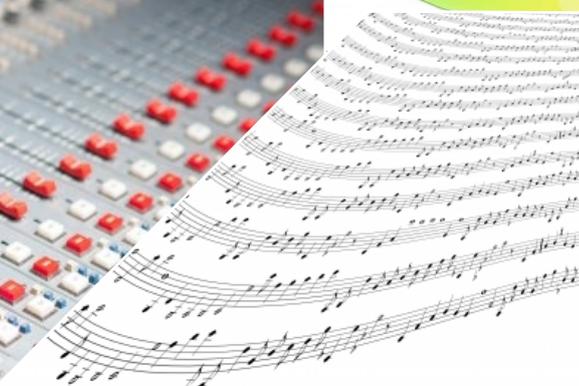
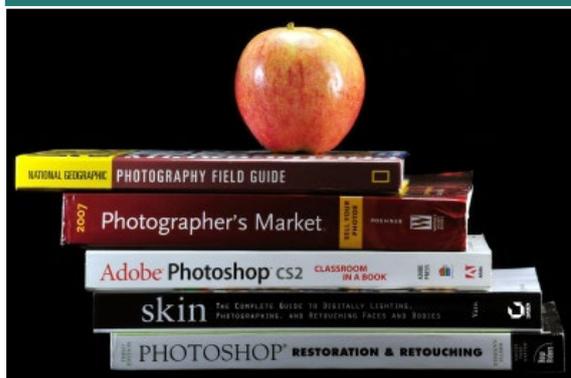


International Survey on Private Copying



Law & Practice 2015

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de ThuisKopie




WIPO
WORLD
INTELLECTUAL PROPERTY
ORGANIZATION

International Survey on Private Copying Law & Practice 2015

Table of Contents

PREFACE	2
EXECUTIVE SUMMARY	3
1. Introduction	3
2. Methodology and Scope	3
3. Legal background for private copying remuneration	4
4. Practical implementation of compensation systems	7
5. Liability	10
6. Collection and distribution	11
7. Revenue trends	13
8. Conclusion	22
9. Annex	24
1. AUSTRIA	30
2. BELGIUM	37
3. BURKINA FASO	44
4. CANADA	46
5. CROATIA	51
6. CZECH REPUBLIC	56
7. DENMARK	60
8. ESTONIA	64
9. FINLAND	68
10. FRANCE	74
11. GERMANY	81
12. GREECE	85
13. HUNGARY	90
14. ITALY	97
15. JAPAN	103
16. LATVIA	109
17. LITHUANIA	112
18. NETHERLANDS	118
19. NORWAY	123
20. PARAGUAY	125
21. POLAND	128
22. PORTUGAL	133
23. ROMANIA	137
24. RUSSIA	141
25. SLOVAK REPUBLIC	144
26. SLOVENIA	147
27. SPAIN	150
28. SWEDEN	152
29. SWITZERLAND	156
30. TURKEY	162
31. UKRAINE	164
32. UNITED STATES	166

PREFACE

The World Intellectual Property Organization (WIPO) and the Dutch collecting society for private copying remunerations, *Stichting de Thuiskopie*, are pleased to present the third joint publication on the law and practice of private copying systems around the world. The survey provides a global view of private copying compensation (also known as private copying levies), an important element of copyright and related rights infrastructure. It 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 their legal arsenals.

Stichting de Thuiskopie started collecting legal and practical information about private copying remuneration in neighboring countries in 1991. The survey quickly expanded to include all European countries with a levy system in place. Over the years, the scope has been expanded to embrace countries outside of Europe. This 24th edition covers countries on almost all continents, and includes information on Slovenia, the United Kingdom and Nigeria for the first time.

The task of compiling this report was entrusted to *Stichting de Thuiskopie* (specifically, to Hester Wijminga and Wouter Klomp). Valuable project advice and analysis were provided by a steering committee consisting of Dr. Joost Poort of the Institute for Information Law (IVIR) and Marije van der Jagt, LL.M, legal advisor for *Thuiskopie*, as well as by representatives of WIPO.

The production of this rich and varied collection of data would not have been possible without the support of private copying collecting societies.¹ The authors are grateful to all these societies 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 rightholders. 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 rightholders and users' organizations alike and in the policy papers of governmental bodies.

The publication provides transparent information on the administration of the levy system with regard to authors, performing artists, producers, publishers, users of copyright works, manufacturers, importers and other stakeholders. This 2015 edition of the survey contains information about levy systems and legal developments up until October 2015 as well as revenue data until 2014. It is hoped that this survey will be of interest to governments, rightholders and users and will provide a valuable source of information for policy and research.

¹ The survey contains the contact information of all the participating collecting societies.

EXECUTIVE SUMMARY

1. Introduction

This survey is the 24th edition of a collection and analysis of key data on private copying compensation systems around the world. For the third consecutive year, 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).

Previous editions were used as a reference in 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*. One hundred and fifty hard copies of the survey have been distributed, and it has been downloaded more than 39,000 times from the WIPO and *ThuisKopie* websites.

The data compiled in the survey is exclusively provided by participating collecting societies, which are entrusted with the collection and distribution of private copying remuneration. The main objectives of the survey is to provide facts and figures regarding the function of private copying collection systems around the world and to afford insight into private copying exceptions in various legal systems, the trends in remuneration collected on behalf of rightholders and practices employed in collecting this important source of income for creators. The survey supports efforts to unify and possibly harmonize collection and distribution practices and helps to reduce the differences in the various systems that may distort regular market conditions.

