considered as new products that may be used for private copying. Technological developments resulting in the possibility of sharing, viewing and consuming any creative work stored in the cloud or on a

single device in the home make negotiating and determining the scope, level and applicability of the levies more complex. All the same, this shows the increase in possibilities and opportunities to copy and enjoy creative works in any place and at any time.

#### 4.1 *Tariff/levy setting*

The survey reveals that tariff-setting can differ considerably among jurisdictions. As Table 1 shows, a differentiation can be made between state-funded systems with no tariffs; direct State intervention systems in which the lawmaker sets tariffs; negotiation systems in which tariffs are set through negotiations between rightholders and importers/manufacturers; and a combination of the latter two systems.

Determining which products should be levied, or whether they are within the scope of the private copying exception, is sometimes a matter for lawmakers or the government. In other countries, courts determine the scope of the compensation system based on rightholders' claims. A third variation is found in countries where special bodies appointed by the government are responsible for selecting the products on which levies can be imposed and for setting the tariffs. Often, these special bodies are appointed to advise the government, which subsequently sets the tariffs.

Roughly speaking, tariff-setting can be distinguished as being either a matter of direct State intervention (lawmakers, ministry, or designated public body) or a process of negotiation between rightholders (i.e., collecting societies administering the levies) and industry (importers/manufacturers of consumer electronics and the IT industry). Finally, in some countries, tariffs are set by special bodies appointed by the government which act as negotiation platforms (and sometimes advise lawmakers).

**Table 2: Tariff-setting models**

Models	Number of Countries
State-funded system (no tariffs)	Norway, Finland. In Spain, the royal decree was recently annulled by the Spanish Supreme court.
Direct state intervention	Burkina Faso, Czech Rep., Denmark, Estonia, Greece, Italy, Lithuania, Paraguay, Poland, Portugal, Russian Federation, Slovak Republic, Slovenia, Turkey, Ukraine, USA
Negotiation with industries and societies	Austria, Croatia, Germany, Japan
Set by law/government after proposals by rightholders or negotiation among stakeholders in special government-appointed body	Belgium, Bulgaria, Canada, France, Hungary, Latvia, Netherlands, Romania, Sweden, Switzerland

#### 4.2 *Difference in tariffs*

Countries commonly apply a fixed tariff directly related to the capacity of objects. As an alternative to fixed tariffs, countries can also apply a tariff based on a percentage of the sales or import price to determine the amount of the levy. The Czech Republic, Latvia and Lithuania combine fixed tariffs and a percentage depending on the medium or device. The different tariffs are presented separately to provide an understanding of tariff levels. Table 3 gives an overview of (the range of) percentage tariffs applicable in the countries included in the survey. Percentage tariffs are used in several European countries and in the United States. Western European countries appear to prefer fixed tariffs.

**Table 3: Overview of countries that apply a percentage as tariff**

Country	Percentage of levy on blank media and devices
Bulgaria	1% to 1.5% on magnetic and optical media (including HDD and flash memory)
Burkina Faso	10% on blank media and devices
Czech Republic	Fixed amount on blank media, 0.75% to 3% on devices
Estonia	8% on blank media, 3% on devices
Greece	6% on all products/devices
Japan	3% on blank media, 2% on devices (audio only)
Latvia	4%/6% on flash/blank media, fixed amount on devices (all pc)
Lithuania	6% on blank media, fixed amount on devices and flash media
Paraguay	0,50% on all products/devices' import price
Poland	Ranging from 0.05% to 3%
Romania	3% on blank media, 0.5% on devices
Russian Federation	1% (of production price)
Slovak Republic	6% on blank media, 0.35% up to 3% on devices
Ukraine	0.02% to 1% blank media and devices
USA	3% on blank media, 2% on devices

Table 4 below shows the fixed tariffs in 14 countries for 8 standardized media types and devices for 2013 to 2016. All tariffs in this table for countries outside the euro area have been converted to current euros using annual average exchange rates as provided by the World Bank. The exchange rates used per country per year are specified in the country sheets in this report<sup>9</sup>.

The last column in Table 4 gives the simple average of all countries which have a levy on that specific media type or device. Put differently, empty cells are ignored in calculating this average. It is readily obvious that average levies are much higher on devices than on blank media. As previously mentioned, Finland abolished its levy on media as from January 1, 2015. An opposite trend can be seen in Austria and Portugal, where the range of leviable devices increased between 2013 and 2016. Nowadays, few countries have levies only on blank media: among the countries in Table 4, this is true only for Denmark, and Canada. In contrast, Austria, Belgium, Croatia, France, Germany, Hungary, Italy, the Netherlands, Portugal and Sweden imposed a levy on a wide set of devices and media.

**Table 4: Fixed tariff for eight standardized media types and devices in 14 countries (in euros)**

		Austria*	Belgium	Canada	Croatia	Denmark	Finland	France	Germany**	Hungary	Italy	Netherlands	Portugal	Sweden***	Switzerland	Average
2013	CD (700 Mb)	0.24	0.12	0.21	0.01	0.32	0.20	0.35	0.06	0.15	0.15	0.03	0.05	0.07	0.08	0.15
	DVD (4.7 GB)	0.36	0.40		0.01	0.50	0.20	0.90	0.27	0.25	0.41	0.03	0.14	0.31	0.25	0.31
	External HDD (1 TB)	24.30	6.75		0.40		18.00	20.00	17.00	7.70	10.24	1.00		9.25		11.46
	MP3 player (8 GB)	6.00	2.50		1.85		7.00	12.00	5.00	13.99	0.15	2.00		0.92	4.23	5.06
	PC (500 GB)				0.79				17.07		0.41	5.00		9.25		6.50
	Set-top box (500 GB)	22.50	10.75		5.28		25.00	45.00	34.00	25.19	14.81	5.00		37.00	36.56	23.74
	Smartphone (16 GB)		2.50		1.32			8.00	5.66	16.16	0.90	5.00		6.47	2.84	5.43
	Tablet (16 GB)		2.50		1.32			8.40	6.13		1.90	5.00		1.85	2.28	3.67

<sup>9</sup>As a consequence of this conversion, euro-tariffs for non-euro countries may show changes between 2012 and 2015, while the tariffs in local currency units have not changed. Since no exchange rates for 2016 were available when closing the analysis for this report, averages for January-November 2016 have been used (based on monthly averages retrieved from <http://www.imf.org/en/Data> on January 19, 2017).

**Table 4: Fixed tariff for eight standardized media types and devices in 14 countries (in euros) (continued)**

		Austria*	Belgium	Canada	Croatia	Denmark	Finland	France	Germany**	Hungary	Italy	Netherlands	Portugal	Sweden***	Switzerland	Average
2014	CD (700 MB)	0.24	0.12	0.20	0.01	0.32	0.20	0.35	0.06	0.14	0.10	0.03	0.05	0.07	0.08	0.14
	DVD (4.7 MB)	0.36	0.40		0.01	0.50	0.20	0.90	0.27	0.24	0.20	0.03	0.14	0.29	0.26	0.29
	External HDD (1 TB)	15.00	6.75		0.39		18.00	20.00	17.00	7.41	10.24	1.00		8.79		10.46
	MP3 player (8 GB)	6.00	2.50		1.84		7.00	12.00	5.00	13.47	6.44	2.00		0.88	3.77	5.54
	PC (500 GB)	12.00			0.79				13.19		5.20	5.00		8.79		7.49
	Set-top box (500 GB)	20.00	10.75		5.25		25.00	45.00	34.00	19.39	14.81	5.00		35.16	31.88	22.38
	Smartphone (16 GB)	18.00	2.50		1.31			8.00	6.25	10.89	4.00	5.00		6.15	2.88	6.50
	Tablet (16 GB)	12.00	2.50		1.31			8.40	7.44	10.89	4.00	5.00		1.76	2.30	5.56
2015	CD (700 MB)	0.24	0.12	0.20	0.01	0.32		0.35	0.06	0.14	0.10	0.02	0.05	0.06	0.09	0.14
	DVD (4.7 GB)	0.36	0.40		0.01	0.50		0.90	0.27	0.24	0.20	0.02	0.10	0.28	0.29	0.30
	External HDD (1 TB)	15.00	6.75		0.39			20.00	17.00	6.79	10.24	0.70	4.10	8.55		8.95
	MP3 player (8 TB)	6.00	2.50		1.84			12.00	5.00	13.42	6.44	1.40	1.60	0.86	4.29	5.03
	PC (500 GB)	12.00			0.79				13.19		5.20	3.50	2.00	8.55		6.46
	Set-top box (500 GB)	20.00	10.75		5.26			45.00	34.00	19.32	14.81	3.50	8.00	34.21	36.31	21.01
	Smartphone (16 GB)	18.00	2.50		1.31			8.00	6.25	10.30	4.00	3.50	1.92	5.99	1.20	5.72
	Tablet (16 GB)	12.00	2.50		1.31			8.40	8.75	10.30	4.00	3.50	1.92	1.71	2.25	5.15
2016	CD (700 MB)	0.24	0.12	0.20	0.01	0.32		0.35	0.06	0.14	0.10	0.02	0.05	0.06	0.09	0.14
	DVD (4.7 GB)	0.36	0.40		0.01	0.50		0.90	0.27	0.24	0.20	0.02	0.10	0.28	0.28	0.30
	External HDD (1 TB)	4.50	6.75		0.40			20.00	17.00	6.75	10.24	0.70	4.10	8.47		7.89
	MP3 player (8 TB)	5.25	2.50		1.86			12.00	5.00	13.35	6.44	1.40	1.60	0.85	4.20	4.95
	PC (500 GB)	5.00			0.80				13.19		5.20	3.50	2.00	8.47		5.45
	Set-top box (500 GB)	20.00	10.75		5.31			45.00	34.00	19.22	14.81	3.50	8.00	33.87	22.91	19.76
	Smartphone (16 GB)	2.50	2.50		1.33			8.00	6.25	10.25	4.00	3.50	1.92	5.93	1.17	4.30
	Tablet (16 GB)	3.75	2.50		1.33			8.40	8.75	10.25	4.00	3.50	1.92	1.69	2.20	4.39

\* Austria lowered the tariffs for external HDD, PC, Smartphone and Tablet to the 2016 level by 1-10-2015

\*\* Germany has separate tariffs for private and business smartphones. The tariff for private smartphones is presented here

\*\*\* Sweden has not been able to collect the tariff for smartphones due to litigation

## 5. Liability

### 5.1 Introduction

Regarding the limits to payment liability, the following issues have been identified:

- What system, if any, should be applied to refund levies when products are exported?
- Is the levy payable when products are used in a professional context?
- Who is liable for payment in cross-border sales?

### 5.2 Exports and exemption from payment

The levies and remuneration are intended as compensation for private copying acts by consumers in a certain country; rightholders whose works have been copied in that specific country have a right to be remunerated. For this reason, if leviable products are exported, the exported items are exempted in most countries. Different systems exist for refunding the levies that have already been paid on a product which is later exported. Usually, the exporter can request a refund from the collecting society if he can show proof of the actual export. Another possibility is a contractual relationship between an exporter (often a wholesaler) and an importer and/or the collecting society, which can include an upfront exemption such that the exporter can buy within his country without levies and no refunds are payable upon export.

Some countries do not have a refund system in place; the exporter is only required to report goods sold in the home country. In these cases, levies on exports can often be recovered in the next report to the collecting society. Finally, some countries have multiple possibilities: exemption upfront via an agreement with the collecting society or a refund request.

**Table 5: Refunds or exemptions in case of exports**

Models	Countries
Exemption with refund (but exports by manufacturer/importer are exempted upfront)	Austria, Belgium, Bulgaria, Denmark, Estonia, France, Hungary, Italy, Latvia, Lithuania, Netherlands, Portugal, Russian Federation, Switzerland
Upfront exemption	Canada, Croatia, Czech Republic, Germany, Greece, Japan, Romania, Slovak Republic, Sweden, Ukraine, Netherlands
No refund and/or exemption	Burkina Faso, Paraguay, Poland, Turkey, USA

### 5.3 Professional use and reduced liability

Blank media and devices can be used for purposes wholly unrelated to the private copying exception, for instance, for the storage of professional data, or for professional reproductions where a license would be required. In such cases, products can be sold to a professional end user and no private copying is taking place.

In some countries, either products sold to professional end users are exempted from the payment of the levy or liable parties are entitled to a refund.

Within the EU, the CJEU ruling in *Padawan v SGAE* (October 21, 2010) had a considerable impact on the collection of levies. 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. Before this ruling, mutualization systems, as they were known, were common. In these systems, the professional use was incorporated into the tariff, resulting in a reduced flat-rate tariff to be paid on all sales. Without this approach, the tariff would have been higher for products intended for private copying.

*Padawan* has led to follow-up cases in national jurisdictions and new cases before the CJEU to clarify the ruling further. In Spain, the result was the abolition of a system of collecting through media and devices, leaving Spanish rightholders with an amount determined annually by the government based on the harm caused to rightholders by private copying. European rightholders have lodged a complaint with the European Commission<sup>10</sup> and questions have been referred to the CJEU (C-470/14)<sup>11</sup>. For Spain, the recent ruling in this case has created the possibility of reintroducing a levy system. This process has only just begun and will be monitored.

Court cases resulting from *Padawan* are still ongoing in many European countries.

In some countries, systems exempting professional users were adapted to implement the latest case law. Similar to the procedures used in the case of exports, if professional use is exempted, countries implement a refund system or an upfront exemption (in the law or via contractual arrangements with the collecting society) for specific professional users (e.g., hospitals or government institutions). The question of whether the exemption can be regulated via contractual arrangements rather than by the law itself has been brought before the CJEU in *Nokia Italia v SIAE* (C-110/15)<sup>12</sup>. In this case, the CJEU held that an ex ante exemption that is regulated via contractual arrangements is not compatible with EU law if the reimbursement of the levy may only be requested by the final user.

### 5.4 Online sales and cross-border liability

Nowadays, many of the levied products are bought online and sometimes the seller is located in another country, where a different private copying system is in place or there is no such system at all. Of particular relevance for EU Member States, but also interesting for other jurisdictions, is the judgment of the CJEU in *Thuiskopie v Opus* (2011)<sup>13</sup>. 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. The judgment states:

<sup>10</sup> <http://www.authorsocieties.eu/library/15/32/GESAC-complaint-against-spain-on-private-copying>.

<sup>11</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:62014CN0470&rid=1>.

<sup>12</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:62015CN0110&from=EN>.

<sup>13</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:62009CJ0462&rid=1>.

[...] 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 court in the Netherlands – the country of residence of the consumer, where a private copying compensation system is in place – was requested to ensure recovery of the levy from the seller in Germany.

## 6. Collection and distribution

This section discusses the following issues:

- the collection process and cost deductions
- distribution schemes
- social and cultural deductions

### 6.1 *Collection process*

Collecting societies appointed by the government or by rightholders collect private copying remunerations. They must be representative of the whole variety of rightholders, and often the board of such a collecting society consists of the representatives of various rightholders (authors, performing artists, producers and the like).

In almost all countries, collection is done by one collecting society, to which importers, manufacturers and other liable parties are required to report. In some cases, however, the collecting society only represents a specific group of rightholders and multiple societies collect remunerations on behalf of their rightholders. This is the case for the Czech Republic, Greece and the Slovak Republic. It should be noted that not all societies have joined the survey and revenues derived from private copying presented can in these cases be incomplete, being representative only for the category of rightholders the society represents.

Distribution follows a more complicated scheme. Some collected funds are distributed directly to individual rightholders – this is the case if multiple collection societies operate on the market – but in most cases, distribution is done in stages. The society responsible for the collection allocates funds to organizations of rightholders (distributing organizations) representing the various categories of rightholders (authors, producers and performing artists) for further distribution to individual rightholders.

### 6.2 *Distribution schemes*

Distribution to different categories of rightholders, represented by collecting societies responsible for distribution to individual rightholders, follows schemes determined either by rightholders' organizations or by law, ministerial decree or other State intervention.

Where the distribution scheme is a matter for rightholders, the shares are established in negotiations between the different groups of rightholders. In some cases, the results must be validated or approved by the government.

Usually, the total amount collected is first split between categories like audio, video, written works and interactive works. The amounts allocated to these categories are divided among the groups of rightholders within them. Distribution to audio rightholders is split between authors, performers and producers; video rightholders are authors (directors, screenwriters, music authors, and literary authors), producers and performing artists (actors and dancers). The introduction of levies on multifunctional devices makes it possible to remunerate copying of all digital works, and the advent of relatively new digital content like e-books and other written works implies the creation of new schemes for distribution to these rightholders.

The first step, allocating collections to a category of copied works, is usually based on market research on the type of works copied on the various media. As the levied products become increasingly multifunctional and all works can be digitized, the actual copying behavior becomes more important for distribution. Some countries (like Switzerland) have a distribution scheme for each levied product for which monies were received.



### 6.3 Social and cultural deductions

In the majority of the participating countries, a percentage is deducted for social and cultural purposes, on average about 30 per cent. These cultural funds are intended for the promotion of young artists or to feed pension funds for artists. In most cases, the law determines these percentages. Cultural government bodies welcome funds that are allocated to promote the culture of society and improve the position of rightholders. The percentages vary from 10 per cent to 100 per cent, the latter only in Turkey, where levies are used entirely for cultural purposes by the Ministry of Culture.

Often, a separate fund is created to select cultural events or projects that will receive financial support. In many cases, rightholders are members of the selection committees and their vote is crucial in deciding how the money is spent. If the collecting society does not deduct cultural funds, the distributing organizations can sponsor activities or events that help their specific category of rightholders. This approach differs from the cases, as in Turkey, in which the destination of private copying remunerations is determined by the government.

The funds allocated to the development of the arts and to cultural events are substantial, contributing to cultural diversity and growth within the sector. This collective aspect of private copying compensation is very valuable for rightholders, particularly because of its impact on social conditions. Firstly, arts and culture thrive, as in France, where the financial input is considerable. Secondly, artists enjoy more security in old age, as in Germany, where pensions for creators receive substantial contributions from private copying income.

In the 2013 CJEU *Amazon v Austro-Mechana* case, the legitimacy of social and cultural deductions with regard to fair compensation was questioned. The CJEU held that the right to fair compensation cannot be excluded because half of the funds received by way of such compensation or levy are paid to social and cultural institutions set up for the benefit of those entitled to such compensation, rather than directly to those entitled, provided that those social and cultural establishments actually benefit those entitled and the detailed arrangements for the operation of such establishments are not discriminatory, which it is for the national court to verify<sup>14</sup>. The case is pending before the Supreme Court of Austria and a ruling was given on March 15, 2017.<sup>15</sup>

**Table 6: Social and Cultural deductions**

Country with social and cultural funds	% Social and cultural purposes	Determined by
Austria	50%	Law
Bulgaria	30%	Law
Burkina Faso	50%	Law
Croatia	30%	Law, music rightholders
Czech Republic	0%	Rightholders
Denmark	33%	Law
Estonia	10%	Law
Finland	50% video, 35% audio	Law
France	25%	Law
Hungary	7% national cultural fund 3% Artisjus fund	Law, rightholders
Italy	10% Cultural promotion activities* 50% of video for performing	Law Performing artists
Japan	20%	Law
Latvia	10%	Music authors
Lithuania	25%	Law
Paraguay	10%	Law, authors and artists

<sup>14</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:62011CA0521&rid=1>, para. 3.

<sup>15</sup> <http://www.akm.at/festplattenabgabe-ogh-gibt-kunstschaffenden-recht/>

Poland	Yes	Rightholders' organizations
Portugal	20%	Law
Russian Federation	Max. 20%	Law – rightholders
Switzerland	10%	Rightholders' organizations
Turkey	100%	Law

\* Belgium, Canada, Germany, Greece, the Netherlands, Norway, the Slovak Republic, Slovenia, Spain, Sweden and the United States have no social and cultural deductions.

\* In Italy, the new law of 2015 introduced a 10 per cent deduction

## 7. Revenue trends

Table 7 provides the total revenues in current euros for 2007-2015 in each of the countries for which data are available<sup>16</sup>. Table 8 shows the relative development over this period and in the last year<sup>17</sup>. As shown at the bottom of these tables and in Figure 1, total revenue has increased by 6 per cent over the years, from 598 million euros in 2007, via an all-time high of 796 million euros in 2014, to 636 million euros in 2015. Total revenues prove to be volatile, with strong increases in 2009, 2013 and 2014 and significant decreases in 2011 and 2015. This cannot be explained by missing values in the data, as can be seen from the line "Total excluding incompletes" in Table 7, as well as from Figure 1, in which the dashed orange line excludes countries for which data is missing for one or more years. The black dashed line gives the long-term linear trend over the total sample, which suggests a slight increase.

By far the largest contributor to the volatility of total revenues is Germany. Germany was the country with the largest revenues in 2014: 281 million euros, comprising over a third of total revenues. Germany also came in first in 2009 and 2010, but revenues dropped to a mere 15 million euros in 2011, due to national litigation about the levy system. Tables 7 and 8 show that, between 2013 and 2014, German revenues almost tripled, but in 2015 they were back at the 2013 level, leading to an overall decline of 32% in the 2007-2015 period.

Examples of other countries that show significant changes both in absolute and in relative terms are Spain, the Russian Federation and the Netherlands. In the Netherlands, this is the result of a major restructuring of the levy system as of 2013, which involved a drop in the levies on blank media and the introduction of levies on several more modern recording devices. Conversely, in Spain, the existing levy system was replaced by a much soberer state-financed system in 2012, which was subsequently annulled by the Spanish Supreme Court, leading to zero revenues for 2015. In addition, revenues in countries such as Finland that are smaller in absolute terms tend to vary substantially.

The last two rows of Table 7 and the red line in Figure 1 give aggregate revenues for the EU countries in the survey. Over the years, these turn out to be responsible for a fairly stable 83 per cent to 93 per cent of total revenue.

**Table 7: Total revenues (in current €)\***

Country	2007	2008	2009	2010	2011	2012	2013	2014	2015
Austria	16,413,000	13,213,000	11,699,000	9,907,000	7,838,000	5,787,000	5,985,447	6,303,356	10,076,591
Belgium	20,081,280	15,608,627	13,120,350	27,020,734	24,252,413	23,827,891	24,405,986	32,406,669	24,986,442
Burkina Faso	n/a	n/a	n/a	686,122	1,181,691	895,817	n/a	n/a	n/a
Canada	20,206,899	18,152,725	14,722,957	11,764,034	7,936,679	6,405,325	4,586,876	3,514,089	2,482,138
Croatia	284,624	1,380,286	1,944,318	1,602,780	1,252,109	1,046,848	1,166,424	1,120,721	1,011,968
Czech Rep.	5,224,634	8,810,308	7,394,248	2,854,806	3,178,417	3,369,593	3,354,478	3,524,442	3,846,451
Denmark	5,352,136	5,860,862	5,382,158	5,043,243	4,579,148	4,194,716	4,102,878	3,673,226	3,825,456
Estonia	283,452	228,500	120,096	n/a	n/a	24,883	23,993	9,438	6,205

<sup>16</sup> Revenues for countries outside the euro-area have been converted from local currency units to current euros using annual average exchange rates as provided by the World Bank (<http://data.worldbank.org/>). The exchange rates used per country for 2012-2016 are specified in the country sheets in this report. Revenues for earlier years have been taken from the previous edition of this survey and have not been recalculated.

<sup>17</sup> For non-euro countries, these growth and decline figures can be affected significantly by changes in the exchange rate and hence can differ from the growth or decline in local currency units.

**Table 7: Total revenues (in current €)\* (continued)**

Finland	15,566,656	12,030,920	8,799,293	6,478,600	5,428,400	7,073,300	6,407,100	4,878,300	11,000,000
France	163,402,714	166,932,996	172,361,311	188,737,396	192,780,541	173,877,725	207,972,000	216,861,000	226,132,535
Germany	148,841,000	127,338,000	289,978,000	244,021,000	14,782,000	74,117,000	102,546,000	281,204,000	100,665,000
Greece	22,894	524,486	153,055	778,200	1,182,717	245,699	297,665	336,654	102,035
Hungary	11,539,681	8,476,274	8,942,092	9,485,541	10,326,534	12,570,324	19,468,996	27,949,968	22,055,429
Italy	70,956,045	61,662,334	44,527,702	51,802,831	84,009,114	71,738,387	67,086,699	77,986,505	129,630,285
Japan	16,904,865	21,090,642	19,084,892	25,360,171	25,489,320	8,741,640	1,493,998	253,611	728,458
Latvia	812,193	601,625	358,426	203,761	223,141	207,989	267,481	437,866	329,306
Lithuania	84,423	801,650	711,011	102,534	102,534	1,972,906	2,642,206	2,808,503	3,124,441
Netherlands	19,249,000	17,010,000	14,885,000	10,820,000	9,210,000	5,376,000	30,831,000	35,795,000	28,219,741
Norway	n/a	n/a	4,954,248	5,215,686	5,372,549	5,675,556	5,617,991	5,425,067	5,071,056
Paraguay	n/a	n/a	n/a	n/a	n/a	933,483	923,310	799,737	900,124
Poland	4,290,581	4,906,569	2,508,799	1,891,712	1,881,498	1,642,848	2,118,238	1,531,470	1,570,586
Portugal	5,752,919	4,594,998	3,633,984	2,359,418	2,292,392	1,215,863	893,454	688,097	3,323,438
Romania	n/a	302,242	502,789	970,012	1,541,873	2,001,662	2,533,338	3,370,395	n/a
Russian Fed.	-	-	-	952,484	17,094,833	29,600,101	80,455,420	52,543,705	32,326,196
Slovak Rep.	903,677	977,373	621,116	691,843	382,748	433,088	409,899	700,702	1,442,193
Spain	40,706,047	59,992,342	79,080,032	82,176,345	61,709,742	5,000,000	5,000,000	5,000,000	-
Sweden	19,136,070	14,403,548	12,609,229	9,889,162	8,405,433	9,823,462	13,186,657	15,147,304	10,285,356
Switzerland	11,952,060	22,433,306	16,133,395	11,827,635	8,308,485	6,743,805	5,934,799	11,467,426	12,473,362
Ukraine	n/a	n/a	n/a	129,644	186,438	58,938	38,235	12,027	125,295
United States	n/a	n/a	n/a	1,208,072	1,438,711	1,323,099	583,698	293,955	135,249
<b>Total</b>	<b>597,966,850</b>	<b>587,333,613</b>	<b>734,227,501</b>	<b>713,980,767</b>	<b>502,367,460</b>	<b>465,924,948</b>	<b>600,334,266</b>	<b>796,043,237</b>	<b>635,875,338</b>
Growth/decline		-2%	25%	-3%	-30%	-7%	29%	33%	-20%
<b>Total excluding incompletes</b>	<b>597,683,398</b>	<b>586,802,871</b>	<b>728,650,368</b>	<b>705,771,231</b>	<b>492,646,198</b>	<b>455,011,510</b>	<b>590,613,701</b>	<b>786,132,618</b>	<b>629,637,409</b>
<b>Total EU</b>	<b>548,903,026</b>	<b>525,656,940</b>	<b>679,332,009</b>	<b>656,836,918</b>	<b>435,358,754</b>	<b>405,547,183</b>	<b>500,699,939</b>	<b>721,733,619</b>	<b>581,633,458</b>
<b>EU/Total</b>	<b>92%</b>	<b>89%</b>	<b>93%</b>	<b>92%</b>	<b>87%</b>	<b>87%</b>	<b>83%</b>	<b>91%</b>	<b>91%</b>

Note: "n/a" = no revenue figures available; "-" = no revenues. No revenue figures available for Turkey. No functioning collection in Slovenia and Bulgaria.

\* Revenues for Czech Republic represent the OSA revenues only.

**Table 8: Revenue developments in past 8 years and last year**

Country	2007-2015	2014-2015
Austria	-39%	60%
Belgium	24%	-23%
Canada	-88%	-29%
Croatia	256%	-10%
Czech Rep.	-26%	9%
Denmark	-29%	4%
Estonia	-98%	-34%
Finland	-29%	125%
France	38%	4%
Germany	-32%	-64%
Greece	346%	-70%

Hungary	91%	-21%
Italy	83%	66%
Japan	-96%	187%
Latvia	-59%	-25%
Lithuania	3601%	11%
Netherlands	47%	-21%
Norway	n/a	-7%
Paraguay	n/a	13%
Poland	-63%	3%
Portugal	-42%	383%
Russian Federation	n/a	-38%
Slovak Rep.	60%	106%
Spain	-100%	-100%
Sweden	-46%	-32%
Switzerland	4%	9%
Ukraine	n/a	942%
United States		-54%
<b>Total</b>	<b>6%</b>	<b>-20%</b>
<b>Total excluding incompletes</b>	<b>5%</b>	<b>-20%</b>
<b>Total EU</b>	<b>6%</b>	<b>-19%</b>

Note: "n/a" = no growth/decline figure available. No relevant figures available Romania, Turkey and Ukraine. No functioning collection in Slovenia and Bulgaria.

**Figure 1: Total revenues for all countries in dataset, total excl. incompletes and total EU**

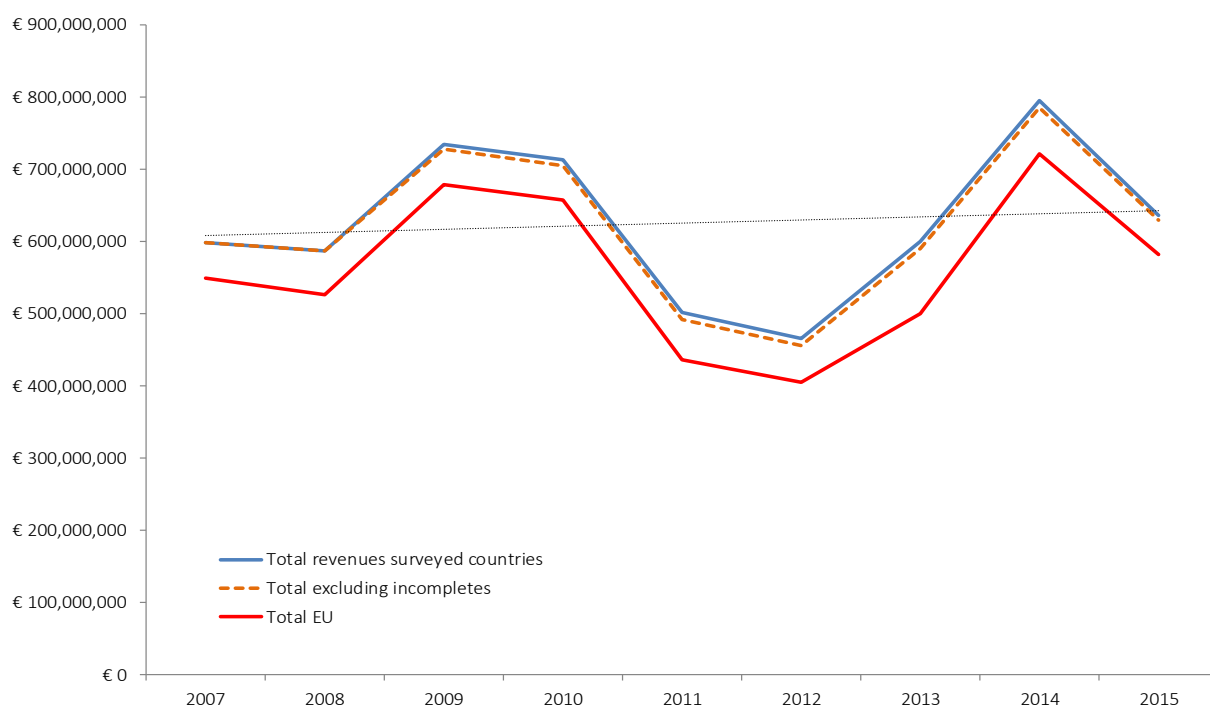


Table 9 shows the total revenues per capita per year calculated using annual population data retrieved from the World Bank<sup>18</sup>. Revenues per capita in 2015 ranged from less than 0.01 euro in the United States and Ukraine to 3.38 euros in France.

The last six rows in Table 8 give average revenues in the participating countries and standard deviations as a measure of the spread between countries in the revenues per capita:

- In the first of these, the population-weighted average encompasses all countries with data available for each specific year. It ranges from 0.41 euro to 0.99 euro; in 2015 it was 0.58 euro.
- To gain a better understanding of global trends in per capita revenues, the second row gives these averages, while excluding countries for which any one year is missing. For total revenues, it was shown that this exclusion did not change much (see the blue versus the dashed orange line in Figure 1), but for revenues per capita, the effect is substantial because of partially missing data for populous countries such as the United States and Ukraine. This metric increased slightly from 0.84 euro in 2007 to 0.87 euro in 2015, with a significant dip in 2011-2012 and a peak in 2014, both of which can largely be ascribed to Germany.
- The third of the bottom rows provides the (population-weighted) average for the EU countries in the sample and the fourth row excludes countries for which any one year is missing. The differences between these two rows are relatively small and only caused by partially missing data for Estonia and Romania. These EU averages follow a pattern that resembles Figure 1, with a slight net increase between 2007 and 2015, a dip in 2011 and 2012 and a peak in 2014.
- The two bottom rows give the unweighted standard deviation of the revenues per capita, first for the entire sample and then for the EU countries in the sample. The values in these rows illustrate that the spread in the revenues per capita fluctuates over the years and shows no clear indications of convergence or divergence. In fact, a comparison between the last two rows reveals that the spread within the EU subsample is even marginally wider, despite the shared legal framework of the Copyright Directive (2001/29/EC) and a number of important CJEU rulings on private copying levies over the last few years.

**Table 9: Total revenues per capita in participating countries (in current €)\***

Country	2007	2008	2009	2010	2011	2012	2013	2014	2015
Austria	1.98	1.59	1.40	1.18	0.93	0.69	0.71	0.74	1.17
Belgium	1.89	1.46	1.22	2.48	2.20	2.14	2.18	2.89	2.21
Burkina Faso	n/a	n/a	n/a	0.04	0.07	0.05	n/a	n/a	n/a
Canada	0.61	0.55	0.44	0.35	0.23	0.18	0.13	0.10	0.07
Croatia	0.06	0.31	0.44	0.36	0.29	0.25	0.27	0.26	0.24
Czech Republic	0.51	0.85	0.71	0.27	0.30	0.32	0.32	0.33	0.36
Denmark	0.98	1.07	0.97	0.91	0.82	0.75	0.73	0.65	0.67
Estonia	0.21	0.17	0.09	n/a	n/a	0.02	0.02	0.01	0.00
Finland	2.94	2.26	1.65	1.21	1.01	1.31	1.18	0.89	2.01
France	2.55	2.59	2.66	2.90	2.95	2.65	3.15	3.26	3.38
Germany	1.81	1.55	3.54	2.98	0.18	0.92	1.25	3.47	1.24
Greece	0.00	0.05	0.01	0.07	0.11	0.02	0.03	0.03	0.01
Hungary	1.15	0.84	0.89	0.95	1.04	1.27	1.97	2.83	2.24
Italy	1.21	1.05	0.75	0.87	1.41	1.20	1.11	1.28	2.13
Japan	0.13	0.16	0.15	0.20	0.20	0.07	0.01	0.00	0.01
Latvia	0.37	0.28	0.17	0.10	0.11	0.10	0.13	0.22	0.17
Lithuania	0.03	0.25	0.22	0.03	0.03	0.66	0.89	0.96	1.07
Netherlands	1.18	1.03	0.90	0.65	0.55	0.32	1.83	2.12	1.67
Norway	n/a	n/a	1.03	1.07	1.08	1.13	1.11	1.06	0.98

<sup>18</sup> <http://data.worldbank.org/>, update 16 December 2016.

Paraguay	n/a	n/a	n/a	n/a	n/a	0.15	0.14	0.12	0.14
Poland	0.11	0.13	0.07	0.05	0.05	0.04	0.06	0.04	0.04
Portugal	0.55	0.44	0.34	0.22	0.22	0.12	0.09	0.07	0.32
Romania	n/a	0.01	0.02	0.05	0.08	0.10	0.13	0.17	n/a
Russian Federation	0.00	0.00	0.00	0.01	0.12	0.21	0.56	0.37	0.22
Slovak republic	0.17	0.18	0.12	0.13	0.07	0.08	0.08	0.13	0.27
Spain	0.90	1.31	1.71	1.76	1.32	0.11	0.11	0.11	0.00
Sweden	2.09	1.56	1.36	1.05	0.89	1.03	1.37	1.56	1.05
Switzerland	1.58	2.93	2.08	1.51	1.05	0.84	0.73	1.40	1.51
Ukraine	n/a	n/a	n/a	0.00	0.00	0.00	0.00	0.00	0.00
United States	n/a	n/a	n/a	0.00	0.00	0.00	0.00	0.00	0.00
Average (population weighted)	<b>0.84</b>	<b>0.80</b>	<b>0.99</b>	<b>0.64</b>	<b>0.45</b>	<b>0.41</b>	<b>0.54</b>	<b>0.71</b>	<b>0.58</b>
Average excluding incompletes	0.84	0.82	1.02	0.98	0.69	0.63	0.82	1.09	0.87
Average EU	<b>1.37</b>	<b>1.24</b>	<b>1.60</b>	<b>1.55</b>	<b>1.02</b>	<b>0.95</b>	<b>1.17</b>	<b>1.69</b>	<b>1.42</b>
Average EU excluding incompletes	1.37	1.31	1.68	1.63	1.08	1.00	1.23	1.78	1.43
Standard deviation (unweighted)	0.86	0.82	0.88	0.87	0.71	0.65	0.79	1.05	0.90
Standard deviation EU (unweighted)	0.88	0.73	0.90	0.93	0.76	0.71	0.85	1.14	0.95

Note: "n/a" = no revenue figures available; No revenue figures available for Turkey. No functioning collection in Slovenia and Bulgaria.

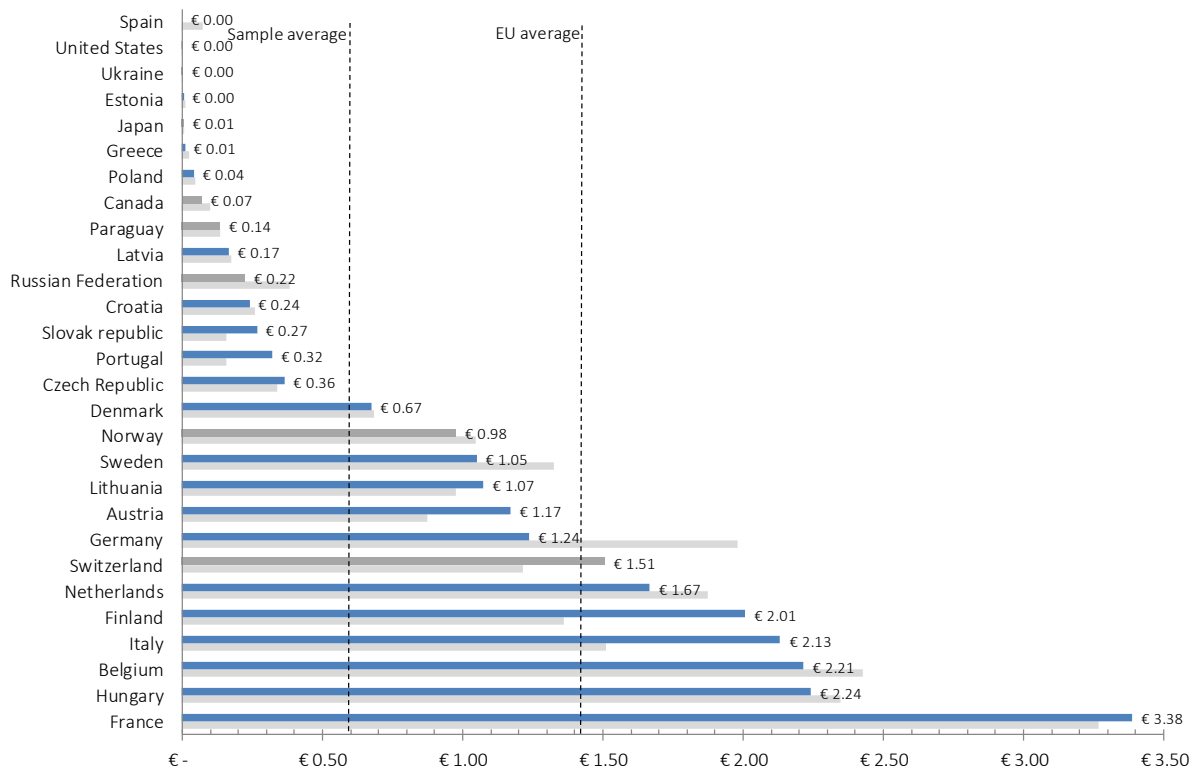
\* Revenues for Czech Republic represent the OSA revenues only.

The blue and the dark grey (upper) bars in Figure 2 present the 2015 revenues per capita for each country, sorted by value. These values correspond to the rightmost column in Table 9. In 2015, France collected the highest private copying levies per capita, 3.38 euros, followed at a considerable distance by Hungary, Belgium, Italy and Finland. Dashed lines give the (population-weighted) sample average and the EU average. Non-EU countries are depicted by dark grey bars.

To reduce year-to-year volatility, the light grey (lower) bars give for each country the average revenues for 2013-2015 (calculated as average total revenues divided by average total population). Whereas the top three positions of France, Hungary and Belgium are almost identical over this three-year period, the positions of other countries such as Germany, Italy, and Finland are quite different.

It can be observed that countries with a percentage tariff (Table 3) are in the lower ranks of Figure 2. However, this may result from differences in wealth rather than from differences in the calculation of levies. From a glance at Figure 2, it appears that, aside from non-European countries, there is a positive correlation between revenues per capita and income per capita.