2. Methodology and Scope

2.1 Research method

The survey is an assembly of data delivered by collecting societies responsible for the administration of private copying compensation. The data was collected through an extensive questionnaire that covered 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 2014 and information about levy systems and tariffs up to October 2015. Two years of revenue data have been added to the previous edition. Each year, the questionnaire is thoroughly reviewed and updated. Comments from participants and experience gained from processing the information provide insights into how the questionnaire can be improved and made more effective, which is reflected in subsequent studies. When necessary and appropriate, additional information and clarifications have been requested. Replies are compared with information submitted in response to earlier surveys in order to identify and address possible inconsistencies. Information regarding the population and income per capita of participating countries is taken from World Bank data.²

2.2 Participating countries

This edition covers information on private copying systems in 34 countries (32 chapters) across the world. For the first time, this edition contains information on the United Kingdom and Nigeria and a chapter on Slovenia.

Private copying compensation systems are most common in Europe. Information about levies in 22 (of 28) European Union countries is included in the survey, as is information on Norway, Switzerland, Russia and Turkey. Among EU member states, only Cyprus, Ireland, Luxembourg and Malta have no private copying exception. The United Kingdom introduced an exception in 2014 envisaging an accompanying remuneration for rightholders, however the legislation has been overturned in 2015.

In a number of countries, there is no active system of collection, although a private copying exception has been provided for in law. This is true for Belarus, for example. In other countries, such as Bulgaria, the exception provided for has been amended, leaving virtually no leeway for collecting levies. Reasons for this vary: sometimes there is no collective management organization (CMO) that is authorized to fulfill these

² <http://data.worldbank.org/>, data retrieved 21 September 2015.

functions (as in Slovenia); at other times, debate about the system, legal proceedings or copyright reform has paralyzed collection and distribution.

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 is 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.

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, while Senegal is working on introducing one.

Asia

With the exception of Japan and South Korea, no countries in Asia have established a private copying remuneration system.

2.3 Large variety of systems in the world

The private copying compensation systems vary substantially across the world as a result of a multitude of circumstances. Remuneration is funded either by importers or by manufacturers of devices on which consumers make copies, or by the general resources of the state. Either way, the intention is that consumers should pay directly or indirectly for private copying. Levies on products are taken either as a percentage of the sales price or as an exact amount. The survey clearly demonstrates that significant differences may occur in key areas such as tariff levels, the selection of products that can be levied, the liability of market players, methods of reporting, legal tools for monitoring and enforcement and methods of setting the tariff, to mention only a few.

In Europe in the early 1990s, the European Commission attempted to harmonize private copying compensation systems, 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 systems is of great significance for the future of levy systems, as is the multitude of verdicts issued by the European Court of Justice.

3. Legal background for private copying remuneration

3.1 Main principles

The Berne Convention³ 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

³ http://www.wipo.int/treaties/en/text.jsp?file_id=283698.

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 under the 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 definitions set forth in the copyright acts of the various countries

A levy on objects 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: Russia, 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.⁴

After several judgments of the Court of Justice of the EU which clarified practical aspects of the implementation of levy systems, the national and international debate regarding private copying is now dominated by the notion 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.⁵ 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.⁶

As online business models shift from ownership to access-based (streaming) models, 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 the EU, the CJEU will be kept busy further circumscribing the boundaries of private copying systems.

3.3 *Legal developments in the European Union*

The European Commission has been working on a review of 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 which included a number of recommendations,⁷ 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 will continue through stakeholder dialogue.

⁴ <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:62012CJ0435&from=EN>, para. 37.

⁵ <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:62008CJ0467&from=EN>, para. 2.

⁶ *Ibid.*, para. 59.

⁷ http://ec.europa.eu/internal_market/copyright/levy_reform/.

3.4 Relevant Jurisprudence from the European Court of Justice⁸

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-470/14	October 14, 2014	<i>EGEDA</i>	Compensation financed from the General State Budget
C-110/15	March 2, 2015	<i>Nokia Italia/SIAE</i>	<i>Ex ante</i> exemption and reimbursement scheme for professional use.

See chapter 9. Annex for extensive information on these cases.

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 conclusions 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, will enter into force on October 1, 2015. These devices were not previously subject to levy. Before claiming new tariffs, collecting societies must ascertain the accuracy of the data on the actual use of the various media for private copying and publish their results. The law also establishes an advisory council composed of representatives of user organizations and of the collective society responsible for collecting the levy. More information can be obtained from the survey and from Austro-Mechana.

3.5.3. Portugal

The new Portuguese Law on Private Copy (Law No. 49/2015) was published on June 5, 2015 and entered into force on the July 5, 2015. It amends the previous private copying law by extending the list of devices subject to private copying levies. With this law change, devices such as mobile phones, tablets and other multifunctional devices were brought within the scope of the exception.

⁸ In the EGEDA and Nokia Italia cases preliminary questions have been referred to the Court, however by the time of the completion of this publication the CJEU had not yet issued judgements.

3.5.4. The Netherlands

In April 2014, the European Court of Justice ruled in *ACI v Thuiskopie* that downloading from an illegal source was not within scope of the Private Copying Regulation. 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. Making works available without the consent of rightholders has always been illegal. As of January 1, 2015, a new decree was issued by the State Secretary for Justice lowering private copying levies by 30%. A levy on e-readers was also introduced. The professional use exemption (both upfront and refund) was extended to all media and devices.

3.5.5. Italy

By the Decree of the Minister of Culture and National Heritage of June 20, 2014 (effective as from July 7, 2014), almost all Italian levies were adjusted and a maximum amount was fixed for some.