**Figure 2: Levy revenues per capita in 2015 and 2013-2015 average (light grey bars)**



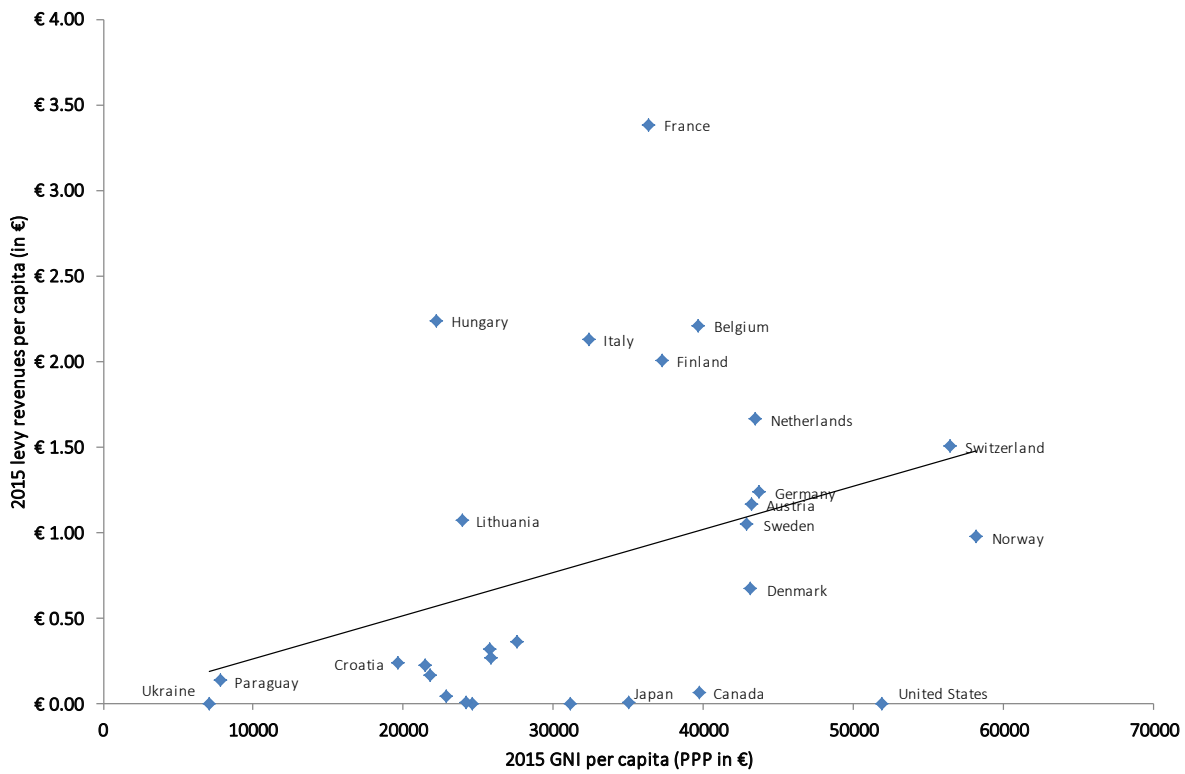
Note: no 2015 revenue figures available for Burkina Faso, Romania and Turkey. No functioning collection in Slovenia and Bulgaria. Sample average and EU average population-weighted.

Figure 3 looks more closely at this relationship by depicting the 2015 gross national income (GNI) of the participating countries in purchasing power parity (PPP) versus the 2015 levy revenues per capita. Each dot represents a country in the sample; the coordinate on the horizontal axis corresponds to its GNI per capita and that on the vertical axis corresponds to its levy revenues per capita. Figure 3 shows a positive correlation between levies and GNI per capita: the higher the purchasing power per capita in a country, the higher the levy revenues per capita. The variance is substantial, however. Including all values in Figure 3, the correlation coefficient is 0.35. When the dataset is limited to the EU, the correlation coefficient jumps to 0.47.

The correlation suggests another relevant metric to use in comparing countries: total levy revenues relative to GNI<sup>19</sup>. Figure 4 ranks the participating countries using this metric. As in Figure 2, the dashed lines represent the sample and EU average values (weighted by GNI) and non-EU countries are depicted by grey bars. Hungary has by far the highest revenues from private copying levies relative to GNI: for every 1 million euros of GNI, 191 euros in levies are collected. France comes second, followed by Lithuania and Italy.

<sup>19</sup> For this metric, it is more intuitive to use nominal GNI in current € (Atlas method, not PPP).

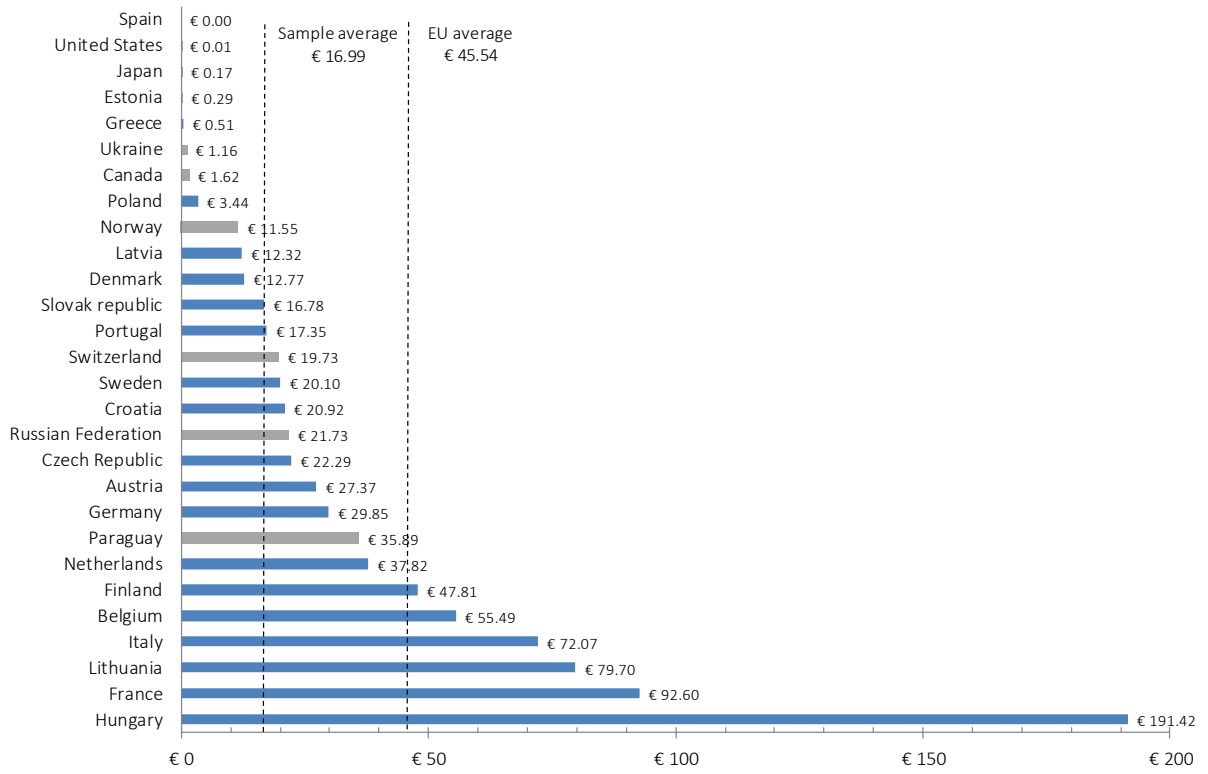
**Figure 3: Levy revenues v Gross National Income (PPP), per capita in 2015 euros**



Note: GNI per capita retrieved from <http://data.worldbank.org/> (Update December 16, 2016) and converted from current US\$ values into € using the average annual dollar/euro exchange rate provided by the World Bank. No 2015 revenue figures available for Burkina Faso, Romania and Turkey. No functioning collection in Slovenia and Bulgaria.



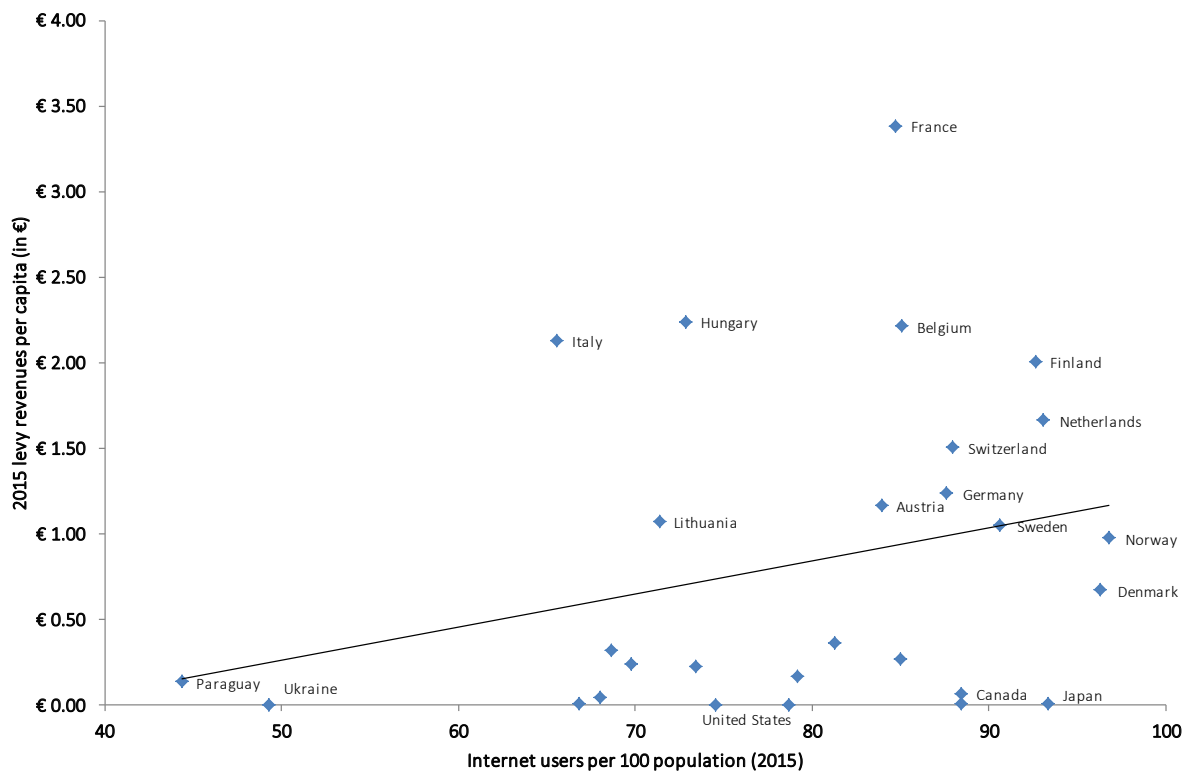
**Figure 4: Levy revenues per capita per 1 million euros of GNI in 2015**



Note: GNI in current € (Atlas method), calculated using GNI per capita and population retrieved from <http://data.worldbank.org/> (Update December 16, 2016) and converted from current US\$ values to € using the average annual dollar/euro exchange rate provided by the World Bank. No 2015 revenue figures available for Burkina Faso, Romania and Turkey. No functioning collection in Slovenia and Bulgaria. Sample average and EU average GNI-weighted.

In addition to this correlation between per capita levy revenues and GNI, various other possible correlations may be considered. Care should be taken not to draw unfounded inferences regarding causality from the correlations displayed below. Figure 5 plots the 2015 revenues per capita against the number of Internet users per 100 inhabitants in 2015. Again, there appears to be a (weak) correlation. The correlation coefficient for the whole sample is 0.28. Within the EU subsample it is 0.22. It is important to note that the *ACI Adam/Stichting de Thuiskopie* ruling by the CJEU (C-435/12) confirmed that downloading from illegal sources does not produce leviabile private copies and that legal copies acquired from the Internet may or may not be leviabile, depending on the nature of the copy and the relevant legislation. Hence, Internet availability cannot be linked causally to private copying, but may be a proxy for the availability of equipment for making legitimate private copies.

**Figure 5: Levy revenues per capita in 2015 euros v Internet users per 100 inhabitants**

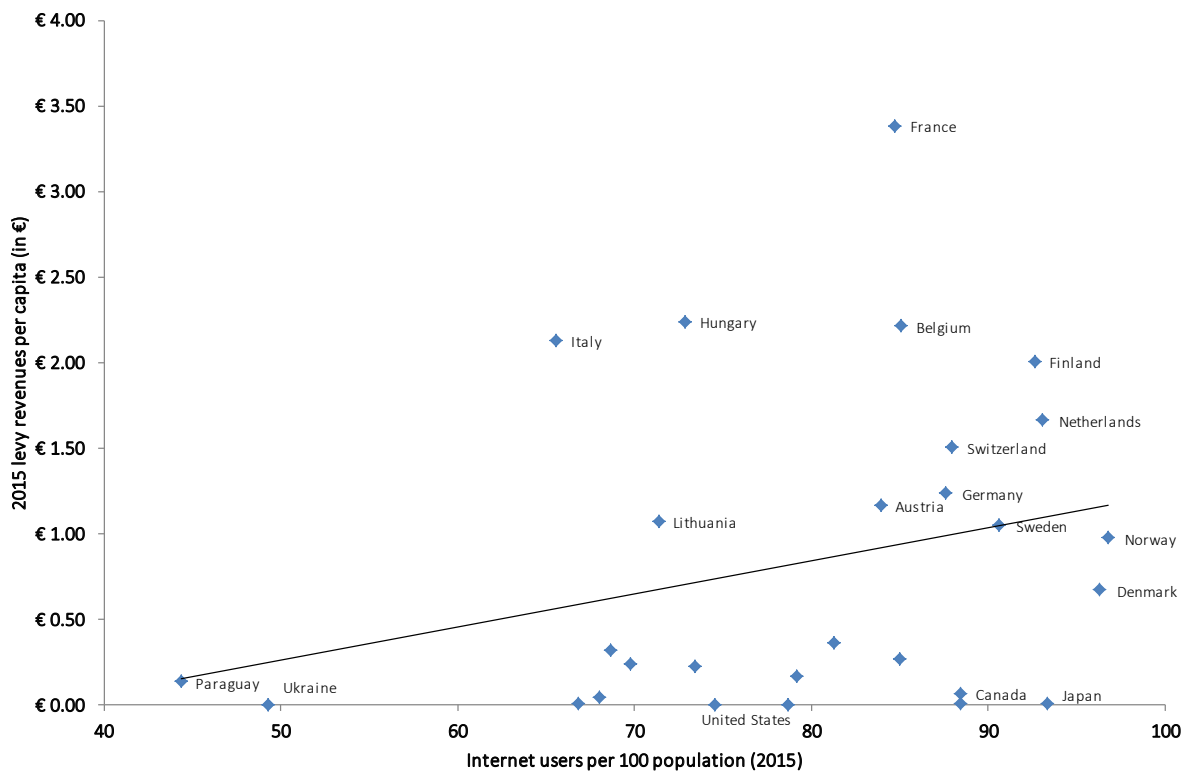


Note: Internet users per 100 inhabitants retrieved from <http://data.worldbank.org/> (Update December 16, 2016). No 2015 revenue figures available for Burkina Faso, Romania and Turkey. No functioning collection in Slovenia and Bulgaria.

Another relevant metric might be the relationship between the levy revenues per capita in each country and that country's overall cross-border payments for and receipts from the use of intellectual property rights (IPRs) per capita. Payments for and receipts from copyright-protected works are an important part of this indicator<sup>20</sup>. The latter variables are widely available in the countries participating in the survey and may be considered a proxy for the importance of intellectual property (IP) in an economy. However, just like the number of Internet users, this is a very rough proxy: it includes several sorts of IP other than copyright, and private copying may not necessarily correlate with authorized paid-for transactions. Moreover, these indicators measure only cross-border payments.

Figure 6 plots the 2015 revenues per capita against the total payments for and receipts from IP per capita in 2015. Despite all the caveats mentioned above, these two variables have a substantial correlation coefficient of 0.31, decreasing slightly to 0.26 when non-EU countries are excluded. The horizontal axis in Figure 6 has a logarithmic scale to account for the large differences between countries in per capita IP charges.

<sup>20</sup> <http://data.worldbank.org/>, update December 16, 2016. The detailed description of these indicators provided by the World Bank is: "Charges for the use of intellectual property are payments and receipts between residents and nonresidents for the authorized use of proprietary rights (such as patents, trademarks, copyrights, industrial processes and designs including trade secrets, and franchises) and for the use, through licensing agreements, of produced originals or prototypes (such as copyrights on books and manuscripts, computer software, cinematographic works, and sound recordings) and related rights (such as for live performances and television, cable, or satellite broadcast). Data are in current U.S. dollars".

**Figure 6: Levy revenues per capita v total charges for IP per capita (2015)**

Note: No 2015 revenue figures available for Burkina Faso, Romania and Turkey. No functioning collection in Slovenia and Bulgaria.

As said, the correlations shown above should not automatically be perceived as causal. Moreover, they may all be driven by one common underlying pattern, for instance the link between per capita income and levy revenues. Econometric techniques can be applied to test the relative contribution of various variables to understand levy revenues. It should be noted, however, that the annual number of observations is fairly small, which limits the possibilities for such analysis.

Table 10 present the outcomes of so-called cross-sections to explain the levy revenues per capita in 2015, 2014 and 2013 for the participating countries. In the first model, 2015 revenues per capita are explained by a constant, whether or not a country is a member of the EU, and the GNI per capita in PPP. The latter two turn out to be statistically significant above a 95 per cent confidence interval, which for this small data set can be considered a rather high level of certainty. The second model uses nominal GNI per capita instead of GNI in PPP, which turns out to perform slightly better in explaining levy revenues<sup>21</sup>.

This second model can be interpreted as follows: EU members have on average about 0.85 euros higher levies per capita when correcting for income level, while for each extra 1000 euros of national income per capita, revenues per capita are about 0.02 euro higher. The counterparts of this same model for 2014 and 2013 (fifth and seventh column) show a similar pattern: EU members have 0.72~0.94 euros higher levy revenues per capita, and for each additional 1000 euros of GNI per capita, levy revenues are about 0.02 euro higher. Together, EU-membership and GNI per capita can explain 26~29 per cent of the variation in the levy revenues.

The third model for 2015 is similar to the second, but also includes the number of internet users per 100 people and the charges for and receipts from IP per capita. These two variables are not statistically significant (either together or separately), which indicates that the correlations depicted in Figure 5 and 6 are primarily driven by the underlying GNI of the countries in the dataset.

<sup>21</sup> Confidence intervals are marginally better and the overall R-squared, which is a measure for the extent to which the model explains the differences in levy revenues between countries, is a little higher. The same holds for other models and years, which is why the other models only use nominal GNI per capita.

The last model for 2015 and its counterparts for 2014 and 2013 examine the effect of the tariff-setting model as summarized in Table 2. Although none of the coefficients differ statistically significantly from 0, the estimated difference between the first tariff-setting model and the other three is rather large, suggesting that the model in which the government sets the tariffs after negotiation between rightholders and the industry generally yields higher outcomes. These last models can explain about 44 per cent of the variation in the levy revenues.

**Table 10: Regression models for revenues per capita (cross-sections)**

Levy revenues per capita in year	2015	2015	2015	2015	2014	2014	2013	2013
Constant	-0.61 (0.52)	-0.38 (0.41)	0.70 (1.15)		-0.48 (0.48)		-0.35 (0.36)	
EU-member	0.74** (0.35)	0.85** (0.35)	1.00** (0.39)	0.74** (0.34)	0.94** (0.41)	0.79** (0.39)	0.72** (0.30)	0.61** (0.29)
GNI per capita in PPP/1000	0.028** (0.012)							
GNI per capita/1000		0.020** (0.008)	0.025* (0.013)	0.013 (0.009)	0.025** (0.010)	0.020* (0.011)	0.020** (0.007)	0.015* (0.008)
Internet users per 100 pop.			-0.02 (0.02)					
Charges for IP per capita/1000			0.14 (0.16)					
Government after negotiation				0.48 (0.55)		0.36 (0.61)		0.33 (0.46)
Negotiation industries and societies				-0.30 (0.57)		-0.06 (0.66)		-0.35 (0.50)
Direct State intervention				-0.36 (0.39)		-0.60 (0.45)		-0.38 (0.34)
State-funded system				-0.14 (0.71)		-0.78 (0.82)		-0.31 (0.61)
N	28	28	28	28	29	29	29	29
R-squared (adjusted)	0.26 (0.20)	0.29 (0.23)	0.34 (0.22)	0.43 (0.30)	0.26 (0.20)	0.44 (0.31)	0.28 (0.23)	0.44 (0.31)

Note: "n/a" = no revenue figures available; No revenue figures available for Turkey. No functioning collection in Slovenia and Bulgaria.

Lastly, Table 11 presents three so-called panel models which allows for using the entire data set for the years 2007-2015 and for studying the time trend within this period. The first two models (using different econometric estimation techniques) are consistent with the observation from the simple models in Table 10: EU members have significantly higher revenues per capita than the other countries (at 0.55~0,68 euros, the estimated effect is slightly smaller here), and for each 1000 more euros of GNI per capita, levy revenues are 0.01~0.03 euros higher. In addition, these models suggest a negative time trend of 0.02~0.03 euros per capita per year when correcting for (growing) GNI and EU-membership.

The third model again considers the effect of the tariff-setting option. Consistent with the result from Table 10, the model in which the government sets the tariffs after negotiation between rightholders and the industry generally yields higher outcomes, while the model in which tariffs are set directly by the State seems to yield the lowest revenues per capita.

**Table 11: Regression models for revenues per capita (panel data)**

Model	Panel least squares	Panel EGLS (cross-section random effects)	Panel least squares
Constant	-0.28* (0.15)	0.14 (0.25)	
EU-member	0.68** (0.11)	0.55** (0.24)	0.61** (0.10)
GNI per capita/1000	0.026** (0.003)	0.011** (0.006)	0.020** (0.003)
Year – 2007	-0.03* (0.02)	-0.02 (0.01)	-0.02 (0.02)
Government after negotiation			0.26 (0.16)
Negotiation industries and societies			-0.07 (0.18)
Direct State intervention			-0.38** (0.14)
State-funded system			-0.01 (0.22)
N	247	247	247
R-squared (adjusted)	0.32 (0.31)	0.23 (unweighted)	0.40 (0.39)

Note: Coefficients with standard errors in parenthesis. \* Significant at 90% confidence interval; \*\* Significant at 95% confidence interval.

## 8. Conclusion

The private copying compensation systems in the world are not unchallenged. Governments, industry and rightholders are struggling to adapt to the globalization of the use of protected works and to the digital environment. These adaptations are more easily accepted in some countries than in others; there is debate about regulations, the scope of exceptions and the means of securing fair compensation for rightholders whose exclusive rights have been narrowed. Conversely, there is noticeable appreciation of creative content and a willingness to compensate rightholders for their creative efforts. It is important to continue monitoring developments in the field of private copying. It is hoped that this survey will be a useful tool in negotiations or serve to broaden the knowledge of this specific copyright and neighboring rights issue.

This 2016 edition of the *International Survey on Private Copying* shows that total revenues from private copying levy systems increased by 6 per cent between 2007 and 2015: from 598 million euros in 2007 via an all-time high of 796 million euros in 2014 to 636 million euros in 2015. Underlying this trend is a gradual modernization of levy systems in many countries by extending them to new devices such as smartphones and tablets. Revenues are volatile, however, with strong increases in 2009, 2013 and 2014, and significant decreases in 2011 and 2015. By far the largest contributor to the volatility of total revenues is Germany. Examples of other countries that show significant changes both in absolute and in relative terms are Spain, the Russian Federation and the Netherlands. Over the years, the EU countries in the survey have accounted for a fairly stable 83 per cent to 93 per cent of total revenues.

Revenues per capita in 2015 ranged from less than 0.01 euro in the United States and Ukraine to 3.38 euros in France. In 2015, France collected the highest private copying levies per capita, followed by Hungary, Belgium, Italy and Finland. Over the years, the population weighted average (for all countries with data available for every year) increased slightly from 0.84 euro in 2007 to 0.87 euro in 2015. Within the EU, this average increased slightly from 1.37 euros in 2007 to 1.43 euros in 2015.

Although care should be taken not to draw unfounded inferences about causality, some interesting correlations between the levy revenues per capita and several macro-economic variables have been established. The higher the purchasing power per capita in a country, the higher the levy revenues per capita. This correlation is particularly strong within the EU. Hungary has by far the highest revenues from private copying levies relative to GNI; France comes second, followed by Lithuania, Italy and Belgium.

Other correlations exist firstly between revenues per capita and secondly, between the number of Internet users per 100 inhabitants and per capita cross-border payments for and receipts from the use of intellectual property rights. However, these correlations turn out to have no additional explanatory power in regression models, together with GNI per capita and a variable expressing whether a country is a member of the EU.

EU members have 0,72~0.94 euro higher levy revenues per capita, and for each 1000 extra euros of GNI per capita, levy revenues are about 0.02 euro higher. Moreover, regression models suggest a slightly negative time trend, while countries in which the government sets the tariffs after negotiation between rightholders and the industry generally have higher levy revenues per capita.

Much has been published on private copying and other exceptions and limitations in copyright. Further information on the subject can be found on the websites of the participating collecting societies, the European Commission information sites, academic research institutions and various respected legal blogs. Some examples are provided below.

[http://ec.europa.eu/internal\\_market/copyright/levy\\_reform/index\\_en.htm](http://ec.europa.eu/internal_market/copyright/levy_reform/index_en.htm)

<http://kluwercopyrightblog.com/>

<http://www.ivir.nl>

<http://the1709blog.blogspot.nl/>

<http://ipkitten.blogspot.nl/>

## COUNTRY REPORTS

---

### 1. Austria

---

#### Contact information

Country	Austria
Currency	Euro
Name of organization	Austro-Mechana
Website	www.aume.at
Contact Person 1	Paul Fischer
Contact Person 2	Peter Dienstl
E-mail 1	paul.fischer@akm.at
E-mail 2	peter.dienstl@akm.at
Address	Baumannstraße 10
Postcode	1030
City	Wien
Phone	+431 717 87
Fax	+431 712 71 36

#### Legislation and fundamental facts

Copyright law	The exception only applies when the source is legal and the carriers (media and/or equipment) are to be used by natural persons only.
Remuneration system	The remuneration is collected through levies on the media – integrated memory, memory cards or hard disc included – not on devices.
Liable for payment	The manufacturer, the importer or direct seller is responsible for payment as from the first distribution in Austria. The obligation for reporting and payment may be transferred to the supplier or distributor.  Small retailers are exempt from liability (either not selling storage media with more than 10,000 hours per half year or having a net turnover of less than 30,000 euros per year).

#### Collecting society: Collection and distribution

Collecting society or CMO is appointed by:	Austro-Mechana has a legal monopoly and special authorization, and is controlled by, and reports to, a special authority for Collective Societies under the Ministry of Justice.
Distribution process	Setting of distribution schemes is a matter for rights owners.

## Rate setting

How are levies/remuneration determined?	Levies are set in free negotiations between rightholders and the Chamber of Commerce, or by arbitration if negotiations fail.
Which criteria are used for determining the levies/remuneration?	A market survey on the use of media is obligatory for any new levies. Levies are set in free negotiations between rights owners and the Chamber of Commerce or by arbitration if negotiations fail.
Are there any consumers or buyers exempt from paying the levies?	There is a legal exemption for professional use. There is no exemption for private users, including mixed use of, e.g., single entrepreneurs. Since the wording of the law was broadened in Oct 1, 2015, the applicability of this provision is not fully certain. The point of view of Austro-Mechana (relating to the former wording) is currently under examination by the Austrian Supreme Court.
Are there any products exempt from levies? Are refurbished products exempt	All media not used within the relevant scope for private copying, such as Dictaphones, are exempt. Also, there is currently no levy on game consoles. Refurbished products are not exempt.
Are there any developments, or ongoing negotiations concerning new tariffs (e.g., cloud storage)?	Negotiations on NPVR are ongoing. An outcome is still uncertain while there is a possibility to include NPVR in the private copying scheme, under certain conditions.

## Collection process

How frequently is payment due?	Since Oct 1, 2015, the law sets the reporting deadline at 15 days as from the last quarter in which media was distributed for the first time in Austria. The payment is due, as determined in the Umbrella Agreement, by the end of the reporting month.
How do you monitor or intervene in the market?	Austro-Mechana is allowed to check the reports made in accordance with the Umbrella Agreement. If media is not used for private or own purposes (the latter applying to school, university or collection use), for instance by companies, public institutions and similar, no levy is due. This is stipulated by law.
Are exports exempted?	Exports are exempted and a refund can be obtained by presenting the purchase invoice, export invoice or other export documents.
Who is considered an importer?	The first distributor in the Austrian market is liable. In case of direct selling to private users from abroad, the direct seller is liable. Manufacturers are technically also obliged to pay the levies; however, they have no market relevance in Austria.

## Distribution process

Who distributes the collected remunerations towards rightholders?	Austro-Mechana collects the funds and distributes them to the 7 collecting societies authorized to collect the remuneration, including Austro-Mechana itself. The collecting societies involved distribute the remunerations to their respective rightholders at their own discretion.
Frequency of distribution	Depends on the various regulations laid down by each collecting society for its own rightholders.
Which rightholders?	Austro-Mechana represents the rights of composers, scriptwriters for music and music publishers, and distributes the revenues to the participating companies. Other societies represent music or film producers, broadcasting companies as producers, visual artists, writers, actors and directors, among others.
How are the distribution schemes determined?	By multilateral negotiations.



Distribution keys	<p>The distribution scheme for 2015 onwards is not yet finalized. The last distribution scheme stems from 2014 and is as follows:</p> <p>Distribution scheme, audio:  47.92% Austro-Mechana (musical works)  1.58% Literar Mechana  49.50% LSG (neighboring rights)  % VGR (broadcast)</p> <p>Distribution scheme, video:  14.87% Austro-Mechana (music creators and publishers)  13.63% Literar Mechana (writers and publishers)  6.25% LSG (music producers and performers)  23.50% VAM (film producers)  23.50% VDFS (actors, directors)  1.75% Bildrecht (visual artists and photographers)  16.50% VGR (broadcasts)</p> <p>Distribution schemes for various media and devices  Audio: 54%  Video: 46%</p>
-------------------	--

### Social and cultural funds for collective purposes

Is there a social and/or cultural deduction?	Yes. 50% is deducted for collective (social and/or cultural) purposes before distribution. Deductions for social and cultural purposes are stipulated by law.
Which body is responsible for the allocation of funds to artists, cultural productions or social schemes?	The different funds for social and cultural purposes are responsible for distribution, located at the various CMOs having a share in the private copying levies.
What is the amount dedicated to the social and/or cultural fund in 2015?	No amount has as yet been dedicated to the social and cultural fund. This will be undertaken retroactively after (i) a successful ruling in the Amazon case; and (ii) final agreement on distribution among the participating CMOs.
How can social and cultural funds be used?	For social assistance; for the organization of thematic festivals and diverse cultural activities.

### Legal developments and court cases

Legal developments	<p>A legal amendment clarifying the claims for digital media, particularly PCs, tablets and smartphones entered into force on Oct 1, 2015. The new law is not retroactive.</p> <p>A settlement has been reached with nearly all distributors/direct sellers of new media. The settlement includes all media such as memories built into computers of all kinds, external hard discs and tablets, as well as mobile phones enabling the storage of MP3/MP4 files and the like. The tariffs applied to settlements for previous claims (2012 for mobile phones, 2013 for all other new media, memory cards not encompassed at all) are identical with the current tariffs (see above). Austro-Mechana already received a substantial amount for previous claims from nearly all market players and thus the settlement can be said to have been successful.</p>
Are there liable parties who deny responsibility or refuse payment for certain media/devices?	Amazon denies all claims. Cyberport is still seeking a settlement concerning traditional media but has already consented to pay for "new media" (smartphones, all computers and tablets).
Court cases	A verdict in the Amazon case was given by the Supreme Court of Austria on March 15, 2017.
Implementation problems	There was a minor dispute with some promotion material sellers on USB sticks, which Austro -Mechana won. As from early 2016, surveillance of online sellers is being reinforced following the new law on the levy for media of all kinds.

## Tariffs

Audio	Current tariff valid as from 1 Oct 2015 (euros)	Capacity
Audio cassette	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
<b>Video</b>		
Video cassette	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
BR	1.08	120 minutes/25 GB
<b>Devices</b>		
MP3 audio-player	1.50	< 512 MB
	2.50	< 1 GB
	5.25	< 4 GB
MP3/MP4-player	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
<b>Consumer electronics</b>		
Hard disc receiver	6.00	< 80 GB
DVD-recorder, sat-receiver	10.00	< 160 GB
	12.00	< 250 GB
	15.00	< 400 GB
	20.00	< 600 GB and more
Ext. multimedia	17.10	< 250 GB
Hard disc with recording function	19.40	< 500 GB
	22.50	< 750 GB
	24.30	< 1 TB and more
<b>Devices</b>		
USB stick	0.10	< 1 GB
	0.20	< 4 GB
	0.20	< 8 GB
	0.40	< 16 GB
	0.50	< 32 GB and more
Integrated memory in mobile phones with music and/or video playback	2.50	

External memory cards	0.35	
Integrated memory in PC, desktop computer, notebook subnotebook, ultrabook, netbook, laptop	5.00	
Integrated memory in tablets	3.75	
External HD and HD as a single storage medium	4.50	
Smartwatches with built-in memory	1.00	
Digital photo frame with built-in memory	2.00	

Additional Comments:

The levy is on the built-in memory/hard disc, not on the device.

## Revenues

Exchange rate LCU/€	1.000	1.000	1.000	1.000
	2012 (€)	2013 (€)	2014 (€)	2015 (€)
<b>Audio Revenues</b>				
Audio cassette	33,000.00	23,451.00	15,225.00	8,161.14
CD-R/RW audio	79,000.00	102,169.00	90,196.00	54,916.96
CD-R/RW data	1,290,000.00	1,663,555.00	1,028,969.00	713,816.14
MP3-Player	921,000.00	579,596.00	1,260,106.00 **	509,903.75~
Digital audio (e.g., MiniDisc)				284.49
<b>Total audio</b>	<b>2,323,000.00</b>	<b>2,368,771.00</b>	<b>2,394,496.00</b>	<b>1,287,082.48</b>
<b>Video Revenues</b>				
Video cassettes	176,000.00	*	82,399.00	52,263.23
DVD (all types)	2,065,000.00	1,980,931.00	1,618,800.00	1,113,893.91
Hard disc recorder	1,535,000.00	962,310.00	1,355,974.00	1,035,696.60
Camera cassettes				5,894.78
<b>Total video</b>	<b>3,776,000.00</b>	<b>2,943,241.00</b>	<b>3,057,173.00</b>	<b>2,207,748.52</b>
<b>Device revenues</b>				
USB stick	517,000.00	673,435.00	851,687.00	669,870.30
Storage in mobile phones				3,321,277.50#
Storage in digital picture frames				5,616.00#
Memory cards (all types)				135,859.15#
Smartwatches				11,182.00#
Media tablets				597,761.25#
Storage in computers (all kinds)				1,307,250.00#
External and substitute hard discs				648,094.50#
<b>Total devices</b>	<b>517,000.00</b>	<b>673,435.00</b>	<b>851,687.00</b>	<b>6,696,910.70#</b>
<b>Total revenues</b>	<b>5,787,000</b>	<b>5,985,447</b>	<b>6,303,356</b>	<b>10,076,591</b>

\* payments in DVD

\*\*incl. payments for previous years

# Q4/2015 only, not including payments from settlement for past claims

~incl. AV players and MP3 players

## 2. Belgium

---

### Contact information

Country	Belgium
Currency	Euro
Name of organization	Auvibel
Website	www.auvibel.be
Contact Person 1	François Stroobant (Managing Director)
Contact Person 2	Maro Schrauwen
E-mail 1	fst@auvibel.be
E-mail 2	msc@auvibel.be
Address	Havenlaan 86c 201a/Avenue du Port 86c 201a
Postcode	1000
City	Brussels
Phone	(+32) 02 650 09 50
Fax	(+32) 02 650 09 58

### Legislation and fundamental facts

Copyright law	<ol style="list-style-type: none"><li>1. Book XI on "Intellectual Property" of the Code of Economic Law and provisions related to Book XI in Books I, XV and XVII of the same Code.</li><li>2. Royal Decree of October 18, 2013 on the right to remuneration for private copying.</li><li>3. Private use is defined as the use within, and reserved to, the family circle. The exception does not apply when the source is illegal.</li></ol>
Remuneration system	Remuneration is collected through levies on media and/or equipment.
Liable for payment	Manufacturers, importers, intra EU-purchasers and foreign online shops are liable for payment.

## Collecting society: Collection and distribution

Collecting society or CMO is appointed by:	Auvibel is responsible for the collection and distribution of private copying remunerations for all rightholders. It is a legal monopoly: the Royal Decree of January 21, 1997 appointed Auvibel to collect and distribute levies for private copying.
Administrative costs for collecting private copying remunerations	Costs incurred by both the collection and distribution of remunerations: <ul style="list-style-type: none"> <li>– 2012: 4.50%</li> <li>– 2013: 5.12%</li> <li>– 2014: 3.62%</li> <li>– 2015: 4.76%</li> </ul>
Administrative costs for distribution of private copying remunerations	Included in the above-mentioned notes.
Distribution process	Auvibel is also responsible for distribution to rightholders. The remuneration is distributed through rightholders' organizations.

## Rate setting

How are levies/remuneration determined?	Levies are set by the Belgian Federal Government/Ministry of the Economy, advised by the Private Copy Commission, which includes all stakeholders: industry, consumers, distribution and rightholders.
Which criteria are used for determining the levies/remuneration?	<p>Levies are based on market analysis: monthly sales reports, units, price per unit and total value of the market.</p> <p>Furthermore, a study of the copying behavior of consumers is being conducted in order to determine the devices and media that are clearly being used for the reproduction for private use of works and performances on any medium other than paper or similar media. This study considers only copies subsequent to a purchase, legal download, broadcast or any other means of acquiring a work protected by copyright.</p> <p>Professional use</p> <p>Media and equipment that are clearly professional are not subject to levies.</p> <p>As for the remaining media and equipment that are subject to the levy for private copying, professional use is taken into account by calculating a percentage of "use as private copy" for each medium/piece of equipment. Professional use is part of the "<i>a contrario</i>" percentage. The percentage used for private copying is taken as basis for the level of remuneration (the levy), and thus professional use is excluded.</p>

<p>Are there any products exempt from levies? Are refurbished products exempt?</p>	<p>No consumers or buyers are exempt from paying the levies. Nevertheless, under the law, limited categories of professional users are entitled to a refund: producers of sound and audio-visual works; broadcasting organizations; institutions officially recognized and subsidized by the government for the purpose of preserving sound or audio-visual material; the blind and visually impaired, the deaf and hard-of-hearing and the recognized institutions established for the benefit of such persons; recognized educational institutions which use sound and audio-visual material for didactic or scientific purposes; and recognized hospitals, prisons and institutions for youth welfare work.</p> <p>Furthermore, the levy on certain media and devices is refundable for strict professional use of these media and devices, provided that the following conditions are met:</p> <ul style="list-style-type: none"> <li>- a written request for a refund for professional use must be submitted by a professional entity (holder of a company registration number or equivalent number in Belgium or Europe);</li> <li>- a signed statement must be provided in which the concerned person states that the purchased media and devices subject to the Auvibel levy are clearly intended for other purposes than private copying, and the requestor must ensure the strict professional use of these media and devices.</li> </ul> <p>Refurbished products are subject to the remuneration.</p>
<p>Are there any ongoing developments and negotiations concerning new tariffs (e.g., cloud storage)?</p>	<p>No concrete negotiations have been launched, but different options are being considered.</p>

## Collection process

<p>How frequently is payment due?</p>	<p>The liable party must send a declaration to Auvibel each month.</p> <p>For manufacturers, importers and intra EU-purchasers who are listed as wholesalers, declaration is due by the 20th of the month following the first sale.</p> <p>For importers and EU-purchasers who are listed as retailers, declaration is due by the 20th of the month following the first purchase.</p> <p>For foreign online shops selling to Belgian web users, declaration is due by the 20th of the month following the first sale.</p> <p>Manufacturers and wholesalers must pay the remuneration for private copying within 60 days.</p> <p>Retailers must pay the remuneration for private copying within 15 days.</p>
<p>How do you monitor or intervene in the market?</p>	<p>Part of the mission of Auvibel is to undertake regular checks on declarations by auditing the reporting process and the accounting of the legally responsible parties.</p>
<p>Are exports exempted?</p>	<p>Exports are exempted by law. Exports from wholesalers or manufacturers are exempted as their responsibility starts only after the first sale in Belgium. For retailers, article 4 of the Royal Decree of October 18, 2013 requires reimbursement of the levy for export or sales in foreign countries. Auvibel requires purchase and sales invoices for the leviable goods and any other document that provides reasonable evidence that the goods were actually exported. Previous payment to Auvibel is required for any refund.</p>

Who is considered an importer?	<p>The Royal Decree of October 18, 2013 defines an importer as a person who provides devices and blank media on the Belgian market which are subject to the levy for private copying and originate from a non-EU country, and the intra-EU purchaser as someone who provides devices and blank media on the Belgian market which are subject to the levy for private copying and originate from a country that is a member of the European Union.</p> <p>With regard to e-commerce, a Belgian court has ruled as follows on this matter:</p> <p>“Any person who offers products liable for the remuneration for private copying via a website and who thereby expressly targets Belgian customers, makes specific advertising, takes the initiative of and bears responsibility for importing those products into Belgium, which is also presented in the general conditions of sale thereof”.</p>
--------------------------------	--

### Distribution process

Who distributes the collected remunerations to rightholders?	Auvibel
Frequency of distribution	The remuneration is distributed on a yearly basis.
Which rightholders?	<p>Auvibel is based on a structure that serves its 20 members, all of them management companies that represent the four categories of claimants (authors/composers, producers, performing artists and publishers) for each category of works (sound, audio-visual, literary, graphic or plastic) as provided by the law:</p> <p>Board of Authors/Composers of works recorded on a sound medium (deAUTEURS, JAM, SABAM, SACD, SCAM)</p> <p>Board of Producers of works recorded on a sound medium (PROCIBEL, SIMIM)</p> <p>Board of Performing Artists of works recorded on a sound medium (PLAYRIGHT)</p> <p>Board of Authors/Composers of works recorded on an audio-visual medium (deAUTEURS, JAM, SABAM, SACD, SCAM, SOFAM)</p> <p>Board of Producers of works recorded on an audio-visual medium (BAVP, IMAGIA, PROCIBEL)</p> <p>Board of Performing Artists of works recorded on an audio-visual medium (PLAYRIGHT)</p> <p>Board of Authors of literary and graphic or plastic works (ASSUCOPIE, deAUTEURS, JAM, SABAM, SACD, SCAM, SOFAM, VEWA)</p> <p>Board of Publishers of literary and graphic or plastic works (COPIEBEL, COPIEPRESSE, Librius, LICENSE2PUBLISH, REPRO PP, REPROPRESS, SABAM, SEMU)</p>

How are the distribution schemes determined?	<p>Firstly, the total amount due to the Boards by the General Assembly will be divided by the category of works among audio, video and multimedia. This distribution occurs on the one hand according to a key based on the actual collection on products, specifically used for audio and audio-visual purposes, and on the other hand, regarding multimedia products, according to an allocation key determined by Belgian studies and/or by comparison with neighboring countries if this data is available.</p> <p>Once the final share of audio and audio-visual works is defined, the legal allocation formula will be applied to distribute the two amounts among the respective colleges as follows: for audio and audio-visual works, 1/3 for the authors/composers, 1/3 for the producers and 1/3 for the performing artists; and for literary and graphic or plastic works, 1/2 for the authors and 1/2 for the publishers.</p> <p>Subsequently each category of rightholders for each category of works sets up its own distribution rules, subject to government approval. The rightholders then apply the approved rules.</p>
Distribution keys	<p>Distribution scheme, audio:</p> <p>For 2005: 40.79%  For 2006: 40.88%  For 2007: 40.01%  For 2008: 40.36%  For 2009: 43.59%  For 2010: 46.33%  For 2011: 43.00%  For 2012: 43.50%  For 1-&gt;11/2013: 43.50%  12/2013: 41.76 %  For 2014: 44.80 %  For 2015: 45.00 %</p> <p>Distribution scheme, video:</p> <p>For 2005: 59.21%  For 2006: 59.12%  For 2007: 59.99%  For 2008: 59.64%  For 2009: 56.41%  For 2010: 53.67%  For 2011: 57.00%  For 2012: 56.50%  For 1-&gt;11/2013: 56.50%  12/2013: 54.24%  For 2014: 48.86%  For 2015: 45,50 %</p> <p>Distribution scheme, literary &amp; graphic or plastic works:</p> <p>For 12/2013: 4.01%  For 2014: 7.71 %  For 2015: 9.50 %</p>

### *Social and cultural funds for collective purposes*

Is there a social and/or cultural deduction?	There is currently no deduction for collective (social and/or cultural) purposes.
--	---



## Legal developments and court cases

Legal developments	<ol style="list-style-type: none"> <li>On October 24, 2013, the Royal Decree of October 18, 2013 on the right to remuneration for private copying was published in the Belgian Official Journal; it entered into force on December 1, 2013. This Royal Decree, which entirely repealed the Royal Decree of March 28, 1996, introduced several amendments concerning the products subject to remuneration and the applicable tariffs (including the addition of tablets and reduced rates for USB sticks, memory cards and external hard drives). The decree extended the scope of remuneration for private copying to new works and new beneficiaries, more specifically to the authors and publishers of literary and graphic or plastic works.</li> <li>As of January 1, 2015, the provisions of the law of June 30, 1994 on authors' rights and neighboring rights were transposed into Book XI on "Intellectual Property" of the Code of Economic Law by the Law of April 19, 2014, incorporating Book XI on "Intellectual Property" into the Code of Economic Law and introducing provisions related to Book XI in Books I, XV and XVII of the code.</li> </ol>
--------------------	--

## Tariffs

Blank Media	Tariff valid from 2013-12-01	Capacity
Audio cassette analog	0.12	
Audio cassette DAT	0.12	
Video cassette analog	0.40	
<b>Optical Storage Media</b>		
MiniDisc	0.12	
CD-R/RW audio	0.12	
CD-R/RW data	0.12	
DVD	0.40	
<b>Flash media</b>		
Memory card and USB stick	0.15	From 0 to 4 GB
	0.50	More than 4 GB to 16 GB
	1.35	More than 16 GB
<b>Mobile phones</b>		
MP3-player, MP4-player, mobile phone with MP3 and/or MP4 function, tablets	1.00	From 0 to 2 GB
	2.50	More than 2 GB to 16 GB
	3.00	More than 16 GB
<b>Devices Hardware, HDD</b>		
External hard disk drive	1.30	From 0 to 500 GB
	6.75	More than 500 GB to 1 TB
	9.00	More than 1 TB
Home devices with integrated hard disks	3.30	From 0 to 256 GB
	10.75	More than 256 GB to 1 TB
	13.00	More than 1 TB
Recording devices, possibly integrated, without internal support	2.00	

Note: "integrated device"

The term “integrated system” refers to a system that combines a reproduction function for sound or audio-visual works with at least a reception function for sound or audio-visual works, or a function that offers the possibility of reading only media different from those used for the reproduction function of sound and audio-visual works and which is sold only as a single product. Integrated systems are made in one piece (block base) or consist of various elements that are sold only as a single product (element base). These devices are generally known as micro-systems, mini-systems, midi-systems, radio-recorders and TV-video combinations.

## Revenues

Exchange rate LCU/€	1.000	1.000	1.000	1.000
<b>Blank Media</b>	<b>2012 (€)</b>	<b>2013 (€)</b>	<b>2014 (€)</b>	<b>2015 (€)</b>
Audio media	171,711.14	202,501.76	78,665.52	43,249.80
Video media	154,378.10	64,560.80	47,975.60	24,714.00
CD-R/RW data	1,190,358.08	741,079.68	624,411.10	458,138.16
DVD	2,386,081.48	1,784,175.60	1,334,882.40	1,006,857.70
<b>Flash Media</b>				
Memory card and USB stick	2,426,847.25	2,231,274.25	2,250,463.45	2,498,631.55
<b>Devices Hardware, PC, HDD</b>	<b>2012 (€)</b>	<b>2013 (€)</b>	<b>2014 (€)</b>	<b>2015 (€)</b>
External hard disc drive	2,951,429.55	3,468,667.65	3,181,984.30	2,712,419.40
Multimedia center	136,005.15	71,509.10	56,891.00	49,268.70
Audio devices	118,295.40	56,888.15	107,734.45	85,614.60
Video devices	8,790,683.30	7,926,460.65	14,089,103.45	7,153,268.65
Tablets		357,434.50	2,397,716.00	1,925,985.50
<b>Mobile phones</b>				
MP3 player, MP4 player, mobile phone with MP3 and/or MP4 function	5,502,101.15	7,501,434.00	8,236,842.00	9,028,293.50
<b>TOTAL</b>	<b>23,827,890.60</b>	<b>24,405,986.14</b>	<b>32,406,669.27*</b>	<b>24,986,441.56</b>

\* Including the settlement of a dispute of ±€6.5m – One-shot.

### 3. Bulgaria

#### Contact information

Country	Bulgaria
Currency	BGN
Population	7 153 000
Name of organization	MUSICAUT
Website	www.bbda.bf
Contact Person 1	Efrossina Sarakinova
Contact Person 2	Gergana Gaydazhieva
E-mail 1	efrossina_sarakinova@musicautor.org
E-mail 2	gergana_gaydazhieva@musicautor.org
Address	17 Budapest Str.
Postcode	1000
City	Sofia
Phone	(+359) 2 980 10 35; 989 02 64
Fax	(+359) 2 9800253

#### Legislation and fundamental facts

Copyright law	Law on Copyright and Neighboring Rights of 1993. Art. 26, amended on March 25, 2011
Remuneration system	Remuneration is collected by levies on blank information carriers. Reproduction devices are not subject to private copy levies. There is no funding from the State budget.
Liable for payment	Manufacturers and importers

#### Collecting society: Collection and distribution

Collecting society or CMO is appointed by:	The CMO is appointed by its members – the respective CMOs of authors, performers, sound recording and film producers. Its name is Copy BG. It is worth noting that the activities of Copy BG have been frozen since 2012 due to a variety of amendments in the Law on Copyright and Neighboring Rights in March 2011, which makes it impossible for the society to collect any levies.
Administrative costs for collecting and distributing private copying remunerations	They are voted on a yearly basis by the General Assembly of Copy BG.
Administrative costs for distribution of private copying remunerations	The commission of the society for the subsequent distribution to individual rightholders of the levies distributed by Copy BG is 15%.
Distribution process	Remuneration is distributed to CMOs that are members of Copy BG, which subsequently distribute to the individual rightholders.

## Rate setting

How are levies/remuneration determined?	<p>Pursuant to the Law on Copyright and Neighboring Rights, the remuneration rate should vary from 1% to 1.5% of the delivery price of the imported blank information carriers (formerly 5% for carriers and 2% for devices).</p> <p>The type of carrier subject to remuneration and the rate for each type are set in a tariff, negotiated between Copy BG and the respective representative organization of manufacturers and importers and approved by the Minister of Culture.</p> <p>The tariff may provide for additional discounts.</p> <p>In the absence of agreement on the tariff between the CMO and the representative organizations within 3 months from the beginning of the negotiations, the Minister of Culture appoints a commission to decide on the tariff.</p>
Which criteria are used for determining the levies/remuneration?	There are two criteria, set in the law: the capacity of the carrier and to what extent the carrier is used by natural persons for non-commercial reproduction for their personal use only.
Are there any consumers or buyers exempt from paying the levies?	<p>The following are exempt from payment of remuneration, or subject to refund, if collected:</p> <ul style="list-style-type: none"> <li>– information carriers purchased by legal entities or natural persons in liberal professions whose activities do not presume the use of the carriers for private copying;</li> <li>– information carriers purchased by RTV operators, sound recording and film producers;</li> <li>– information carriers purchased by hospitals, social institutions and prisons.</li> </ul>
Are there any products exempt from levies? Are refurbished products exempt?	<p>The 2011 amendments of the law provide that private copy remuneration is due only on blank information carriers and not on reproduction devices.</p> <p>The type of carrier subject to remuneration and the rate for each type are set in a tariff, negotiated between Copy BG and the respective representative organization of manufacturers and importers and approved by the Minister of Culture.</p> <p>Additionally, the remuneration applies only to information carriers “predominantly intended” for reproduction for private use.</p>
Are there any developments, or ongoing negotiations concerning new tariffs (e.g., cloud storage)?	No; the activity of Copy BG has been frozen since 2012.

## Collection process

How frequently is payment due?	The law says that payment is due twice a year.
How do you monitor or intervene in the market?	Since the activities of Copy BG were frozen in 2012, there has been no monitoring of the market.
Are exports exempted?	Yes.
Who is considered an importer?	<p>The following are excluded from the application of the remuneration:</p> <ul style="list-style-type: none"> <li>– deliveries from EU Member States;</li> <li>– deliveries from non-EU countries, where private copying remuneration has been calculated with no option for refund under the relevant national legislation.</li> </ul>

## Distribution process

Who distributes the collected remunerations to rightholders?	It is a two-level process. Copy BG distributes to its member CMOs, which subsequently distribute to the individual rightholders.
Frequency of distribution	The activities of Copy BG have been frozen since 2012.

Which rightholders	Authors, performers, sound recording and film producers.
Distribution keys	The distribution scheme is 1/2 for authors, 1/4 for performers and 1/4 for producers. Formerly, before the 2011 amendment of the law, it was 1/3 for each category of rightholders.

### Social and cultural funds for collective purposes

Is there a social and/or cultural deduction? If so, how is this determined?	Yes; 30% of the collected amount is transferred to the National Cultural Fund. This percentage is set in the Law on Copyright and Neighboring Rights.
Which body is responsible for allocation of funds to artists, cultural productions or social schemes?	The National Cultural Fund is a legal entity created by the Law on the Protection and Promotion of Culture. Its budget is provided by the State and it is managed by a board chaired by the Minister of Culture.
What is the amount dedicated to the social and/or cultural fund in 2013?	0 BGN
How can social and cultural funds be used? Please give examples.	The funds are allocated to creative projects aimed at developing the cultural sector.

### Legal developments and court cases

Legal developments	None. However, the current need to amend the Law on Copyright and Neighboring Rights, following the implementation of Directive No. 2014/26, offers an opportunity to repeat the call for amendments in the private copying legislation.
Court cases	There are no court cases about private copy levies.
Implementation problems	<p>On March 25, 2011 amendments to the Law on Copyright and Neighboring Rights were introduced. The provisions adopted contradict the EU Information Society Directive, particularly in the following areas.</p> <ol style="list-style-type: none"> <li>1. In contrast to the former law, the adopted amendments provide for application of the remuneration only to blank information carriers and not to reproduction devices. The remuneration applies only to separate information carriers which are intended predominantly for reproduction for private use.</li> <li>2. The private copying remuneration is due for the carriers sold, but is calculated on their delivery price, not on the sales price.</li> <li>3. Intra-community deliveries are excluded from the application of the remuneration.</li> <li>4. The law does not oblige the liable persons to provide any information or documentation in proof of the aforementioned exemptions, except when they claim refunds.</li> <li>5. Liable persons must 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 aside from that needed for the distribution of the remuneration.</li> <li>6. The amended law does not provide instruments for exercising any effective control on liable persons, thus leaving the fulfilment of their obligations to their discretion and goodwill.</li> </ol>

## Tariffs

Media/devices	Tariff	Capacity
Audio cassette	1.5%	
Mini disc	1.5%	
Hi-MD	1.25%	
Floppy disc	1.0%	
"Video cassette: VHS, BETAMAX"	1.5%	
Digital videocassette (DVC)	1.5%	
CD-R	1.25%	
CD-RW	1.25%	
DVD-R, DVD+R	1.25%	
DVD-RW, DVD+RW	1.25%	
DVD-RAM	1.25%	
DVD double-layer	1.25%	
Blu-ray disc (BD): BD-R	1.25%	
Blu-ray disc (BD): BD-RE	1.25%	
Mini Blu-ray	1.25%	
HD DVD-R, HD DVD+R	1.25%	
HD DVD-RW, HD DVD+RW,	1.25%	
HD DVD-RAM	1.25%	
Memory card (flash card)	1.1%	
USB flash drive	1.1%	
Standard external hard disc	1.1%	
Multimedia external hard disc with Audio/Video OUT plugs	1.4%	
Multimedia external hard disc with Audio/Video IN and OUT plugs	1.4%	
External solid-state drive (SSD)	1.1%	

## Revenues

	2012	2013	2014	2015
<b>TOTAL</b>		<b>0</b>	<b>0</b>	<b>0</b>

## 4. Burkina Faso

### Contact information

Country	Burkina Faso
Currency	CFA franc
Name of organization	<i>Bureau Burkinabè du Droit d’Auteur</i> (BBDA)
Website	www.bbda.bf
Contact Person 1	Adama Sagon
Contact Person 2	Solange Dao
E-mail 1	bbda@fasonet.bf
E-mail 2	adamasagnon07@yahoo.fr
Address	Sis sect. 4, 22, rue 4.55 Villa de la Victoire
Postcode	01 BP 3926
City	Ouagadougou
Phone	+(226) 50 30 22 23

### Legislation and fundamental facts

Copyright law	Law No. 032/AN of December 22, 1999. Importers are liable for payment. The definition of private copy according to the law is valid.
Remuneration system	Remunerations are collected through a levy system.
Liable for payment	Importers are liable for payment.

### Collecting society: Collection and distribution

Collecting society or CMO is appointed by:	The BBDA is appointed by law.
Administrative costs for collecting and distributing private copying remunerations	The administrative costs for collecting and distributing private copying remunerations are 10% of the remunerations collected.
Distribution process	The BBDA distributes the collected remunerations on a yearly basis directly to individual rightholders. These are music, audio-visual and dramatic rightholders.

### Rate setting

How are levies/remuneration determined?	Levies/remuneration are determined by law.
Are there any products exempt from levies?	Professional use is taken into account as an upfront exemption.

### Collection process

How frequently is payment due?	Payment is due on importation. The importer is the person who brings the product into the country.
How do you monitor or intervene in the market?	Customs are in charge of collecting. No control on the internal market.

## Distribution process

Who distributes the collected remunerations to rightholders?	The BBDA distributes the collected remunerations on a yearly basis directly to individual music, audio-visual and dramatic rightholders.
How are the distribution schemes determined?	Schemes are set by law.
Distribution keys	Distribution scheme, audio: authors 50%; performers 25%; producers 25%  Distribution scheme, video: authors 50%;producers and performers 50%

## Social and cultural funds for collective purposes

Is there a social and/or cultural deduction?	There is a social and/or cultural deduction of 50% for the National Fund for Cultural Promotion.
Which body is responsible for the allocation of funds to artists, cultural productions or social schemes?	The <i>Comité de Gestion du Fonds de Promotion Culturelle</i> (Management Committee of the Fund for Cultural Promotion) is responsible for the allocation of funds.
What is the amount dedicated to the social and/or cultural fund in 2013?	In 2012, 125 million CFA francs were dedicated to the social and cultural fund.
How can social and cultural funds be used? Please give examples.	Funds are allocated for all types of cultural productions.  The social fund is intended mainly for health, deaths and celebrations.

## Legal developments and court cases

Legal developments	Burkina Faso is in the process of revising its law to include the use of works in the digital environment; this will make the law more consistent with the provisions of international treaties and conventions ratified by the country.
Are there liable parties who deny responsibility or payment for certain media/devices?	Discussions with the group of IT professional have resulted in an exemption for mobile phones, which does not include devices for recording of copyrighted works, and a reduction of 5% in the remuneration for private copying on devices whose cost does not exceed 20,000 CFA francs.

## Applicable national rates

The levy is 10% of the CIF regardless of the type of product. The list of products is updated regularly.

## Revenues

Exchange rate LCU/€	655.957	655.957	655.957	655.957
	2012 (CFA)	2013 (CFA)	2014 (CFA)	2015 (CFA)
<b>TOTAL</b>	<b>895,817</b>			

The revenues shown above are the total remunerations collected yearly.



## 5. Canada

---

### Contact information

Country	Canada
Currency	Canadian dollar
Name organization	Canadian Private Copying Collective
Website	www.cpcc.ca
Contact Person 1	Lisa Freeman, Executive Director
Contact Person 2	Laurie Gelbloom, General Counsel
E-mail 1	lfreeman@cpcc.ca
E-mail 2	lgelbloom@cpcc.ca
Address	56 Wellesley Street West, Suite 320
Postcode	M5S 2S3
City	Toronto, Ontario
Phone	+1 416 486 6832
Fax	+1 416 486 3064

### Legislation and fundamental facts

Copyright law	<p>Copyright Act of Canada as amended in 1997.</p> <p>Since December 1999, in accordance with section 83 of the Copyright Act, the Copyright Board has certified Private Copying Tariffs determining which blank audio recording media are subject to the payment of levies and the amount of levies payable during the tariff periods.</p> <p>The private copying levy is payable regardless of whether the source copy is legally or illegally obtained.</p> <p>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.</p> <p>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:</p> <ol style="list-style-type: none"><li>selling or renting out, or by way of trade exposing or offering for sale or rental;</li><li>distributing, whether or not for the purpose of trade;</li><li>communicating to the public by telecommunication; or</li><li>performing or causing to be performed, in public</li></ol>
---------------	--

Remuneration system	The private copying levy applies to blank CD-R, CD-RW, CD-R audio and CD-RW audio.
Liable for payment	The levy is payable by manufacturers or importers of blank media upon first sale or disposition in Canada.

### Collecting society: Collection and distribution

Collecting society or CMO is appointed by:	<p>Canadian Private Copying Collective.</p> <p>The CPCC is a non-profit corporation that represents songwriters, recording artists, music publishers and record companies through its member collectives. It has been mandated by its member collectives to collect and distribute private copying levies. The CPCC has also been designated as the collecting body by the Copyright Board pursuant to subsection 83(8) of the Copyright Act. The CPCC is a non-profit corporation and only withholds those funds necessary to defray its costs of administration.</p>
Administrative costs for collecting private copying remunerations	From 2000 to 2015, on average, the CPCC has retained 12.57 % of revenue for all operating expenses.
Administrative costs for distribution of private copying remunerations	In 2015, distribution expenses were 3.74% of revenue.
Distribution process	<p>The Copyright Board of Canada sets the percentage allocated to each rights holder group after considering evidence submitted by the CPCC at tariff hearings.</p> <p>The CPCC's member collectives submit claims to the CPCC for the rightholders that they represent. The CPCC distributes the levies to its member collectives, which then pass them on to the rightholders.</p>

### Rate setting

How are levies/remuneration determined?	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.
Which criteria are used for determining the levies/remuneration?	The private copying levy applies to blank audio recording media that are ordinarily used for private copying. The Copyright Board applies a discount to the rate of the levy to reflect that the media are used for other purposes such as data storage and professional use.
Are there any consumers or buyers exempt from paying the levies?	<p>Companies may register in the CPCC's Zero-Rating program by entering into agreements with the CPCC. The Zero-Rating program is run voluntarily by the CPCC in recognition of the fact that companies and organizations use leviable blank media for their business purposes. The program allows companies registered in it to purchase and/or sell blank audio recording media at a "zero-rate" from authorized sellers..</p> <p>The levy is not payable on blank audio recording media sold to associations that represent persons with a perceptual disability.</p>
Are there any products exempt from levies? Are refurbished products exempt?	<p>On November 7, 2012, the Government of Canada published a regulation exempting micro SD electronic memory cards from the private copying levy effective as of October 18, 2012.</p> <p>The Copyright Board determines the media that are ordinarily used to copy music after considering evidence submitted by the CPCC and other parties at the tariff hearings.</p>

## Collection process

How frequently is payment due?	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 choose to make payments bi-annually after having notified the CPCC.
How do you monitor or intervene in the market?	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, from which the CPCC can readily ascertain the amounts payable and the information required under the tariff, for a period of six years.
Are exports exempted?	No levy is payable on blank audio recording media that is exported.

## Distribution process

Who distributes the collected remunerations to rightholders?	The CPCC's member collectives distribute the levy to the rightholders that they represent.
Frequency of distribution	The CPCC distributes the levy to the CPCC's member collectives upon receipt of claims submitted by the member collectives.
Which rightholders?	The CPCC's member collectives represent eligible performers, makers, authors and publishers.
How are the distribution schemes determined?	The Copyright Board of Canada sets the distribution scheme after considering evidence submitted by the CPCC at tariff hearings.
Distribution keys	Audio 58.2% - SOCAN (composers, authors and music publishers), CMRRA (publishers) and SODRAC (authors, composers and publisher); 23.8% - Re:Sound Music Licensing Company (eligible performers); and 18.0% - Re:Sound Music Licensing Company (eligible makers).

## Social and cultural funds for collective purposes

Is there a social and/or cultural deduction?	There is no social and/or cultural deduction.
--	---

## Legal developments and court cases

Legal developments	<p>On November 5, 2015, the CPCC filed a proposed tariff for 2017 with the Copyright Board. The proposed tariff maintains the current levy rates on CD-R media.</p> <p>On December 13, 2014, the Copyright Board published the Private Copying Tariffs for 2015 and 2016, maintaining the levy on CD-R media at the existing rate of 29 Canadian dollar cents per unit.</p> <p>On August 31, 2013, the Copyright Board published the private copying tariffs for 2012, 2013 and 2014, maintaining the levy on CD-R media at the existing rate of 29 Canadian dollar cents per unit.</p> <p>On November 7, 2012, the government of Canada published a regulation exempting micro SD electronic memory cards from the private copying levy effective as from October 18, 2012. On August 30, 2013, the Copyright Board concluded that as a result of the circumstances arising from the regulation issued by the federal government in November 2012, it would not be possible to set a levy on micro SD memory cards for the period of January 1, 2012 to October 17, 2012 that would be fair and equitable..</p> <p>On June 29, 2012, the Copyright Modernization Act received royal assent and on November 7, 2012 most of the act was brought into force. The Copyright Modernization Act amends the Copyright Act, such that it is not an infringement of copyright if individuals reproduce a musical work for private purposes if the work was legally obtained and if the individual, in order to make the reproduction, did not circumvent a technological protection measure. This exception does not apply to copies of musical works made onto an "audio recording medium" as defined in section 79 of the Copyright Act. Section 79 defines audio recording medium as "a recording medium, regardless of its material form, onto which a sound recording may be reproduced and that is of a kind ordinarily used by individual consumers for that purpose, excluding any prescribed kind of recording medium." The Copyright Board has ruled that blank CD-R media meet the criteria of audio recording media stipulated in the Copyright Act.</p> <p>In December 2003, the Copyright Board certified a levy on the memory permanently embedded in digital audio recorders. This decision was appealed by hardware and software manufacturers as well as a group representing retailers, and in December 2004, the Federal Court of Appeal ruled that the tariff approved by the Copyright Board was invalid. The CPCC sought leave to appeal this decision before the Supreme Court of Canada. In July 2005, the Supreme Court of Canada denied the CPCC's application for leave to appeal. In February 2007, the CPCC applied to the Copyright Board for a levy on digital audio recorders in its proposed 2008-2009 tariff. The Copyright Board held that it could hear evidence relating to this proposal. The decision of the Copyright Board was appealed, and in January 2008, the Federal Court of Appeal ruled that the Copyright Board could not hear evidence in support of a private copying levy on digital audio recorders.</p>
Court cases	Litigation is commenced by the CPCC to enforce compliance with the Copyright Act and the private copying tariffs.

## Tariffs

Blank Media	Current tariff valid pursuant to the Private Copying Tariff 2015 (CAD)	Capacity
CD-R/RW	0.29	Per unit
Audio CD-R/RW	0.29	Per unit

## Revenues

Exchange rate LCU/€	1.284	1.367	1.468	1.419
<b>Blank Media</b>	<b>2012 (CAD)</b>	<b>2013 (CAD)</b>	<b>2014 (CAD)</b>	<b>2015 (CAD)</b>
CD-R/CD-RW	7,832,203.00	6,053,197.00	4,994,664.00	3,391,707.00
CD-RA/CD-RWA	391,003.00	218,451.00	162,286.00	129,467.00
Tape	73.00			
MiniDisc				
<b>Total Blank Media</b>	<b>8,223,279.00</b>	<b>6,271,648.00</b>	<b>5,156,950</b>	<b>3,521,174.00</b>

## 6. Croatia

---

### Contact information

Country	Croatia
Currency	Croatian kuna (HRK)
Name organization	HDS ZAMP
Website	www.zamp.hr
Contact Person 1	Mario Vukoja, Head of sector of media and new technologies
Contact Person 2	Darko Stanicic, Legal advisor
E-mail 1	mario.vukoja@hds.hr
E-mail 2	darko.stanicic@hds.hr
Address	Heinzlova 62a
Postcode	10 000 Zagreb
City	Zagreb
Phone	+385 1 6387 000
Fax	+385 1 6387 001

### Legislation and fundamental facts

Copyright law	<p>Provisions of Articles 32 and 82 of Croatian Copyright Law, Official Gazette: Narodne Novine No. 167/03, 79/07; 80/11; 125/11; 141/13; 127/14</p> <p>Implementation began on January 1, 2007.</p> <p><b>“RIGHT TO REMUNERATION FOR REPRODUCTION OF A COPYRIGHT WORK FOR PRIVATE OR OTHER PERSONAL USE</b></p> <p>Article 32</p> <ol style="list-style-type: none"><li>1. Where a copyright work may be reproduced without the author’s authorization pursuant to Article 82 of this Act, the author whose works are, due to their nature, expected to be reproduced without authorization, by photocopying or by recording on sound, visual or text fixation mediums, for private or other personal use, shall have the right to an appropriate remuneration upon sale of technical appliances and blank audio, video or text fixation mediums.</li><li>2. Apart from the right referred to in paragraph (1) of this Article, the authors shall have a right to an appropriate remuneration to be obtained from a natural or legal person who provides services of photocopying against payment.</li><li>3. Any other reproduction techniques shall be assimilated to photocopying, and any other appliances providing the same effect shall be assimilated to appliances for sound or visual recording.</li></ol>
---------------	---

Copyright law (continued)	<p>4. The remuneration referred to in paragraph (1) of this Article shall be paid by manufacturers of appliances for sound and visual recording, manufacturers of appliances for photocopying, manufacturers of blank audio, video or text fixation mediums, and jointly and severally with them importers of appliances for sound and visual recording, photocopying, blank audio, video or text fixation mediums, unless such imports concerns small quantities intended for private and non-commercial use, forming part of personal luggage. If the mentioned appliances and objects are not produced in the Republic of Croatia, the remuneration shall be paid by the importer.</p> <p>5. The obligation to pay the appropriate remuneration referred to in paragraph (1) shall arise: 1. in respect of the first sale in the Republic of Croatia or import in the Republic of Croatia of new appliances for sound and visual recording; 2. in respect of the first sale in the Republic of Croatia or import in the Republic of Croatia of new blank audio or video fixation media; 3. in respect of the first sale in the Republic of Croatia or import in the Republic of Croatia of new photocopying appliances.</p> <p>6. The remuneration referred to in paragraph (2) of this Article shall be paid in the amount depending on the information on the number of photocopies made.</p> <p>7. Authors may not renounce the rights to remuneration referred to in paragraphs (1) and (2) of this Article.</p> <p><b>REPRODUCTION OF THE WORK FOR PRIVATE OR OTHER PERSONAL USE (Article 82)</b></p> <p>A natural person may reproduce a copyright work in any medium if he does so for private use, or in the form of photocopying and other personal use if this copy is not intended for or accessible to the public and has no direct or indirect commercial purpose. It shall not be permitted to reproduce the whole book, unless the copies of such book have been sold out for at least two years, graphic editions of musical works (hereinafter: sheet music), electronic databases, cartographic works, nor the building of architectural structures, unless otherwise provided by this Act or a contract.”</p>
Remuneration system	Remuneration is levied on media and equipment.
Liable for payment	In accordance with the law, importers or manufacturers are liable upon first sale or import to Croatia. Since there are no producers in Croatia, only importers pay the levy upon first sale.

### Collecting society: Collection and distribution

Collecting society or CMO is appointed by:	HDS ZAMP is appointed in accordance with the law and the license issued by the State Intellectual Property Office of the Republic of Croatia. In accordance with the law and agreements with other rightholders' organizations, HDS ZAMP collects remuneration on behalf of performers, producers of phonograms, producers and authors of audio-visual works, book publishers and writers.
Administrative costs for collecting private copying remunerations	In accordance with the law, maximum costs are 30%, but HDS ZAMP applies 18.5%.
Administrative costs for distribution of private copying remunerations	Distribution costs are included in the collection costs.
Distribution process	HDS ZAMP distributes to other CMOs and they in turn distribute the collected amounts to individual rightholders.  Regarding distribution to individual rightholders, HDS ZAMP distributes only to authors of musical works.

### Rate setting

How are levies/remuneration determined?	Levies are determined by negotiation with importers.
Which criteria are used for determining the levies/remuneration?	The main criteria that are taken into account for determining the levies are market circumstances, copying behavior of the consumers, harm caused by copying.
Are there any consumers or buyers exempt from levies?	Exemptions are made if it can be determined that, without any doubt, a copyrighted work may not be reproduced for private or other personal use.

Are there any products exempt from levies. Are refurbished products exempt?	Any product can be exempted if it can be determined that, without any doubt, a copyrighted work may not be reproduced for private or other personal use. If the levy for a refurbished product has been paid, it will not be levied twice, but if it was exempted as an export then the levy will be paid upon import.
Are there any developments, or ongoing negotiations concerning new tariffs (e.g., cloud storage)	No.

### Collection process

How frequently is payment due?	Quarterly.
How do you monitor or intervene in the market?	Inspection of customs reports, review of the importers' documentation and inspections in retail shops.
Are exports exempted?	Export is exempted in quarterly reports. Documentation acknowledging such exemption is needed.
Who is considered an importer?	Any legal person responsible for the first entrance of the products into the territory of Croatia.

### Distribution process

Who distributes the collected remunerations to rightholders?	HDS ZAMP distributes to other CMOs and they in turn distribute the collected amounts to individual rightholders. Regarding distribution to individual rightholders, HDS ZAMP distributes only to authors of musical works.
Frequency of distribution	Monthly to CMOs and every six months to individual rightholders.
Which rightholders?	HDS ZAMP (authors of musical works), HUZIP (performers), ZAPRAF (phonogram producers), DHFR (audio-visual rights), ZANA (publishers of literary works) and DHK (authors of literary works).
How are the distribution schemes determined?	They are determined by a mutual agreement.
Distribution keys	Distribution scheme, audio: HDS – authors of music – 39.67% HUZIP – performers – 29.67% ZAPRAF – phonogram producers – 29.67% ZANA – publishers of literary works – 1% DHK – authors of literary works – 1%  Distribution scheme, video: DHFR – movie co-authors and movie producers – 70% HUZIP – performers – 30%

### Social and cultural funds for collective purposes

Is there a social and/or cultural deduction?	There is a legally required deduction from collected remunerations for the cultural and social needs of rightholders. It amounts to 30% for music rightholders.
Which body is responsible for the allocation of funds to artists, cultural productions or social schemes?	CMOs.
What was the amount dedicated to the social and/or cultural fund in 2015?	2015: HDS ZAMP has dedicated 692.900,91 Croatian kuna
How can social and cultural funds be used?	Funds are distributed after a tender. Depending on the results of a tender, funds can be used to support, e.g., young artists, festivals, start-up projects related to creation and distribution of new works etc.



## Legal developments and court cases

Court cases	Several court cases were decided against those that denied responsibility to pay the levy. No pending cases on principal matters.
Legal developments	None
Are there liable parties who reject responsibility or refuse to pay for certain media/devices?	Preloaded USB memory card sellers claim that the USBs will not be used for copying, although it is obvious that the content of the devices can and will be copied on other media and USBs can be formatted for further private use.
Implementation problems	No additional problems.

## Tariffs

Per unit	Current tariff valid per: 2015 (Croatian kuna)
CD 1 GB	0.08
DVD 10 GB	0.12
Audio tape	0.10
Video tape	0.60
Memory card	3.00
USB stick	3.00
Hard disc	3.00
CD/DVD recorder	4.00
PC/ Laptop	6.00
Tablet	10.00
Digital audio player	14.00
Digital video player	14.00
Mobile phone with MP3 player/smartphone	10.00
Analog audio recorder	6.00
Analog video recorder	10.00
Hi-Fi CD recorder	20.00
Hi-Fi DVD recorder	30.00
Hi-Fi HD recorder	40.00

## Revenues

Exchange rate LCU/€	7.517	7.575	7.626	7.606
<b>Blank Media</b>	<b>2012 (HRK)</b>	<b>2013 (HRK)</b>	<b>2014 (HRK)</b>	<b>2015 (HRK)</b>
<b>Optical Storage Media</b>				
Audio cassette	1,758,85	1,274,43	310,71	80,10
Audio CD R/W	318,802.67	237,765.97	165,796.25	122,712.10
Video cassette	34,904.05	25,531.97	10,133.74	5,433.24
DVD R/W	446,101.76	340,685.46	215,777.82	135,111.67
<b>Flash Media</b>				
Memory card	1,129,518.51	1,040,528.16	706,825.42	446,588.91
USB stick	558,207.93	627,210.42	668,391.31	540,011.79
<b>Devices</b>	<b>2012 (HRK)</b>	<b>2013 (HRK)</b>	<b>2014 (HRK)</b>	<b>2015 (HRK)</b>
Hardware, PC	551,632.99	822,977.00	872,361.00	1,066,336.80
Devices with MP3-player (cell phone with MP3-player, digital audio/video player)	4,717,428.95	5,624,092.60	5,843,438.56	5,320,108.00
<b>Other devices</b>	<b>2012 (HRK)</b>	<b>2013 (HRK)</b>	<b>2014 (HRK)</b>	<b>2015 (HRK)</b>
(Analog audio/video player, Hi-Fi CD recorder, CD recorder, DVD recorder, DVD hard disc recorder)	110,609.58	115,131.40	63,903.80	60,968.80
<b>Total revenues</b>	<b>7,868,965.29</b>	<b>8,835,197.41</b>	<b>8,546,938.61</b>	<b>7,697,351.41</b>

## 7. Czech Republic

### Contact information

Country	Czech Republic
Currency	CZK
Name of organization	OSA
Website	www.osa.cz
Contact Person 1	Tomas Matejicny
Contact Person 2	Ondrej Kacer
E-mail 1	tomas.matejicny@osa.cz
E-mail 2	ondrej.kacer@osa.cz
Address	Cs. crmady 20
Postcode	160 56
City	Prague 6
Phone	+420 220 315 000
Fax	+420 220 315 311

### Legislation and fundamental facts

Copyright law	<p>Act No. 121/2000 Coll. as amended by Act No. 81/2005, Act No. 61/2006, Act No. 216/2006 and Act No. 168/2008. Decree of The Ministry of Culture No. 488/2006 Coll., as amended by Decree No. 408/2008 Coll.</p> <p>Private copy defined by law. Art.30 of Act No. 121/2000 Coll.</p> <p>Copyright shall not be infringed by anybody who for his own personal use makes a fixation, reproduction or imitation of a work without seeking to achieve direct or indirect economic benefit.</p>
Remuneration system	<p>Remuneration is collected by levies on blank record carriers and devices for making audio or audio-visual reproductions and/or recordings.</p>
Liable for payment	<ul style="list-style-type: none"><li>- The person liable to pay remuneration shall be:</li><li>- the manufacturer of the devices for making audio or audio-visual reproductions and/or recordings, importer of such devices from third countries (hereinafter the "importer") or consignee of such devices from Member States of the European Communities (hereinafter the "consignee");</li><li>- the manufacturer, importer or consignee of technical devices for making printed reproductions;</li><li>- the manufacturer, importer or consignee of blank record carriers;</li><li>- 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 of the details necessary for the identification of the importer, consignee or producer;</li><li>- the provider of paid reproduction services, in the case of printed reproductions; the provider of paid reproduction services shall also mean the person who makes available, for a consideration, the device for making printed reproductions.</li></ul>

## Collecting society: Collection and distribution

Collecting society or CMO is appointed by:	OSA collects for the authors of musical works, lyrics and publishers. (OSA collects some remuneration also for DILIA) INTERGRAM – performers and producers DILIA – theatre, literary, and audio-visual agency OOA-S – fine arts and architecture
Administrative costs for collecting private copying remunerations	OSA – 8%
Administrative costs for distribution of private copying remunerations	OSA – 8%
Distribution process	OSA distributes collections directly to individual rightholders.

## Rate setting

How are levies/remuneration determined?	Levies are determined by law.
Which criteria are used for determining the levies/remuneration?	Levies of devices and PC components are determined by their prices. Levies of blank record carriers are fixed by pieces on audio tapes, video tapes, CDs, DVDs, MiniDiscs or determined by capacity on electronic media such as USB flash discs, memory cards, external HDDs and SSDs.
Are there any consumers or buyers exempt from paying the levies?	There is no legal exemption for professional use.
Are there any products exempt from levies? Are refurbished products exempt?	The remuneration 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.  Refurbished products are not exempt from levies.
Are there any developments, or ongoing negotiations concerning new tariffs (e.g., cloud storage)?	No.

## Collection process

How frequently is payment due?	Payment is every six months. Liable parties are obliged to submit a report of manufactured or imported specified goods.
How do you monitor or intervene in the market?	OSA monitors the market based on official statistical data and, in rare cases, through audits.
Are exports exempted?	Exports are exempted if done directly by the importer.
Who is considered an importer?	The person or company that imports the good into the territory of the Czech Republic from countries outside the European Economic Area.

## Distribution process

Who distributes the collected remunerations to rightholders?	OSA distributes the collected remunerations quarterly to authors and publishers. The distribution rules are determined by the General Assembly.
Frequency of distribution	Quarterly.
Which rightholders?	Music composers, lyricist and publishers.
How are the distribution schemes determined?	The General Assembly decides by way of the distribution rules.

Distribution keys	<p>There is one scheme for both audio and video. The OSA Distribution Rules stipulate the following:</p> <p><b>5.10. Royalties for reproductions of musical works for personal use</b></p> <p>The royalties collected from blank carriers and from devices used to make reproductions will be distributed proportionately among the domestic copyright holders and foreign collective managers of mechanical rights that have concluded reciprocal agreements with the OSA.</p> <p>The royalties will be distributed to the domestic copyright holders proportionately in accordance with their distributed incomes for the past two calendar years as follows:</p> <ol style="list-style-type: none"> <li>a. 90% in line with the incomes from mechanical rights (incl. mechanical rights from online uses)</li> <li>b. 10% in line with the incomes from public performances of live music.</li> </ol> <p>The royalties will be distributed to foreign societies proportionately in accordance with the amounts received from OSA distributions for the past two years as follows:</p> <ol style="list-style-type: none"> <li>a. 90% in line with the amounts for mechanical rights (incl. mechanical rights from online uses)</li> <li>b. 10% in line with the amounts for public performance of live music.</li> </ol>
-------------------	--

### Social and cultural funds for collective purposes

Is there a social and/or cultural deduction?	There is no deduction from blank levies (otherwise there is). The General Assembly (based on Czech Copyright Act) decided on 0% from blank levies.
--	--

### Legal developments and court cases

Are there liable parties who reject responsibility or refuse to pay for certain media/devices?	The most discussed products are tablets and record TVs. Some liable parties refuse to pay remuneration (3% of the import price).
Court cases	The court case against Nokia with regard to the levy to be paid from smartphones – still pending.

### Tariffs (Czech korunas)

Tariff list according of the Act. No. 121/2000 Coll. and Decree No. 408/2008 Coll. In this Survey only OSA tariffs are used

AUDIO DEVICES (Czech korunas)		Tariff	for OSA
<b>I. DEVICES ALLOWING AN AUDIO RECORDING</b>			
a	Devices for recording on the magnetic tape	3,00%	1,50%
b	Devices for recording on the optical carrier	3,00%	1,50%
c	Devices for recording on the integrated hard disk	3,00%	1,50%
d	Devices for recording on the integrated flash memory or memory card	3,00%	1,50%
e	Combination of above mentioned devices	3,00%	1,50%
<b>II. RADIO RECEIVER ALLOWING AN AUDIO RECORDING</b>			
f	Devices for recording on the magnetic tape	1,50%	0,75%
g	Devices for recording on the optical carrier	1,50%	0,75%
h	Devices for recording on the integrated hard disk	1,50%	0,75%
i	Devices for recording on the integrated flash memory or memory card	1,50%	0,75%
j	Combination of above mentioned devices	1,50%	0,75%

<b>VIDEO DEVICES</b>			
<b>III. DEVICES ALLOWING A VIDEO RECORDING</b>			
k	Devices for recording on the magnetic tape	3,00%	1,80%
l	Devices for recording on the optical carrier	3,00%	1,80%
m	Devices for recording on the integrated hard disk	3,00%	1,80%
n	Devices for recording on the integrated flash memory or memory card	3,00%	1,80%
o	Combination of above mentioned devices	3,00%	1,80%
<b>IV. TV RECEIVER ALLOWING A VIDEO RECORDING</b>			
p	Devices for recording on the magnetic tape	1,50%	0,90%
q	Devices for recording on the optical carrier	1,50%	0,90%
r	Devices for recording on the integrated hard disk	1,50%	0,90%
s	Devices for recording on the integrated flash memory or memory card	1,50%	0,90%
t	Combination of above mentioned devices	1,50%	0,90%
<b>V. COMPUTER COMPONENTS</b>			
u	Computer CD writer (internal or external)	3,00%	53%
v	Computer DVD writer (internal or external)	3,00%	58,4%
w	Computer memory card writer (internal or external)	3,00%	53%
x	Computer hard disk (internal only)	3,00%	58,4%
<b>VI. E - READER</b>			
z	electronic book – devices for recording and displaying reading matter	3%	100%
<b>BLANK CARRIERS</b>		<b>for each piece</b>	<b>for OSA</b>
<b>I. BLANK AUDIO TAPES</b>			
a	up to 60 minutes	1,50 CZK	50%
b	above 60 minutes	2,00 CZK	50%
<b>II. BLANK VIDEO TAPES</b>			
c	up to 180 minutes	3,00 CZK	60%
d	above 180 minutes	4,00 CZK	60%
<b>III. BLANK OPTICAL AND DIGITAL CARRIERS</b>			
e	CD - R - all formats	0,40 CZK	53%
f	CD - RW - all formats	2,00 CZK	53%
g	DVD - R - all formats	1,00 CZK	58,70%
h	DVD - RW - all formats	5,00 CZK	58,70%
i	minidiscs	4,00 CZK	52,50%
<b>IV. MEMORY CARDS IF THEY ARE NOT CHARGED AS EQUIPMENT</b>		<b>for each 1GB</b>	<b>for OSA</b>
for each 1GB (max. 90,-CZK)		1,50 CZK	53,5%
<b>V. COMPUTER HARD DISK (EXTERNAL)</b>			
up to 1TB for each 1GB		0,15 CZK	58,4%
above 1TB for each piece 150,-CZK plus for each GB above 1TB		0,10 CZK	58,4%

## Revenues

Exchange rate LCU/€	25.154	25.985	27.540	27.282
	2012 (CZK)	2013 (CZK)	2014 (CZK)	2015 (CZK)
<b>Blank Media</b>				
Audio cassettes	60,720	65,598	38,340	27,027
Video cassettes	348,046	261,696	109,304	93,530
MiniDiscs	12,216	5,044	1,890	1,212
<b>Optical Storage Media</b>				
CD	1,995,615	1,783,321	1,771,364	1,517,203
DVD	6,835,925	5,791,522	4,355,048	3,250,599
<b>Flash Media</b>				
Memory card, flash disc	23,719,604	26,014,930	32,632,071	38,915,534
External HDD	16,852,725	20,515,380	22,863,765	23,861,878
<b>Hardware, PC, HDD</b>				
CD writer	398,986	377,776	538,016	214,741
DVD writer	6,113,323	5,354,351	5,365,618	9,597,144
Mem. card writer	137,479	128,287	107,925	281,989
Internal HDD	17,753,260	17,862,184	19,864,042	20,661,204
<b>Consumer Electronics</b>				
Audio	3,337,417	2,630,705	3,226,255	2,005,508
Video	6,855,970	6,177,664	5,956,986	4,379,844
E-Reader	338,773	196,514	231,377	130,147
<b>Total revenues*</b>	<b>84,760,059</b>	<b>87,164,972</b>	<b>97,062,001</b>	<b>104,937,560</b>

\* The table above represents the OSA revenues only. Actual Total Revenues for Czech Republic are expected to be higher as Integram collections are not included.