3.5.6. Finland

The most radical change has taken place in Finland, where the levy system has been replaced by a state-funded system. The amendment introduces 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. The annual fair compensation from the state budget in 2015 and 2016 will be 11 million euros. Starting in 2017, the situation will be reviewed annually based on the development of private copying.

The Ministry of 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. A consultative committee will be established to assist the Ministry in designing the studies.

3.5.7. Nigeria

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

A remuneration scheme with levies was introduced by the Nigerian Copyright Act 2004, and 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. COSON will collect and distribute remuneration to all rightholders in music, films and reprography. The scheme has not yet been activated, so there is no revenue to report for the time being.

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 the last years. In some countries with a media levy system (such as Austria and France), hard disks in equipment such as audio-visual recorders, set-top boxes and TV sets with integrated hard disks qualify as “blank media”. A comparable example is found in countries where a memory unit (flash memory card) is levied only when used in a recording device and sold together with the device, although no compensation is due for the device or for the memory unit if sold separately. Multifunctional devices like tablets, mobile phones and media players are increasingly included in the systems. Technological developments resulting in connected living and 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 at 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 the legislator 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 that can be levied 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 (lawmaker, ministry, 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 the lawmaker).

Table 1: Tariff-setting models

Models	Number of Countries
State-funded system (no tariffs)	Norway, Spain, Finland (as of Jan. 1, 2015)
Direct state intervention	Czech Rep., Denmark, Estonia, Finland (until Dec. 31, 2014), Greece, Italy, Lithuania, Norway, Paraguay, Poland, Portugal, Russia, Slovak Rep., Slovenia, Turkey, USA
Negotiation industries and societies	Austria, Croatia, Germany, Japan
Set by law/government after proposals by rightholders or negotiation stakeholders in special government-appointed body	Belgium, 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 on blank media with a percentage on devices. The different tariffs are presented separately to provide an understanding of tariff levels. Table 2 gives an overview of (the range of) percentage tariffs applicable in the countries included in the survey. Percentage tariffs are used in several Eastern European countries and in the United States. Western European countries appear to prefer fixed tariffs.

Table 2: Overview of countries that apply a percentage as tariff

Country	Percentage of levy 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
Lithuania	6% on blank media, fixed amount on devices
Poland	Ranging from 0.05% to 3%
Romania	3% on blank media, 0.5% on devices
Russia	1% (of production price)
Slovak Republic	6% on blank media, 3% on devices
USA	3% on blank media, 2% on devices

Table 3 below shows the fixed tariffs in 14 countries for 8 standardized media types and devices for 2013 to 2015. The last column 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 of January 1, 2015. An opposite trend can be seen in Austria, Portugal and Sweden, where the range of leviable devices increased between 2013 and 2015. Nowadays, few countries have levies only on blank media: among the countries in Table 3, this is true only for Denmark and Canada. In contrast, Austria, Belgium, Croatia, France, Germany, Hungary, Italy, the Netherlands and Sweden imposed a levy on a wide set of devices and media.

Table 3: 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	0.30	0.20	0.35	0.06	0.14	0.15	0.03	0.05	0.06	0.08	0.14
	DVD (4.7 GB)	0.36	0.40		0.02	0.48	0.20	0.90	0.27	0.24	0.41	0.03	0.14	0.28	0.25	0.31
	External HDD (1 TB)	24.30	6.75		0.26		18.00	20.00	17.00	7.33	10.00	1.00		8.56		11.32
	MP3 Player (8 GB)	6.00	2.50		1.83		7.00	12.00	5.00	13.32	6.44	2.00		0.88	4.18	5.56
	PC (500 GB)				0.78				17.07		2.40	5.00		8.56		6.76
	Set-top box (500 GB)	22.50	10.75		5.22		25.00	45.00	34.00	23.97	14.81	5.00		34.14	36.20	23.33
	Smartphone (16 GB)		2.50		1.31			8.00	36.00	15.98	0.90	5.00			2.82	9.06
	Tablet (16 GB)		2.50		1.83			8.40			1.90	5.00			2.25	3.65
2014	CD (700 MB)	0.24	0.12	0.21	0.01	0.31	0.20	0.35	0.06	0.14	0.10	0.03	0.05	0.06	0.08	0.14
	DVD (4.7 MB)	0.36	0.40		0.02	0.49	0.20	0.90	0.27	0.24	0.20	0.03	0.14	0.28	0.26	0.29
	External HDD (1 TB)	15.00	6.75		0.26		18.00	20.00	17.00	7.33	10.00	1.00		8.56		10.39
	MP3 Player (8 GB)	6.00	2.50		1.83		7.00	12.00	5.00	13.32	6.44	2.00		3.00	3.88	5.72
	PC (500 GB)	12.00			0.78				13.19		5.20	5.00		8.56		7.45
	Set-top box (500 GB)	20.00	10.75		5.22		25.00	45.00	34.00	19.00	14.81	5.00		34.24	32.29	22.30
	Smartphone (16 GB)	18.00	2.50		1.31			8.00	36.00	10.67	4.00	5.00			2.92	9.82
	Tablet (16 GB)	12.00	2.50		1.83			8.40	15.19	10.67	4.00	5.00		1.71	2.33	6.36