## 8. Denmark

### Contact information

Country	Denmark
Currency	DKK
Name of organization	Copydan KulturPlus
Website	<a href="http://www.cdkp.dk/">http://www.cdkp.dk/</a>
Contact Person 1	Louise Lykkegaard Hoppe
Contact Person 2	Jade Yang
E-mail 1	llh@copydan.dk
E-mail 2	jay@copydan.dk
Address	Bryggervangen 8, 1.
Postcode	2100
City	København Ø
Phone	+45 35 44 14 95
Fax	+45 35 44 14 03

### Legislation and fundamental facts

Copyright law	Consolidated Act on Copyright No. 202 of February 27, 2010, with subsequent amendments. Article 12 – Reproduction for Private Use. This provision applies only when the source is legal. Digital copies are restricted to the manufacturer's personal use or that of his household. For analog copies, the definition is broader in the sense that it includes the manufacturer and his closest circle of acquaintances. Article 12 does not include copying of works that have been rented or borrowed.
Remuneration system	Remuneration levied on media and additional State funding to compensate for the difference in proceeds from DVDs between a given year and 2005. Articles 39-46a + regulation.
Liable for payment	Manufacturers, importers and retailers (if no levy has been paid previously).

### Collecting society: Collection and distribution

Collecting society or CMO is appointed by:	Copydan KulturPlus has a legal monopoly by authorization of the Ministry of Culture. Copydan KulturPlus is obliged to provide the Ministry with all requested information.
Administrative costs for collecting private copying remunerations	Approx. 3,090,611 Danish krone (DKK), for both collecting and distributing to rightholder organizations.
Administrative costs for distribution of private copying remunerations	Approx. 3,090,611 DKK, for both collecting and distributing to rightholder organizations.
Distribution process	Remuneration is distributed to rightholder organizations and not to individual rightholders – individual distribution is through the different rightholder organizations.



## Rate setting

How are levies/remuneration determined?	Levies and remuneration are determined by law and are payable only for certain blank media specified by law.
Which criteria are used for determining the levies/remuneration?	The general IT policy of the government at the time of implementation.
Are there any consumers or buyers exempt from paying the levies?	Professional users, including educational institutions, can be exempted through an agreement with Copydan KulturPlus. Alternatively, if payment has been made, it can be refunded.  Users with visual or hearing impairments are also exempted.
Are there any products exempt from levies? Are refurbished products exempt?	All products not specifically named in the legislation.
Are there any developments, or ongoing negotiations concerning new tariffs (e.g., cloud storage)?	No.

## Collection process

How frequently is payment due?	The liable parties have an obligation to report their sales during the month following the month in which the blank media are sold.
How do you monitor or intervene in the market?	Copydan KulturPlus may choose an external publicly authorized accountant or an administrative employee within the organization who has an undisputed right to make both announced and unannounced inspections. During an inspection, the accountant or administrative employee has the right to examine any accounting material, which is believed to have any value for the purposes of the inspection.
Are exports exempted?	Exports are exempted and levies may also be refunded upon presentation of export documentation showing the payment of the levies.
Who is considered an importer?	The importer is the natural or legal person who brings the media into the country.

## Distribution process

Who distributes the collected remunerations to rightholders?	Distribution happens annually to more than 20 rightholder organizations.
Frequency of distribution	Annually.
Which rightholders?	All categories of rightholders in audio-visual and musical works.
How are the distribution schemes determined?	Distribution schemes are determined by the individual organizations subject to a distribution manual prepared by Copydan KulturPlus.
Distribution keys	A distribution key has been agreed between categories of rightholders.  Where possible, individual distribution is based on statistical surveys of private copying, covering both audio and video.

## Social and cultural funds for collective purposes

Is there a social and/or cultural deduction? If so, how is this determined?	There is a social and/or cultural deduction of 1/3, which is mandated by law.
Which body is responsible for allocation of funds to artists, cultural productions or social schemes?	The organizations representing the different categories of rightholders are responsible for the allocation of funds to artists, cultural productions and social schemes.
What is the amount dedicated to the social and/or cultural fund in 2015?	1/3, or approx. 7,933,222 Danish krone.
How can social and cultural funds be used?	The funds can be used for grants, production support, support for festivals, etc.

## Legal developments and court cases

Legal developments	<p>On March 5, 2015, the CJEU rendered its judgment in C-463/12 – <i>Copydan Båndkopi v Nokia Danmark A/S</i>.</p> <p>The central issue in the case was whether the Danish implementation of Article 5(2)(b) of the InfoSoc Directive was in conformity with EU Law. Nokia Denmark (now Microsoft Denmark) had argued that the Danish levy on SD cards violated EU Law. The main arguments from Nokia were as follows:</p> <ol style="list-style-type: none"> <li>1. Copying on SD cards constitutes minimal harm, especially because they are multifunctional, so implementing a levy is not allowed.</li> <li>2. The fact that there is a levy on SD cards used in mobile phones, but not on internal memory in mobile phones, constitutes a violation of the principles of equal treatment.</li> </ol> <p>Firstly, the CJEU ruled that the fact that a device can be used for private copying is enough to justify a levy and that the actual copying or the fact that a device is multifunctional only influences the amount of the levy.</p> <p>Secondly, the CJEU ruled that the courts in EU Member States must determine whether there are legitimate objective reasons for not subjecting internal memory in mobile phones to a levy. However, the CJEU in no way indicated that the lack of a levy on the internal memory of mobile phones would make the particular levy on SD cards incompatible with EU Law. On the contrary, the CJEU hinted that a levy should also be implemented on the internal memory of mobile phones.</p> <p>In addition to the central issues of the case, the CJEU issued and reiterated many opinions which strengthen European remuneration schemes.</p> <p>The CJEU referred the case to the Danish Court of Appeals for the final judgment, as can be seen below.</p>
Are there liable parties who reject responsibility or refuse to pay for certain media/devices?	Nokia refused to pay the Danish levy on SD memory cards using the argument that the levy did not comply with EU law, which resulted in the above-mentioned court case.
Court cases	Nokia has appealed the case to the Supreme Court of Denmark. A Supreme Court decision can be expected in 12-18 months.
Implementation problems	The CJEU indicated in Case No. C-463/12 that the Danish implementation of Article 5(2)(b) of the InfoSoc Directive was not consistent with EU law, since the Danish remuneration system only provides for levies on detachable media and not on built-in media (non-detachable media).

## Tariffs

	Current tariff in DKK, valid for 2016	Capacity
<b>Blank Media</b>		
Analog audio cassette	0.0757	Per minute
Analog video cassette	0.1055	Per minute
Mini disc	2.37	Per unit
CD R/RW	2.37	Per unit
DVD, Blu-ray, HD DVD	3.76	Per unit
<b>Flash media</b>		
USB, U3	5.37	Per unit
Memory card/flash media	5.37	Per unit

## Revenues

Exchange rate LCU/€	7.443	7.457	7.446	7.462
<b>Blank Media</b>	<b>2012 (DKK)</b>	<b>2013 (DKK)</b>	<b>2014 (DKK)</b>	<b>2015 (DKK)</b>
Analog audio cassette	20,401	9,325	2,294	5,757
Analog video cassette	459,007	116,933	47,466	15,544
MiniDiscs	145	5,493	45	833
CD R/RW	3,891,326	3,168,246	2,008,737	1,313,892
DVD, Blu-ray, HD DVD	4,533,285	3,520,323	1,649,816	1,190,124
DVD compensation	14,980,000	16,620,000	17,730,000	19,710,000
<b>Flash Media</b>				
USB, U3	4,512,302	3,948,359	3,293,524	3,308,285
Memory card/Flash Media	2,858,887	3,206,503	2,619,872	2,999,965
<b>Total</b>	<b>31,219,314</b>	<b>30,595,182</b>	<b>27,351,754</b>	<b>28,544,400</b>

## 9. Estonia

### Contact information

Country	Estonia
Currency	Euro
Name of organization	Estonian Authors' Society
Website	www.eau.org
Contact Person 1	Kalev Rattus
Contact Person 2	Viive Lillemäe
E-mail 1	kalev@eau.org
E-mail 2	viive@eau.org
Address	Lille 13
Postcode	10614
City	Tallinn
Phone	+ 372 668 43 60
Fax	+372 668 43 61

### Legislation and fundamental facts

Copyright law	Copyright Act, Articles 26 and 27; Ministerial Regulation No. 14 (January 17, 2006).
Remuneration system	Remuneration provided for in Article 26 of the Copyright Act in order to compensate for private use of audio-visual works and sound recordings of works.
Liable for payment	Manufacturers, importers, sellers of storage media and recording devices are responsible for payment.  The seller shall pay the remuneration when the manufacturer, importer, or the person who brings storage media and recording devices from the European Community customs territory into Estonia has not paid such remuneration.

### Collecting society: Collection and distribution

Collecting society or CMO is appointed by:	Estonian Authors' Society, appointed by the Ministry of Justice.
Administrative costs for collecting private copying remunerations	The Minister of Justice appoints a CMO (Estonian Author's Society) as the collector of remuneration and the organization has the right to deduct expenses related to the collection and payment of remuneration from the remuneration collected.

### Rate setting

How are levies/remuneration determined?	The amount of remuneration is calculated on the basis of Article 27(7) of the Copyright Act and is as follows:
---	--

Which criteria are used for determining the levies/remuneration?	Copying behavior, according to a survey of people.
Are there any consumers or buyers exempt from paying the levies?	No.
Are there any products exempt from levies?	The remuneration is repaid on storage media and recording devices: <ol style="list-style-type: none"> <li>1. which, because of their technical characteristics, do not enable the reproduction of audio-visual works and sound recordings of works as single copies;</li> <li>2. exported or transported from Estonia into the European Community customs territory;</li> <li>3. used in the course of the activities specified in the articles of association of the undertaking;</li> <li>4. used in an activity where the result of the main activity of the person who makes the recording requires the manufacture of an audio or video recording as an intermediate stage;</li> <li>5. intended for recording activities in educational and research institutions for the purpose of teaching or scientific research; and</li> <li>6. used for making recordings for the benefit of disabled persons.</li> </ol>
Are refurbished products exempt?	No.
Are there any developments, or ongoing negotiations concerning new tariffs (e.g., cloud storage)?	No. The exhaustive list of equipment and devices subject to the private copy levy is not in accordance with recent technological developments in this field. It is remarkable that the amount of the private copy levies distributable to rightholders in Estonia has decreased year by year. In fact, in 2014 and 2015, the costs of collecting "blank tape levies" exceeded the collected amounts and therefore rightholders did not receive any remuneration under the private copying exemption.

### Collection process

How frequently is payment due?	Any manufacturer, importer or person who brings recording devices and storage media from the customs territory of the European Community into Estonia must inform the organization appointed to collect remuneration of the quantity and purchase price of recording devices and storage media within 20 days from the end of each calendar month, in writing or in a form that is capable of being reproduced in writing. The organization appointed to collect the remuneration can negotiate a different fee.
How do you monitor or intervene in the market?	The CMO appointed as the collector of remuneration has the right to obtain necessary information from customs authorities and statistical organizations, manufacturing and importing organizations and sellers. The information submitted is confidential and the collector of remuneration has the right to use and disclose the information only in connection with such collection.
Are exports exempted?	Exports are exempted by law. The remuneration is repaid on the storage media and recording devices exported or transported from Estonia into the European Community customs territory.
Who is considered an importer?	Manufacturers, importers, sellers of storage media and recording devices are responsible for payment.  The seller pays the remuneration when the manufacturer, importer, or the person who brings storage media and recording devices from the European Community customs territory into Estonia has not paid such remuneration.

## Distribution process

Who distributes the collected remunerations to rightholders?	The remuneration is distributed on the basis of a distribution plan for the preparation of which the Minister of Justice appoints a committee every year, proportionally composed of CMOs representing authors, performers and producers of phonograms and a representative of the Ministry of Justice.
Frequency of distribution	Yearly
Which rightholders?	The remuneration is distributed among authors, performers and producers of phonograms according to the use of works and phonograms.
How are the distribution schemes determined?	Distribution schemes are set and approved by the Ministry of Justice, after consultation with a working group of rightholders.
Distribution keys	Distribution scheme, audio: 33.33% – authors; 33.33% – performers; 33.33% – producers of phonograms  Distribution scheme, video: 63% – authors; 27% – performers; 10% – producers of phonograms

## Social and cultural funds for collective purposes

Is there a social and/or cultural deduction?	Remuneration may also be paid to organizations for the development of music and film culture and to finance educational and research programs or for other similar purposes, but only in an amount not exceeding 10% of the remuneration subject to distribution.
What is the amount dedicated to the social and/or cultural fund in 2015?	No money was dedicated to the social and/or cultural fund in 2015.

## Legal developments and court cases

Legal developments	The situation in Estonia has not changed in 2015.
Are there liable parties who reject responsibility or refuse to pay for certain media/devices?	A private copy levy has been collected in Estonia since 1996. The list of recording devices and means subject to payment has not changed since . Thus the Estonian Authors' Society can collect remuneration only from analog devices, audio and video carriers and blank CDs and DVDs . Unfortunately, the government of Estonia has not updated or changed the list of products subject to payment despite constant pressure from rightholders.

Court cases	<p>Given the lack of any positive changes, the Estonian Authors' Society, the Estonian Performers Association and the Estonian Association of Phonogram Producers (EFÜ) filed a complaint to the Tallinn Administrative Court on February 18, 2013 requesting that the still valid but obsolete list of recording devices and means, on the basis of which the State calculates remuneration to authors for income not received as a result of private copying of their works, should be considered as conflicting with the Constitution of Estonia. Furthermore, the above societies claimed compensation for damages from the State for income not received from 2010 to 2014, in the amount of 831,416 euros.</p> <p>The Tallinn Circuit Court found that the public authority in Estonia had failed to perform its obligations by issuing a regulation on the "blank tape levy" that clearly failed to guarantee authors, performers and phonogram producers equitable remuneration under the private copying exemption, and that the claim for compensation by way of damages was therefore justified. However, the Supreme Court ruled that before being able to decide upon the question of whether a claim for damages under Section 14 of the Estonian State Liability Act was justified, the court must first establish the facts and the amount of damages, as well as the causation between the breach of the obligations of the public authority and the monetary damages suffered by the claimants. The Supreme Court found that in this case the circuit court had failed to establish these obligatory prerequisites.</p> <p>The action will therefore continue in the Tallinn Circuit Court as that court must now determine whether all the prerequisites for compensation of damages under Section 14(1) of the Estonian State Liability Act exist.</p>
-------------	--

## Tariffs

Blank Media	Tariff valid in 2015	Capacity
Audio cassettes	8%	Per unit
Video cassettes	8%	Per unit
CD-R, CD-RW, DVD-R and DVD-RW discs	8%	Per unit
MiniDiscs (MD)	8%	Per unit
Devices Hardware, PC, HDD	Tariff	Capacity
VHS and DVD recording devices	3%	Per unit
Audio cassette, CD-R and CD-RW recording devices	3%	Per unit

## Revenues

Exchange rate LCU/€	1.000	1.000	1.000	1.000
	2012 (€)	2013 (€)	2014 (€)	2015 (€)
Media/Devices	24,883.00	23,993.00	9,438.00	6,205.00

## 10. Finland

### Contact information

Country	Finland
Currency	Euro
Name of organization	Finnish Composers' Copyright Society, TEOSTO
Website	www.teosto.fi
Contact Person 1	Turo Pekari, Researcher
Name of organization (as of 2015)	Ministry of Education and Culture
Contact Person (as of 2015)	Jorma Walden, Director of Copyright, Ministry of Education and Culture
E-mail 1	turo.pekari@teosto.fi
E-mail 2	jorma.walden@minedu.fi
Address TEOSTO	Urho Kekkosen Katu 2 C
Postcode	00100
City	Helsinki
Phone	00358 9 681 011
Address Government	Meritullinkatu 1
Postcode	FI – 00023 GOVERNMENT
City	Helsinki
Phone	+358 2953 30004 (switchboard)

### Legislation and fundamental facts

Copyright law	December 19, 2014: Copyright Act sections 26(c)-26(f) and 26(h) repealed. Amendments to section 2(a) and 26(b), section 45(7), section 46(3), section 46(a)(3) and section 49(3).
Remuneration system	The bill to amend the provisions of the Copyright Act pertaining to fair compensation was ratified by the President of the Republic on December 19, 2014. The new law entered into force on January 1, 2015. The amendment introduced a financing system for fair compensation. Collection of device-based levies from consumers, which had been applied since 1984, was replaced by financing from the annual State budget.
Liable for payment	From January 1, 2015: The Government of Finland.



## Collecting society: Collection and distribution

Collecting society or CMO is appointed by:	<p>2014 TEOSTO is appointed by The Ministry of Education and Culture, for a maximum period of 5 years (2011-2016). TEOSTO is responsible for distribution through rightholders' organizations.</p> <p>2015 System replaced by annual financing from the State budget on January 1, 2015</p> <p>Consequently, all device-based levies were annulled as from the beginning of 2015.</p>
--	---

## Rate setting

How are levies/remuneration determined?	<p>The Finnish Government sets the level and the scope of the remuneration.</p> <p>The Ministry assumes responsibility for conducting surveys on private copying. A consultative committee will be established to assist the Ministry.</p>
---	--

## Distribution process

Who distributes the collected remunerations to rightholders?	Allocation of fair compensation to CMOs to be further distributed to rightholders conducted by the Ministry of Culture.
Frequency of distribution	Yearly
Which rightholders?	Composers, publishers, phonogram producers and performers, film authors and other authors.
Distribution keys	<p>Distribution scheme, audio:</p> <p>65% – individual rightholders via copyright societies: 51% – Gramex (phonogram producers and performers) 44% – Teosto (musical authors) 5% – Kopiosto (other authors)</p> <p>Distribution scheme, video:</p> <p>50% individual rightholders: 69.4% – Kopiosto (other authors) 11.4% – Teosto (musical authors) 11% – Tuotos (film producers) 8.2% – Gramex (phonogram producers and performers)</p>

## Tariffs

The tariffs were valid until December 31, 2014. As from January 1, 2015 the State budget provides the financing. Annual fair compensation from the State budget in 2015 and 2016 is expected to be 11 million euros. As from 2017, the situation will be reviewed annually depending on developments in private copying.

## Revenue

Exchange rate LCU/€	1.000	1.000	1.000	1.000
	2012 (€)	2013 (€)	2014 (€)	2015 (€)
<b>Blank Media</b>				
C-Cassette	19,300	14,700	11,200	
VHS	26,100	27,700	23,000	
<b>Optical Storage Media</b>				
CD	525,000	405,000	256,000	
DVD	1,075,000	695,000	466,000	

Blu-ray disc	11,900	12,700	10,100	
MiniDisc	n/a	n/a	n/a	
<b>Devices, Hardware, PC, HDD</b>				
External hard disc	1,998,000	2,661,000	2,441,000	
<b>Consumer Electronics</b>				
Digital video recorder (set-top boxes)	2,644,000	2,116,000	1,414,000	
MP3-player	774,000	475,000	257,000	
<b>Total Revenue</b>	<b>7,073, 300</b>	<b>6,407,100</b>	<b>4,878,300</b>	<b>11,000,000</b>

2014: (5,200,000 euros, total revenues with 12/2014 sales added (annual revenues are counted from December to November) State budget financing from January 1, 2015).

## 11. France

### Contact information

Country	France
Currency	Euro
Name of organization	Copie France
Web site	www.copiefrance.fr
Contact Person 1	Charles-Henri Lonjon
Contact Person 2	Cécile Kremnicky
E-mail 1	charles.henri.lonjon@copiefrance.fr
E-mail 2	cécile.kremnicky@copiefrance.fr
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

Copyright law	Articles L 311-1 to L 311-8, Book III, Title I of the Intellectual Property Code (IPC). <ol style="list-style-type: none"><li>1. The scope of the exception, in accordance with the Padawan decision, was redrafted last December (IPC, L 311-8 II, law dated December 20, 2011, enacted on December 23, 2011): the obligation to pay remuneration shall not apply to carriers or devices acquired for professional use and not presumed to be used for private purposes.</li><li>2. All types of carriers not included in the scope of the decisions of the administrative commission in charge of setting the tariffs and specific decisions excluding DAT, C10 &amp; C15 Tapes, and 8cm DVD.</li></ol>
Remuneration system	Levy on media and equipment with internal storage capacity, according to capacity.
Liable for payment	Importers and manufacturers of liable carriers/devices.

### Collecting society: Collection and distribution

Collecting society or CMO is appointed by:	Copie France
Administrative costs for collecting private copying remunerations	0.80%
Administrative costs for distribution of private copying remunerations	Copie France is not responsible for the distribution of PCR directly to rightholders. It only distributes to collecting societies, which then distribute to rightholders.

## Rate setting

How are levies/remuneration determined?	<p>The rates are set by a specific administrative commission composed of 24 members as follows: 12 representatives of rightholders' organizations, 6 representatives of manufacturers and importers and 6 representatives of consumers' organizations. A Chairperson, with specific voting powers, represents the State and the "common good". Decisions are discussed, voted on and officially published.</p> <p>IPC, L 311-4: obligation to determine the level of the remuneration based on use.</p>
Are there any consumers or buyers exempt from paying the levies?	<p>The scope of the exception in accordance with the Padawan decision was redrafted in December 2011 (IPC, L 311-8 II, law dated December 20, 2011, enacted on December 23, 2011): the obligation to pay remuneration shall not apply to carriers or devices acquired for professional use and not presumed to be used for private purposes.</p>
Are there any products exempt from levies?	<p>According to the law, professionals have the right to a refund, and they may apply for an exemption agreement.</p> <p>Any end user of a liable carrier may apply for a refund or an exemption agreement</p> <p>They should also be exempted if they can prove that they are the end user of the carrier, in which case it is not possible to presume use for private copying.</p> <p>Not all families of carriers fall within the scope of the decisions of the administrative commission and specific decisions exclude DAT, C10 &amp; C15 tapes and 8cm DVD.</p>
Are refurbished products exempt?	<p>No, the RCP is collected on refurbished products (when declared) as Copie France considers refurbished devices to be new products that may be used for reproduction of works for private use.</p>
Are there any developments, or ongoing negotiations concerning new tariffs (e.g., cloud storage)?	<p>After three years, importers and manufacturers agreed to start negotiations. The administrative commission voted a work program for the next three years. During the first year, the commission should study new private copying uses involving external hard discs, tablets, NPVR and mobile phones in order to update tariffs. However, discussions are slow and new tariffs should be voted in 2017.</p>

## Collection process

How frequently is payment due?	Payment is due monthly.
How do you monitor or intervene in the market?	The market is controlled on a voluntary basis or through court decisions.
Are exports exempted?	<p>Exports are exempted. French manufacturers and importers that sell carriers or equipment abroad do not have to pay levies.</p> <p>When distributors/retailers export levied products bought in France, they must provide to Copie France proof that the levied product has been exported and that the remuneration has been paid by its supplier. Copie France verifies that the remuneration has been paid by the supplier, refunds the incurred costs to the supplier, and then informs the exporting society that its supplier will, in turn, refund the incurred costs.</p>
Who is considered an importer?	<p>Since the <i>Opus</i> case, Copie France has ordered several foreign-based websites to stop selling to French consumers without paying levies and to report all supplies made to the French market. Regularization processes and court cases are ongoing.</p>

## Distribution process

Who distributes the collected remuneration to rightholders	Copie France
Frequency of distribution	Monthly.
Who are the rightholders?	Authors, performers and producers.
How is the distribution pattern determined?	Distribution patterns are determined based on a three-step process.
Distribution key	<p>Step 1: Splitting of collected PCR into four parts, according to the kind of (dedicated or hybrid) storage media used, as follows: audio, video, written works and visual artwork.</p> <p>Step 2: Each of the four parts listed in Step 1 is then split, according to the law, between authors, performers and producers/publishers:</p> <p>Audio: 50% to authors' organizations 25% to performers' organizations 25% to phonogram producers' organizations</p> <p>Video: 1/3 to authors' organizations 1/3 to performers' organizations 1/3 to videogram producers' organizations</p> <p>Written works and visual arts: 50% to authors 50% to publishers</p> <p>Step 3: Contractual split between organizations.</p>

## Social and cultural funds for collective purposes

Is there a social and/or cultural deduction?	There is a social and/or cultural deduction determined by IPC L321-9.
Which body is responsible for allocation of funds to artists, cultural productions or social schemes?	Authors', producers' and performers' organizations are responsible for such allocations
What was the amount allocated to the social and/or cultural funds in 2015?	25%
How can social and cultural funds be used? Please give examples.	All information can be found on <a href="http://www.copieprivee.org">www.copieprivee.org</a> , a dedicated website that provides information on how PCR is used for cultural purposes.

## Legal developments and court cases

Are there liable parties who deny responsibility or refuse to pay for certain media/devices?)	Copie France is facing difficulties (non-payment, court cases) with some manufacturers/importers who challenge the entire French PCR system, especially the criteria and legal basis for setting the tariffs.
Court cases	There are challenges to the legal basis of the PCR system in France, relative to the European directive on private copying (2001/29). The challenges are mainly to the exemption of professional users of liable carriers.
Legal developments	<p>A new law came into force on July 7, 2016. The most important changes are as follows:</p> <p>Refunds for exports are paid directly to the exporting societies.</p> <p>As for professional uses, exporting societies should be also exempted by Copie France to the extent that Copie France can monitor the export of the product.</p> <p>NPVR services offering cloud storage were brought within the scope of remuneration for private copying.</p>

Implementation problems	NPVR services must negotiate with TV channels the scope of the PCR. These negotiations are particularly difficult. Some TV channels require to be paid for private copying and others seek to limit the ability to copy a program. Moreover, in parallel to these negotiations, the administrative commission in charge of setting the PCR tariff in France must now open a working session to set a new tariff for NPVR.
-------------------------	---

## Tariffs

Tariffs valid from: January 1, 2013 until present

### Blank analog carriers

Carrier	Recording duration	Private copying remuneration (euros)
Audio tapes	Per 100 hours (i.e. 0.43€ per C90 item)	28.51
Video tapes (VHS)	Per 100 hours (i.e. 1.29€ per E180 item)	42.84

### Digital recording Carriers

Carrier	Recording duration or storage capacity	Private copying remuneration (euros)
Data CD R and RW	Per 100,000MB (i.e. 0.35€ per 700MB)	50.00
Data DVD Ram, DVD R and RW	Per 100 GB (i.e. 0.90€ per 4.7 GB)	19.15
MiniDiscs and Audio CD R	Per 100 hours (i.e. 0.56€ per 74 mins)	45.73
Micro floppy disc 3 ½"	Per 1.44MB	0.015
DVHS	Per 100 hours (i.e. 3.77€ per 180 mins)	125.77

Memories and hard discs integrated in TV sets, video recorders or TV decoders/ADSL-boxes (decoders and ADSL-box used exclusively for recording audio-visual broadcasts).

Storage capacity	Private copying remuneration (euros)
Up to 8 GB	6.30
More than 8 GB to 40 GB	12
More than 40 GB to 80 GB	18
More than 80 GB to 160 GB	25
More than 160GB to 250 GB	30
More than 250 GB to 320 GB	37.50
More than 320 GB to 500 GB	45

Memories and hard discs integrated in an audio Walkman (MP3 Walkman) or lounge device

Storage capacity	Remuneration in euros per gigabyte (€/GB)
Up to 8 GB	1.50 €/GB
More than 8 GB to 32 GB	1 €/GB

Memories and hard discs integrated in an audio + video Walkman (MP4 Walkman) or lounge device

Storage capacity	Remuneration in euros per gigabyte (€/GB)
Up to 4 GB	1.50 €/GB
More than 4 GB to 8 GB	0.88 €/GB

More than 8 GB to 16 GB	0.50 €/GB
More than 16 GB to 32 GB	0.35 €/GB
More than 32 GB to 96 GB	0.33 €/GB

### USB keys

Storage capacity	Remuneration in euros per gigabyte (€/GB)
Up to 2 GB	0.20 €/GB
More than 2 GB to 4 GB	0.16 €/GB
More than 4 GB to 8 GB	0.13 €/GB
Over 8 GB	0.10 €/GB

### Memory cards

Storage capacity	Remuneration in euros per gigabyte (€/GB)
Up to 2 GB	0.09 €/GB
More than 2 GB to 4 GB	0.08 €/GB
More than 4 GB to 8 GB	0.07 €/GB
Over 8 GB	0.06 €/GB

### Standard External Hard Discs

Storage capacity	Private copying remuneration in euros
Up to 120 GB	8.40
More than 120 GB to 320 GB	9.60
More than 320 GB to 500 GB	11
More than 500 GB to 1000 GB	20
Remuneration in euros per gigabyte (€/GB)	
From 1000 GB to 5000 GB	0.015 €/GB
From 5000 GB to 10 000 GB	0.012 €/GB

Note: Included in this category are:

- External hard discs with USB or Firewire interface
- SSD (solid state drive) systems
- Network storage systems (NAS and NDAS) for households (desktop versions)

Multimedia external hard discs or memories:

- With audio/video and/or recording jack output interfaces that allow the playback of audio/video content without a PC;
- With audio/video and/or recording jack output interfaces and input interfaces that allow the recording of audio/video content without a PC; and
- That are built in or connected to a decoder and are not exclusively dedicated to the recording of video content (box with multimedia HDD or recording capacity).

Storage capacity	Private copying remuneration in euros
Up to 8 GB	6.30
More than 8 GB to 40 GB	9.30
More than 40 GB to 80 GB	12.50
More than 80 GB to 160 GB	16
More than 160 GB to 250 GB	23

More than 250GB to 320 GB	27
More than 320 GB to 500 GB	30
More than 500 GB to 1 TB	31
More than 1 TB to 2 TB	32

Mobile phones with music and video playback functionality

Storage capacity	Remuneration in euros per gigabyte (€/GB)
Up to 8 GB	0.7000 €/GB
More than 8 GB to 16 GB	0.5000 €/GB
More than 16 GB to 32GB	0.3095 €/GB
More than 32 GB to 64GB	0.2360 €/GB

Memories and hard discs for audio storage and playback integrated in a global positioning system (GPS) or a car radio and separate from storage media used for other elements such as navigation software and road map information.

Storage capacity dedicated to music display	Remuneration in euros per gigabyte (€/GB)
Any capacity	1.25 €/GB

Multimedia touchscreen tablets running on a specific operating system or a mobile device operating system.

Storage capacity	Remuneration in euros per gigabyte (€/GB)
Up to 8 GB	0.8000 €/GB
More than 8 GB to 16 GB	0.5250 €/GB
More than 16 GB to 32 GB	0.3281 €/GB
More than 32 GB to 64 GB	0.1969 €/GB

Carriers sold in a "bundle" or "additional offer" with a recording device

The rate is applied to the device is calculated by adding (a) the storage capacity of the carrier and (b) the storage capacity of the device.
1. The rate applicable to recording devices sold with one or more recording media (e.g., memory card, external hard disc) in the same transaction, in the same packaging or several packagings combined ("bundle"), or sold separately but obviously intended to be used together ("additional offer"), is obtained by calculating the total recording capacity of the carrier and the device, and applying the relevant rate of the device to the resulting total capacity.
2. No remuneration is paid for recording capacities sold in a "bundle" or "additional offer" with a device whose recording capacities are not subject to a private copying levy.

## Revenue

Exchange rate LCU/€	1.000	1.000	1.000	1.000
Audio Revenue	2012 (€)	2013 (€)	2014 (€)	2015 (€)
Data CD R/RW	8,307,802	8,384,000	4,808,000	3,096,656
Audio cassette, audio CD, MiniDisc	287,701	567,000	129,000	58,402
<b>Total Audio</b>	<b>8,595,503</b>	<b>8,951,000</b>	<b>4,937,000</b>	<b>3,155,058</b>

Video Revenue	2012 (€)	2013 (€)	2014 (€)	2015 (€)
Video cassette	2,796,901	535,000	223,000	73,027
DVD data	16,381,548	8,990,000	6,272,000	3,575,105



<b>Total Video</b>	<b>19,178,449</b>	<b>9,525,000</b>	<b>6,495,000</b>	<b>3,648,132</b>
--------------------	-------------------	------------------	------------------	------------------

<b>Device Revenue</b>	<b>2012 (€)</b>	<b>2013 (€)</b>	<b>2014 (€)</b>	<b>2015 (€)</b>
Hard discs or memory inserted into digital audio (MP3) player	4,535,756	2,994,000	1,959,000	987,741
Hard disc inserted into a video recorder	2,499,869			1,258,703
Memory or hard disc inserted into a multimedia Walkman or device	11,816,912	9,678,000	5,525,000	2,983,643
Hard disc inserted into a decoder and TV set	12,354,452	21,673,000	12,200,000	11,052,050
Multimedia boxes or multimedia hard disc		7,285,000	18,793,000	17,088,616
Memory or hard disc inserted into a Hi-Fi device	11,202			
USB sticks	23,147,754	17,512,000	18,592,000	17,542,741
Removable memory cards	(in 2012, included in USB stick data)	7,369,000	9,821,000	9,482,822
External hard discs	32,461,189	35,036,000	27,487,000	22,638,181
Walkman phones	52,184,074	55,219,000	79,437,000	100,611,184
Tablets	6,421,319	31,890,000	29,641,000	33,853,105
Memories in a global positioning system (GPS) or a car radio	671,246	840,000	1,974,000	1,762,935
<b>Total Devices</b>	<b>146,103,773</b>	<b>189,496,000</b>	<b>205,429,000</b>	<b>219,329,345</b>
<b>Grand Total</b>	<b>173,877,725</b>	<b>207,972,000</b>	<b>216,861,000</b>	<b>226,132,535</b>

Additional Information

- (1) For hybrid devices, data CD-R, data DVD, USB key, external hard discs and memory cards, revenues are split among 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) France collects on carriers inserted into devices, not on devices themselves.
- (3) The 2016 revenues as presented above (i.e., total of 226,132,535 euros) do not include further processing of sums received after settlements of disputes that have arisen between 2013 and 2016. These settlements modify the amount of collections for each year but have not been included in the revenue benchmarks in the management summary of this report.

Thus, the definitive sums collected on each financial year, after reprocessing these exceptional elements, is as follow:

2012: 221 million euros  
 2013: 235 million euros  
 2014: 234 million euros  
 2015: 229 million euros

## 12. Germany

### Contact information

Country	Germany
Currency	Euro
Name of organization	Zentralstelle für private Überspielungsrechte (ZPU)
Web site	www.zpue.de
Contact Person	Verena Wintergerst
E-mail 1	vwintergerst@zpue.de
E-mail 2	info@zpue.de
Address	Rosenheimer Str. 11
Postcode	81667
City	München
Phone	+49 89 48003-416
Fax	+49 89 48003-988

### Legislation and fundamental facts

Copyright law	Copyright Act of September 9, 1965, amended on June 24, 1985. Further amendments in 1990, 1994, 1995, 1998, 2003, 2007. Latest revision in force since January 1, 2008 with new regulations for private copying remunerations.  Not only private copies are subject to copy remunerations (Article 53(1) UrhG), but also other kinds of copies mentioned in Article 53(2) and 53(3) UrhG. In German, the term "private copies" applies to all of the above copies.
Remuneration system	There is no remuneration for copies from illegal sources. Remuneration is levied on media and devices.
Liable for payment	Importers and manufacturers, resellers and retailers.

### Collecting society: Collection and distribution

Collecting society or CMO is appointed by:	ZPU collects private copying remunerations for media and devices, which can be used for copying audio and video works. VG Wort and VG Bild-Kunst collect private copying remunerations for media and devices which can be used for copying text and pictures, but not for audio or video works.  ZPU is appointed by its member societies (collecting societies), which represent their rightholders.
Distribution process	ZPU distributes to member societies. Member societies distribute to their rightholders. Distribution must be agreed upon by all member societies.  ZPU does not distinguish between costs for collecting and for distributing private copying remunerations.

### Rate setting

How are levies/remuneration determined?	Levies are set by ZPU through negotiations between ZPU and associations of manufacturers and importers.  If the negotiations fail, tariffs will be set by ZPU based on market research data. This regularly leads to judicial proceedings, such that a new and valid tariff is suggested/set by the arbitration board or by the courts.
Which criteria are used for determining the levies/remuneration?	Empirical studies on the usage of devices and storage media.
Are there any consumers or buyers exempt from paying the levies?	There are different exemptions for professional and industrial users. There are no exemptions for consumers.
Are there any products exempt from levies? Are refurbished products exempt?	All devices and media used for private copying are subject to remunerations.  There is no exception for refurbished products when imported.
Are there any developments, or ongoing negotiations concerning new tariffs (e.g., cloud storage)?	<ul style="list-style-type: none"> <li>– new (2016) contract with BITKOM e.V. for mobile phones since 2008 (20% discount on tariffs)</li> <li>– new (2016) contract with BITKOM e.V. for tablets since 2012 (20% discount on tariffs) and several contracts with importers for tablets in 2010/2011.</li> </ul> <p>Accordingly, there are new tariffs for mobile phones and tablets; see details below.</p>

### Collection process

How frequently is payment due?	Monthly or twice a year, depending on contract/general agreement.
How do you monitor or intervene in the market?	Importers and manufacturers can be audited by accountants in case of reasonable doubts concerning the correctness of reports. The reports of the importers and manufacturers are checked against the figures reported by the retailers.
Are exports exempted?	Exports are exempted by law in Article 54 II UrhG.
Who is considered an importer?	In cross-border sales, the German party is responsible, if the recipient is a commercial entity. The party abroad is responsible if the German recipient is a private consumer.

### Distribution process

Who distributes the collected remuneration to rightholders?	ZPU distributes to member societies. Member societies distribute to their rightholders.
Frequency of distribution	Distribution occurs when ZPU partners decide to distribute – there is currently no set frequency.
How are the distribution schemes determined?	Distribution schemes are determined through negotiations among ZPU's member societies.

### Social and cultural funds for collective purposes

Is there a social and/or cultural deduction?	No
--	----

### Legal developments and court cases

Legal developments	New regulations for collecting societies are in force since May 24, 2016 (VGG – <i>Verwertungsgesellschaftengesetz</i> ).
--------------------	---

Are there liable parties who reject responsibility or refuse to pay for certain media/devices?	Only a small part of the IT industry refuses to pay for products which are covered by collective agreements. This part of industry is organized as ZitCo e.V.  Furthermore, industry refuses to pay for media and devices which are still subject of lawsuits (see below).
Court cases	Lawsuits are still pending for all types of media and equipment.  Exception:  BITKOM members for mobile phones and tablets; and  BITKOM and BCH members for PCs.
Implementation problems	A small part of the IT industry denies responsibility or refuses payment, relying on the <i>Padawan</i> case (business tariffs), faults in setting tariffs, complaints that tariffs are too high, import-export regulations, etc.

## Tariffs

PCs	Tariff valid as from January 1, 2011 (euros)	
Consumer PC	13.1875	per piece
Business PC	4.0000	per piece
Small mobile PC	10.250	per piece
Workstation (since 2014)	4.0000	per piece
Internal CD/DVD-writer	0.00	per piece
PCs	Tariff valid from January 1, 2008 until December 31, 2010	
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
CD/DVD writer	Tariff valid from January 1, 2010 (euros)	
External CD/DVD-writer	7.00	per unit

Blank Media	Tariff valid from January 1, 2008 (euros)	Capacity
Audio cassette	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 January 1, 2010	
CD-R up to 900 MB	0.062	per unit
CD-RW up to 900 MB	0.197	per unit
DVD+/-R GB	0.139	per unit
DVD+/-RW 4.7 GB	0.271	per unit
DVD-RAM 4.7 GB	0.550	per unit
DVD-RAM 9.4 GB	1.264	per unit
DVD double sided 9.4 GB	0.117	per unit
DVD double layer/dual layer 8.5 GB	0.386	per unit

Flash Media	Tariff valid from July 1, 2012 (euros)	
USB stick ≤ 4 GB	0.91	per unit
USB stick > 4 GB	1.56	per unit
Memory card ≤ 4 GB	0.91	per unit
Memory card > 4 GB	1.95	per unit
HDDs	Tariff valid from January 1, 2008 (euros)	
Multi-media HDD with recording function	34.00	per unit
Multi-media HDD without recording function	19.00	per unit
Network HDD < 1 TB	5.00	per unit
Network HDD ≥ 1 TB	17.00	per unit
External HDD < 1 TB	7.00	per unit
External HDD ≥ 1 TB	9.00	per unit
Consumer Electronics	Tariff valid from 01.01.2008	
Set-Top-Box with external HDD	13.00	per unit
	Tariff valid from January 1, 2010 (euros)	
VHS-recorder	15.00	per unit
DVD-recorder	22.00	per unit
DVD+VCR-recorder	30.00	per unit
DVD-HDD-recorder	39.00	per unit
DVD+VCR+HDD-recorder	49.00	per unit
Set-top box+HDD-recorder	34.00	per unit
HDD-recorder	34.00	per unit
TV with HDD	34.00	per unit
AC-recorder	7.00	per unit
MD-recorder	25.00	per unit
CD-recorder	13.00	per unit
MP3-player	5.00	per unit
MP4-player Display < 3"	5.00	per unit
MP4-player Display ≥ 3" ≤ 4"	15.00	per unit
Mobile Phones	Tariff valid from January 1, 2008 (euros)	
Mobile phone 2008	1.6625	per unit
Mobile phone 2009	2.05	per unit
Consumer phone 2010	3.6375	per unit
Consumer phone 2011	4.6875	per unit
Consumer phone 2012	5.275	per unit
Consumer phone 2013	5.6625	per unit
Consumer phone 2014 and following	6.25	per unit
Business phone 2010	1.81875	per unit
Business phone 2011	2.34375	per unit
Business phone 2012	2.6375	per unit
Business phone 2013	2.83125	per unit
Business phone 2014 and following	3.125	per unit

Tablets	Tariff valid from January 1, 2010 (euros)	
Consumer tablet 2010-2011	4.55	per unit
Consumer tablet 2012-2013	6.125	per unit
Consumer tablet 2014	7.4375	per unit
Consumer tablet 2015 and following	8.75	per unit
Business tablet 2010-2011	1.82	per unit
Business tablet 2012-2013	2.45	per unit
Business tablet 2014	2.975	per unit
Business tablet 2015 and following	3.50	per unit

## Revenue

Exchange rate LCU/€	1.000	1.000	1.000	1.000
Collected Amounts	2012 (€)	2013 (€)	2014 (€)	2015 (€)
<b>Blank Media / Devices / Reservations</b>				
USB/Flash Media	7,580,000	26,454,000	30,994,000	13,292,000
CD/DVD/Audio /Video blank Media	18,135,000	7,756,000	17,761,000	-18,905,000
Consumer Electronics	130,267,000	129,232,000	26,472,000	100,197,000
Mobile Phones	1,079,000	119,000	99,544,000	55,220,000
PCs + CD/DVD Writer	996,000	11,226,000	253,781,000	71,434,000
HDDS	3,841,000	15,470,000	3,627,000	24,204,000
Tablets	0	11,649,000	88,000	1,207,000
Reserve for bad debt/allowance	-87,781,000	-99,360,000	-151,063,000	-145,985,000
<b>Total</b>	<b>74,117,000</b>	<b>102,546,000</b>	<b>281,204,000</b>	<b>100,665,000</b>

The figures show revenue, not payments. On account of lawsuits, the full amounts have not been paid.

## 13. Greece

### Contact information

Country	Greece
Currency	Euro
Name of organization	AEPI
Web site	www.aepi.gr
Contact Person 1	Christine Mergoupi
E-mail 1	privatecopy@aepi.gr
E-mail 2	info@aepi.gr
Address	51, Samou Str. & Fragoklissias
Postcode	15125
City	Amaroussio, Athens
Phone	0030-21110-29001
Fax	0030-210 – 6851576

### Legislation and fundamental facts

Copyright law	Article 18 of Law No. 2121/1993 on Intellectual Property and Neighboring Rights, as amended by Laws Nos. 2435/1996, 3049/2002, and 3207/2003, is still in force <ol style="list-style-type: none"><li>The reproduction of a "LAWFULLY PUBLISHED WORK" for private use is the object of the exception (See Article 18(1) of the law).</li><li>Definition of private use: According to Article 18(1), "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 organization."</li></ol>
Remuneration system	Remuneration is a levy (%) on recording media and/or equipment.
Liable for payment	Importers or manufacturers.

### Collecting society: Collection and distribution

Collecting society or CMO is appointed by:	AEPI is an organization responsible for collection of remunerations for authors, composers and rightholders of musical works. It only collects for AEPI members.
Administrative cost of collecting private copying remunerations	Standard 8% upon distribution of the collected income.
Distribution process	AEPI distributes only to its members, i.e. authors, composers and rightholders of musical works. It distributes directly to individual rightholders.

## Rate setting

How are levies/remuneration determined?	By law
Which criteria are used for determining the levies/remuneration?	As the rate of the levy is set by the legislators, the criteria are legislative and authoritative.
Are there any consumers or buyers exempt from paying the levies?	According to Article 18(1): "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 organization".
Are there any products exempt from levies? Are refurbished products exempt?	Levies are imposed on consumer products as per the non-restrictive list of media/devices hereunder, with no exemption.
Are there any developments, negotiations going on about new tariffs (e.g., cloud storage)?	No.

## Collection process

How frequently is payment due?	The law stipulates that payment must be made three months after importation. It is usually done by submitting statutory statements, and payments are contractually regulated between the organizations and the importer.
How do you monitor or intervene in the market?	Each collecting society is entitled to request verification of the accuracy of any statutory statement by a certified accountant appointed by the Intellectual Property Organization (IPO), to ascertain the true total value of the equipment /media fit to reproduce musical and /or audio-visual works, imported or produced in Greece. Where the liable party fails to submit such a statement, the single-judge district court, sitting at an injunction hearing, orders the liable party to immediately submit the above statutory statement, failing which the party pays a fine of 3,000 to 30,000 euros to the applicant collecting society. Provision is made for further sanctions.
Are exports exempted?	Exports are exempted by Law (Article 18(3)).
Who is considered an importer?	According to Article 18(10) of the national law: "Where the importer is required to pay an equitable remuneration for the import or inter-community procurement of sound and/or image recordings or other technical means referred to in Article 18(3), the remuneration shall be calculated based on the value stated in the invoice of the foreign company, and the invoice note provided for by this article shall be established on the basis of the sales invoice of the said recordings and technical means and shall simply state that the sales price includes the fee calculated on the stated value as per Article 18(3). The remuneration is payable three months after importation."



## Distribution process

Who distributes the collected remuneration to rightholders?	All organizations collecting private copying remuneration for the various categories of rightholders distribute remuneration to their members.
Frequency of distribution	The manner and frequency of the distribution of collected levies by other rightholder organizations to their members is not known. AEPI distributes every six months.
Who are the rightholders?	There are three big categories of rightholders: creators, producers and performers.
How are the distribution schemes determined?	By lawmakers.
Distribution key	<p>Legislators has settled for the following distribution scheme (applicable to both audio and video):</p> <p>55% to creators (all categories of rights owners)            25% to interpreters and performers            20% to producers of audio and video works.</p> <p>Distribution scheme for audio – the 55% awarded to creators is distributed as follows: 85% for AEPI (music authors), 7% for AFTODIAXEIRISI (music authors), 5% for OSDEL (writers/publishers), 1.5% for THESPIIS (playwrights/translators of plays), and 1.5% for ATHINA (directors/scriptwriters).</p> <p>Distribution scheme for video – the 55% attributed to creators is distributed as follows: 19.1% for AEPI (music authors), 1.5% for AFTODIAXEIRISI (music authors), 4% for OSDEL (writers/publishers), 5.4% for THESPIIS (playwrights/translators of plays), 52.5% for ATHINA (directors/scriptwriters), 3% for OSDEETE (fine artists) and 11.5% for FIVOS (photographers).</p> <p>*(AEPI collects 85% of the 55% awarded to creators for audio and 19.1% of the 55% awarded to creators for video).</p> <p>The remaining 45% in both categories of levied products is awarded to producers and performers according to their agreed formulae</p>

## Social and cultural funds for collective purposes

Are there social and/or cultural deductions?	No
--	----

## Legal developments and court cases

Court cases	In 2015, extrajudicial letters were sent to mobile phone importers, urging them to declare imports of such products. Interim measures were taken on declared information pertaining to imports. A court hearing was held on December 7, 2015 and judgment was rendered in favor of CMOs in January 2016.
Are there liable parties who deny responsibility or payment for certain media/devices?	Legal action has been initiated against mobile phone importers who fail to submit statutory statements on mobile phone imports.

## Applicable national rates

Blank Media	Rate
Audio Carriers	6% of the import price of all products/devices
Cassettes (MC), audio CD-R Audio CD-RW, DAT MiniDisc, DVD-Audio	
Audio Devices	6% of the import price of all products/devices
Digital audio recorders – MP3 players Hi-fi CD writer (consumer) Hi-fi tape recorder midi Car Hi-Fi hard disc or memory slots Music servers (jukeboxes) ICDs (digital voice recorders) Micro PA Hi-fi MiniDisc Mini-micro systems Music mobile phones	
Video Carriers	6% of the import price of all products/devices
Cassettes (VHS, Hi8, mini DV, Video8) DVD-R, DVD + RW, DVD + R, DVD + RAM, mini DVD DVC, Blu-ray discs PC diskettes over 100mb DDS tapes Travan disc CD-R data CD-RW data	

Video Devices	6% of the import price of all products/devices
DVD writer PC (external)	
CD-ROM recorder PC (external)	
TV with recorder (hard disc)	
DVD recorders (with or without hard disc)	
Hard disc built into video recorders (video cameras)	
Digital recorders (iPods, MP4 players, etc.)	
VHS Recorders	
Digital receiver with hard disc (PVR)	
Hard drive media players	
Blu-ray recorders (external)	
Digital camcorders	
Digital cameras with SD cards	
Game consoles	
Digital recorders for IPTV and VOD services	
Media boxes	
MiniDiscs	
Compact flash memories	
USB flash, memory sticks, cards	
Smart media memory cards,	
Portable hard disc (external) ZIP drives, USM (Sony Data USB) and jazz drives	
Mobile phones (except music mobiles)	

## Revenue

Exchange rate LCU/€	1.000	1.000	1.000	1.000
	2012 (€)	2013 (€)	2014 (€)	2015(€)
Audio revenue	53,910.00	135,489.57	132,028.17	34,601
Video revenue	191,788.60	162,175.77	204,626.28	67,413.67
<b>Total</b>	<b>245,698.60</b>	<b>297,665.34</b>	<b>336,654.45</b>	<b>102,034.77</b>

The audio and video categories both comprise media and devices only regarding the percentage 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 past royalties collected retroactively.

## 14. Hungary

---

### Contact information

Country	Hungary
Currency	Hungarian forint (HUF)
Name of organization	ARTISJUS
Web site	www.artisjus.hu
Contact Person 1	David Kitzinger
Contact Person 2	Brigitta Puskas
E-mail 1	dkitzinger@artisjus.com
E-mail 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

Copyright law	Copyright Act LXXVI of 1999. The definition in Article 20 (1) and (2) of the Copyright Act reads as follows:  “Private copy remuneration for private copying of works, performances, films and sound recordings shall be paid to the authors, performers and producers of such works broadcast by radio and television companies, disseminated to the public through private cable television networks, and released for distribution on audio-visual or audio carriers.”
Remuneration system	Remuneration is determined by the competent collective management organization (Artisjus) in agreement with the other affected collective management organizations representing film authors, film producers, visual artists, performers, sound recording producers. Remuneration rates are to be included on a rates chart that is subject to government approval.

<p>Liable for payment</p>	<p>Manufacturers and importers of liable devices and media are liable for payment.</p> <p>There are exemptions for:</p> <ul style="list-style-type: none"> <li>- professional users under the CA (Art. 20 (3));</li> <li>- export exemption under the CA (Art. 20 (3));</li> <li>- upfront exemption for extended professional use, in accordance with the <i>Padawan</i> decision, as well as reimbursement stipulations in accordance with the Amazon decision under the relevant rate chart of Artisjus, and detailed stipulations on the application of the statutory exceptions.</li> </ul> <p>The private copy remuneration under Articles 35(1), (4), (5), (7) and (8) shall remedy the harm caused through various instances of free reproduction: private copying by natural persons, LAMS free reproductions, reproductions made in schools for teaching/exam purposes, and ephemeral reproduction by broadcasting entities.</p> <p>For more information, see the terms and conditions of the exemptions provided for in the rates chart.</p> <p><a href="http://www.artisjus.hu/wp-content/uploads/2016/01/Jogdijkozlemany_U_2016.pdf">http://www.artisjus.hu/wp-content/uploads/2016/01/Jogdijkozlemany_U_2016.pdf</a></p> <p>Resellers, wholesalers and retailers also bear a joint and several liability.</p>
---------------------------	---

### Collecting society: Collection and distribution

<p>The collecting society or CMO is appointed by:</p>	<p>Artisjus. Registration by the competent public administration agency. The Hungarian Intellectual Property Office collects and distributes private copy remuneration</p>
<p>Administrative cost of collecting private copying remunerations</p>	<p>The administrative cost is 17%. No further deductions apply in distributions by Artisjus. The other CMOs, which receive their share from Artisjus in a statutory proportion, may apply a further deduction pertaining strictly to distribution.</p>
<p>Administrative cost of distributing private copying remunerations</p>	<p>Administrative cost for distribution: 10% of the total. Other rightholders might apply further deductions.</p>
<p>Distribution process</p>	<p>Distribution schemes are determined by rights owners. No further governmental approval is required. Distribution rules are subject to administrative supervision executed by HIPO.</p> <p>Artisjus distributes directly to the individual musical and literary rightholders it represents, but has been mandated in the CA to transfer statutory shares to other collective management organizations of sound recording producers, performers, film right holders and visual artists.</p>

### Rate setting

<p>How are levies/remuneration determined?</p>	<p>Initial rates are set by rights owners' organizations. These are approved annually by the Ministry of Justice via the Hungarian Intellectual Property Office, after a consultation process.</p> <p>We conduct annual user surveys, focusing on media usage patterns. We also monitor prices and technology trends.</p>
<p>Which criteria are used for determining the levies/remuneration?</p>	<p>We are moving from a purely user-behavior approach to a harm-based approach. This approach incorporates user patterns and market trends. Furthermore, we applied a general fee reduction of 30% to reflect the impact of the <i>ACI Adam</i> decision.</p>
<p>Are there any consumers or buyers exempt from paying the levies?</p>	<p>We offer exemption to professional users under the rates chart in accordance with the <i>Padawan</i> ruling. We provide upfront exemption from paying the levies. Persons other than the payer of the levy may claim a reimbursement upon an assignment of the claim by the person who paid the levy.</p>

Are there any products exempt from levies? Are refurbished products exempt?	The rates chart indicates the relevant products, and the current list does not include PCs, notebooks, ultrabooks, CD-DVD writers. There is no special exemption for refurbished products. In some cases, individual agreements (discount) governed the exchange of media boxes used by subscribers and owned by package operators.
Are there any developments, negotiations going on about new rates (e.g., cloud storage)?	Cloud storage is not on the agenda. The 2017 rate is currently (Nov. 17, 2016) under review by the approving authorities.

## Collection process

How frequently is payment due?	The liability moment is the eighth day after importation (for importers), or after warehousing the goods prior to distribution (for producers).
How do you monitor or intervene in the market?	Control of liable parties: <ol style="list-style-type: none"> <li>1. Hologram stickers on the products</li> <li>2. IMEI registration number for mobile phones</li> <li>3. Regular spot checks in shops, markets, shopping malls, etc.</li> </ol>
Are exports exempted?	Exports are exempted by law. There is no refund scheme under the CA. 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. The detailed rules are provided in the rates chart.
Who is considered an importer?	The importer is the legal person that puts the goods into circulation on Hungarian territory, regardless of whether the product comes from the domestic market or from outside the EU.

## Distribution process

Who distributes the collected remunerations to rightholders?	Artisjus is responsible for the annual distribution of remunerations to the musical and literary rightholders it represents. Other collective management entities distribute to their rightholders.
Frequency of distribution	Annually.
Who are the rightholders?	Musical and literary rightholders represented by Artisjus. Other collective management entities distribute to their rightholders.
How are the distribution schemes determined?	Distribution schemes are determined through an algorithm that connects private copy remuneration to other licensed uses such as RTV broadcasting, mechanical reproduction, etc.
Distribution key	<p>Distribution scheme for audio works:</p> <ul style="list-style-type: none"> <li>45% – authors (ARTISJUS)</li> <li>30% – performers (EJI)</li> <li>25% – producers (MAHASZ)</li> </ul> <p>Distribution scheme for audio-visual works:</p> <ul style="list-style-type: none"> <li>20% – authors (ARTISJUS)</li> <li>80% – rights owners, such as: <ul style="list-style-type: none"> <li>13% – film producers (FILMJUS)</li> <li>22% – cinematographic creators (FILMJUS)</li> <li>4% – visual artists (HUNGART)</li> <li>16% – scriptwriters (FILMJUS)</li> <li>20% – authors of music and literature (ARTISJUS)</li> <li>25% – performers (EJI)</li> </ul> </li> </ul>

## Social and cultural funds for collective purposes

Is there a social and/or cultural deduction?	There is a social and/or cultural deduction.
Which body is responsible for the allocation of funds to artists, cultural productions or social schemes?	The deduction is based on the CA provision governing collective management and the social cultural plan decided by the delegates' meeting. 7% covers cultural support that has to be transferred to the National Cultural Fund. Artisjus provides social support (3%) via its foundation.
What was the amount allocated to the social and/or cultural fund in 2015?	In 2015, the sum of 211,093,249 Hungarian forints was allocated to the fund from the amount collected for music composers and songwriters.
How can social and cultural funds be used?	The cultural funds are used in accordance with the law and the internal rules of the National Cultural Fund to support the purposes, applications and decisions of the executive body of the Fund. Supported authors have to account for the financial support granted. The social fund is used within the framework of a foundation set up by Artisjus, which has detailed rules governing the application for and granting of financial grants and also defines who can apply for a social grant. All data on the use of the social and cultural funds are public. 40 % of the Social Fund is used to support the Artisjus Pension Fund. The remaining 60% is open for applications.

## Legal developments and court cases

Legal developments	At present we are not aware of any planned copyright reform.
Are there liable parties who deny responsibility or payment for certain media/devices?	Some mobile phone importers/manufacturers refuse to pay. We do have a final decision of the Supreme Court against one of the biggest importers, which holds that mobile phones are liable for the payment of remuneration, and the relevant rates charts cannot be qualified as unfair contractual terms.
Court cases	Artisjus won the case against Nokia before the Supreme Court, which dismissed all the arguments put forward by the defendant. In accordance with the final verdict, the parties entered into a settlement under which the defendant had to make the necessary payments. The essence of the decision was that mobile phones are subject to the payment of remuneration, and that the applicable rates chart, which considered the built-in memories of mobile phones as MP3 players, was valid (defense of unfairness was also rejected).
Implementation problems	No practical difficulties

## Applicable national rates

Blank Media	Rate (in HUF)	Capacity
	Tariff valid January 1, 2013	
Audio cassette	25	Per unit
Video cassette	60	Per unit
<b>Optical Storage Media</b>		
CD-R, CD-RW	16	< 300MB
DATA CD-R/RW	44	< 700MB
DATA CD-R/RW	64	> 700MB
Audio CD	64	Per unit
MiniDisc	64	Per unit
DVD-R/+R/RW	16	< 4.7 GB
DVD-R/+R/RW	75	4.7 GB
DVD RAM	75	4.7 GB
DVD double layer	180	< 9.4 GB
Other high capacity optical discs (e.g. Blu-ray disc)	78	< 4.7 GB
	187	4.7 GB – 9.4 GB
	312	9.4 GB – 15 GB
	416	15 GB – 25 GB
	520	25 GB – 50 GB
	727	50 GB – 100 GB
	831	100 GB – 200 GB
	883	> 200 GB
Flash Media	Rate valid from January 1, 2015	
USB stick, pen drive, external SSD	92	< 1 GB
	183	1 GB – 2 GB
	366	2 GB – 4 GB
	548	4 GB – 8 GB
	1097	8 GB – 16 GB
	2195	16 GB – 32 GB
	2286	> 32 GB
Devices Hardware, PC, HDD	Tariff valid from January 1, 2015	Capacity
External HDD	1147	< 250 GB
	1625	250 GB – 500 GB
	2103	500 GB – 1 TB
	2581	1 TB – 2 TB
	4302	> 2 TB
MP3-player	--	< 32MB
	--	32MB – 64MB
	416	64MB – 128MB
	623	128MB – 256MB
	1039	256MB – 512MB
	1559	512MB – 1 GB



	1870	1 GB – 2 GB
	3117	2 GB – 4 GB
	4156	4 GB – 8 GB
	6234	8 GB – 16 GB
	7273	16 GB – 40 GB
	8312	40 GB – 80 GB
	9351	> 80 GB
Memory card	--	< 64MB
	--	64MB – 128MB
	--	128MB – 256MB
	--	256MB – 512MB
	140	512MB – 1 GB
	281	1 GB – 2 GB
	468	2 GB – 4 GB
	748	4 GB – 8 GB
	1496	8 GB – 16 GB
	2993	16 GB – 32 GB
	3180	> 32 GB
<b>Consumer Electronics</b>		
Storage capacity integrated into electronic devices for storing audio and/or audio-visual content*		
	2660	< 80 GB
	3325	80 GB – 160 GB
	4654	160 GB – 250 GB
	5985	> 250 GB
<b>Mobile Phones</b>		
(and tablets from 2014)	--	64MB – 128MB
	319	128MB – 256MB
	532	256MB – 512MB
	798	512MB – 1 GB
	958	1 GB – 2 GB
	1596	2 GB – 4 GB
	2128	4 GB – 8 GB
	3192	8 GB – 16 GB
	3724	16 GB – 40 GB
	4256	40 GB – 80 GB
	4788	> 80 GB

Additional Comments:

\*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.

## Revenue

Exchange rate LCU/€	289.228	297.009	308.600	309.798
Media/Devices	2012 (HUF)	2013 (HUF)	2014 (HUF)	2015 (HUF)
<b>Blank Media</b>				
Audio cassette	6,650,256.71	735,497.74	9,495.62	1,392,251.50
Video cassette	13,546,786.99	2,487,535.97	600,659.04	2,246,280.41
<b>Optical storage media</b>				
Data CD-R/RW	172,281,694.79	146,073,025.69	128,524,666.42	122,492,896.46
Audio CD	920,217.06	583,191.02	407,679.12	420,800.10
MiniDisc	83,492.02	0.00	22,398.19	3,199.28
DVD+/-/R/RW, DVD RAM	313,179,869.47	209,037,452.73	175,204,906.55	125,713,616.57
Other high capacity optical discs (e.g., Blu-ray)	3,223,164.66	4,312,807.96	3,196,364.62	2,494,574.32
<b>Flash Media</b>				
USB stick, pen drive, external SSD	589,617,391.43	648,925,381.46	801,960,258.08	882,529,774.29
Devices Hardware, PC, HDD	2012 (HUF)	2013 (HUF)	2014 (HUF)	2015 (HUF)
External HDD	169,641,172.39	311,067,290.24	388,790,284.00	338,428,301.45
MP3 player	96,901,901.17	527,501,809.70	639,077,459.45	75,564,909.04
Memory card	615,352,562.00	1,336,175,433.43	984,633,006.88	854,202,392.70
<b>Consumer Electronics</b>				
Storage capacity built into electronic devices for storing audio and/or audio-visual content	472,097,680.54	129,382,925.94	344,231,659.61	177,080,265.10
Mobile Phones	1,182,191,257.22	2,466,183,118.80	4,036,194,286.86	3,335,139,300.48
Tablets			1,122,520,529.41	915,027,836.15
<b>Total</b>	<b>3,635,687,455.15</b>	<b>5,782,465,470.68</b>	<b>8,625,373,653.82</b>	<b>6,832,736,397.86</b>

## 15. Italy

### Contact information

Country	Italy
Currency	Euro
Name of organization	S.I.A.E. – Società Italiana degli Autori ed Editori
Web site	<a href="http://www.siae.it">http://www.siae.it</a>
Contact Person 1	Daniela Amodeo
Contact Person 2	Ida Di Lizia
E-mail 1	<a href="mailto:daniela.amodeo@siae.it">daniela.amodeo@siae.it</a>
E-mail 2	<a href="mailto:Ida.dilizia@siae.it">Ida.dilizia@siae.it</a>
Address	Viale della Letteratura, 30
Postcode	00144
City	Roma
Phone	+39 06 59903577/2686

### Legislation and fundamental facts

Copyright law	<p>Copyright Law (L. 633/41, Art. 71-<i>septies</i>); Legislative Decree No. 68 of April 9, 2003 (effective April 29, 2003); Decree of the Minister of Culture and National Heritage of June 20, 2014 (effective July 7, 2014).</p> <p>The exception applies only when the source is legal: Italian Copyright Law allows private copying of protected works if the sources of those works are legal.</p> <p>Italian Copyright Law (Art.71-<i>sexies</i>) allows reproductions made by a natural person for private use, for non-profit-making use and for purposes that are neither directly nor indirectly commercial.</p>
Remuneration system	Remuneration is levied on media and devices that enable recording of audio and video.
Liable for payment	Manufacturers and importers have to pay the private copy levy on their sales. The liability moment is when the goods are put on the market.

### Collecting society: Collection and distribution

Collecting society or CMO is appointed by:	S.I.A.E. – <i>Società Italiana degli Autori ed Editori</i> , Italian Copyright Law (L. 633/41 – art. 71- <i>septies</i> )
Administrative costs for collecting private copying remunerations	According to Italian law, SIAE must distribute the amount collected minus the costs incurred. In 2015, SIAE kept a percentage of 3.3%.
Administrative costs for distribution of private copying remunerations	This percentage of 3.3% covers both administrative collecting and distribution costs. The organizations of rightholders apply their own percentages.
Distribution process	SIAE distributes both directly to individual rightholders (authors) and through organizations of rightholders.

## Rate setting

How are levies/remuneration determined?	The remuneration for private copying is determined in accordance with Article 71(2) of the Italian Copyright Law, set by decree of the Minister of Culture and the National Heritage (subject to a three-yearly update) and issued on the advice of the Permanent Consultative Committee for Authors' Right (Article 190 of the Copyright Law). The last decree, which set the current rates, was issued in 2014.
Which criteria are used for determining the levies/remuneration?	Among the elements considered in the approval procedure of the decree, there was a poll on consumer behavior in private copying and market research on sales of the liable products. Furthermore, other criteria are taken into account; e.g., the difference between licensed and unlicensed copies, the source of the copy and the harm caused by copying.
Are there any consumers or buyers exempt from paying the levies?	For professional use, there is both a refund system and upfront exemptions.
Are there any products exempt from levies? Are refurbished products exempt?	Products sold directly to government services; video game console (until March 2017); memory cards with a capacity of 0 - 32 MB; USB stick with a capacity of 0 - 256 MB; memory included in car black box.  Importers who sell refurbished products in Italy for the first time have to pay the levy. However, the levy is not due if it had already been paid when the refurbished product was sold as a "brand new item" in Italy.
Are there any developments, negotiations on new rates (e.g. cloud storage)?	In 2017, a new decree will be issued to set rates. A Standing Advisory Committee on copyrights is working on it.

## Collection process

How frequently is payment due?	Manufacturers and importers must report their sales and pay levies quarterly.
How do you monitor or intervene in the market?	SIAE made an agreement with the Internal Revenue Service ( <i>Agenzia delle Entrate</i> ) regarding import data. By law, SIAE has to conduct inspections.
Are exports exempted?	Manufacturers or importers that sell directly abroad are exempted. Exporters who paid private copy levies in Italy can claim a refund.
Who is considered an importer?	The importer is the person who buys foreign products that are subject to levies and sells them in Italy, or a foreign company that sells products directly to final users (e.g. via e-commerce).

## Distribution process

Who distributes the collected remuneration to rightholders?	According to Italian Copyright Law (art. 71- <i>octies</i> L. 633/41), SIAE distributes the remunerations to audio and video authors, audio and video producers and audio and video performers directly and through organizations of rightholders.
Frequency of distribution	SIAE distributes the collected remuneration semi-annually and directly to authors. Every organization of rightholders (producers and performers) has its own terms.
Which rightholders?	Audio and video authors, audio and video producers and audio and video performers.
How are the distribution schemes determined?	Distribution schemes are set and determined by law (Art. 71- <i>octies</i> L. 633/41).
Distribution keys	Distribution scheme for audio: 50% authors; 50% producers and performers (half to be paid to performers)  Distribution scheme for video: 30% to the authors 70% in three equal parts to the original producers of audio-visual works, producers of videograms, and performing artists, respectively.

## Social and cultural funds for collective purposes

Is there a social and/or cultural deduction?	<p>Art. 71-octies of the Copyright Law (L.633/41) states:</p> <ul style="list-style-type: none"> <li>– 10% of the collected remuneration is intended for cultural promotion activities (new paragraph 3, introduced in December 2015).</li> <li>– 50% of the video remuneration assigned to performing artists is intended for study and research activities, promotion, training and professional support for artists and performers.</li> </ul>
Which body is responsible for the allocation of funds to artists, cultural productions or social schemes?	<ul style="list-style-type: none"> <li>– Minister of Culture and National Heritage is responsible for the distribution of the cultural deductions (10%);</li> <li>– The association of artists and performers is responsible for the allocation of funds to artists and performers</li> </ul>

## Legal developments and court cases

Legal developments	A decree of the Minister of Culture and National Heritage that set the rates has been in force since June 20, 2014.
Court cases	In September 2016, the Court of Justice of the European Union rendered its judgment on the applications filed by Italy's Second Instance Administrative Court ( <i>Consiglio di Stato</i> ) as regards professional uses and the refund system.

## Applicable national rate

Blank Media	Rate valid from July 7th, 2014 (€)	Capacity
Audio cassette	0.23	1 hour
Audio CD-R/RW	0.22	1 hour
MiniDisc	0.22	1 hour
Video cassette	0.10	1 hour
D-VHS	0.22	1 hour
<b>Optical Storage Media</b>		
Data CD-R/RW	0.10	700 MB
DVD+R/RW	0.20	4.7 GB
DVD-R/RW	0.20	4.7 GB
DVD Ram/DL	0.20	4.7 GB
Blue-Ray/RW	0.20	25 GB
<b>Flash Media</b>		
Memory card	0.00	0-32 MB
	0.09/GB	>32 MB to <5 GB
	0.09/GB	5 GB and more
USB stick	0.00	0-256 MB
	0.10/GB	>256 MB to <4 GB
	0.10/GB	4 GB and more

Devices Hardware, PC, HDD	Rate valid from July 7, 2014 (€)	Capacity
External HDD	0.01/GB	1 GB and more
Memory or hard disc built into a multimedia (audio/video) Walkman or other multimedia devices	3.22	to 1 GB
	3.86	> 1 GB to 5 GB
	4.51	> 5 GB to 10 GB
	5.15	> 10 GB to 20 GB
	6.44	> 20 GB 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 and more	
Memory or hard disc built into MP3 music player or other Hi-Fi devices	0.64	up to 128MB
	2.21	> 128MB to 512MB
	3.22	> 512MB to 1 GB
	5.15	> 1 GB to 5 GB
	6.44	> 5 GB to 10 GB
	7.73	> 10 GB to 15 GB
	9.66	> 15 GB to < 20 GB
	12.88	20 GB and more
Multimedia external hard disc with Audio/Video OUT ports for the playback of audio/video content on a TV set or Hi-Fi device	4.51	up to 80 GB
	6.44	> 80 GB to 120 GB
	7.73	> 120 GB to 160 GB
	10.42	> 160 GB to 250 GB
	12.88	> 250 GB to 400 GB
	14.81	> 400 GB to < 700 GB
	14.81 will increase by €1.84 every 200 GB	700 GB and more
Multimedia external hard disc with Audio/Video IN & OUT ports for recording and playback of audio/video content on a TV set or Hi-Fi device	Canceled	
Memory or hard disc built into a video recorder, decoder or TV set	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 and more

Memory or hard disc built into other devices not included in previous categories, for recording and playback of audio or video content	0.64	up to 256MB
	0.97	> 256MB to 384MB
	1.29	> 384MB to 512MB
	1.61	> 512MB 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 and more	
Computer with built-in burner	5.20	per unit
Computer without built-in burner	5.20	per unit
Recording devices with no built-in memory or hard disc	5% of price	
<b>Mobile Phones</b>		
Memory or hard disc built into devices primarily used for communication (mobile phone)	0.50	per unit
Memory or hard disc built into smartphone and tablet	3.00	up to 8 GB
	4.00	> 8 GB to 16 GB
	4.80	> 16 GB to 32 GB
	5.20	> 32 GB and more
TV set with no internal HDD and with recording function	4.00	per piece

\*Memory card: maximum levy applicable for each unit is 5 euros.

\*USB Stick: maximum levy applicable for each unit is 9 euros.

\*External HDD: maximum levy applicable for each unit is 20 euros.

## Revenue

Exchange rate LCU/€	1.000	1.000	1.000	1.000
Blank media	2012 (€)	2013 (€)	2014 (€)	2015 (€)
<b>Media/Devices</b>				
Audio cassette	98,628	73,616	51,348	52,193
Video cassette	65,245	49,728	34,212	312,487
<b>Optical Storage Media</b>				
CD-R	3,039,825	2,331,500	1,496,601	1,128,266
DVD-R	4,454,814	3,327,293	2,282,487	1,236,704
Blu-ray	34,535	24,612	19,121	10,443
<b>Flash Media</b>				
Memory card	2,806,217	2,229,195	4,469,291	7,872,322
USB stick	6,010,678	5,925,234	6,397,571	8,263,005
<b>Devices</b>				
External HDD	7,766,264	7,517,916	6,501,732	5,024,548
Computer + tablet	9,259,014	12,834,119	15,682,040	26,179,738
DVD writer and recorder	368,076	375,787	457,777	327,074
CD writer and recorder	15,003	8,233	16,978	9,301
MP3-player	3,540,019	2,511,780	1,447,736	1,166,868
Other audio recording equipment	592,170	409,416	210,529.19	126,847
Other video recording equipment	15,638,909	14,716,563	11,032,932	8,435,149
<b>Mobile phones</b>				
Mobile phones + smartphones	18,48,990	14,751,707	27,886,151	69,485,340
<b>TOTAL</b>	<b>71,738,387</b>	<b>67,086,699</b>	<b>77,986,505</b>	<b>129,630,285</b>

Other video recording equipment includes memory/hard disks built into decoders/TV sets, media centers, MP4 players and TV sets with recording function.



## 16. Japan

---

### Contact information

Country	Japan
Currency	Yen
Name of organization	Society for the Administration of Remuneration for Audio Home recording (SARAH)  SARVH disbanded by March 31, 2015 due to the termination of video compensation collection following the loss of a court case (see Q8).
Web site	<a href="http://www.sarah.or.jp">www.sarah.or.jp</a> (SARAH)
Contact Person	Norio Kobayashi (SARAH)
E-mail	<a href="mailto:sarah-koby@zc.wakwak.com">sarah-koby@zc.wakwak.com</a> (SARAH)
Address	3F, Kazumigaski 3-chome Bldg., 3-6-5, Kasumigaseki, Chiyoda-ku,
Postcode	100-0013
City	Tokyo, Japan
Phone	+81-3-6205-4701(SARAH)
Fax	+81-3-6205-4702(SARAH)

## Legislation and fundamental facts

Copyright law	<p>“Article 30. (1) It shall be permissible for a user to reproduce by himself a work forming the subject matter of copyright (hereinafter in this Subsection referred to as a “work”) for the purpose of his personal use, family use or other similar uses within a limited circle (hereinafter referred to as “private use”), except in the case:</p> <p>(i) where such reproduction is made by means of automatic reproducing machines (“automatic reproducing machine” means a machine having reproducing functions and in which all or the main parts of reproducing devices are automatic) sold for public use;</p> <p>(ii) where such reproduction is made by a person who is aware that the copying was carried out through circumvention of technological protection measures or that such circumvention eliminates obstruction of the outcomes of acts deterred by such measures (“circumvention” means facilitating the committal of acts prevented by technological protection measures or preventing obstruction of the outcomes of acts deterred by such measures, either through removal or alteration of signals as mentioned in Article 2(1)(xx) (“removal” or “alteration” does not include such removal or alteration as is conditional upon technology involved in the conversion of recording or transmission systems) or by reversion of such works, performances, phonograms, or sounds or images of broadcasts or wire diffusions as converted in accordance with a specific conversion required mentioned in that item (“reversion” does not include any reversion deliberately made by the copyright holder, etc.); the same shall apply in Article 120bis (i) and (ii));</p> <p>(iii) where a digital audio or video recording is made by a person who is aware that such recording is made upon reception of an interactive transmission which infringes copyright (including an interactive transmission made outside this country and which would constitute an infringement of copyright if made in this country);</p> <p>(2) Any person who makes audio or video recordings for private purposes on the type of digital recording media specified in the Cabinet Order and using the digital recording devices specified in the same Order (excluding devices with special efficiency generally not intended for private use but for professional use (as in broadcasting), and devices with audio or video recording features incidental to their primary function (such as telephones with sound recording function) shall pay a reasonable amount of compensation to the copyright owners concerned.”</p>
Remuneration system	No levies or state funding. Organizations appointed by the government (sarah/SARVH) collect compensation charged at the point of sale on digital recording media and devices, in cooperation with manufacturers/importers.
Liable for payment	Users/purchasers are liable for the payment of compensation, while manufacturers and importers are requested to cooperate in the collection of compensation at the point of sale.

## Collecting society: Collection and distribution

Collecting society or CMO is appointed by:	<p>Audio: SARAH (Society for the Administration of Remuneration for Audio Home recording).</p> <p>SARVH disbanded by March 31, 2015 due to termination of video compensation collection, following the loss of a court case (see Q8).</p> <p>SARAH is appointed by the government (by the commissioner of the Agency for Cultural affairs) and has no government funding.</p>
Administrative costs for collecting private copying remunerations	20%. Sarah and SARVH are unable to split admin costs into collection costs and distribution costs.
Distribution process	Distribution is done by the collecting societies themselves. SARAH distributes compensation to three rightholder organizations and the three organizations, in turn, re-distribute the money received to each individual or corporate member entitled to compensation. SARVH used to follow the same process.

## Rate setting

How are levies/remuneration determined?	Rates are determined based on past negotiations at the initial stage between organizations representing manufacturers. Basically, there is no regular cycle for reviewing rates. Sometimes the criteria for determining the market prices of recording media are changed during the review process.
Which criteria are used for determining the levies/remuneration?	Market circumstances are factored into market prices. No consideration is given to damages, harm or copying behavior because the rates are not reviewed on a regular basis.
Are there any consumers or buyers exempt from paying the levies?	“Professional use” means recording sessions at recording studios (devices are different from CE products). No exemption for the government or handicapped persons.
Are there any products exempt from levies?	The following are exempt from levies: <ul style="list-style-type: none"> <li>– analog cassette tape recorders and tapes;</li> <li>– devices used for recording sessions at recording studios; and</li> <li>– personal computers, telephones and smartphones.</li> </ul> Types of devices that are subject to payment of levies are determined by cabinet order. General-purpose devices, such as personal computers or smartphones, are exempted.  Types of recording media that are subject to the payment of levies are also determined by Cabinet Order. Only media labelled as “for audio” or “for video” are mentioned in the Cabinet Order..
Are there any developments, negotiations on new rates (e.g., for cloud storage)?	Discussions on reform of the current compensation system have been going on within the Culture Council Subcommittee, led by the Agency for Cultural affairs. No conclusions have been reached.

## Collection process

How frequently is payment due?	Every half-year.
How do you monitor or intervene in the market?	Basically SARAH and SARVH rely on the good faith of manufacturers. Sometimes they communicate with manufacturers to request valid reasons if there is a remarkable change in the reporting.
Are exports exempted?	Exports are legally exempted. Manufacturers are not liable for the payment of levies since users (i.e., primarily liable persons) are not Japanese. Consequently, they do not report exported products. There are no upfront payments or refunds.
Who is considered an importer?	There is no definition provided in the Copyright Law. Normally an entity (corporation) which imports recording media or devices subject to levy is considered to be an “importer”. Although, the law does not exempt private imports, it is practically difficult to collect levies from individuals.

## Distribution process

Who distributes the collected remunerations to rightholders?	SARAH distributes compensation to three rightholder organizations which, in turn, re-distribute the received funds to each individual or corporate body entitled to compensation. SARVH used to follow the same process.
Frequency of distribution	Every half-year.
Which rightholders?	Audio: authors of musical works, writers, performers, producers of phonogram.  Video: producers of cinematographic works, broadcasters, writers, authors of musical work, performers, producers of phonogram.
How are the distribution schemes determined?	By negotiation in the past. Not reviewed on a regular basis.

Distribution keys	<p>Distribution scheme for audio:</p> <p>36% – copyright holders of musical works and literary works, Japanese Society for Rights of Authors, Composers and Publishers; including the allocation for Writers Guild of Japan, Japan Writers' Association and Japan Writers' Guild (1.5% in total)</p> <p>32% Performers, Japan Council of Performers' Rights and Performing Arts Organizations.</p> <p>32% Producers of Phonograms, Recording Industry Association of Japan.</p>
-------------------	---

### Social and cultural funds for collective purposes

Is there a social and/or cultural deduction?	20% of the compensation received. This rate is set by a Cabinet Order based on the copyright law.
Which body is responsible for the allocation of funds to artists, cultural productions or social schemes?	It has been decided that an amount corresponding to 20% of the compensation is allocated for such activities as contributing to the protection of copyright and neighboring rights, and promotion of the creation and dissemination of works. This system is based on the idea that allocating 20% to such activities is beneficial for all rightholders, including unidentifiable rightholders, and it would serve as indirect distribution.
What is the amount dedicated to the social and/or cultural fund in 2015?	2015: 15,646,812 Japanese yen (116,169 euros), or 20% of collection
How can social and cultural funds be used?	<p>SARAH/SARVH conducts the following activities with the fund described above (common interests fund).</p> <ol style="list-style-type: none"> <li>1. education about the copyright system or awareness-raising on copyright law;</li> <li>2. promotion and dissemination of works;</li> <li>3. international cooperation on copyright systems and copyright protection; and</li> <li>4. study on technical protection measures related to digital audio/video recordings.</li> </ol>

## Legal developments and court cases

Legal developments	As regards audio, the devices/media specified in the Cabinet Order do not include the products actually being used for private recording. Consequently, the compensation revenue is declining dramatically.
Are there liable parties who deny responsibility or payment for certain media/devices?	Several manufacturers of audio recording media had been refusing to provide SARAH with levy calculation statements. However, all of them eventually reached an agreement with SARAH.
Court cases	<p>Video:</p> <p>Japan decided to complete the transition from analog to digital broadcasting in July 2011. The Japanese manufacturer Toshiba denied cooperation liability in 2009 for its recording devices used for digital broadcasting, insisting that such devices were not covered by the provisions specified by Cabinet Order. Other manufacturers which manufacture the same kind of devices followed Toshiba's example.</p> <p>The designated association for visual private recording (SARVH) negotiated with Toshiba but could not reach an agreement. Therefore, SARVH sued Toshiba, demanding cooperation or compensation. The transition from analog to digital was completed in July 2011, but the lawsuit had not been settled by then.</p> <p>After the transition, all manufacturers of recording devices and media denied cooperation or payment. As a consequence, SARVH has received no compensation from manufacturers since July 2011, and the distribution to rights holders has stopped.</p> <p>SARVH lost the case in the first and second instances and the Supreme Court dismissed SARVH's appeal and petition for the acceptance of final appeal.</p> <p>It was recognized as a matter of legislation; however, there has been no consensus to date on reform of the compensation system.</p>

## Applicable national tariffs

Blank Media	Rate (as from December 18, 2000)	Capacity
<b>Audio</b>		
MD	3% of wholesale price	Per unit
CR-R/RW	3% of wholesale price	Per unit
DAT	3% of wholesale price	Per unit
Digital compact cassette	3% of wholesale price	Per unit
Audio Devices	Rate (as from December 18, 2000)	Capacity
MD recorder	2% of wholesale price	Per unit
CD recorder	2% of wholesale price	Per unit
Digital compact cassette recorder	2% of wholesale price	Per unit
DAT recorder	2% of wholesale price	Per unit

### Audio:

The devices/media subject to compensation are specified by Cabinet Order, but they do not reflect the products actually being used for private recording. Consequently, compensation revenue is declining dramatically.