Table 3: 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
2015	CD (700 MB)	0.24	0.12	0.21	0.01	0.31		0.35	0.06	0.14	0.10	0.02	0.05	0.06	0.10	0.14
	DVD (4.7 GB)	0.36	0.40		0.02	0.50		0.90	0.27	0.24	0.20	0.02	0.10	0.28	0.30	0.30
	External HDD (1 TB)	15.00	6.75		0.39			20.00	17.00	6.68	10.00	0.70	4.00	8.56		8.91
	MP3 Player (8 TB)	6.00	2.50		1.83			12.00	5.00	13.20	6.44	1.40	1.60	3.00	4.46	5.22
	PC (500 GB)	12.00			0.78				13.19		5.20	3.50	2.00	8.56		6.46
	Set-top box (500 GB)	20.00	10.75		5.22			45.00	34.00	19.00	14.81	3.50	8.00	34.24	37.20	21.07
	Smartphone (16 GB)	18.00	2.50		1.31			8.00	36.00	10.13	4.00	3.50	1.92		1.23	8.66
	Tablet (16 GB)	12.00	2.50		1.31			8.40	15.19	10.13	4.00	3.50	1.92	1.71	2.30	5.72

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/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 recuperated 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 4: Exports

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

*Finland: State-funded system as of 2015. Before 2015, there was a refund system.

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 (blueprints, software and manuals), 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, products sold to professional users are exempted from the payment of the levy or liable parties are entitled to a refund. In the case of so-called mutualization systems, however, professional use is incorporated in 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 destined for private copying. In some countries, exempted liability and mutualization coexist.

The situation changed dramatically within the EU following the CJEU ruling in *Padawan v SGAE* (October 21, 2010). The court ruled that the indiscriminate application of the private copying levy to all types of digital reproduction equipment, devices and media, including cases in which such equipment is acquired by persons other than natural persons for purposes clearly unrelated to private copying, is incompatible with the 2001 Information Society (or “Copyright”) Directive.

Padawan has led to 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 Commission⁹ and questions have been referred to the CJEU (C-470/14).¹⁰ Court cases resulting from *Padawan* are ongoing in many European countries to this day.

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 as opposed to in the law itself has been brought before the CJEU in *Nokia Italia v SIAE* (C-110/15).¹¹

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).¹² 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:

[...] 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 asked 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

⁹ <http://www.authorsocieties.eu/library/15/32/GESAC-complaint-against-spain-on-private-copying>.

¹⁰ <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:62014CN0470&rid=1>.

¹¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:62015CN0110&from=EN>.

¹² <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:62009CJ0462&rid=1>.

society consists of the representatives of various rightholders (authors, performing artists, producers and the like).

In almost all countries, collection is done exclusively by one collecting society to which importers, manufacturers and other liable parties are required to report. In some cases however, the collection 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.

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 amongst 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, dancers). The introduction of levies on multifunctional devices makes it possible to remunerate copying of all digital works, and 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 the results of 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 ~30%. 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 promoting the culture of society and improving the position of rightholders. The percentages vary from 10% to 100%, 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. On the one hand, arts and culture thrive, as in France, where the financial input is considerable. On the other, 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 the fair compensation was questioned. The CJEU held that the right to fair compensation cannot be excluded by reason of the fact that 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.¹³

Table 5: Social and Cultural deductions

Country with social and cultural funds	% Social and cultural purposes	Determined by
Austria	50%	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	50% video	Performing artists
Japan	20%	Law
Latvia	10%	Music authors
Lithuania	25%	Law
Netherlands	Max. 15%	Rightholders' organizations
Nigeria*	10%	Law
Paraguay	10%	Law, authors and artists
Poland	Yes	Rightholders' organizations
Portugal	20%	Law
Russia	Max. 20%	Law – rightholders
Switzerland	10%	Rightholders' organizations
Turkey	100%	Law

* Nigeria not yet operational. Belgium, Canada, Germany, Greece, Norway, Romania, Slovak Republic, Slovenia, Spain, Sweden and the United States have no social and cultural deductions.

7. Revenue trends

Table 6 provides the total revenues in euros for 2007-2014 for each of the countries for which data are available.¹⁴ Table 7 shows the relative development over these eight years and in the last year.¹⁵ As is shown at the bottom of Table 6 and in Figure 1, total revenue has increased over the years from 598 million euros in 2007 to an all-time high of 804 million euros in 2014. Total revenue is somewhat volatile, however, with

¹³ <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:62011CA0521&rid=1>, para. 3.

¹⁴ When revenues for non-euro countries are stated in local currency units, they have been converted into euros using official annual average exchange rates obtained from the World Bank at <http://data.worldbank.org/> (data retrieved on October 5, 2015). These revenues in euros and the annual average exchange rates used are also reported in the country sheets of this report.

¹⁵ 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.

strong increases in 2009, 2013 and 2014 and a significant decrease in 2011. This cannot be explained by missing values in the data, as can be seen from the line "Total excluding incompletes" in Table 6, as well as from Figure 1, in which the dashed yellow line excludes countries for which data is missing for one or more years.

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, comprising over a third of total revenues. Germany also came in first in 2009 and 2010, but revenues dropped to a mere €15 million in 2011 due to national litigation about the levy system. Table 7 shows that, between 2013 and 2014, German revenues almost tripled, while an 89% increase was recorded from 2007 to 2014. Examples of other countries that show significant changes both in absolute and in relative terms are Spain, Russia 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 more sober state-financed system in 2012. In addition, revenues in countries that are smaller in absolute terms tend to vary substantially.

The last two rows of Table 6 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 84% to 92.5% of total revenue.