### Video:

The compensation system for private recordings has practically ended with the disbanding of SARVH following the loss of a lawsuit.

## Revenue

Exchange rate LCU/€	102.52	129.582	140.561	134.246
<b>Blank Media</b>	<b>2012 (JPY)</b>	<b>2013 (JPY)</b>	<b>2014 (JPY)</b>	<b>2014 (JPY)</b>
<b>Audio</b>				
MD	51,461,203	35,707,004	1,048,907	15,142,648
CR-R/RW	104,917,749	103,629,679	20,418,632	75,911,270
DAT	259	176,829	-	269,856
Digital compact cassette	-	-	-	
<b>Total "Audio media"</b>	<b>156,379,211</b>	<b>139,513,512</b>	<b>21,467,539</b>	<b>91,323,774</b>
<b>Video</b>				
Digital Video cassette	8,483			
Digital VHS	3,931			
DVD-RAM/R/RW	82,634,826			
Blu-ray Disc	63,951,756			
<b>Total "Video media"</b>	<b>146,598,996</b>			
<b>Audio</b>				
MD	166,912,127	47,922,333	6,331,240	12,131
Audio CD-R/RW	11,851	6,158,937	7,848,889	6,456,644
DAT	-3,104	0	0	0
DCC	0	0	0	0
<b>Total "Audio devices"</b>	<b>166,920,874</b>	<b>54,081,270</b>	<b>14,180,129</b>	<b>6,468,775</b>
<b>Video</b>				
Digital video cassette recorder	0			
D-VHS recorder	0			
DVD recorder	12,284,688			
Blu-ray disc recorder	414,006,900			
<b>Total "Video devices"</b>	<b>426,291,588</b>			
<b>Total "Audio"</b>	<b>323,300,085</b>	<b>193,594,782</b>	<b>35,647,668</b>	<b>97,792,549</b>
<b>Total "Video"</b>	<b>572,890,584</b>			
<b>Total Revenue</b>	<b>896,190,669</b>	<b>193,594,782</b>	<b>35,647,668</b>	<b>97,792,549</b>

## 17. Latvia

### Contact information

Country	Latvia
Currency	Euro
Name of organization	AKKA/LAA
Web site	www.akka-laa.lv
Contact Person 1	Anita Sosnovska
Contact Person 2	Ivars Maculis
E-mail 1	anita.sosnovska@akka-laa.lv
E-mail 2	ivars.maculis@akka-laa.lv
Address	A.Caka Street 97
Postcode	LV- 1011
City	Riga
Phone	+371 67506131
Fax	+371 67315620

### Legislation and fundamental facts

Copyright law	Copyright Law, Cabinet Regulation No.321.
Remuneration system	Remuneration levied on media and equipment; importers and manufacturers are liable for payment.
Liable for payment	Importers/manufacturers.

### Collecting society: Collection and distribution

Collecting society or CMO is appointed by:	AKKA/LAA, appointed by rightholders, by approval of the Ministry of Culture. The collecting society is responsible for distribution to rightholders through organizations of rightholders.
Administrative costs for collecting private copying remunerations	Deducted from copying remunerations, after prior approval by rightholder organizations
Administrative costs for distribution of private copying remunerations	Deducted from the distributable amount
Distribution process	AKKA/LAA collects for all rightholders (copyright and neighboring rights) and distributes to copyright owners based on the distribution rules approved by the AKKA/LAA authors' council

## Rate setting

How are levies/remuneration determined?	Levies are determined by Copyright Law, Cabinet Regulation No. 321, through negotiations between all interested parties under the guidance of the Ministry of Culture.
Which criteria are used for determining the levies/remuneration?	No criteria are used
Are there any consumers or buyers exempt from paying the levies?	Professional users are entitled to a refund.
Are there any products exempt from levies? Are refurbished products exempt?	Hard discs, memory cards and mobile phones with mp3 functionality and all analog devices and media are not levied. However, they are levied when imported but the levies are refunded if the products are sold to professional users.
Are there any developments, negotiations on new rates (e.g., on cloud storage)?	Currently no new negotiations.

## Collection process

How frequently is payment due?	Payment is due monthly.
How do you monitor or intervene in the market?	AKKA/LAA carries out regular inspections of business places and storehouses. Sometimes AKKA/LAA cooperates with police authorities.
Are exports exempted?	Exports are exempted and exporters receive a refund.
Who is considered an importer?	All companies that import levied goods into Latvian territory.

## Distribution process

Who distributes the collected remuneration to rightholders?	AKKA/LAA distributes the collected remuneration yearly to its rightholders (authors) and also distributes the fees to neighboring rights societies which, in turn, distribute to their represented rightholders (performers, phonogram producers and film producers).
Frequency of distribution	Annually
Which are the rightholders?	Authors, performers, phonogram producers and film producers.
How are the distribution schemes determined?	Distribution schemes for different rightholders (authors, performers, phonogram producers and film producers) are determined and approved by the Ministry of Culture after consultation with the working group of rights owners and importers.
Distribution keys	Authors – 38.66% Performers – 30.67% Phonogram producers – 24% Film producers – 6.67%

## Social and cultural funds for collective purposes

Is there a social and/or cultural deduction?	For music authors, according to the reciprocal representation agreements, 10% deductions for the Cultural and Educational Fund are possible.
Which body is responsible for allocation of funds to artists, cultural productions or social schemes?	The Authors' Council is responsible for allocation.
What is the amount dedicated to the social and/or cultural fund in 2013	Not deducted
How can social and cultural funds be used?	For educational and cultural purposes only.



## Legal developments and court cases

Legal developments	Each year consultations in a working group about including new devices into the levy scheme.
Implementation problems	Strong opposition from importers.

## Applicable National rates

Blank Media	Rate valid from November 1, 2013	Capacity
<b>Optical Storage Media</b>		
CD	6%*	
DVD	6%*	
<b>Flash Media</b>		
USB flash drive	4%*	

Devices	Tariff	Capacity
All types of PCs	2.85%	

\*Percentage from sale prices.

## Revenue

Exchange rate LCU/€	1.000	1.000	1.000	1.000
Blank Media	2012 (€ )	2013 (€ )	2014 (€ )	2015 (€ )
Audio cassettes	209.62	0	0	
Video cassettes	299.91	0	0	
<b>Optical Storage Media</b>				
MiniDiscs	10.54	0	0	
CD-R/RW	31,231.00	7,119.74	11,624.42	5976.79
DVD-R/RW	57,496.76	9,000.49	10,386.64	5030.58
USB flash drive	2,445.16	28,418.35	31,903.03	27,459.13
<b>Devices</b>				
All types of PCs	70,235.80	222,942.00	383,952.00	290,839.65
Digital jukebox, MP3 players	13,160.14			
DVD hard disc recorder	359.99			
CD writer internal/external	1,580.81			
DVD writer internal/external	30,958.84			
<b>Total</b>	<b>124,592.63</b>	<b>267,480.58</b>	<b>437,866.09</b>	<b>329,306.15</b>

## 18. Lithuania

---

### Contact information

Country	Lithuania
Currency	Euro
Name of organization	Lithuanian Neighboring Rights Association (AGATA)
Web site	<a href="http://www.agata.lt">www.agata.lt</a>
Contact Person 1	Managing Director Agnė Masalskytė
Contact Person 2	Senior Specialist of Music License Department Linas Ežerinis
E-mail 1	<a href="mailto:agne@agata.lt">agne@agata.lt</a>
E-mail 2	<a href="mailto:linas@agata.lt">linas@agata.lt</a>
Address	S. Žukausko str. 39
Postcode	LT-09130
City	Vilnius
Phone	+370 5 277 88 99
Fax	+370 5 263 94 66

### Legislation and fundamental facts

Copyright law	<p>Article 20 of the Lithuanian Law on Copyright and Related Rights. Governmental Resolution No. 699 of 13/06/2012, which regulates the collection, distribution, payment and refund system for private copying remuneration.</p> <p><a href="http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=471807">http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=471807</a></p> <p>Scope: a natural person, without the authorization of the author or any other copyright owner, 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.</p>
Remuneration system	Remuneration for private copying and levied blank media and devices is set by the Law on Copyright and Related Rights (hereinafter – Law).
Liable for payment	The first seller of imported or manufactured media and devices on Lithuanian territory is liable for payment.

## Collecting society: Collection and distribution

Collecting society or CMO is appointed by:	Lithuanian Neighboring Rights Association (AGATA) appointed by the Minister of Culture in accordance with the Law.
Administrative costs for collecting private copying remuneration	Costs incurred by collection of remunerations were 56,842 euros. This sum also includes the distribution costs of private copying remuneration to other collective rights management associations, which represent owners of copyright and owners of related rights. Furthermore, the organs of each collective right management association, which make the further distribution to their represented rights holders, set a percentage of administrative costs annually.
Administrative costs for distribution of private copying remuneration	The same sum of 56,842 euros applies to the collection of remuneration and the main distribution between collective rights management associations. Furthermore, the organs of each collective right management association, which make the further distribution to their represented rightholders, set aside a percentage for administrative costs annually.
Distribution process	<p>Distribution process AGATA is responsible for the distribution of remuneration to collective rights management associations, which represent owners of copyright and related rights.</p> <p>Remuneration is distributed through the collective rights management associations.</p> <p>The main distribution of collected remuneration is prepared by AGATA, paying out remuneration to authors and holders of related rights.</p> <p>Remuneration is determined by two authors' associations (LATGA-A and NATA (for music authors) and AGATA (for performers and producers of phonograms)). These associations, in turn, distribute to their represented rightholders. Distribution to producers of audio-visual works is carried out by AVAKA</p>

## Rate setting

How are levies/remuneration determined?	Levies are determined by law.
Which criteria are used for determining the levies/remuneration?	The criteria used are the copying behavior of consumers, the harm caused by copying and the source of the copy.
Are there any consumers or buyers exempt from paying the levies?	If the levied media or devices are used for professional purposes, the remuneration may be refunded. Those entitled to that privilege are exporters, professional users and the disabled.
Are there any products exempt from levies? Are refurbished products exempt?	<p>Media for professional uses are not included:</p> <p>Internal and external non-built in solid state disc (SSD) and hard disc drives (HDD), which are bigger than 2.5-inch SATA drives;</p> <p>Hard disc drives (HDD), bigger than 2.5-inch SATA drives and with SCSI, iSCSI, SAS, FC, SATA, FATA interfaces, usually used for servers, data arrays and similar professional engineering purposes; and</p> <p>Solid state disc (SSD) and hard disc drives (HDD), which are built into the PC at the time of sale.</p> <p>There are no exemptions for refurbished products. From January 1, 2016</p> <p>Hard disc drives (HDD) with SCSI, iSCSI, SAS, FC, SATA and FATA interfaces, usually used for servers, data arrays and similar professional engineering purposes;</p> <p>Solid state disc (SSD) and hard disc drives (HDD), which are built into the PC at the time of sale.</p> <p>There are no exemptions for refurbished products.</p>

Are there any developments, negotiations on new rates (e.g., for cloud storage)?	Yes, new rates came into force on January 1, 2016; however, they do not apply to cloud storage.
--	---

## Collection process

How frequently is payment due?	Legal liability moment: When the first sale takes place on Lithuanian territory. Payment period: Once a quarter or once a month.
How do you monitor or intervene in the market?	Monitoring of the market and direct contact with companies or individuals. If they are liable for the payment of remuneration, they make contract with the competent association (AGATA) and pay this levy in accordance with the Resolution of the Government. If the liable party is not compliant, the competent association contacts them by telephone or e-mail to inform them of their duties and legal liability. If this is not effective, AGATA files a formal claim. The liable party is then reported to a law firm representing AGATA, which also files a claim. The final step is a court procedure in which the civil claim is lodged (this has not yet been put into practice).  Furthermore, according to the Resolution of the Government, the competent association has a right to verify the accuracy of the reports on levied media and devices sold in the Republic of Lithuania for the first time, and inspect the import, production and sales documents of the liable party at the work place.
Are exports exempted?	Exports are exempted and exporters can claim a refund for the paid levies.
Who is considered an importer?	The importer is the person who imports from the EU and third-party (non-EU) countries.  In Lithuania, liability for the payment of remuneration for private copying arises when the first seller executes the first sale of imported or manufactured levied media or devices.

## Distribution process

Who distributes the collected remuneration to rightholders?	AGATA is responsible for the distribution of remuneration to collective rights management associations, which represent owners of copyright and of related rights. These associations, in turn, distribute to their rightholders, who are authors, performers and the producers of audio-visual works and phonograms.
Frequency of distribution	Distribution is yearly and includes remunerations collected up to March 1.
Which rightholders?	The distribution shares of rightholders are indicated in the Law. Basic rules, and how the competent association has to distribute the collected remuneration among the various groups of rightholders, are determined in the Resolution of the Government.
How are the distribution schemes determined?	According to the Resolution: <ol style="list-style-type: none"> <li>1. The sums for programs relating to creative activities and copyright, and to related rights protection, have to be deducted from the collected remuneration;</li> <li>2. After these deduction, administrative costs are deducted from the balance</li> </ol> <p>On the basis of these data AGATA distributes the remuneration, transferring the relevant shares to collective rights management organizations for further distribution and payment to the represented rightholders.</p>

Distribution keys	<p>Levies for blank audio media and devices:  1/3 – Authors  1/3 – Performers  1/3 – Phonogram producers</p> <p>Levies for blank video media and devices:  1/3 – Authors  1/3 – Performers  1/3 – Producers of audio-visual works</p> <p>(The audio and video shares of remuneration collected for levied media and devices are calculated on the basis of an independent survey).</p>
-------------------	--

### Social and cultural funds for collective purposes

Is there a social and/or cultural deduction?	25% of collected remuneration is assigned to programs relating to creative activities as well as copyright and related rights protection (these programs are administered by the Ministry of Culture).
What is the amount dedicated to the social and/or cultural fund in 2013?	In 2014, some 949,544.10 euros were allocated. The sum for programs relating to creative activities as well as copyright and related rights protection were transferred to the Ministry of Culture for the first time this year. This is because the amendments of the Law came into force on March 1, 2012. Consequently, the Ministry of Culture is currently preparing the conditions of the tender, after which interested parties can submit their projects.

### Legal developments and court cases

Legal developments	The new amendments of the Law have been in force since March 1, 2012. Consequently, there are no court cases in this area yet.
--------------------	--

### Applicable national rates

Blank Media	Rate valid from March 1, 2012 to December 31, 2015 (euros)	Capacity
Audio cassette	6% of first sales price	Per unit
Video cassette	6% of first sales price	Per unit
<b>Optical Storage Media</b>		
MiniDisc	6% of first sales price	Per unit
All types of DVD	6% of first sales price	Per unit
All types of CD	6% of first sales price	Per unit
Blu-ray	6% of first sales price	Per unit
<b>Flash Media</b>		
USB and non-built in memory cards	0.14	< 1 GB
	0.29	for 1-2 GB
	0.58	for 2.1-4 GB
	0.87	for 4.1-8 GB
	1.44	for 8.1-16 GB
	2.02	for 16.1-32 GB
	2.89	for > 32 GB

Devices	Rate valid from March 1, 2012	Capacity
External and internal non-integrated SSD, HDD	1.44	< 250 GB
	2.31	for 250.1-500 GB
	2.89	500.1 GB-1 TB
	4.34	> 1 TB
PC	5.79	Per unit
<b>Consumer electronics</b>		
Digital and analog 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 theatre, musical centers, car radio, radio set, MP3-players, MP4-players, HD media players and other players;	0.43	< 1 GB
	1.01	for 1-2 GB
TV with a memory device and audio and video recording capability;	4.34	for 2.1-8 GB for 8.1-32 GB
Set-top box with a memory device and audio and video recording capability	5.79	for 32.1-250 GB
	7.24	for 250.1-500 GB
	8.69	for 500.1-750 GB
	10.14	for 750.1 GB-1 TB
	11.58	> 1 TB
<b>Mobile Phones</b>		
Mobile phones with a memory device and audio and video recording	0.43	< 1 GB
	1.01	for 1-2 GB
	1.44	for 2.1-8 GB
	4.34	for 8.1-32 GB
	5.79	for 32.1-250 GB
	7.24	for 250.1-500 GB
	8.69	for 500.1-750 GB
	10.14	for 750.1 GB-1 TB
11.58	> 1 TB	

Blank Media	Rate valid from January 1, 2016 (euros)	Capacity
All types of DVD	6% of first sales price	Per unit
All types of CD	6% of first sales price	Per unit
Blu-ray	6% of first sales price	Per unit
Flash Media		
USB and non-built in memory cards	0.14	< 8 GB
	0.29	for 8.1-16 GB
	0.58	for 16.1-32 GB
	0.87	for 32.1-64 GB
	1.44	for 64.1-128 GB
	2.02	for 128.1-256 GB
	2.89	for > 256 GB

Devices		
External and internal non-built in SSD, HDD	1.44	< 512 GB
	2.31	for 512.1-1 TB
	2.89	1,001-3 TB
	4.34	> 3 TB
Personal computers, laptops, hybrid computers	5.79	Per unit
Digital and analog 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 theatre, musical centers, car radio, radio set, MP3 players, MP4 players, HD media players and other players; TV with a memory device and audio and video recording capability; Set-top box with a memory device and audio and video recording capability; Mobile phones with a memory device and audio and video recording capability	0.43	< 2 GB
	1.01	for 2.1-4 GB
	1.44	for 4.1-8 GB
	2.89	for 8.1-16 GB
	4.34	for 16.1-256 GB
	5.79	for 256.1-512 GB
	7.24	for 512.1-768 GB
Tablets	8.69	for 768.1- 1 TB
	10.14	for 1000.1 TB-3 TB
Gaming consoles	11.58	> 3 TB
	4.34	Per unit
	4.34	Per unit

**Additional Comments:**

When the remuneration for private copying was collected only from CD, DVD, video cassette, audio cassette, Blu-ray and MiniDisc, the revenue decreased annually. When the list of levied media and devices was expanded (from March 1, 2012) the collected remuneration significantly increased (for example the remuneration (after all deductions) for 2012 was €1,448,197.89, compared to €50,748.89 in 2011). The expanded list of levied media and devices is valid for a little over one year. The new Law provides for a review of that list every two years. After such review, it will be possible to assess the changes in revenue.

## Revenue

Exchange rate LCU/€	1.000	1.000	1.000	1.000
<b>Blank Media</b>	<b>2012 (€)</b>	<b>2013 (€)</b>	<b>2014 (€)</b>	<b>2015 (€)</b>
Audio cassette	146.77	60.44	19.14	28.02
Video cassette	3,401.60	2,555.46	1,222.03	836.62
MiniDisc	30.90	10.34	1.37	7.32
CD	25,788.60	23,922.65	19,971.96	17,942.79
DVD	29,604.38	20,016.52	15,404.54	11,818.29
Blu-ray	279.06	346.29	405.12	220.55
USB	176,249.12	225,551.21	210,493.92	230,997.11
Non-built in memory cards	163,989.19	203,102.67	201,493.92	210,737.72
<b>Devices</b>				
SSD	10,804.03	21,311.54	35,074.10	54,942.99
HDD	87,839.95	133,718.25	122,729.05	110,021.29
PC	883,309.64	1,197,863.17	1,227,517.67	1,159,093.46
Digital and analog 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 theatre, musical centers, car radio, radio set, MP3 players, MP4 players, HD media players and other players	38,931.74	27,253.12	20,959.22	269,46.61
Set-top box with a memory device and audio and video recording capability				11,765.53
Mobile Phones	552,531.13	786,494.03	953,211.42	1,289,082.42
<b>TOTAL</b>	<b>1.972.906,11</b>	<b>2.642.205,69</b>	<b>2.808.503,46</b>	<b>3.124,440.72</b>

Note: The amounts (net of debts) shown in the table are inclusive of collection and/or distribution costs. In Lithuania, the collected remuneration is distributed, after deduction of administrative costs (and from March 1, 2012, after deduction of 25% for programs relating to creative activities as well as copyright and related rights protection).

Note. These numbers do not include: (a) the 25% transferred to the Ministry of Culture; or (b) collection/distribution costs.



## 19. Netherlands

### Contact information

Country	The Netherlands
Currency	Euro
Name of organization	Stichting de ThuisKopie
Web site	<a href="http://www.thuiskopie.nl">www.thuiskopie.nl</a>
Contact Person 1	Hester Wijminga
Contact Person 2	Wouter Klomp
E-mail 1	<a href="mailto:Hester.wijminga@cedar.nl">Hester.wijminga@cedar.nl</a>
E-mail 2	<a href="mailto:Wouter.klomp@cedar.nl">Wouter.klomp@cedar.nl</a>
Address	P.O. Box 3060
Postcode	2130 KB
City	Hoofddorp
Phone	+31 (0)23-7997019
Fax	+31 (0)23-8700210

### Legislation and fundamental facts

Copyright law	Copyright Act, last amended in 2015. Royal decree of October 28, 2014. 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.
Remuneration system	Levy system.
Liable for payment	Importers and 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 the original importer.

## Collecting society: Collection and distribution

Collecting society or CMO is appointed by:	Stichting de Thuiskopie is appointed by the Minister of Justice by royal decree.
Administrative costs for collecting private copying remunerations	Administrative costs for collecting remunerations are 5.5%.
Administrative costs for distribution of private copying remunerations	Costs for distribution by organizations of rightholders may not exceed 15%.
Distribution process	Stichting de Thuiskopie is responsible for the collection and distribution of private copying remuneration to all rightholders. The private copying remunerations are distributed by Thuiskopie to organizations of rightholders.

## Rate setting

How are levies/remuneration determined?	The law appoints a negotiating body (SONT) in which rightholders and the industry are equally represented to negotiate the level of the rates. An independent chairman is appointed by the Minister of Justice. If parties cannot come to an agreement, the chairman decides. Rates set by SONT are considered to have been advised by the State Secretary, who makes the final determination of rates by royal decree.
Which criteria are used for determining the levies/remuneration?	A market survey on consumer copying behavior is commissioned yearly. Other criteria are: the private copying contribution in the other EU Member States, the relation to the sales price of the product, acceptability by the public and the wish to avoid major administrative costs for industry.
Are there any consumers or buyers exempt from paying the levies?	All professional users are exempted, either upfront through agreements with professional suppliers or via a refund scheme.
Are there any products exempt from levies	Products that according to market research are not used for private copying are exempted.

## Collection process

How frequently is payment due?	Based upon the law, the obligation to pay arises directly upon import or when the product is manufactured and ready to be put onto the market. In a contractual situation, contractors can report within 15 days after the end of the month in which the product was sold in the Dutch market.
How do you monitor or intervene in the market?	An enforcement officer does regular checks on the market and an anonymous reporting system is in place. Contractors are being audited by Thuiskopie.
Are exports exempted?	Yes
Who is considered an importer?	The first commercial seller on the Dutch market is to be considered the importer. Foreign sellers can be considered importers if they deliver directly to consumers in a cross-border situation ( <i>Opus</i> case)

## Distribution process

Who distributes the collected remunerations to rightholders?	Stichting de Thuiskopie distributes on a quarterly basis to organizations of rightholders. Thuiskopie does not distribute to individual rightholders.  The distribution scheme is set by rightholders within the board of Stichting de Thuiskopie.
Frequency of distribution	Quarterly.
Which rightholders?	Authors, producers, performing artists.
How are the distribution schemes determined?	Schemes are set by the Board of Thuiskopie, on which all rightholders are represented. Usually rightholders initiate negotiations and advise the board on the schemes.

<p>Distribution keys</p>	<p>First the revenues are split: The split for 2015 and 2016 is:          Audio – 34.37%          Audio-visual – 47.66%          Written works – 10.25%          Visual works – 7.72%</p> <p>The distribution schemes are set by rightholders and have to be approved by the supervisory board instituted by law.</p> <p>Distribution scheme for audio:          40% authors – Stemra (distribution Stemra-part: Stemra 92.5%, Lira 7.5%).          30% – performing artists - NORMA          30% – producers; STAP</p> <p>Distribution scheme for video:          31.81% authors – Stemra (distribution Stemra-part: Stemra 31.89%, Lira 36.53%, Vevam 31.58%).          26.25% – performing artists - Norma (video)          34.74% – producers - Sekam video SCGO 7.20%</p> <p>Distribution scheme for written works:          LIRA and publishers</p> <p>Distribution scheme for visual works:          Pictoright and publishers</p> <p>*As regards the schemes for written works and visual works, a share is yet to be determined for publishers based on Article 7 of the Dutch Copyright Act, which reads: Where labor which is carried out in the service of another consists of creating certain literary, scientific or artistic works, the person in whose service those works were created is considered to be the author unless the parties have agreed otherwise.</p>
--------------------------	---

### Social and cultural funds for collective purposes

<p>Is there a social and/or cultural deduction?</p>	<p>There is currently no deduction by Stichting de Thuis kopie for collective (social and/or cultural) purposes.</p> <p>However, the rightholders' organizations that distribute the private copying remunerations to individual rights owners can make a deduction for social and/or cultural purposes.</p> <p>The percentage is determined by rightholders, but it is stated in the law that it cannot exceed 15%.</p>
---	--

## Legal developments and court cases

<p>Legal developments</p>	<p>As a result of the ruling of the Dutch Court of Appeal on March 27, 2012 in the case of Dutch performing rights organization, NORMA, against the Dutch State, the levies scheme had to be expanded to include media and devices that consumers currently use for copying. In the years before this ruling, private copying levies in the Netherlands were restricted to blank CD-R and DVD-R.</p> <p>The Court of Appeal held, following the CJEU in its <i>Opus</i> decision, that it is up to the Member State that implements a private copying exception in its national law to guarantee that the rightholders actually receive payment of fair compensation for the harm sustained. For the years 2007- 2012, the State concluded a settlement with Thuiskopie for damages and paid 33.5 euros million in 2015.</p> <p>In April 2014, the Court of Justice of the European Union in the case of ACI-Thuiskopie ruled that downloading from an illegal source does not fall within the scope of the Private Copying Regulation. In the Netherlands, it is permitted to make a copy of a copyright-protected work for private use. The aim of the remuneration is to compensate the creators of protected works for private copies made by consumers. In the past the Dutch government had always taken the view that copying from illegal sources by a consumer was also within the scope of the private copying exception. The making available of works without the consent of rightholders has always been illegal.</p> <p>On January 1, 2015, a new decree was issued by the State Secretary for Justice lowering private copying levies by 30%. On the upside, a levy on e-readers was introduced. The professional use exemption (both upfront and refund) was extended to all media and devices.</p>
<p>Are there liable parties who deny responsibility or payment for certain media/ devices?</p>	<p>After the introduction of levies on hardware, mobile phones etc., some importers and manufacturers of these devices started legal proceedings, claiming that the levies are too high for various reasons. After the ACI judgment, these proceedings intensified and some companies only paid 50% of the remunerations. These court cases are now in appeal.</p>
<p>Court cases</p>	<p>After the CJEU <i>Padawan</i> decision, several companies in The Netherlands argued that the Dutch system of mutualization (as existed until January 1, 2013) was inconsistent with Directive 2001/29/EC and suspended their payments to Thuiskopie. Thuiskopie started legal proceedings against Imation Europe, a large importer of blank CDs and DVDs.</p> <p>In 2013 the District Court of The Hague, in an interlocutory judgment, held that the system of mutualization was in conflict with <i>Padawan</i>, because it involved the indiscriminate application of levies in respect to blank CDs and DVDs intended for professional use. Consequently, the Court judged that Imation only had to pay private copying levies for the blank media that are directly or indirectly delivered to consumers, and not for blank media delivered to professional users.</p> <p>In 2015, the Court of Appeal of The Hague held that Imation was not entitled to a refund for levies that it had paid for blank media delivered to professional users, because Imation had included the levies in the sales price and thus, according to the Court of Appeal, it would be against EU law, as explained by the CJEU in <i>Copydan</i>, to refund the importer. Only the professional end user would be able to get a refund.</p>

## Applicable national rates

Blank Media	Rate valid from January 2015 (euros)	Capacity
<b>Optical Storage Media</b>		
CD-R/RW	0.02	Per unit
DVD-R/RW	0.02	Per unit

Devices Hardware, PC, HDD	Rate valid from January 2015 (euros)	Capacity
PC/Laptop	3.50	Per unit
Tablet	3.50	Per unit
External hard disc drive	0.70	Per unit
<b>Consumer Electronics</b>		
Audio/Video (mp3) player	1.40	Per unit
Set-top box/Hard disc recorder	3.50	Per unit
E-reader	0.70	Per unit
<b>Mobile Phones</b>		
Smartphone/phone with mp3 function	3.50	Per unit

## Revenue

Exchange rate LCU/€	1.000	1.000	1.000	1.000
	2012 (€)	2013 (€)	2014 (€)	2015 (€)
<b>Blank Media</b>				
Analog video/ video	122,000			
CD-R/DVD-R	5,253,000	2,445,000	859,000	431,227,01
<b>Devices Hardware, PC, HDD</b>				
PC/laptop		4,451,000	5,890,000	4,838,984,50
Tablet		8,039,000	8,194,000	4,969,021,00
External hard disc drive		829,000	785,000	523,710,90
<b>Consumer Electronics</b>				
Audio/Video (mp3) player		473,000	644,000	300,057,80
Set-top box/hard disc recorder		1,110,000	2,640,000	1,810,400,00
E-reader		0	0	168,141,40
<b>Mobile Phones</b>				
Smartphone/phone mp3 function		13,483,000	16,803,000	15,178,198,00
<b>Total</b>	<b>5,375,000</b>	<b>30,831,000</b>	<b>69,295,000*</b>	<b>28.219.740,61</b>

\*Including the €33.5m settlement for 2007-2012.

## 20. Norway

### Contact information

Country	Norway
Currency	NOK – Norske kroner
Name of organization	NORWACO
Web site	www.norwaco.no
Contact Person	Simen Halsan Øien
E-mail	sho@norwaco.no
Address	Møllergata 8
Postcode	0179
City	Oslo
Phone	(+47) 23 31 68 00

### Legislation and fundamental facts

Copyright law	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 compensation scheme was first introduced in Norway in 2005.
Remuneration system	State-funded
Liable for payment	The remuneration is funded by the Norwegian Government, as an item on the national budget.

### Collecting society: Collection and distribution

Collecting society or CMO is appointed by:	Norwaco is owned by our 35 member organizations, which represent different groups of rightholders in Norway. We are also approved and appointed by the Norwegian Government to represent rightholders in Norway and to distribute the compensation.
Administrative costs for distribution of private copying remuneration	A deduction is made to cover the administrative costs of distribution.
Distribution process	The government defines the criteria for distribution, such as a three-way split, with 1/3 for authors, 1/3 for performers and 1/3 for producers. Further distribution is determined through negotiations among our members.

### Rate setting

How are levies/remuneration determined?	The rate is set unilaterally in the national budget each year. We also provide a yearly statistical analysis of private copying.
Which criteria are used for determining the levies/remuneration?	Criteria used are: copying behavior of consumers, the source of the copy, etc.

Are there any developments, negotiations on new rates (e.g., for cloud storage)?	No.
--	-----

## Collection process

How frequently is payment due?	Annually, through the state budget.
How do you monitor or intervene in the market?	Annual surveys of private copying behavior establish patterns based on which final distribution decisions are made.

## Distribution process

Who distributes the collected remuneration to rightholders?	We pay out the remuneration once a year, and member organizations do the same. In Norway, there are different organizations which represent the different rights holders' groups. There are 35 organizations in total, which represent approximately 65,000 rights holders. They are also responsible for non-members.
Frequency of distribution	Annually
Which rightholders?	Every rightholders' group will receive compensation, in accordance with the guidelines of the Norwegian Government.
How are the distribution schemes determined?	The Government defines the criteria for distribution; e.g., a three-way split with 1/3 for authors, 1/3 for performers and 1/3 for producers. Further distribution is determined through negotiations between our members.
Distribution keys	Subject to internal negotiation, based on background information from an annual survey.

## Social and cultural funds for collective purposes

Is there a social and/or cultural deduction?	No
--	----

## Legal developments and court cases

Legal developments	The compensation was reduced for 2015. This is in contrast to the documented increase in private copying. For 2016, the compensation was adjusted in accordance with the consumer price index (CPI) in Norway, but without taking into account the significant increase in overall private copying.
Implementation problems	The issue of "fair compensation" is not defined anywhere. The compensation is low, considering the full scale of private copying. This should be addressed by the appropriate authorities.

## Revenue

Exchange rate LCU/€	7.475	7.800	8.361	8.944	7.475
	2012 (NOK)	2013 (NOK)	2014 (NOK)	2015 (NOK)	2016 (NOK)
<b>Total</b>	<b>42,423,000</b>	<b>43,823,000</b>	<b>45,357,000</b>	<b>45,354,000</b>	<b>46,215,000</b>



## 21. Paraguay

### Contact information

Country	Paraguay
Currency	PYG - Guarní
Name of organization	SGP, Sociedad de Gestión de Productores Fonográficos del Paraguay
Web site	www.sgp.com.py
Contact Person 1	Maria Elena Ojeda
Contact Person 2	Fabian Arguello
E-mail 1	mariaelenaojeda@sgp.com.py
E-mail 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

Copyright law	Law No. 1.328/98 on copyrights and neighboring rights, Art. 34 to 37; definition of private copy according to law, Art. 34.
Remuneration system	Levy system: According to the provisions of the regulatory decree.
Liable for payment	Importers and manufacturers are liable for payment.

### Collecting society: Collection and distribution

Collecting society or CMO is appointed by:	AIE-Paraguay, by agreement of the three entities; the regulatory decree states that the society of performers is the collecting agency. Appointed by rightholders.
Administrative costs for collecting private copying remuneration	Cost is unlimited. It is variable and changes monthly. Generally, it is no more than 14.8%.
Administrative costs for distribution of private copying remuneration	Cost is limited up to 15%. It is variable and changes monthly. Generally, it is no more than 14.8%.
Distribution process	The collecting society delivers 20% (after expenses) to the State for the promotion of intellectual property rights. The balance is shared into three equal parts for authors, producers and performers.

## Rate setting

How are levies/remuneration determined?	Law No. 1328/98 provides that the State shall regulate the right. Accordingly, the rates have been determined in Regulatory Decree No. 4212 of Oct. 12, 2015
Which criteria are used for determining the levies/remuneration?	We believe that the authorities take into account the harm caused by copying. The larger the size of the copy, the higher the rate.
Are there any consumers or buyers exempt from paying the levies?	Professional users are exempted.
Are there any products exempt from levies? Are refurbished products exempt?	Article 350 - Exemptions from payment of the above compensation apply to: equipment and materials to be used by producers of audio-visual works, phonograms and publishers, or by their respective licensees and (based on compulsory studies of sync sound or sounds and images) companies working on behalf of any of them, for legitimate production or reproduction of those works, provided that such equipment is used exclusively for these activities.
Are there any developments, negotiations on new rates (e.g., for cloud storage)?	No.

## Collection process

How frequently is payment due?	The mechanism is established in the decree. No one in the country can import the devices and players without payment. The decree only obliges importers and domestic manufacturers to pay compensation. The importer is the person or company that brings the merchandise into the country.
How do you monitor or intervene in the market?	It is not necessary. Payment must be made prior to release.
Are exports exempted?	No.
Who is considered an importer?	The importer is the person or company that brings the merchandise into the country.

## Distribution process

Who distributes the collected remuneration to rightholders?	The Society of Artists distributes monthly to the Societies of Authors and of Producers, which, in turn, distribute the funds to their members (authors, artists and producers of phonograms).
Which rightholders?	According to the decree, only producers of musical works, musical performances and phonographic productions are compensated. Each society decides how to distribute. The societies of artists and of producers distributed according to airplay.
How are the distribution schemes determined?	Each of the three entities determines the distribution scheme. For the time being, 100% is generally allocated to audio.

## Social and cultural funds for collective purposes

Is there a social and/or cultural deduction?	The Society of Authors and the Society of Artists are subject to a social and/or cultural deduction. Producers are not. The maximum rate is 10% according to Law No. 1.328/98.
Which body is responsible for allocation of funds to artists, cultural productions or social schemes?	The Board of Artists
What is the amount dedicated to the social and/or cultural fund?	10% of the collection
How can social and cultural funds be used?	Payment of medical consultations and assistance towards the cost of medical testes, prescription glasses, prosthetic aids and hospitalization.

## Legal developments and court cases

Legal developments	There were claims of unconstitutionality against the Regulatory Decree. Unfortunately, the claims prospered.
Are there liable parties who deny responsibility or payment for certain media/devices?	The payment is made at customs before the merchandise is introduced into the market.

## Applicable national rates

Hard disc drives	0.5% of the import price for all products/devices
Smartphone	0.5% of the import price for all products/devices
Laptop/PC	0.5% of the import price for all products/devices
Audio recording devices	0.5% of the import price for all products/devices
Video recording devices	0.5% of the import price for all products/devices
Media players	0.5% of the import price for all products/devices
CD-R, DVD-R, DVD + R	0.5% of the import price for all products/devices
CD-R/DVD-R recorders	0.5% of the import price for all products/devices
Memory cards	0.5% of the import price for all products/devices
Portable mp3/mp4 player	0.5% of the import price for all products/devices

## Revenue

Exchange rate LCU/€	5685.409	5736.734	5920.140	5772.593
	2012 (PYG)	2013 (PYG)	2014 (PYG)	2015 (PYG)
<b>Note: Gross Amount Collected</b>	<b>5,307,233,220</b>	<b>5,296,782,629</b>	<b>4,734,557,199</b>	<b>5,196,049,079</b>

Note: We have only the total amount collected, and not amounts per type of device.

## 22. Poland

### Contact information

Country	Poland
Currency	Polish zloty (PLN)
Name of organization	Biuro ZAIKS, SAWP, ZPAV ds. czystych nośników (head office of ZAIKS, SAWP, ZPAV of blank media)
Web site	www.zaiks.org.pl www.czystenosniki.pl
Contact Person 1	ZAIKS Grzegorz Burakiewicz
Contact Person 2	Biuro ZAIKS, SAWP, ZPAV ds. czystych nośników
E-mail 1	grzegorz.burakiewicz@zaiks.org.pl
E-mail 2	biuro@czystenosniki.pl
Address	Stowarzyszenie Autorów ZAIKS ul. Hipoteczna 2
Postcode	00-092
City	Warsaw
Phone	+48 (22) 827 606169

### Legislation and fundamental facts

Copyright law	<p>Copyright Law and Law on Neighboring Rights of February 4, 1994 (Journal of Law No 24, item 83 with further amendments). Regulations of the Minister of Culture of June 2, 2003 and December 15, 2008, which amend the regulation on the specification of the categories of devices and media used for recording works, and on their sales levies imposed on producers and importers.</p> <p>Article 23 of the Polish Law on Copyright regulates the scope of the private use:</p> <p>Article 23.</p> <ol style="list-style-type: none"><li>1. It shall be permitted to use free of charge and for private purposes, without the permission of the author, work that has already been disseminated. (...)</li><li>2. The scope of private 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.</li></ol>
Remuneration system	<p>Remuneration is collected through levies on media and equipment.</p> <p>Article 20 of the Polish Law on Copyright regulates the remuneration system:</p> <p>Article 20.1. Producers and importers of:</p> <ol style="list-style-type: none"><li>1. tape recorders, video recorders and other similar devices;</li><li>2. photocopiers, scanners and other similar reprographic devices used to make copies of all or part of a published work;</li><li>3. blank media used for recording, for private use, of works or objects of related rights, with the devices listed in subparagraphs 1 and 2 – shall be obliged to pay to the collective management organizations specified in paragraph 5, which act on behalf of artists, artistic performers, producers of phonograms and videograms, and publishers, fees of no more than 3% of the sales amount of such devices and carriers.</li></ol>

Liability for payment	Producers and importers of recording media and equipment are liable for payment.
-----------------------	--

### Collecting society: Collection and distribution

Collecting society or CMO is appointed by:	Stowarzyszenie Autorów ZAIKS – creators Stowarzyszenie Artystów Wykonawców Utworów Muzycznych i Słowno-Muzycznych SAWP – performing artists Związek Producentów Audio-Video ZPAV – producers phonograms and videograms
Administrative costs for collecting private copying remuneration	Costs for collecting private copying remunerations are directly borne by Collective Management Organizations (ZAIKS, SAWP, ZPAV) appointed to collect levies.
Administrative costs for distribution of private copying remuneration	The administrative costs for collecting private copying levies were 6.18% of the amount collected in 2013, and 8.88% of the amount collected in 2014.

### Rate setting

How are levies/remuneration determined?	The Minister of Culture and National Heritage determines by regulation the list of devices and media and also the rate of levy paid for them.
Which criteria are used for determining the levies/remuneration?	The Minister of Culture and National Heritage defines, by regulation, the categories of devices and media as well as the fees, based on the capacity of the devices and media to reproduce works, and their intended use, other than for reproduction of works.  The basic criterion in the Polish system for the collection of levies on sales of devices/media by producers and importers is their intended use – whether they are used for the purposes of private copying.
Are there any consumers or buyers exempt from paying the levies?	Levies can be collected on devices and media destined for the private use of the purchaser only.
Are there any products exempt from levies? Are refurbished products exempt?	Laptops, PCs, smartphones, mobile phones with MP3 functionality, tablets, MP4 players, and devices with MP4 functionality.  As of 2014, refurbished products were subject to levies.
Are there any developments, negotiations on new rates (e.g., for cloud storage)?	No developments or negotiations, despite the conclusions reached by organizations in this field.

### Collection process

How frequently is payment due?	Producers and importers of devices and blank media shall be obliged to pay levies within two weeks of the end of each quarter wherein the sales took place.
How do you monitor or intervene in the market?	Three collecting societies appointed by the Minister of Culture for the collection of levies recruit an external expert to check the accuracy of the settlements made by the enterprises paying levies. If the liable parties are not compliant, the collecting societies are obliged to take legal action to claim levies.
Are exports exempted?	Export refund procedures are not implemented in Polish legal regulations.
Who is considered an importer?	The definition of an importer is specified in the Civil Code. Under Article 449(5)(2CC), an importer is any entity that introduces a product of foreign origin into the domestic market within the scope of its business activity. Import covers deliveries of goods within the European Community as well as deliveries from non-EU countries.

## Distribution process

Who distributes the collected remuneration to rightholders?	The collective management organizations responsible for levies' distribution are: ZAIKS, SAWP, ZPAV in the audio sector; and SFP, ZASP, ZPAV in the video sector.
Frequency of distribution	Frequency of distribution is determined by the agreements concluded by all organizations representing rights owners of the relevant categories (e.g., creators).
Which rightholders?	There are three categories of rightholders: creators, performing artists, producers of phonograms and videograms
How are the distribution schemes determined?	The distribution schemes are determined by the Copyright Law and Law on Neighboring Rights of February 4, 1994, and by the regulation of the Minister of Culture and National Heritage.
Distribution keys	<p>Article 20(2) of the Copyright Law and the Law on Neighboring Rights determines the distribution of levies for various categories of rights owners, and the percentage shares of the audio and video sectors.</p> <p>Distribution scheme for audio:            Authors: 50%            Performers: 25%            Phonogram Producers: 25%.</p> <p>In this sector the organizations responsible for distribution of levies are: ZAIKS, SAWP and ZPAV.</p> <p>Distribution scheme for video:            Authors: 35%            Performers: 25%            Video producers: 40%.</p> <p>In this sector the organizations responsible for distribution of levies are: SFP, ZASP and ZPAV.</p> <p>Other distribution schemes:</p> <p>Collective management organizations responsible for distribution of levies (ZAIKS, SAWP, ZPAV in the audio sector; and SFP, ZASP, ZPAV in the video sector) divide levies on the basis of the agreements concluded by all organizations representing rights owners after taking into account survey results. The survey, commissioned by the organizations, indicates the relation between the products levied and the category in which distribution takes place.</p>

## Social and cultural funds for collective purposes

Is there a social and/or cultural deduction?	In the Polish two-tier distribution system (the first being statutory distribution between two sectors; and the second being distribution by societies representing various categories of rightholders) possible deductions for social or cultural purposes are applied by societies responsible for distribution to their members. The deductions are not determined by the State law; they are made in accordance with the statutes of the relevant society.
--	--

## Legal developments and court cases

Implementation problems	<p>In 2014, the collective management organizations submitted to the Minister of Culture and National Heritage proposed amendments on, inter alia, the list of media and devices. These amendments have not yet been considered by the Minister. However, in response, the organizations representing manufacturers and importers initiated action against these proposed amendments, which has turned into an active campaign against private copying levies.</p> <p>Another crucial problem for the organizations collecting private copying levies in Poland is the ambiguous position of the tax authorities regarding the inclusion of such organizations within the value-added tax (VAT) system.</p> <p>The foregoing circumstances have an effect on the total amount collected.</p>
-------------------------	--

## Applicable national rates

The rates currently in force have been effective and unchanged since January 1, 2009.

Device or carrier	Percentage of the fee deducted from the sales price of the equipment or media	Capacity
MP3 (single function)	3.0 %	Per unit
CD-R 12 cm	1.72 %	
CD-RW 12 cm	2.89 %	
DAT Cassette	3.0 %	
MD record (MiniDisc)	3.0 %	
Audio cassette	3.0 %	
Memory card (including pen drive and other semiconducting massive storage devices)	0.47 %	
Stacking hi-fi with tape recorder and CD player	0.76 %	
Stacking hi-fi with tape recorder and DVD player	0.76 %	
Stacking hi-fi with tape recorder and CD player with recording functionality	0.70 %	
Stacking hi-fi with DVD/CD player with Flash recording functionality	0.17 %	
Stacking hi-fi with tape recorder and DVD player with recording functionality	1.04 %	
Stacking hi-fi with hard disc/Flash	0.19 %	
Radio-cassette recorder with CD player	0.74 %	
Radio-cassette recorder having a CD player with recording functionality	0.69 %	
Radio-cassette recorder	0.96 %	
Radio with MD player with recording functionality	0.98 %	
Radio with CD player with recording functionality	0.54 %	
Radio with CD player with recording function Flash	0.05 %	
CD player with a MD player with recording functionality	0.94 %	
MD player with recording functionality	1.71 %	
Computer hard disc STANDARD	1.0 %	
Other computer hard discs included in the remaining devices which can be used to record works or subjects under neighboring rights, including audio or audio-visual	1.0 %	
Computer CD recorder	1.54 %	

Computer DVD recorder	2.28 %	
Tape recorder	2.03 %	
Multifunctional multimedia player with MP3 format	1.14 %	
Car stereo set comprising a CD player with recording functionality	1.08 %	
Car stereo set comprising a CD player capable of recording on other media	0.30 %	

Device or carrier	The percentage of the fee deducted from the sales price of the equipment or carrier	Capacity
DVD-R 12 cm	2.53 %	Per unit
DVD-RW 12cm	2.95 %	
DVD RAM 12 cm	3.00%	
Blu-ray R 12 cm	2.10 %	
Blu-ray RE 12 cm.	2.10 %	
HD DVD-R 12 cm	2.10 %	
HD DVD-RW 12 cm	2.44 %	
VHS cassette	3.0 %	
VHS/D cassette	3.0 %	
HD DVD or Blu-ray computer recorder	1.89 %	
Video recorder	2.14 %	
Video player with recording function	2.35 %	
DVD player with recording function	1.46 %	
DVD player capable of recording on other media via USB	0.27 %	
DVD player with recording function and hard disc	2.23 %	
DVD and VHS player with recording function	2.23 %	
DVD and VHS professional player with recording function and hard disc	1.86 %	
High Definition player with recording function	1.21 %	
High Definition player with recording function and hard disc	1.85 %	
Disc memory which registers AV stream (including digital TV decoder with hard disc)	0.87 %	
TV set comprising video recorder	0.51 %	
TV set comprising hard disc	0.51 %	
TV set comprising DVD recorder	0.35 %	
TV set comprising DVD recorder and hard disc	0.87 %	

## Revenue

Exchange Rate LCU/€	4.184	4.196	4.185	4.181
Media/Devices	2012 (PLN)	2013 (PLN)	2014 (PLN)	2015 (PLN)
Total Audio	5,669,701.68	8,340,133.12	5,759,420.19	6,140,658.26
Total Video	1,204,315.40	549,006.28	650,145.60	425,375.45
<b>Total revenue</b>	<b>6,874,017.08</b>	<b>8,889,139.40</b>	<b>6,409,565.79</b>	<b>6,566,033.71</b>



## 23. Portugal

### Contact information

Country	Portugal
Currency	Euro
Name of organization	AGECOP – Associação para a Gestão da Cópia Privada
Web site	www.agecop.pt
E-mail 1	geral@agecop.pt
Address	Av. Estados Unidos da América, 94, 7.º B
Postcode	1700-178
City	Lisboa
Phone	+351 21 848 66 05
Fax	+351 21 848 66 07

### Legislation and fundamental facts

Copyright law	<p>The new Portuguese Law on Private Copy (No. 49/2015) was published on June 5, 2015 and entered into force on July 5, 2015.</p> <p>It amends the previous private copying Law by extending the list of devices subject to private copying levies.</p> <p>Private copying remunerations are collected and managed by AGE COP, for both audio-visual and reprographic works</p>
Remuneration system	<p>Concerning levies on equipment and blank media, which benefit music and audio-visual rights holders (no. 2 in the table on equitable compensation of in the Law) as well as graphic rights holders (No. 1 and a percentage of No. 2.3, items (k), (l) and (p), in the table on equitable compensation the Law), all importers and manufacturers of such items are obliged to collect the levy when the first sale of the product takes place on Portuguese territory. RAs for compensations that benefits reprographic rightholders includes collections made from photocopies (3% of the sales price of photocopies, before the application of VAT).</p>
Liable for payment	Importers, manufacturers, traders and others are liable for payment.

### Collecting society: Collection and distribution

Collecting society or CMO is appointed by:	AGECOP: The incorporation of AGE COP was mandatory and occurred in 1998. Our members are all the collecting societies that exist in Portugal and represent authors, artists and performers, publishers and music and video producers.
--	---

## Rate setting

How are levies/remuneration determined?	The legislator determines the levies.
Are there any consumers or buyers exempt from paying the levies?	Yes, according to Article 4 of Law No. 49/2015. Natural or legal persons, public or private, may be exempt from the payment of the compensation if: <ul style="list-style-type: none"> <li>a. the activity is intended for audio-visual communication or the production of phonograms and videograms exclusively for their own productions;</li> <li>b. the activity is intended to support disabled people;</li> <li>c. the activity is intended to safeguard movable cultural heritage;</li> <li>d. the media are intended to be used exclusively within the context of professional activities (for instance, by photographers, designers, architects, engineers, etc.)</li> <li>e. the devices and media are intended to be used for medical purposes, defense missions, judicial purposes, homeland security or scientific research.</li> </ul>
Are there any developments, negotiations on new rates (e.g., for cloud storage)?	No, not at the moment.

## Collection process

How frequently is payment due?	The collection and disbursement of the levy amounts is the responsibility of the manufacturers and importers established on Portuguese soil. These levy amounts shall be deposited every three months into a bank account opened in the name of the managing entity (AGECOP).
How do you monitor or intervene in the market?	Importers and manufacturers also have to report data on exports and exemptions for professional uses. All the data has to be reported to AGE COP and to the General Inspectorate of Cultural Activities, an entity under the Ministry of Culture. Furthermore, public and private entities that sell photocopies have to report the number of copies of works made each year.  AGECOP can audit the accounts of all importers and manufacturers covered by this Law. It can also audit public and private entities that have signed contracts to pay the remuneration added to the sales price of photocopies. All administrative and police authorities are competent to supervise the compliance with the regulations governing private copying.
Are exports exempted?	To obtain a refund for exports, importers and manufacturers must present the same documents that are submitted to VAT services when applying for a VAT refund.

## Distribution process

Who distributes the collected remuneration to rightholders?	Only collecting societies are eligible for membership of AGE COP, so they distribute remuneration to rightholders.
How are the distribution schemes determined?	Distribution schemes are defined in the Law. Only collecting societies are eligible for membership of AGE COP, so they distribute remuneration to rightholders. AGE COP, from the legal standpoint, has two Departments, namely: the Graphic and Reprographic Copy Department and the Phonographic and Videographic Copy Department

Distribution keys	<p>AGECOP distributes as follows:  Remunerations for the Phonographic and Videographic Copy Department – 40% for collecting societies representing authors; 30% for collecting societies representing artists and performers; and 30% for collecting societies representing music and video producers.  Remunerations to the Graphic and Reprographic Copy Department – 50% for collecting societies representing authors; and 50% for collecting societies representing publishers.</p>
-------------------	--

### Social and cultural funds for collective purposes

Is there a social and/or cultural deduction?	There is a cultural deduction. The law establishes an obligation to deduct 20% of the total amount collected for collective purposes.
How can social and cultural funds be used?	The amounts deducted are invested in the promotion of cultural activities, investigation and public awareness on copyright and neighboring rights.

### Applicable national rates

Blank Media/devices (according to the Table on Equitable Compensation)	Rate as of July 2015 (euros)	Capacity
<b>1 – Devices, equipment and technical instruments for copying</b>		
(a) Multifunctional equipment or ink-jet photocopiers	5	Per unit
(b) Multifunctional equipment or laser photocopiers: Up to 40 pages per minute	10	Per unit
More than 40 pages per minute	20	Per unit
(c) Scanners and other equipment meant only for digitization	2	Per unit
(d) Ink-jet printers	2.5	Per unit
(e) Laser printers	7.5	Per unit
<b>2 – Devices, gadgets and media</b>		
<b>2.1 – Analog devices</b>		
	<b>Rate (euros)</b>	<b>Capacity</b>
Audio recorders	0.20	Per unit
Video recorders	0.20	Per unit
<b>2.2 – Digital devices without memory or hard drive</b>		
	<b>Rate (euros)</b>	<b>Capacity</b>
CD-recorder	1	Per unit
DVD-recorder	2	Per unit
CD and DVD recorder	3	Per unit
Blu-ray recorder	3	Per unit
<b>2.3 – Media and storage devices</b>		
(a) Analog media for audio recording, such as cassettes/tapes	0.10	Per unit
(b) Analog media for video recording, such as cassettes/tapes	0.10	Per unit
(c) CD-R	0.05	Per unit
(d) 8 inch CD	0.05	Per unit
(e) MiniDisc	0.05	Per unit
(f) CD-RW	0.10	Per unit
(g) DVD-R	0.10	Per unit
(h) DVD-RW	0.20	Per unit
(i) DVD-RAM	0.20	Per unit
(j) Blu-ray disc	0.20	Per unit
(k) USB flash drive	0.016	Per GB limit €7.50

(l) Memory card	0.016	Per GB limit €7.50
(m) Memory/HD built into devices with copying functionality	0.016	Per GB limit €15
(n) External hard drive with audio/video IN/OUT	0.016	Per GB limit €15
(o) Memory/HD in television and devices with interface broadcasting signal and TV including set-top box, decoders, etc.	0.016	Per GB limit €15
(p) Memory devices and HD built into computers	0.004	Per GB limit €7.50
(q) External or internal hard drive used on a computer or other device for audio/video recording	0.004	Per GB limit €7.50
(r) Memory/HD built into devices that record, read and store phonograms, any musical work in compressed format (Mp3)	0.20	Per GB limit €15
(s) Memory/HD built into mobile phones	0.12	Per GB limit €15
(t) Memory/HD built into multimedia tablet devices	0.12	Per GB limit €15
3 – The devices, appliances or media devices shall be liable to only one of the equitable compensation fees presented in the sub-paragraphs above, with the highest rate being applicable.		

## Revenue

Exchange rate LCU/€	1.000	1.000	1.000	1.000
Blank media/devices/ photocopies	2012 (€)	2013 (€)	2014 (€)	2015 (€)
Graphic and Reprographic Copy Department <sup>1)</sup>	36,779.10	12,964.23	7,887.88	608,858.95
Phonographic and Videographic Copy Department	1,179,083.90	880,490.12	680,209.01	2,714,579.32
<b>Total</b>	<b>1,215,863.00</b>	<b>893,454.35</b>	<b>688,096.89</b>	<b>3,323,438.27</b>

- (1) In 2012, 2013 and 2014, the revenue of the Graphic and Reprographic Copy Department came exclusively from collections by all public and private entities that sell photocopies, and had signed contracts with AGECOP (3% of the sales price of photocopies, before the application of VAT).

## 24. Russia

### Contact information

Country	Russian Federation
Currency	Ruble
Name of organization	Russian Union of Right-holders
Web site	www.rp-union.ru
Contact Person 1	Erik Valdes-Martines
Contact Person 2	Andrey Krichevskiy
E-mail 1	valdes@rp-union.ru
E-mail 2	ak@rp-union.ru
Address	Blvd. 73/1. Novoslobodskaya
Postcode	127055
City	Moscow
Phone	+7 495 988 50 89

### Legislation and fundamental facts

Copyright law	Article 1245 of the Civil Code. Authors, performers and manufacturers of sound recordings and audio-visual works are entitled to receive a fee for free reproduction/playback of the sound recordings and audio-visual works exclusively for personal purposes. Such a fee is compensatory in nature and payable to rightholders from the funds collected from manufacturers and importers of devices and storage media used for reproduction/playback.
Remuneration system	The levy system is established by the Russian Government.
Liable for payment	Importers and local manufacturers on the territory of Russian Federation are liable for payment.

### Collecting society: Collection and distribution

Collecting society or CMO is appointed by:	The Russian Union of Rightholders (RUR) is the sole organization within Russian territory that is responsible for the collection and distribution of private copying remunerations to all rights owners. Appointed by the Ministry of Culture, pursuant to the Civil Code, RUR is a monopoly organization.
Administrative costs for collecting private copying remuneration	Administrative costs for collection and distribution of private copying remunerations are determined by law. Deductions can be up to 15%. The current rate is 15%.
Distribution process	RUR distributes remuneration directly to rightholders.

## Rate setting

How are levies/remuneration determined?	Levies/remuneration are determined by the Russian Government.
Which criteria are used for determining the levies/remuneration?	Criteria for determining the levies/remuneration are: (1) copying behavior of consumers; (2) reproduction/playback; 3) copying for personal purposes.
Are there any consumers or buyers exempt from paying the levies?	Professional use does not count as private copying in Russian. Professional equipment is not levied. This does not affect the rate.  The current legislation in Russian (see Art.1245 of the Civil Code) exempts from levies the manufacturers of exported products and professional equipment not intended for private use. The number of such manufacturers is limited by law.
Are there any products exempt from levies? Are refurbished products exempt?	There are no specific groups that do not have to pay except for the companies importing and producing professional equipment. Products made for professional use do not fall within the scope of the private copying system.
Are there any developments, negotiations on new rates (e.g., for cloud storage)?	No. It is not an issue so far....

## Collection process

How frequently is payment due?	The terms of payments by the liable parties depend on the frequency of importation into the territory of the Russian Federation.  Payment is due once a quarter, unless the agreement states otherwise.
How do you monitor or intervene in the market?	RUR sues the liable parties who are not compliant and/or takes other legal actions.
Are exports exempted?	Exporters have the right to claim a refund for paid levies if they confirm that the equipment has not been used on the territory of the Russian Federation.
Who is considered an importer?	According to the law, the importer is the person responsible for declaring imported goods to the Customs Union, which comprises Russia, Belorussia and Kazakhstan. In 2016, Kirgizstan and Armenia joined as new members.

## Distribution process

Who distributes the collected remuneration to rightholders?	It is the legal obligation of RUR.
Frequency of distribution	According to the RUR statute, the remuneration is distributed no less than once a year (frequency of payment is fixed by the organs of RUR).
Which rightholders?	1. Authors of musical and audio-visual works; 2. Performers (singers and actors); and 3. Manufacturers of sound recordings or audio-visual works.
How are the distribution schemes determined?	According to the Civil Code, distribution is based on statistical data. Data is allocated from relevant collecting societies on physical media sales, digital sales, etc.
Distribution keys	Distribution scheme for audio: 1. 40% to authors of musical works; 2. 30% to performers of musical works; and 3. 30% to manufacturers of musical works.  Distribution scheme for video: 1. 40% to authors of audio-visual works; 2. 30% to performers of audio-visual works; and 3. 30% to manufacturers of audio-visual works.

## Social and cultural funds for collective purposes

Is there a social and/or cultural deduction?	RUR is obliged to deduct an amount for social and cultural purposes that should not exceed 20% of the total collection.
Which body is responsible for allocation of funds to artists, cultural productions or social schemes?	Deduction for social and cultural purposes is established by law and should be approved by the rightholders (Art. 1243 (4) of the Civil Code).  The Council of RUR takes the decision which must subsequently be implemented by the management of the organization. All deductions are transferred to the relevant Funds for further action.
What is the amount dedicated to the social and/or cultural fund in 2013?	2013 – 680,793,132.00 rubles 2014 – 533,080,530.00 rubles
How can social and cultural funds be used?	Social and cultural funds are used for social and cultural purposes, such as musical festivals, cinema production, support to young rightholders and work with Russian heritage etc.

## Legal developments and court cases

Legal developments	None.
Are there liable parties who deny responsibility or payment for certain media/devices?	For the time being we have managed to come to an understanding with the biggest users.
Court cases	We have some but they are not significant.

## Applicable national rates

The fee is 1% of the production price per unit of equipment and storage media.

The list of equipment and storage media is determined by the Government.

The list contains equipment and storage media with the following features:

1. Equipment having a sound-recording or video-recording function and using magnetic, optical or semi-conductor media (central memory units, memory units on discs, magnetic tapes and other media; sound-reproducing equipment (including cassette players) having a sound-recording function and using magnetic, optical or semi-conductor media; and video-recording or video-reproducing equipment combined or not combined with video-tuner on magnetic tape, DVD players. etc.).
2. MMagnetic tapes and magnetic discs.
3. Optical media.
4. Semi-conductor media.

## Revenue

Exchange Rate LCU/€	39.625	42.271	50.918	67.584
	2012 (RUB)	2013 (RUB)	2014 (RUB)	2015 (RUB)
<b>Total collections</b>	<b>1,172,902,000.00</b>	<b>3,400,968,660.95</b>	<b>2,675,402,652.50</b>	<b>2,184,731,176.45</b>

RUR does not split the allocated compensation between types of equipment. Only the final figures of the total collection can be provided.

## 25. Slovak Republic

### Contact information

Country	Slovak Republic
Currency	Euro
Name of organization	SOZA – Slovak Performing and Mechanical Rights Society
Web site	www.soza.sk
Contact Person 1	Mgr. Marek Očkay
Contact Person 2	Mgr. Tomáš Mikš
E-mail 1	marek.ockay@soza.sk
E-mail 2	tomas.miks@soza.sk
Address	Rastislavova 3
Postcode	821 08
City	Bratislava
Phone	+421 2 55 569 363
Fax	+421 2 55 569 409

### Legislation and fundamental facts

Copyright law	Copyright Act No. 185/2015 Coll. Definition of private copy system: According to Article 42 of Copyright Act No. 185/2015 Coll., copyright is not infringed when a natural person makes a copy of a work for private purpose which is neither directly nor indirectly commercial. According to Article 36(2) of Copyright Act No. 185/2015 Coll., such use of the work gives rise to an obligation to pay remuneration to the author in accordance with the basis of its calculation and in the amount prescribed in Annex No. 2 of Copyright Act No. 185/2015 Coll.
Remuneration system	Remuneration levied on media and equipment (devices).
Liable for payment	According to Article 36(3)(a) of Copyright Act No. 185/2015 Coll., remuneration for a blank media usually used for copying musical works or technical devices used for reproduction of phonograms or audio-visual recordings shall be paid by manufacturers, recipients from a Member State, importers from a third country or persons who make them available for sale, including internet sale, for the first time on the market in the Slovak Republic.

### Collecting society: Collection and distribution

Collecting society or CMO is appointed by:	SOZA. Appointed by rightholders – SOZA; OZIS; LITA; SLOVGRAM – collective management organizations representing different rightholders (by general representation agreement between the societies).
--	---



Administrative costs for collecting private copying remunerations	Joint administrative costs for collecting and distributing private copying remunerations represent 10% of the collected amount.
Administrative costs for distribution of private copying remuneration	Joint administrative costs for collecting and distributing private copying remunerations represent 10% of the collected amount.
Distribution process	The collecting society is responsible for distribution of remuneration to the above-mentioned four collective societies, which are in turn responsible for distribution to rightholders.

### Rate setting

How are levies/remuneration determined?	Levies are set directly by the Slovak Copyright Act (Annex No. 2 of the Act). The criteria used are undisclosed by the lawmaker.
Are there any consumers or buyers exempt from paying the levies?	The remuneration is not paid for levied objects intended for the personal use of the importer or recipient.
Are there any products exempt from levies?	The remuneration is not paid for levied objects intended for the personal use of the importer or recipient.
Are there any developments, negotiations on new rates (e.g., for cloud storage)?	IT business is lobbying for the removal of SMART TV, mobile phones and tablets from the list of levied commodities.

### Collection process

How frequently is payment due?	Payment is due quarterly.
How do you monitor or intervene in the market?	Market control is carried out by exchanging data with several State organs, especially the customs office.
Are exports exempted?	Exports are exempted.
Who is considered an importer?	Producers; recipients from a Member State; and importers from a third country or other persons who place media or devices on sale for the first time on the Slovak market are considered importers.

### Distribution process

Who distributes the collected remuneration to rightholders?	Each of the four above-mentioned collective societies distributes to the rightholders associated with each organization (society) on a yearly basis.
Frequency of distribution	Annually
Which rightholders?	LITA (literary, dramatic, audio-visual, choreographic, photographic works and visual arts) SOZA (musical works – writers, composers and publishers) OZIS (performers) SLOVGRAM (performers and producers of phonograms)
How are the distribution schemes determined?	Distribution schemes are agreed on between respective collective management societies (i.e., the rightholders).
Distribution keys	26.52% – LITA (literary, dramatic, audio-visual, choreographic and photographic works and visual arts) 24.48% – SOZA (musical works – writers, composers and publishers) 9.6% – OZIS (performers) 39.4% – SLOVGRAM (performers and producers of phonograms)

## Social and cultural funds for collective purposes

Is there a social and/or cultural deduction?	There are no social or cultural deductions from private copying remuneration.
--	---

## Legal developments and court cases

Legal developments	New Copyright Act No. 185/2015 Coll. is effective from January 1, 2016 in Slovakia.
Are there liable parties who deny responsibility or payment for certain media/devices?	Yes, manufacturers.

## Applicable national rates

Blank Media	Private copying levy % of import/sales price, excluding VAT
Audiotape (CC, MC)	6%
Flash disc (USB, UFS, MS, MSD etc.)	6%
Hard disc drive – external (HDD, SSD etc.)	6%
Hard disc drive – internal - non-built in in PC (HDD, SSD, etc.)	6%
Memory card (SD, mini SD, micro SD, PCMCIA, MMC etc.)	6%
MiniDisc (MD, HI-MD)	6%
Optical carrier (Blu-ray disc, DVD, DVD-RW, CD, CD-RW etc.)	6%
Videotape (VHS, HDV, Hi-8, Digital 8, Mini DV etc.)	6%
Other type of blank audio media	6%
Other type of blank audio-visual media	6%
Technical Devices	Private copying levy % of import/sales price, excluding VAT
Burning device for external optical carriers	3%
Burning device for internal optical carriers – not built into PC	3%
Camera	0.35%
Desktop computer (PC)	0.85%
Notebook	0.85%
MiniDisc recorder	3%
Minisystem or microsystem capable of recording via USB port or otherwise	3%
MP3 and MP4 players	3%
Mobile phone	0.70%
Multimedia recorder or player capable of recording with internal hard disc, via a USB port or otherwise	3%
Radio-cassette with recording capacity	3%
Set-top box with capable of creating or storing a copy of the work to other separate technical device or media	3%
Smart TV with a built-in hard disc or capable of recording via a USB port or otherwise	3%
Tablet	0.60%
Video camera	1%

Video game console	3%
Voice recorder	3%
Other type of technical audio recording device	3%
Other type of technical audio-visual recording device	3%

All rates are listed in Annex No. 2 to the Copyright Act No. 185/2015 Coll.

## Revenue

Exchange rate LCU/€	1.000	1.000	1.000	1.000
	2012 (€)	2013 (€)	2014 (€)	2015 (€)
Audio revenues (media)	76,061.00	36,394.05	81,502.40	13,438.94
Video revenues (media)	120,557.00	155,878.23	210,619.01	204,436.81
<b>Devices revenues</b>				
<b>Total 'devices'</b>	<b>236,470.00</b>	<b>217,626.58</b>	<b>408,581.00</b>	<b>1,224,317.67</b>
<b>TOTAL REVENUE:</b>	<b>433,088.00</b>	<b>409,898.86</b>	<b>700,702.41</b>	<b>1,442,193.42</b>

Additional Comments: We have only three accounting categories – audio (media), video (media) and devices.

## 26. Slovenia

### Contact information

Country	Slovenia
Currency	Euro
Name of organization	IPF
Web site	www.ipf.si
Contact Person 1	Viljem Marjan Hribar
Contact Person 2	Miha Šinkovec
E-mail 1	viljem.hribar@ipf.si
E-mail 2	miha.sinkovec@ipf.si
Address	Šmartinska cesta 152/VI
Postcode	1000
City	Ljubljana
Phone	+38615272930
Fax	+38615272931

### Legislation and fundamental facts

Copyright law	<p>“Copyright and Related Rights Act” &amp; “Decree on the amounts of compensation for reproduction for private or other internal use”</p> <p>“Article 37: Right to remuneration: (1) The author has a right to equitable remuneration for audio or video recording, and for photocopying of his work, done for private or other internal use, under Article 50 of this Act. (2) Remuneration on audio or video recordings, pursuant to the preceding paragraph shall be paid: (a) upon first sale or importation of new appliances for audio or video recording; and (b) upon first sale or importation of new blank audio or video recording media.”</p> <p>“Article 50: Private and other internal reproduction: (1) Subject to Article 37, the reproduction of a published work shall be free, if made in no more than three copies and provided that the conditions of paragraphs 2 or 3 are fulfilled. (2) A natural person shall be free to reproduce works: (a) on paper or any similar medium through a photographic technique or other process having similar effects; and (b) on any other medium if this is done for private use, if the copies are not available to the public, and if the reproduction is not intended for direct or indirect economic advantage. (3) Publicly accessible archives and libraries, museums and educational or scientific establishments shall be free to reproduce, on any medium, works from their own copies for internal use, provided that this is not done for direct or indirect economic advantage.”</p> <p>“Article 123: The right to remuneration: The performer shall have the right to remuneration for the reproduction for private or other internal use, pursuant to Article 37 (2) of this Act.”</p> <p>“Article 123: The right to remuneration: The producer of phonograms shall have the right to remuneration for the reproduction for private or other internal use, pursuant to Article 37 (2) of this Act.”</p>
Remuneration system	Levies.
Liable for payment	Importer or retailer (first sale).

## Collecting society: Collection and distribution

Collecting society or CMO is appointed by:	<p>The licenses for collective management are issued by the Slovenian Intellectual Property Office. However, no license has been issued for blank tape levies since the end of 2009. There is an ongoing dispute between CMOs, rightholders and IPO as a result of this delay. Prior to that IPF had a temporary license, issued for 2008 and 2009.</p> <p>4 out of 5 CMOs covering more than 80% of rightholders for private copying have sent a joined application for a collecting license to the Slovenian intellectual property office (SIPO). After one month, the remaining CMO (SAZAS) has applied for the same license via one of their satellites (Zapis). SIPO did not want to take any decisions regarding both applications. As a result, the situation in Slovenia is at a standstill.</p>
--	--

## Rate setting

How are levies/remuneration determined?	Unilaterally by the government
Which criteria are used for determining the levies/remuneration?	Copying behavior
Are there any consumers or buyers exempt from paying the levies?	Three types of copies are exempt from remuneration provided they are: (a) made by an individual for private usage; or (b) made by a library, museum, or an educational organization from its own copy and not intended for material benefit.
Are there any products exempt from levies? Are refurbished products exempt?	No.

## Collection process

How frequently is payment due?	Depending on an agreement. In 2008 and 2009, it was agreed to issue invoices on a quarterly basis.
Who is considered an importer?	The person importing into Slovenia from any foreign market.

## Distribution process

Which rightholders	Authors, performers, producers
How are the distribution schemes determined?	By law
Distribution keys	40:30:30 authors, performers and producers respectively.

## Social and cultural funds for collective purposes

Is there a social and/or cultural deduction?	No
--	----

## Applicable national rates

I. Equipment	Euros
1. Analog reproduction of audio and/or visual works	
a. Audio recording device: Cassette recorder or similar	0.5008
b. Video recording device: Video recorder or similar	3.7556
2. Digital reproduction of audio and/or video or written works:	
a. Device designed exclusively for such reproduction CD writer, DVD writer, MiniDisc writer or similar	6.2594
b. Device not exclusively designed for such reproduction Computer CD unit, computer DVD unit or similar	0.8346
II. Individual data media	
1. Analog media (audio cassette, video cassette, tape or similar):	
a. up to 180 minutes	0.096
b. over 180 minutes	0.192
2. Digital media	
a. (i) Media designed exclusively for the reproduction of audio and/or visual works Audio CD, video DVD, MiniDisc or similar for every started 90 minutes	0.1335
(ii) Device with built-in memory, designed exclusively for the reproduction of audio and/or visual works	
devices with up to 2 GB memory	4.1729
devices over 2 GB memory	8.3459
b. Media, not exclusively designed for reproduction of audio and/or visual works Data CD, data DVD, computer hard disc, memory card, mobile phone or similar for every started 1 GB capacity	0.0334 with a cap at 16.6917

## Revenue

	2012 (€)	2013 (€)	2014 (€)	2015 (€)
Revenue	0	0	0	0

## 27. Sweden

### Contact information

Country	Sweden
Currency	SEK
Population	9,300,000
Name of organization	Copyswede
Web site	www.copyswede.se
Contact Person 1	Liselott Silwer
Contact Person 2	Egil Ekbohm
E-mail 1	liselott.silwer@copyswede.se
E-mail 2	egil.ekbohm@copyswede.se
Address	Alströmergatan 12. 7 tr
Postcode	112 47
City	Stockholm
Phone	+46 (0)8 545 667 00
Fax	+46 (0)8 667 88 11

### Legislation and fundamental facts

Copyright law	According to Article 12 of the Copyright Act (1960:729), anybody is entitled to make one or a few copies of published works for private purposes. The provision does not confer a right to make copies from an illegal source. The provisions of the private copying remuneration are regulated in Section 26(k) (m) of the Copyright Right Act.
Remuneration system	Levy system
Liable for payment	Importers and manufacturers are liable for the reporting and payment. Retailers have an option to register at Copyswede and thus take over the responsibilities from the importers and manufacturers.

### Collecting society: Collection and distribution

Collecting society or CMO is appointed by:	<p>Copyswede is responsible for the collection and distribution of the remuneration.</p> <p>According to Article 26 m of the Copyright Act, an organization representing a substantial number of Swedish authors and holders of neighboring rights in the field concerned is entitled to collect the remuneration. Copyswede is tasked by its member organizations and co-operative partners to collect the remuneration. (The member organizations representing Swedish authors and performers, as well as Copyswede have partnership agreements with TV and radio corporations and with organizations of film and phonogram producers).</p>
--	---

Administrative costs for collecting private copying remunerations	The cost of collecting private copying remunerations was 10.2 % in 2015.
Administrative costs for distribution of private copying remuneration	The cost of distributing private copying remunerations was 4.6% in 2014.
Distribution process	Copyswede is responsible for the distribution to rightholders, both directly to individual rightholders or through organizations of rightholders.

## Rate setting

How are levies/remuneration determined?	The levies are fixed in the law. In practice, the rates are set through negotiations and in compensation claims directed to the importers.
Which criteria are used for determining the levies/remuneration?	The law contains certain criteria for reducing the levies (in practice, this have been achieved through negotiations with the industry). One cited example is if the authors have received some other form of compensation for private copying or if the products are intended for purposes other than private use.
Are there any consumers or buyers exempt from paying the levies?	The law provides an explicit exception regarding sales for professional use and sales to organizations for functionally disabled persons.
Are there any products exempt from levies? Are refurbished products exempt?	Yes, recycled products are exempted.
Are there any developments, negotiations on new rates (e.g., for cloud storage)?	No.

## Collection process

How frequently is payment due?	Once a month
How do you monitor or intervene in the market	Copyswede performs regular market control and has the right to audit importers and retailers. The right to audit is regulated in agreements with the importers.
Are exports exempted?	Yes.
Who is considered an importer?	According to Article 26(k). "When a businessman, in the course of his professional activities, manufactures or imports into this country".

## Distribution process

Who distributes the collected remuneration to rightholders?	Collected remunerations are distributed by Copyswede, STIM, SAMI/IFPI, film producers and broadcasting organizations on a yearly basis.
Frequency of distribution	Once every year
Which rightholders?	Authors, performers and producers.



How are the distribution schemes determined?	The revenue for each product is divided between audio and video copying. Accordingly, Copyswede commissions market research companies to carry out annual copying surveys. Revenue is distributed based on the results of the copying surveys. Following a distribution proposal from Copyswede, negotiations take place between Copyswede and the organizations of rightholders. Both parties then set the distribution schemes.
Distribution keys	<p>Distribution scheme for audio:  5.33% – Union of Broadcasting Organizations (UBOS)  33.3% – STIM  33.3% – SAMI  33.3% – IFPI</p> <p>Distribution scheme for video:  5.33% – Union of Broadcasting Organizations (UBOS).</p> <p>In 2008, an agreement with representatives from the US copyright holders was signed, allocating 20% of the total share of the collected private copying levy relating to video copying, net of the share accrued to UBOS.</p> <p>33% – Video and film producers  67% – IFPI and Copyswede’s Member Organizations</p>

### Social and cultural funds for collective purposes

Is there a social and/or cultural deduction?	No.
--	-----

### Legal developments and court cases

Legal developments	<p>Over the years, Copyswede has signed many agreements with various industry representatives and regulated the remuneration for different products through agreements. In recent years, stakeholders within the industry have questioned the suitability of the remuneration for certain product types, such as mobile phones, tablets and computers.</p> <p>Copyswede has claimed remuneration for mobile phones, computers, tablets, internal hard drives and gaming consoles. Some importers have admitted the liability to pay but others have refused and several legal proceedings have been initiated.</p>
Court cases	<p>Copyswede has sued two importers of mobile phones and has gained support in both the first (2014) and second instance for its claims (2015). An appeal has been filed against the judgments before the Supreme Court (2015).</p> <p>In July 2014, Copyswede sued a company for its imports of computers and tablets. A court decision is expected in the autumn of 2015.</p> <p>In December 2014 Copyswede sued two importers of external hard drive discs. The companies in question refused to pay the remuneration on the products despite their participation in the so-called UMA proceedings (mentioned under 2013), during which an Arbitration Board reviewed the law and found that this product was covered by the compensation system (as were USB sticks).</p>

## Applicable national rates

Blank Media	Rate (SEK)	Capacity
C-cassette	0.025	Per minute
MiniDisc	0.020	Per minute
CD-R audio	0.020	Per minute
E-cassette (VHS)	0.025	Per minute
<b>Optical Storage Media</b>		
CD-R all up to 900 MB	0.60	Per unit
CD-RW all up to 900 MB	0.95	Per unit
DVD-R / + R 4.7 GB	2.65	Per unit
DVD-RW / + RW 4.7 GB	4.25	Per unit
DVD-RAM 4.7 GB 4.25 SEK	4.25	Per unit
DVD-R / + R double layer 8.5 GB	4.80	Per unit
<b>Flash Media (2012) USB sticks</b>		
< 2GB-80 GB	1	GB
> 80 GB	80	Unit
<b>Devices</b>		
<b>External hard drives (2012)</b>		
< 2GB-80 GB	1	GB
> 80 GB	80	Unit
<b>Internal hard drives (2013)</b>		
< 2GB-80 GB	1	GB
> 80 GB	80	Unit
<b>PC (2013)</b>		
< 2GB-80 GB	1	GB
> 80 GB	80	Unit
<b>Tablets (2013)</b>		
< 2GB-80 GB	1	GB
> 80 GB	80	Unit
<b>Mobile phones (2013)</b>		
	350	GB
<b>Consumer Electronics</b>		
MP3 players and all devices with built-in hard drives, including set-top boxes, DVD players, TVs and other media players:		
0 - 320 GB	1	GB
>320 GB	320	unit

## Revenue

Exchange rate LCU/€	8.705	8.649	9.102	9.355
Media/devices	2012 (SEK)	2013 (SEK)	2014 (SEK)	2015 (SEK)
Audio cassette	296,611	224,277	120,891	96,997
Audio CD	158,378	80,391	65,590	47,208
MiniDisc	12,377	982	134	176
Video cassette	436,931	356,736	368,886	287,748
CD-R/RW	4,075,307	2,965,720	1,803,685	1,126,088
MP3 players	4,605,231	1,869,421	727,083	265,402
Hard disc video Recorders	41,516,275	39,579,605	65,262,270	45,450,170
DVD-R/RW	15,157,985	10,439,617	6,194,140	3,688,321
USB memory	9,390,604	20,266,920	17,036,992	16,861,504
External hard drives	9,863,160	28,484,240	24,309,232	18,118,784
Computers		6,894,054	15,178,680	6,652,348
Tablets		1,272,124	3,521,428	434,464
Internal hard drives		1,476,352	3,168,124	2,990,598
Game consoles		102,320	50,224	23,040
Mobile phones		36,852	69,993	174,622
<b>Total collected</b>	<b>85,512,859</b>	<b>114,049,611</b>	<b>137,877,352</b>	<b>96,217,470</b>

## 28. Switzerland

---

### Contact information

Country	Switzerland
Currency	CHF
Name of organization	SUISA
Web site	www.suisa.ch
Contact Person 1	Frank Dietiker
Contact Person 2	Anke Link
E-mail 1	frank.dietiker@suisa.ch
E-mail 2	anke.link@suisa.ch
Address	Bellariastrasse 82
Postcode	8038
City	Zürich
Phone	+41 44 485 66 66
Fax	+41 44 481 67 44

### Legislation and fundamental facts

Copyright law	Swiss copyright code of 1992, last revised 2008.
Remuneration system	levies
Liable for payment	Importers and manufacturers are liable for payment.

### Collecting society: Collection and distribution

Collecting society or CMO is appointed by:	SUISA is appointed by rights holders.
Administrative costs for collecting private copying remunerations	274,268 Swiss francs in 2015
Administrative costs for distribution of private copying remuneration	983 453 Swiss francs in 2015
Distribution process	The collecting society is also responsible for distribution to rightholders. SUISA distributes directly to its own members the share for music copyrights. The rest is distributed through organizations of other rightholders.