Table 6: Total revenues (in current €)

Country	2007	2008	2009	2010	2011	2012	2013	2014
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
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
Burkina Faso	n/a	n/a	n/a	686,122	1,181,691	895,817	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
Croatia	284,624	1,380,286	1,944,318	1,602,780	1,252,109	1,042,851	1,153,765	1,116,122
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
Denmark	5,352,136	5,860,862	5,382,158	5,043,243	4,579,148	4,482,595	4,170,108	3,833,572
Estonia	283,452	228,500	120,096	n/a	n/a	24,883	23,993	9,438
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
France	163,402,714	166,932,996	172,361,311	188,737,396	192,780,541	173,877,725	226,448,000	228,293,000
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
Greece	22,894	524,486	153,055	778,200	1,182,717	245,699	297,665	336,654
Hungary	11,539,681	8,476,274	8,942,092	9,485,541	10,326,534	12,570,229	19,468,925	27,950,012
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
Japan	16,904,865	21,090,642	19,084,892	25,360,171	25,489,320	8,859,631	1,493,998	253,611
Latvia	812,193	601,625	358,426	203,761	223,141	207,989	267,481	437,866
Lithuania	84,423	801,650	711,011	102,534	102,534	1,972,906	2,642,206	2,808,503
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
Norway	n/a	n/a	4,954,248	5,215,686	5,372,549	5,675,556	5,438,514	5,074,137
Poland	4,290,581	4,906,569	2,508,799	1,891,712	1,881,498	1,642,848	2,118,237	1,531,470
Portugal	5,752,919	4,594,998	3,633,984	2,359,418	2,292,392	1,179,084	880,490	680,209
Romania	n/a	302,242	502,789	970,012	1,541,873	2,001,662	2,533,338	3,370,395
Russia	-	-	-	952,484	17,094,833	27,276,782	80,478,162	52,543,705
Slovak Rep.	903,677	977,373	621,116	691,843	382,748	433,088	409,899	700,702
Slovenia	-	-	-	-	-	-	-	-
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	6,601,037	10,985,056	13,066,866
Switzerland	11,952,060	22,433,306	16,133,395	11,827,635	8,308,485	6,536,730	5,934,799	11,467,428

Table 6: Total revenues (in current €) (continued)

Ukraine	n/a	n/a	n/a	129,644	186,438	58,938	n/a	n/a
United States	n/a	n/a	n/a	1,500,000	1,800,000	1,500,000	700,000	350,000
Total	597,966,850	587,333,613	734,227,501	714,272,695	502,728,749	459,780,545	615,648,223	804,436,053
Trend		-1.8%	25.0%	-2.7%	-29.6%	-8.5%	33.9%	30.7%
Total excluding incompletes	597,683,398	586,802,871	728,650,368	705,771,231	492,646,198	449,623,689	606,952,377	795,632,083
Total EU	548,903,026	525,656,940	679,332,009	656,836,918	435,358,754	402,571,766	517,015,874	731,233,083
EU/Total	91.8%	89.5%	92.5%	92.0%	86.6%	87.6%	84.0%	90.9%

Note: "n/a" = no revenue figures available; "-" = no revenues. No revenue figures available for Paraguay and Turkey.

Table 7: Revenue growth/decline

Country	2007-2014	2013-2014
Austria	-62%	5%
Belgium	61%	33%
Canada	-83%	-23%
Croatia	292%	-3%
Czech Rep.	-33%	5%
Denmark	-28%	-8%
Estonia	-97%	-61%
Finland	-69%	-24%
France	40%	1%
Germany	89%	174%
Greece	1370%	13%
Hungary	142%	44%
Italy	10%	16%
Japan	-98%	-83%
Latvia	-46%	64%
Lithuania	3227%	6%
Netherlands	86%	16%
Norway	n/a	-7%
Poland	-64%	-28%
Portugal	-88%	-23%
Romania	n/a	33%
Russia	n/a	-35%
Slovak Rep.	-22%	71%
Slovenia	0%	0%
Spain	-88%	0%
Sweden	-32%	19%
Switzerland	-4%	93%
Total	35%	31%
Total excluding incompletes	33%	31%
Total EU	33%	41%

Note: "n/a" = no percentage change can be calculated. No growth figures available for Burkina Faso, Paraguay, Turkey, Ukraine and the United States.

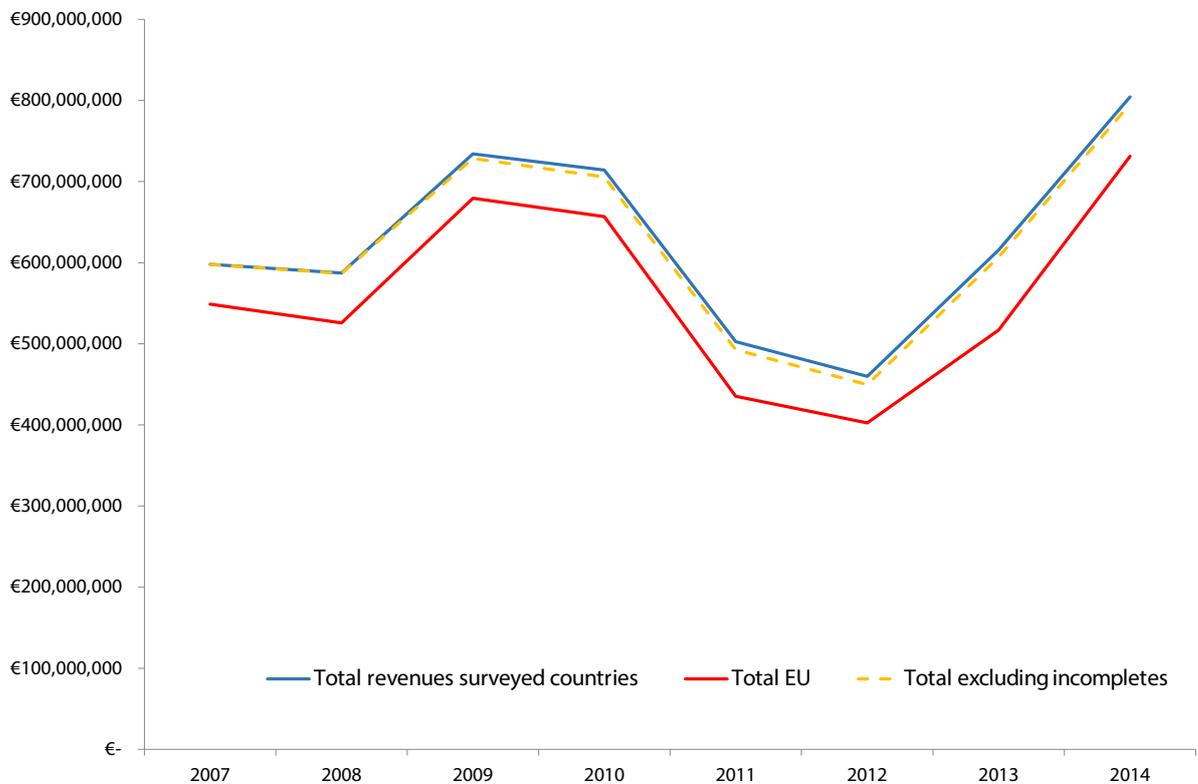
Figure 1: Total revenues for all countries in dataset, total excl. incompletes and total EU

Table 8 shows the total revenues per capita per year calculated using annual population data retrieved from the World Bank.¹⁶ Revenues per capita range from less than €0.01 in the United States and Ukraine to €3.48 in Germany in 2014.

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 to €0.99; in 2014 it was €0.75.
- 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 yellow line in Figure 1), but for revenues per capita, the effect is substantial due to partially missing data for populous countries such as the US and Ukraine. This metric increased from €0.84 in 2007 to €1.11 in 2014, with a significant dip in 2011-2012, 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 net increase between 2007 and 2014 and a dip in 2011 and 2012.
- 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 larger, 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.

¹⁶ <http://data.worldbank.org/>, data retrieved on September 21, 2015.

Table 8: Table 8: Total revenues per capita in participating countries (in current €)

Country	2007	2008	2009	2010	2011	2012	2013	2014
Austria	1.98	1.59	1.40	1.18	0.93	0.69	0.71	0.74
Belgium	1.89	1.46	1.22	2.47	2.20	2.14	2.18	2.89
Burkina Faso	n/a	n/a	n/a	0.04	0.07	0.05	n/a	n/a
Canada	0.61	0.55	0.44	0.35	0.23	0.18	0.13	0.10
Croatia	0.06	0.31	0.44	0.36	0.29	0.24	0.27	0.26
Czech Republic	0.51	0.85	0.71	0.27	0.30	0.32	0.32	0.34
Denmark	0.98	1.07	0.97	0.91	0.82	0.80	0.74	0.68
Estonia	0.21	0.17	0.09	n/a	n/a	0.02	0.02	0.01
Finland	2.94	2.26	1.65	1.21	1.01	1.31	1.18	0.89
France	2.55	2.59	2.66	2.90	2.95	2.65	3.43	3.45
Germany	1.81	1.55	3.54	2.98	0.18	0.92	1.27	3.48
Greece	0.00	0.05	0.01	0.07	0.11	0.02	0.03	0.03
Hungary	1.15	0.84	0.89	0.95	1.04	1.27	1.97	2.83
Italy	1.21	1.05	0.75	0.87	1.41	1.20	1.11	1.27
Japan	0.13	0.16	0.15	0.20	0.20	0.07	0.01	0.00
Latvia	0.37	0.28	0.17	0.10	0.11	0.10	0.13	0.22
Lithuania	0.03	0.25	0.22	0.03	0.03	0.66	0.89	0.96
Netherlands	1.18	1.03	0.90	0.65	0.55	0.32	1.83	2.12
Norway	n/a	n/a	1.03	1.07	1.08	1.13	1.07	0.99
Poland	0.11	0.13	0.07	0.05	0.05	0.04	0.06	0.04
Portugal	0.55	0.44	0.34	0.22	0.22	0.11	0.08	0.07
Romania	n/a	0.01	0.02	0.05	0.08	0.10	0.13	0.17
Russia	-	-	-	0.01	0.12	0.19	0.56	0.37
Slovak Republic	0.17	0.18	0.12	0.13	0.07	0.08	0.08	0.13
Slovenia	-	-	-	-	-	-	-	-
Spain	0.90	1.31	1.71	1.76	1.32	0.11	0.11	0.11
Sweden	2.09	1.56	1.36	1.05	0.89	0.69	1.14	1.35
Switzerland	1.58	2.93	2.08	1.51	1.05	0.82	0.73	1.40
Ukraine	n/a	n/a	n/a	0.00	0.00	0.00	n/a	n/a
United States	n/a	n/a	n/a	0.00	0.01	0.00	0.00	0.00
Average (population weighted)	0.84	0.80	0.99	0.64	0.45	0.41	0.58	0.75
Average excluding incompletes	0.84	0.82	1.02	0.99	0.70	0.64	0.85	1.11
Average EU	1.48	1.38	1.72	1.68	1.18	1.08	1.44	1.87
Average EU excluding incompletes	1.49	1.45	1.81	1.76	1.24	1.13	1.51	1.97
Standard deviation (unweighted)	0.87	0.82	0.88	0.86	0.70	0.65	0.82	1.07
Standard dev. EU (unweighted)	0.89	0.74	0.90	0.92	0.76	0.70	0.88	1.15