## Rate setting

<p>How are levies/ remuneration determined?</p>	<p>Levies and remuneration are determined through negotiations between collecting societies and associations of blank carrier importers or producers. If there is no settlement, the Arbitration Commission appointed by the Ministry of Justice decides.</p>
<p>Which criteria are used for determining the levies/remuneration?</p>	<p>Swiss law states that “Compensation shall normally amount to a maximum of 10 per cent of the proceeds from or cost of utilization for author’s rights and a maximum of 3 percent for neighboring rights”. Regarding private copying, we usually negotiate the levy on the basis of the costs of utilization (basically the price consumers have to pay for the device in consideration of the extent to which the device is used for private copying) and take into account:</p> <ul style="list-style-type: none"> <li>– the copying behavior;</li> <li>– already licensed copies (i.e. purchased from a licensed download shop like iTunes); and</li> <li>– the share of works that are not (or are no longer) copyright-protected.</li> </ul> <p>As decreasing device prices lead to decreasing levies - although private copying increases - we started to bring up consumer savings as a basis for calculation of the levy. We argue that consumer savings are “proceeds” according to Swiss law.</p> <p>We define “consumer savings” as the amount of money a consumer is able to save because of the possibility of private copying. Of course, not every copied work would have been purchased. Nonetheless, to determine an average saving we posed the following questions to a panel of consumers (exemplified with musical works):</p> <p>Do you have any musical works on your device that you received free of charge, e.g., from file sharing services, recording from radio or TV, etc.?</p> <ul style="list-style-type: none"> <li>– If yes, how many?</li> <li>– Are there any musical works you received free of charge as promotion?</li> <li>– If yes, how many?</li> <li>– How many of the works you received free of charge would you have purchased if you hadn't had the possibility to receive them free of charge?</li> </ul> <p>How many of the works you received as promotion would you have purchased if you hadn't had the possibility to receive them as promotion?</p> <p>We then multiply the result by the most common price for this kind of works, and this forms the basis for calculating the levy.</p> <p>We still have not yet agreed on any calculation procedure with our negotiating partner. However, the outcome of our current consumer panel shows that consumer savings decreased and won't lead to appropriate levies. Hence, we did not bring up this argument during this year's negotiations.</p>
<p>Are there any consumers or buyers exempt from paying the levies?</p>	<p>Depending on the type of media, professional use is taken into account and gives rise to a lower levy. If media is ascertained to have been used for commercial copying, for instance when the Swiss Broadcasting Corporation imports blank DVDs to make copies of their broadcasts, then there is a possibility to get a refund of the levy. During negotiations on the rate for tablets, a survey commissioned by Swiss associations of importers and producers proved that even professional users do make private copies.</p>
<p>Are there any products exempt from levies? Are refurbished products exempt?</p>	<p>When we first negotiated the rate for blank audio and video tapes, we exempted tapes that are obviously not meant for private copying but for professional use. However, having rates for more advanced technical media in place today, exemptions only apply to hard discs in personal computers. However, if a blank carrier is definitely not eligible for private copying, they are not levied.</p> <p>There are no provisions in our rates on refurbished products.</p>
<p>Are there any developments, negotiations on new rates (e.g., for cloud storage)?</p>	<p>We are currently negotiating to apply levies on mobile phones and so-called smart watches.</p> <p>There are no provisions on cloud storage at the moment. Swiss Copyright Law is currently under revision and we are waiting for the outcome.</p>

## Collection process

How frequently is payment due?	Payment is due 30 days after invoice date.
How do you monitor or intervene in the market?	At SUISA's request, producers and importers are required to grant SUISA access to their warehouses and records 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 borne by the party who requested the third-party verification.
Are exports exempted?	Exports are exempted and exporters can claim a refund if exports can be proved.
Who is considered an importer?	The importer is any company importing blank media into the territory of Switzerland, regardless of whether it uses the media itself or offers it to retailers or directly to private customers.  As for cross-border situations, a foreign provider is also regarded as an importer if the handling of a purchase for Swiss customers is equal to a purchase from a domestic provider.

## Distribution process

Who distributes the collected remuneration to rightholders?	SUISA distributes directly to its own members the share for music copyrights. The rest is distributed through organizations of other rightholders.
Frequency of distribution	Distribution to other collecting societies is quarterly; distribution to SUISA's rightholders is yearly.
Which rightholders?	Rightholders (categories) who receive private copying remunerations are: <ul style="list-style-type: none"> <li>– holders of music copyrights;</li> <li>– holders of copyrights for literature and visual works;</li> <li>– holders of copyrights for dramatic and audio-visual works;</li> <li>– holders of copyrights for audio-visual works; and</li> <li>– holders of neighboring rights.</li> </ul>
How are the distribution schemes determined?	According to Article 60 of Swiss Copyright Law, the split between copyrights and neighboring rights is 3:1. The distribution of the copyright shares is a matter for rightholders. The societies negotiate a distribution scheme per rate based on studies on consumers use of media; i.e., what kind of repertoire is stored and to what extent.
Distribution keys	<p>"At the moment, we have four rates for blank media. However, one is only a combination of three former separated rates (audio/video cassettes, blank CD and blank DVD). In addition, we have separate rates for:</p> <ul style="list-style-type: none"> <li>– MP3-players, digital video recorders and the like (Common tariff 4d);</li> <li>– mobiles (Common tariff 4e); and</li> <li>– tablet PC (Common tariff 4f)." <p>As of 2017, the three latter rates will be combined into one but still with separate levies per category of products.</p> <p>As the rates for MP3 players, digital video recorders, mobiles and tablet PCs are the most significant, we only describe the schemes for these three rates.</p> <p>Distribution scheme for common tariff 4d for audio:  58.7% – SUISA (music copyrights)  4.37% – <i>Pro Litteris</i> (copyrights for literature and visual arts)  2.15% – SSA (copyrights for dramatic and audio-visual works)  9.78% – SUISSIMAGE (copyrights for audio-visual works)  25% – Swissperform (neighboring rights)</p> </li></ul>

Distribution keys ( <i>continued</i> )	<p>Distribution scheme for common tariff 4d for video:  9.49% – SUISA  5.325% – <i>Pro Litteris</i>  2.66% – SSA  57.525% – SUISSIMAGE  25% – Swissperform</p> <p>Distribution scheme for common tariff 4e:  The is a fixed rate for copyrights and another fixed rate for neighboring rights. The relation between these two rates is determined by our studies on copying behavior and is approximately 75 % for copyrights and 25 % for neighboring rights). The rate for copyrights is distributed as follows:  80.5% – SUISA  11% – <i>Pro Litteris</i>  3.5% – SSA  5% – SUISSIMAGE</p> <p>Distribution scheme for common rate 4f:  There is a fixed rate for copyrights and another fixed rate for neighboring rights. The relation between these two rates is determined by our studies on copying behavior and is approximately 75 % for copyrights and 25 % for neighboring rights). The rate for copyrights is distributed as follows:  60% – SUISA  20% – <i>Pro Litteris</i>  4.5% – SSA  15.5% – SUISSIMAGE</p>
--	---

### Social and cultural funds for collective purposes

Is there a social and/or cultural deduction?	There is no such deduction before distribution of shares to the respective societies. But each society makes a deduction of its own. SUISA deducts 10% for social and cultural purposes.
Which body is responsible for allocation of funds to artists, cultural productions or social schemes?	The deductions are determined by rights owners.
What is the amount dedicated to the social and/or cultural fund in 2013?	The total amount dedicated to social and/or cultural funds of all five Swiss CMOs in 2015 was 1,191,700 Swiss francs, representing 8.95 % of the collected amount.
How can social and cultural funds be used?	Allocation to artists, cultural productions: SUISA Foundation for Music. Allocation for social purposes: SUISA's pension fund for authors and publishers.

## Legal developments and court cases

Legal developments	<p>Levies for private copying are highly disputed at the moment, as seems to be the case all over Europe.</p> <p>In 2013, the Swiss Ministry of Justice set up a working group to investigate the possibilities of optimizing the collection of copyright remuneration. Members of this working group are representatives of artists, Producers, associations of copyright users, consumers and administration.</p> <p>As an outcome of the working group set up by Swiss Ministry of Justice, the Swiss Federal Council submitted the first draft of a revised Copyright Law for consideration at the end of last year.</p> <p>The main requests of SUISA and its Swiss sister societies are as follows:</p> <ul style="list-style-type: none"> <li>– Current legal copies made from online shops like iTunes are not to be levied. However, under the new law, if iTunes, for instance, allows download on several devices, all these copies should be allowed only if the rightholders give permission.</li> <li>– The draft new copyright law does not contain any provisions on cloud computing. Swiss CMOs suggest the application of private copying levies to cloud services and that service providers who grant access to online storage should be given the same treatment as importers of storage media.</li> <li>– What is known as ephemeral copies on consumers' devices when using streaming services are also private copies and should therefore also be levied.</li> </ul> <p>Consultations ended on March 31. The draft may be amended and subsequently discussed in parliament.</p>
--------------------	--

## Applicable national rates

Audio	Rate valid in 2016 (CHF)	Capacity
Audio cassette	0.33	60 minutes
CD-R/RW data	0.05	60 minutes/525MB
DVD-R/+R	0.31	4.7 GB
DVD-RW/+RW/RAM	0.88	4.7 GB
DVD R Blu-ray/HD	0.33	25 GB
DVD RW Blu-ray/HD	0.93	25 GB
<b>Video</b>		
VHS	0.46	60 minutes
<b>Consumer Electronics</b>		
Flash media and HD in audio devices and all portable devices other than mobiles and tablet PCs, e.g. MP3-players	0.63	-per GB ≤ 4 GB
	0.572	-per GB ≤ 8 GB
	0.332	-per GB ≤ 16 GB
	0.2552	-per GB ≤ 32 GB
	0.1992	-per GB > 32 GB
Flash media and HD in audio-visual devices other than mobiles, tablet PCs and personal computers, e.g. digital video recorder	0.085	-per GB ≤ 250 GB
	0.050	-per GB ≤ 1 TB
	0.030	-per GB > 1 TB
Flash media and HD in tablets	0.15	-per GB ≤ 16 GB
	0.12	-per GB ≤ 32 GB
	0.10	-per GB > 32 GB



Mobile phones	0.12	-per GB ≤4 GB
	0.10	-per GB ≤8 GB
	0.08	- per GB ≤16 GB
	0.07	- per GB ≤32 GB
	0.06	- per GB ≤64 GB
	0.06	- per GB > 64 GB max. 2% of catalogue

## Revenue

Exchange rate LCU/€	1.205	1.231	1.215	1.067
Blank Media	2012 (CHF)	2013 (CHF)	2014 (CHF)	2015 (CHF)
Cassette, MiniDisc etc.	67,420	51,704	42,052	38,983
VHS	195,285	81,287	67,172	47,333
<b>Optical Storage media</b>				
CD-R/RW data	943,925	800,890	487,144	485,741
DVD-R/+R	3,113,932	1,895,594	1,273,230	1,246,965
DVD-RW/+RW/RAM				
DVD R Blu-ray/HD				
DVD RW Blu-ray/HD				
<b>Consumer Electronics</b>				
Flash media and HD in audio devices and all portable devices other than mobile, tablets and PCs	2,658,008	2,102,109	1,156,808	938,612
Flash media and HD in audio-visual devices other than mobiles, tablet PCs and personal computers. e.g. digital video recorder	1,146,514	1,671,118	1,316,715	1,264,510
Flash media and HD in tablets		701,181	3,630,737	4,065,480
Mobile phones			5,964,669	5,225,758
<b>Total</b>	<b>8,124,905</b>	<b>7,303,882</b>	<b>13,938,525</b>	<b>13,313,383</b>

## 29. Turkey

### Contact information

Country	Turkey
Currency	Turkish lira
Name of organization	Phonogram Producers Collecting Society (IFPI national group Turkey)
Web site	www.mu-yap.org
Contact Person 1	Asli Devrim Ugurlu
Contact Person 2	Ahmet Asena
E-mail 1	disiliskiler@mu-yap.org
E-mail 2	genelsekreterlik@mu-yap.org
Address	Turnacibasi Cad.Kuloglu
Postcode	Mahallesi No10. Beyoglu
City	Istanbul
Phone	+90 212 292 46 13
Fax	+90 212 292 46 17

### Legislation and fundamental facts

Copyright law	Turkish Copyright Law, Article 38 and Article 44. Private copying is allowed under Article 38, but levies are not regulated in the law. However, there is an obligation on importers and manufacturers to pay a certain amount from the blank media and devices to the account of the Ministry of Culture and Tourism (MOCT).
Remuneration system	Levies
Liable for payment	Legal liability moment for importers: before the custom declaration of devices and blank media and based on CIF amount. For manufacturers: within 15 days after distribution of the devices and media to the local market, with an amount based upon the manufacturing prices.

### Collecting society: Collection and distribution

Collecting society or CMO is appointed by:	None. Remunerations are collected by the Minister of Culture and Tourism (MOCT), which has the legal monopoly.
--	--

### Rate setting

How are levies/remuneration determined?	The amount of payments for blank media/devices is determined by the government.
Which criteria are used for determining the levies/remuneration?	The rate is determined by a government decision based on the General Rate Statistic Position Number.

## Collection process

How frequently is payment due?	Importers and manufacturers have to report their imports, manufacturing quantities and prices to the Ministry of Culture and Tourism according to the decision of government.
--------------------------------	---

## Distribution process

Who distributes the collected remuneration to rightholders?	No distribution scheme.
Distribution keys	Rightholders do not receive any fair compensation from these payments and all the revenue from blank media and devices is used by the Ministry of Culture and Tourism.

## Social and cultural funds for collective purposes

Is there a social and/or cultural deduction?	The Ministry of Culture and Tourism is fully authorized to use these amounts for cultural purposes.
--	---

## Legal developments and court cases

Legal developments	<p>Private copying is regulated by the Turkish Copyright Law but fair compensation is not included. Levies are not explicitly regulated. There is an obligation on manufacturers and importers to pay an amount (not exceeding 3% of the manufacturing price or import costs) for blank media and devices. However, these are not levies in the Copyright Law.</p> <p>Articles 38 and 44 have to be amended according to Copyright Directive 2001/29 and international agreements. The articles are provided below:</p> <p>Article 38 (Amendment: July 7, 1995 - 4110/14; February 21, 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 rightholders without good reason or conflict with the normal exploitation of the work.</p> <p>Article 44 (second and other related paragraphs). (Amendment: February 21, 2001 - 4630/23): Natural and legal persons who manufacture or import for commercial purposes any kind of recording media such as blank video cassettes, audio cassettes, computer discs, CDs, DVDs and all kinds of technical equipment used for the reproduction of intellectual and artistic works shall collect and deposit into a special account to be opened with a national bank in the name of the Ministry of Culture and Tourism, every month, not later than the middle of the following month, an amount to be determined by the Council of Ministers, not exceeding 3% of the manufacturing or importation costs. (Addition: July 14, 2004 - 5217/17): A quarter of the amount 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.</p> <p>(Amendment: February 21, 2001 – 4630/23; July 14, 2004 - 5217/17): The amounts remaining in this account shall be used to strengthen the intellectual property system and execute cultural and artistic activities. The rules and procedures governing the distribution and use of these funds shall be laid down by a by-law to be issued by the Ministry of Culture and Tourism. The allowance, which is necessary for activities relating to protection of the cultural heritage within and outside the country, shall be included in the budget of the Ministry.</p> <p>(Amendment: March 3, 2004 - 5101/15): Rules and procedures regarding the application of this article and the fees to be collected shall be laid down by a by-law to be issued by the Ministry of Culture.</p>
--------------------	---

## 30. Ukraine

---

### Contact information

Country	Ukraine
Currency	hryvnya
Name of organization	Ukrainian Music Alliance
Web site	www.uma.in.ua
Contact Person 1	Pavlo Kalenychenko, director
E-mail 1	pavlo@uma.in.ua
E-mail 2	uma@uma.in.ua
Address	Off. 614, 1-5, Artema Str.
Postcode	4053
City	Kyiv
Phone	+38 (044) 272 05 64
Fax	+38 (044) 272 05 64

### Legislation and fundamental facts

Copyright law	Law of Ukraine on Copyright and Related Rights (also governmental resolution and the orders of Ministries). It is stipulated in Article 25(2) and Article 42(2) of the Law.
Remuneration system	There is a levy system
Liable for payment	Importers and manufacturers are liable for payment.

### Collecting society: Collection and distribution

Collecting society or CMO is appointed by:	The Ukrainian Music Alliance is appointed by law and by decision of the Ministry of Science and Education.
Distribution process	The alliance is responsible for collection and distribution, and it distributes to rightholders and other collecting societies.

### Rate setting

How are levies/remuneration determined?	Levies are determined by law; a strict list of levies is established by the Government Resolution on Equipment.
Are there any products exempt from levies?	Exports; equipment imported by natural persons for private purposes only; and professional equipment are exempted.

## Collection process

How frequently is payment due?	Payment is due after import (manufacturing).
How do you monitor or intervene in the market?	The market used to be controlled by the Ukraine Music Alliance receiving information from SIPSU (State Service of Intellectual Property of Ukraine), which in turn received this information from the Custom Service of Ukraine. SIPSU has currently stopped providing us with this necessary information for no reason.
Are exports exempted?	Exports are exempted.

## Distribution process

Who distributes the collected remuneration to rightholders?	The Ukrainian Music Alliance distributes yearly to authors, performers, producers as well as their successors. The Ukrainian Music Alliance determines the distribution schemes; the remuneration is distributed according to rates of internet search systems for phonograms (musical works) and films
Frequency of distribution	Annually or twice a year (it depends on the total collected)
Which rightholders?	Authors, performers, producers as well as their successors.
How are the distribution schemes determined?	The Ukrainian Music Alliance determines the distribution schemes.
Distribution keys	Remuneration is distributed according to rates of Internet search systems for phonograms (musical works) and films

## Legal developments and court cases

Legal developments	There is a draft of Law that in fact excludes any private copy levies. Now this draft is in the Ukrainian Parliament.
Are there liable parties who deny responsibility or payment for certain media/devices?	Yes.
Court cases	We have more than 20 cases against importers who refuse to pay levies.

## Applicable national rates

The amount of deductions, paid by manufacturers and importers of equipment and levies applied locally to works and performances recorded in phonograms and (or) videograms. Rates as of July 3, 2014.

Name of equipment and levies	Rate of deductions, percentage
1. MP3 player with one function (MP3 player, MP3 player with radio feature, MP3 player with the display, FM-tuner with playback functions as well as video and image files)	1
2. Music player having a tape recorder and CD-ROM drive with recording function	0.25
3. Music player having a tape recorder and DVD-ROM drive with recording function	0.35
4. Music player having CD / DVD-ROM drive with recording function for flash card	0.06
5. Music player having a hard drive / flash card	0.06
6. Radio having a tape recorder and recording function	0.32
7. Radio having MD-drive with recording function	0.32
8. Radio having a CD-ROM drive with recording function	0.18
9. Radio having a CD-ROM drive with recording function for flash card	0.02
10. CD player with recording function	0.31
11. DVD player with recording function	0.75

12. Hard disc "Standard"	0.3
13. Recorder for computer with CD-ROM drive	0.75
14. Recorder for computer with DVD-ROM drive, HD DVD-ROM drive or Blu-ray	1
15. Tape recorder with recording function	1.5
16. Multimedia-rich MP3 player	0.38
17. Car music player having CD-ROM drive with recording function	0.36
18. Car music player having CD-ROM drive with recording function on other media	0.1
19. VCR with recording function	1.5
20. Player for DVD-ROM drive with recording function on other media via USB	0.09
21. Player for DVD-ROM drive with recording function and HDD	1
22. Player for DVD-discs and VHS cassette with recording function	1
23. Player for HD DVD-ROM drive with recording function	0.4
24. Player for HD DVD-ROM drive with recording function and HDD	0.62
25. TV with VCR or hard drive or player with DVD-ROM drive having a recording function which is either built in or on a flash card	0.17
26. Notebook with optical drive for CD / DVD-RW-drive	0.2
27. Cell phones (mobile phone), tablet	0.15
28. Memories/ hard drives	0.75
29. Discs for laser reading systems	0.75
30. Audio cassettes	1
31. Video cassettes	1
32. Memory cards ( "smart card")	0.75
33. Flash cards	0.75

Note: Amount of deductions applied to equipment and media (excluding VAT):  
For importers – percentage of the value specified in the foreign trade agreement (contract);  
For manufacturers – percentage of the sales price.

## Revenue

Exchange rate LCU/€	10.267	10.613	15.770	24.227
Media/Devices	2012 (HRN)	2013 (HRN)	2014 (HRN)	2015 (HRN)
Revenues	636,208	405,779	189,665	3,035,560

## 31. United States

### Contact information

Country	United States
Currency	US Dollars
Name of organization	Alliance of Artists and Recording Companies (“AARC”)
Web site	www.aarcroyalties.com
Contact Person 1	Linda R. Bocchi. Esq. Executive Director
Contact Person 2	Mike Stern. Director of Royalties and Finance
E-mail 1	lbocchi@aarcroyalties.com
E-mail 2	mstern@aarcroyalties.com
Address	700 N. Fairfax Street. Suite 601
Postcode	22314
City	Alexandria, Virginia
Phone	+1 703.535.8101
Fax	+1 703.535.8105

### Legislation and fundamental facts

Copyright law	<p>Audio Home Recording Act of 1992. Pub. L. No. 102-563. 106 Stat. 4237 (Oct. 28, 1992). Codified at 17 U.S.C. Article 1001 <i>et seq.</i></p> <p>AHRA requires the payment of fees upon distribution of certain digital audio recording devices and digital audio recording media and the inclusion of a serial copy management system (SCMS) in all digital audio recording devices and digital audio interface devices imported, manufactured or distributed in the United States. Such a system allows unlimited first generation digital copying of sound recordings, but prevents the making of digital copies from copies.</p>
Remuneration system	<p>AHRA also requires importers/distributors or manufacturers/distributors of certain digital audio recording devices and digital audio recording media to make royalty payments for each of these devices or media they distribute. Definition of private copy according to AHRA is copying by consumers of legally obtained sound recordings for personal use.</p>
Liable for payment	<p>Under the AHRA, royalties must be distributed based on sales in the US during the year for which the royalties are collected – the royalty year. Royalties must be paid by importers/distributors or manufacturers/distributors of certain digital audio recording devices, digital audio recording media and digital audio interface devices manufactured or imported and distributed in the United States.</p> <p>Importers/distributors or manufacturers/distributors of certain digital audio recording devices, digital audio recording media and digital audio interface devices, manufactured or imported and distributed in the United States.</p>

## Collecting society: Collection and distribution

Collecting society or CMO is appointed by:	Alliance of Artists & Recording Companies is a non-profit, tax-exempt private organization. Featured artists and producers contractually sign up with AARC.
Administrative costs for collecting private copying remunerations	Under AARC bylaws, the AARC is allowed to deduct its actual costs of distribution, as approved by the AARC Board, from all the royalties it distributes that year.
Administrative costs for distribution of private copying remuneration	Based on actual costs of distribution for a particular year, as approved by the AARC Board, and not on an artificial percentage.
Distribution process	Conducted by collection society.

## Rate setting

How are levies/remuneration determined?	AHRA establishes the rate. Devices: 2% of the distribution price with a maximum of \$8 per device and \$12 in the case of a physically integrated unit containing more than 1 device and \$1 minimum. Media: 3% for media.
Which criteria are used for determining the levies/remuneration?	If a device or medium falls within the definitions in AHRA, royalties must be paid.
Are there any consumers or buyers exempt from paying the levies?	Professional devices are exempt. Refunds are therefore not applicable.
Are there any products exempt from levies? Are refurbished products exempt?	The importers/distributors or manufacturers/distributors of devices and media that fall within the definition of a Digital Audio Recording Device ("DARD"), Digital Audio Recording Medium ("DARM") and Digital Audio Interface Devices ("DAIDs") must pay the levies upon distribution.

## Collection process

How frequently is payment due?	Payments are required on a quarterly basis.
How do you monitor or intervene in the market?	AARC conducts enforcement activities to ensure payments are made by the importers/distributors or manufacturers/distributors of DARDs, DARMs and DAIDs.
Are exports exempted?	Yes, because the DARDs, DARMs and/or DAIDs must be distributed in the United States
Who is considered an importer?	AHRA covers the manufacturer or importer, whichever party distributes the DARDs, DARMs and/or DAIDs in the United States for ultimate transfer to consumers in the US. There is no definition for importer.

## Distribution process

Who distributes the collected remuneration to rightholders?	Alliance of Artists and Recording Companies distributes annually to Featured Recording Artists and Sound Recording Copyright Owners (Producers). Distribution methods are determined by the AHRA.
Frequency of distribution	AARC distributes annually contingent on having received the royalties from the federal government.
Which rightholders	AARC represents Featured Artists and Sound Recording Copyright Owners (Producers). AARC distributes directly to rightholders and through collectives based on bilateral agreements.
How are the distribution schemes determined?	Under the Audio Home Recording Act of 1992, the royalties must be distributed based on sales of music during the year for which the royalties were collected.



Distribution keys	<p>Distribution scheme for audio:</p> <ul style="list-style-type: none"> <li>- Sound Recordings Fund (SRF) – 2/3 of total DART fund</li> <li>- AHRA requires the allocation of 96% to Sound Recording Copyright Owners and Featured Recording Artists, as follows: <ul style="list-style-type: none"> <li>- Sound Recording Copyright Owners' Sub-fund – 60%</li> <li>- Featured Recording Artists' Sub-fund – 40%</li> </ul> </li> </ul> <p>The AFM &amp; SAG-AFTRA Intellectual Property Fund</p> <ul style="list-style-type: none"> <li>- Non-Featured Artists – 4% of SRF</li> <li>- Musical Works Fund (MWF) – 1/3 of total DART fund</li> <li>- Writers' Sub-fund – 50% of MWF</li> <li>- Publishers' Sub-fund – 50% of MWF</li> </ul> <p>Distribution scheme for video:</p> <p>No private copy law for video.</p>
-------------------	--

### Social and cultural funds for collective purposes

Is there a social and/or cultural deduction?	There is no deduction for collective (social and/or cultural) purposes.
--	---

### Applicable national rates

Blank Media	Rate	Capacity
	3% of the transfer price for media	Per unit
Devices, Hardware, PC, HDD	Rate	Capacity
	2% of the transfer price for devices*	Per unit

\*Maximum 8 USD per device or 12 USD per multi-integrated device and minimum 1 USD per device.

### Revenue

Exchange rate LCU/€	1.285	1.328	1.327	1.109
Media/Devices	2012 (USD)	2013 (USD)	2014 (USD)	2015 (USD)
Total Revenues	1,700,000	775,000	390,000	150,000

## Annex: Relevant Case Law from the Court of Justice of the European Union

---

In Europe, the private copying exceptions as laid down in the national laws of EU Member States are based on Article 5(2)(b) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society:<sup>23</sup>

Article 5 Exceptions and limitations  
[...]

2. Member States may provide for exceptions or limitations to the reproduction right provided for in Article 2 in the following cases:[...]

(b) in respect of reproductions on any medium made by a natural person for private use and for ends that are neither directly nor indirectly commercial, on condition that the rightholders receive fair compensation which takes account of the application or non-application of technological measures referred to in Article 6 to the work or subject-matter concerned;

National judges may refer preliminary questions to the Court of Justice of the European Union (CJEU) with regard to the interpretation of the Directive. The CJEU has delivered several judgments on private copying exception in the last couple of years. The answers that the CJEU has given to the preliminary questions in these cases are listed below. The full texts of the judgments are available at <http://eur-lex.europa.eu>.

### **C-467/08, October 21, 2010 – Padawan/SGAE** **Indiscriminate application of the private copying levy**

1. The concept of “fair compensation”, within the meaning of Article 5(2)(b) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society, is an autonomous concept of European Union law which must be interpreted uniformly in all the Member States that have introduced a private copying exception, irrespective of the power conferred on the Member States to determine, within the limits imposed by European Union law in particular by that directive, the form, detailed arrangements for financing and collection, and the level of that fair compensation.
2. Article 5(2)(b) of Directive 2001/29 must be interpreted as meaning that the ‘fair balance’ between the persons concerned means that fair compensation must be calculated on the basis of the criterion of the harm caused to authors of protected works by the introduction of the private copying exception. It is consistent with the requirements of that “fair balance” to provide that persons who have digital reproduction equipment, devices and media and who on that basis, in law or in fact, make that equipment available to private users or provide them with copying services are the persons liable to finance the fair compensation, inasmuch as they are able to pass on to private users the actual burden of financing it.
3. Article 5(2)(b) of Directive 2001/29 must be interpreted as meaning that a link is necessary between the application of the levy intended to finance fair compensation with respect to digital reproduction equipment, devices and media and the deemed use of them for the purposes of private copying. Consequently, the indiscriminate application of the private copying levy, in particular with respect to digital reproduction equipment, devices and media not made available to private users and clearly reserved for uses other than private copying, is incompatible with Directive 2001/29.

### **C-462/09, June 16, 2011 – Stichting de Thuiskopie/Opus GmbH** **Cross-border transactions**

1. Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society, in particular Article 5(2)(b) and (5) thereof, must be interpreted as meaning that the final user who carries out, on a private basis, the

---

<sup>23</sup><http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32001L0029&from=EN>.

reproduction of a protected work must, in principle, be regarded as the person responsible for paying the fair compensation provided for in Article 5(2)(b). However, it is open to the Member States to establish a private copying levy chargeable to the persons who make reproduction equipment, devices and media available to that final user, since they are able to pass on the amount of that levy in the price paid by the final user for that service.

2. Directive 2001/29, in particular Article 5(2)(b) and (5) thereof, must be interpreted as meaning that 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 that regard, the mere fact that the commercial seller of reproduction equipment, devices and media is established in a Member State other than that in which the purchasers reside has no bearing on that obligation to achieve a certain result. It is for the national court, where it is impossible to ensure recovery of the fair compensation from the purchasers, to interpret national law in order to allow recovery of that compensation from the person responsible for payment who is acting on a commercial basis.

#### **C-277/10, February 9, 2012 – Luksan/Van der Let**

##### **Author is entitled directly and originally to the right of fair compensation**

1. Articles 1 and 2 of Council Directive 93/83/EEC of 27 September 1993 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission, and Articles 2 and 3 of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society in conjunction with Articles 2 and 3 of Directive 2006/115/EC of the European Parliament and of the Council of 12 December 2006 on rental right and lending right and on certain rights related to copyright in the field of intellectual property and with Article 2 of Directive 2006/116/EC of the European Parliament and of the Council of 12 December 2006 on the term of protection of copyright and certain related rights, must be interpreted as meaning that rights to exploit a cinematographic work such as those at issue in the main proceedings (reproduction right, satellite broadcasting right and any other right of communication to the public through the making available to the public) vest by operation of law, directly and originally, in the principal director. Consequently, those provisions must be interpreted as precluding national legislation which allocates those exploitation rights by operation of law exclusively to the producer of the work in question.
2. European Union law must be interpreted as allowing the Member States the option of laying down a presumption of transfer, in favor of the producer of a cinematographic work, of rights to exploit the cinematographic work such as those at issue in the main proceedings (satellite broadcasting right, reproduction right and any other right of communication to the public through the making available to the public), provided that such a presumption is not an irrefutable one precluding the principal director of that work from agreeing otherwise.
3. European Union law must be interpreted as meaning that, in his capacity as author of a cinematographic work, the principal director thereof must be entitled, by operation of law, directly and originally, to the right to the fair compensation provided for in Article 5(2)(b) of Directive 2001/29 under the 'private copying' exception.
4. European Union law must be interpreted as not allowing the Member States the option of laying down a presumption of transfer, in favor of the producer of a cinematographic work, of the right to fair compensation vesting in the principal director of that work, whether that presumption is couched in irrefutable terms or may be departed from.

#### **C-457/11-C-460/11, June 27, 2013 – VG Wort/Kyocera**

##### **Technological measures, consequences of an authorization to reproduce**

1. With regard to the period from 22 June 2001, the date on which Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and

related rights in the information society entered into force, to 22 December 2002, the date by which that directive was to have been transposed into national law, acts of using protected works or other subject-matter are not affected by that directive.

2. In the context of an exception or limitation provided for by Article 5(2) or (3) of Directive 2001/29, an act by which a rightholder may have authorized the reproduction of his protected work or other subject-matter has no bearing on the fair compensation owed, whether it is provided for on a compulsory or an optional basis under the relevant provision of that directive.
3. The possibility of applying technological measures under Article 6 of Directive 2001/29 cannot render inapplicable the condition relating to fair compensation provided for by Article 5(2)(b) of that directive.
4. The concept of 'reproductions effected by the use of any kind of photographic technique or by some other process having similar effects' within the meaning of Article 5(2)(a) of Directive 2001/29 must be interpreted as including reproductions effected using a printer and a personal computer, where the two are linked together. In this case, it is open to the Member States to put in place a system in which the fair compensation is paid by the persons in possession of a device contributing, in a non-autonomous manner, to the single process of reproduction of the protected work or other subject-matter on the given medium, in so far as those persons have the possibility of passing on the cost of the levy to their customers, provided that the overall amount of the fair compensation owed as recompense for the harm suffered by the author at the end of that single process must not be substantially different from the amount fixed for a reproduction obtained by means of a single device.

#### **C-521/11, July 11, 2013 – Amazon/Austro-Mechana**

Indiscriminate application combined with a reimbursement scheme, payment of the revenue in part to social or cultural institutions, double payment in cross-border transactions

1. Article 5(2)(b) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society must be interpreted as meaning that it does not preclude legislation of a Member State which indiscriminately applies a private copying levy on the first placing on the market in its territory, for commercial purposes and for consideration, of recording media suitable for reproduction, while at the same time providing for a right to reimbursement of the levies paid in the event that the final use of those media does not meet the criteria set out in that provision, where, having regard to the particular circumstances of each national system and the limits imposed by that directive, which it is for the national court to verify, practical difficulties justify such a system of financing fair compensation and the right to reimbursement is effective and does not make repayment of the levies paid excessively difficult.
2. Article 5(2)(b) of Directive 2001/29 must be interpreted as meaning that, in the context of a system of financing of fair compensation under that provision by means of a private copying levy to be borne by persons who first place recording media suitable for reproduction on the market in the territory of the Member State concerned for commercial purposes and for consideration, that provision does not preclude the establishment by that Member State of a rebuttable presumption of private use of such media where they are marketed to natural persons, where the practical difficulties of determining whether the purpose of the use of the media in question is private justify the establishment of such a presumption and provided that the presumption established does not result in the imposition of the private copying levy in cases where the final use of those media clearly does not fall within the case referred to in that provision.
3. Article 5(2)(b) of Directive 2001/29 must be interpreted as meaning that the right to fair compensation under that provision or the private copying levy intended to finance that compensation cannot be excluded by reason of the fact that half of the funds received by way of such compensation or levy is paid, not directly to those entitled to such compensation, but to social and cultural institutions set up for the benefit of those entitled, provided that those social and cultural establishments actually benefit those entitled and the detailed arrangements for the operation of such establishments are not discriminatory, which it is for the national court to verify.

4. Article 5(2)(b) of Directive 2001/29 must be interpreted as meaning that the obligation undertaken by a Member State to pay, on the placing on the market, for commercial purposes and for consideration, of recording media suitable for reproduction, a private copying levy intended to finance the fair compensation under that provision may not be excluded by reason of the fact that a comparable levy has already been paid in another Member State.

#### **C-435/12, April 10, 2014 – ACI Adam/Stichting de ThuisKopie**

##### **Lawful nature of the origin of the copy**

1. EU law, in particular Article 5(2)(b) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society, read in conjunction with paragraph 5 of that article, must be interpreted as precluding national legislation, such as that at issue in the main proceedings, which does not distinguish the situation in which the source from which a reproduction for private use is made is lawful from that in which that source is unlawful.
2. Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights must be interpreted as not applying to proceedings, such as those in the main proceedings, in which those liable for payment of the fair compensation bring an action before the referring court for a ruling against the body responsible for collecting that remuneration and distributing it to copyright holders, which defends that action.

#### **C-463/12, March 5, 2015 – Copydan Båndkopi/Nokia Danmark**

##### **Equal treatment, reimbursement scheme, consequences of an authorization to reproduce**

1. Article 5(2)(b) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society does not preclude national legislation which provides that fair compensation is to be paid, in accordance with the exception to the reproduction right for copies made for private use, in respect of multifunctional media such as mobile telephone memory cards, irrespective of whether the main function of such media is to make such copies, provided that one of the functions of the media, be it merely an ancillary function, enables the operator to use them for that purpose. However, the question whether the function is a main or an ancillary one and the relative importance of the medium's capacity to make copies are liable to affect the amount of fair compensation payable. In so far as the prejudice to the rightholder may be regarded as minimal, the making available of such a function need not give rise to an obligation to pay fair compensation.
2. Article 5(2)(b) of Directive 2001/29 does not preclude national legislation which makes the supply of media that may be used for copying for private use, such as mobile telephone memory cards, subject to the levy intended to finance fair compensation payable in accordance with the exception to the reproduction right for copies for private use, but does not make the supply of components whose main purpose is to store copies for private use, such as the internal memories of MP3 players, subject to that levy, provided that those different categories of media and components are not comparable or the different treatment they receive is justified, which is a matter for the national court to determine.
3. Article 5(2)(b) of Directive 2001/29 must be interpreted as not precluding national legislation which requires payment of the levy intended to finance fair compensation, in accordance with the exception to the reproduction right for copies for private use, by producers and importers who sell mobile telephone memory cards to business customers and are aware that those cards will be sold on by those customers but do not know whether the final purchasers of the cards will be individuals or business customers, on condition that: the introduction of such a system is justified by practical difficulties; the persons responsible for payment are exempt from the levy if they can establish that they have supplied the mobile telephone memory cards to persons other than natural persons for purposes clearly unrelated to copying for private use, it being understood that the exemption cannot be restricted to the supply of business customers registered with the organization responsible for administering the levy; the system provides for a right to reimbursement of that levy which is effective and does not make it excessively difficult to repay

the levy and only the final purchaser of such a memory card may obtain reimbursement by submitting an appropriate application to that organization.

4. Article 5(2)(b) of Directive 2001/29, read in the light of recital 35 in the preamble to that directive, must be interpreted as permitting the Member States to provide, in certain cases covered by the exception to the reproduction right for copies for private use, for an exemption from the requirement under that exception to pay fair compensation, provided that the prejudice caused to rightholders in such cases is minimal. It is within the discretion of the Member States to set the threshold for such prejudice, it being understood that that threshold must, inter alia, be applied in a manner consistent with the principle of equal treatment.
5. Directive 2001/29 is to be interpreted as meaning that, where a Member State has decided, pursuant to Article 5(2) of that directive, to exclude, from the material scope of that provision, any right for rightholders to authorize reproduction of their works for private use, any authorization given by a rightholder for the use of files containing his works can have no bearing on the fair compensation payable in accordance with the exception to the reproduction right for reproductions made in accordance with Article 5(2)(b) of that directive with the aid of such files and cannot, of itself, give rise to an obligation on the part of the user of the files concerned to pay remuneration of any kind to the rightholder.
6. The implementation of technological measures under Article 6 of Directive 2001/29 for devices used to reproduce protected works, such as DVDs, CDs, MP3 players and computers, can have no effect on the requirement to pay fair compensation in accordance with the exception to the reproduction right in respect of reproductions made for private use by means of such devices. However, the implementation of such measures may have an effect on the actual level of such compensation.
7. Directive 2001/29 precludes national legislation which provides for fair compensation, in accordance with the exception to the reproduction right, in respect of reproductions made using unlawful sources, namely from protected works which are made available to the public without the rightholder's consent.
8. Directive 2001/29 does not preclude national legislation which provides for fair compensation, in accordance with the exception to the reproduction right, in respect of reproductions of protected works made by a natural person by or with the aid of a device which belongs to a third party.

### **C 572/13, November 12, 2015 – HP/Reprobel**

#### **Allocation of fair compensation to publishers, copying of sheet music**

1. Article 5(2)(a) and Article 5(2)(b) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society must be interpreted as meaning that, with regard to the phrase 'fair compensation' contained in those provisions, it is necessary to draw a distinction according to whether the reproduction on paper or a similar medium effected by the use of any kind of photographic technique or by some other process having similar effects is carried out by any user or by a natural person for private use and for ends that are neither directly nor indirectly commercial.
2. Article 5(2)(a) and Article 5(2)(b) of Directive 2001/29 preclude national legislation, such as that at issue in the main proceedings, which authorizes the Member State in question to allocate a part of the fair compensation payable to rightholders to the publishers of works created by authors, those publishers being under no obligation to ensure that the authors benefit, even indirectly, from some of the compensation of which they have been deprived.
3. Article 5(2)(a) and Article 5(2)(b) of Directive 2001/29 preclude, in principle, national legislation, such as that at issue in the main proceedings, which introduces an undifferentiated system for recovering fair compensation which also covers the copying of sheet music, and preclude such legislation which introduces an undifferentiated system for recovering fair compensation which also covers counterfeit reproductions made from unlawful sources.
4. Article 5(2)(a) and Article 5(2)(b) of Directive 2001/29 preclude national legislation, such as that at issue in the main proceedings, which introduces a system that combines, in order to finance the fair compensation payable to rightholders, two forms of remuneration, namely, first, lump-sum remuneration

paid prior to the reproduction operation by the manufacturer, importer or intra-Community acquirer of devices enabling protected works to be copied, at the time when such devices are put into circulation on national territory, and, second, proportional remuneration paid after that reproduction operation and determined solely by means of a unit price multiplied by the number of copies produced, which is payable by the natural or legal persons who make those copies, in so far as:

- the lump-sum remuneration paid in advance is calculated solely by reference to the speed at which the device concerned is capable of producing copies;
- the proportional remuneration recovered after the fact varies according to whether or not the person liable for payment has cooperated in the recovery of that remuneration;
- the combined system, taken as a whole, does not include mechanisms, in particular for reimbursement, which allows the complementary application of the criterion of actual harm suffered and the criterion of harm established as a lump sum in respect of different categories of users.

#### **C-470/14, June 9, 2016 – EGEDA**

##### **Fair compensation financed by General State Budget**

Article 5(2)(b) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society must be interpreted as precluding a scheme for fair compensation for private copying which, like the one at issue in the main proceedings, is financed from the General State Budget in such a way that it is not possible to ensure that the cost of that compensation is borne by the users of private copies.

#### **C-110/15, September 22, 2016 – Nokia Italia/SIAE**

##### **Ex ante exemption, reimbursement scheme**

EEU law, in particular, Article 5(2)(b) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society, must be interpreted as precluding national legislation, such as that at issue in the main proceedings, that, on the one hand, subjects exemption from payment of the private copying levy for producers and importers of devices and media intended for use clearly unrelated to private copying to the conclusion of agreements between an entity which has a legal monopoly on the representation of the interests of authors of works, and those liable to pay compensation, or their trade associations, and, on the other hand, provides that the reimbursement of such a levy, where it has been unduly paid, may be requested only by the final user of those devices and media.

#### **C-37/16, Minister Finansów/SAWP**

1. Do authors, performers and other rightholders supply services, within the meaning of Articles 24(1) and 25(a) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value-added tax, to producers and importers of audio recorders and similar devices and blank media, on whom collective management organizations levy on behalf of those authors, performers and other rightholders, but in their own name, fees on those devices and media by virtue of their sale?
2. If the answer to Question 1 is in the affirmative, are collective management organizations, in levying a fee on devices and media by virtue of their sale by producers and importers, acting as taxable persons, within

the meaning of Article 28 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value-added tax (OJ 2006 L 347, p. 1), who are required to document those activities by means of an invoice for the purposes of Article 220(1)(1) of that directive, issued to producers and importers of audio recorders and similar devices and blank media, showing VAT as due by virtue of the fees, and, at the time at which the fees levied on behalf of the authors, performers and other rightholders are distributed to them, are the latter required to document receipt of the fees by means of an invoice indicating that VAT issued to the collective management organization levying the fee?

### **C-265/16, VCAST Limited/R.T.I. SpA**

1. Are national rules prohibiting a commercial undertaking from providing private individuals with so-called cloud computing services for the remote video recording of private copies of works protected by copyright, by means of that commercial undertaking's active involvement in the recording, without the rightholder's consent, compatible with EU law, in particular with Article 5(2)(b) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society, (as well as Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market and the founding Treaty)?
2. Are national rules which allow a commercial undertaking to provide private individuals with so-called cloud computing services for the remote video recording of private copies of works protected by copyright, even where the active involvement of that commercial undertaking in the recording is entailed, and even without the rightholder's consent, against a flat-rate compensation in favor of the rightholder, in essence subjecting the services to a compulsory licensing system, compatible with EU law, in particular with Article 5(2)(b) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society (as well as Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market and the founding Treaty)?