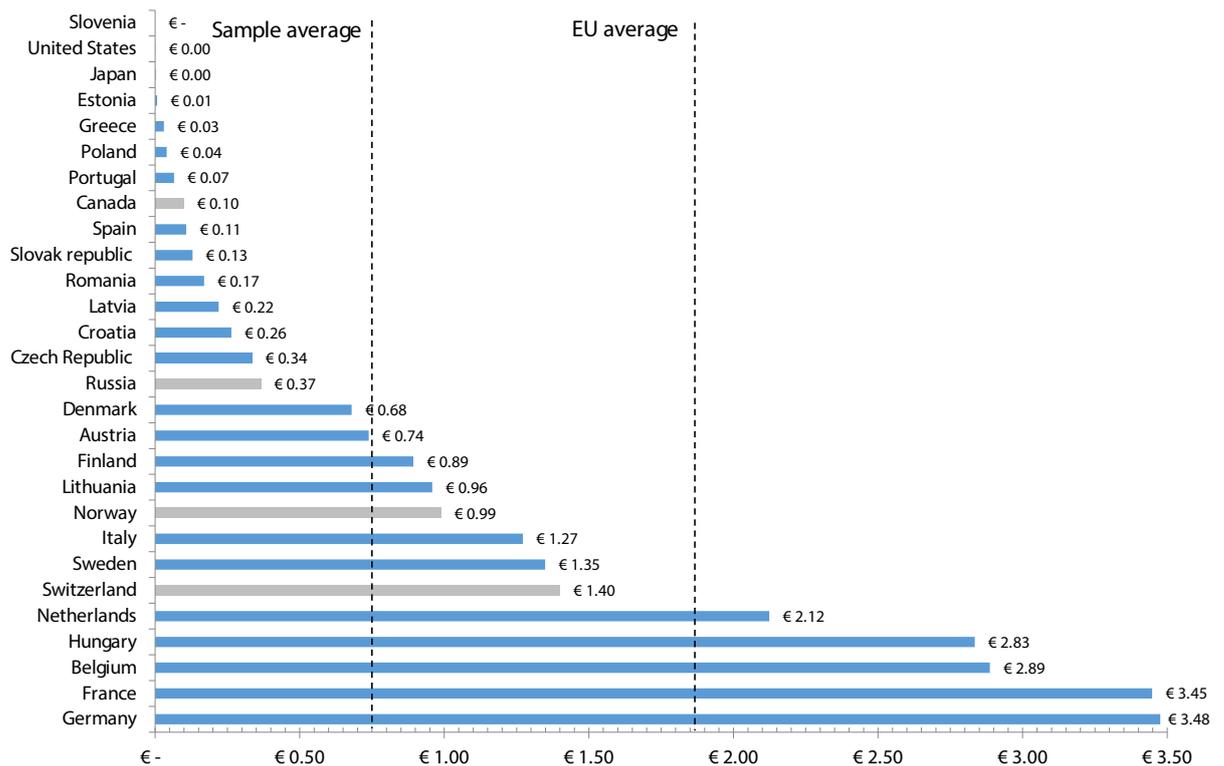
Note: "n/a" = no revenue figures available; "-" means no revenues. No revenue figures available for Paraguay and Turkey.

Figure 2 presents the 2014 revenues per capita for each participating country, sorted by value. These values correspond to the rightmost column in Table 8. In 2014, Germany collected the highest private copying levies per capita, closely followed by France and at some distance by Belgium and Hungary. Dashed lines give the (population-weighted) sample average and the EU average. Non-EU countries are depicted by grey bars. A comparison of Figure 2 with the information in Table 1 suggests no clear relation between tariff-setting

models and outcomes in terms of revenues per capita. Nevertheless, it can be observed that none of the countries with a state-funded system is among the top ten countries with the highest revenues per capita.

Likewise, countries with a percentage tariff (Table 2) 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 2014



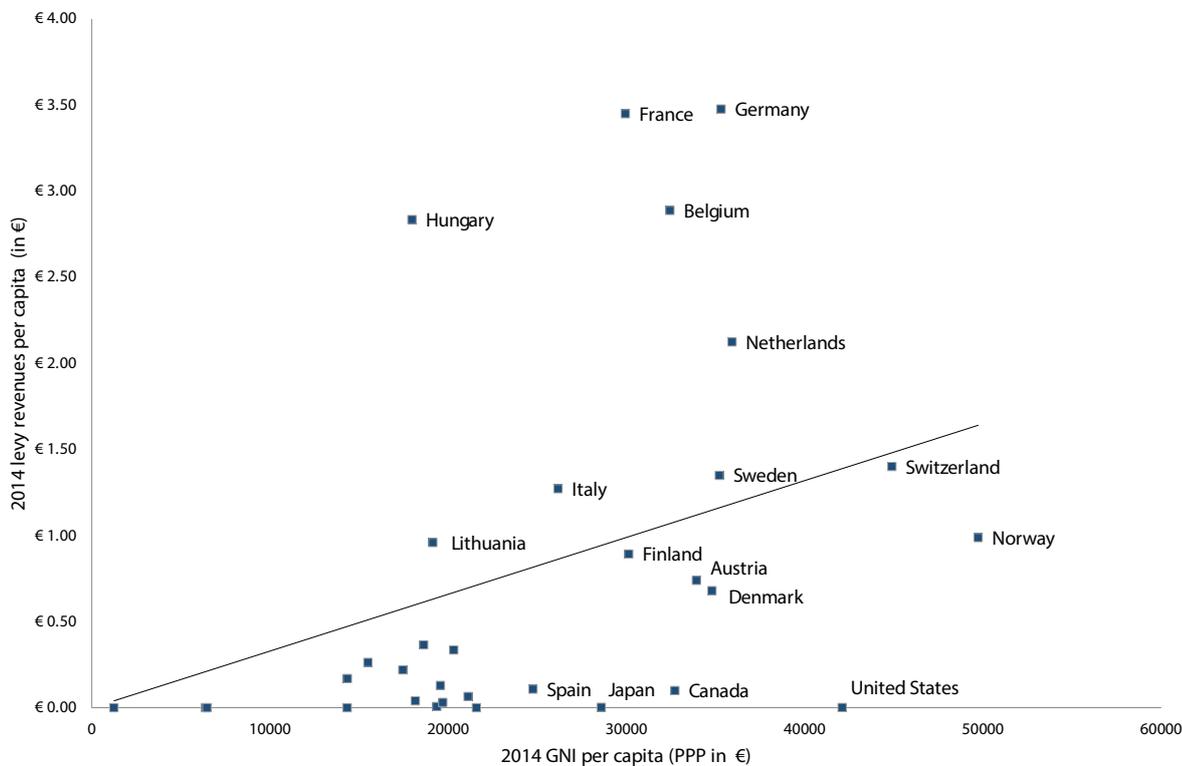
Note: No revenue figures available for Burkina Faso, Paraguay, Turkey and Ukraine. Sample average and EU average population-weighted.

Figure 3 looks more closely at this relationship by depicting the 2014 gross national income (GNI) of the participating countries in purchasing power parity (PPP) versus the 2014 levy revenues per capita. Each dot represents a country in the sample; the coordinate on the horizontal axis corresponds to the GNI per capita and that on the vertical axis corresponds to the 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 2 and 3, the correlation coefficient is 0.34. When the dataset is limited to the EU, the correlation coefficient jumps to 0.57.

The aforementioned correlation suggests another relevant metric to use in comparing countries: total levy revenues relative to GNI.¹⁷ 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 of GNI, €279 in levies are collected. France comes second, closely followed by Germany, both at about €100 in levies per €1 million GNI. After that, two more EU countries, Lithuania and Belgium, have higher revenues relative to GNI than the EU average of €71.

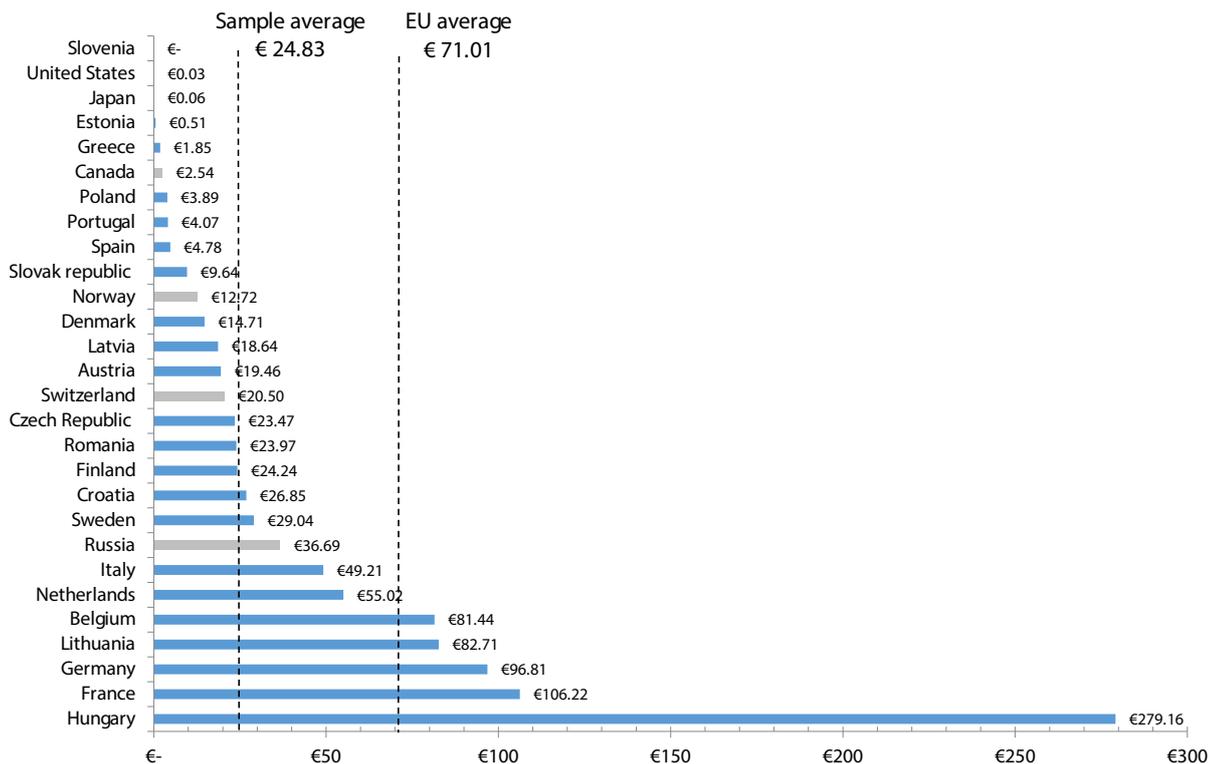
¹⁷ For this metric, it is more intuitive to use nominal GNI in current € (Atlas method, not PPP).

Figure 3: Levy revenues v Gross National Income (PPP), per capita in 2014€



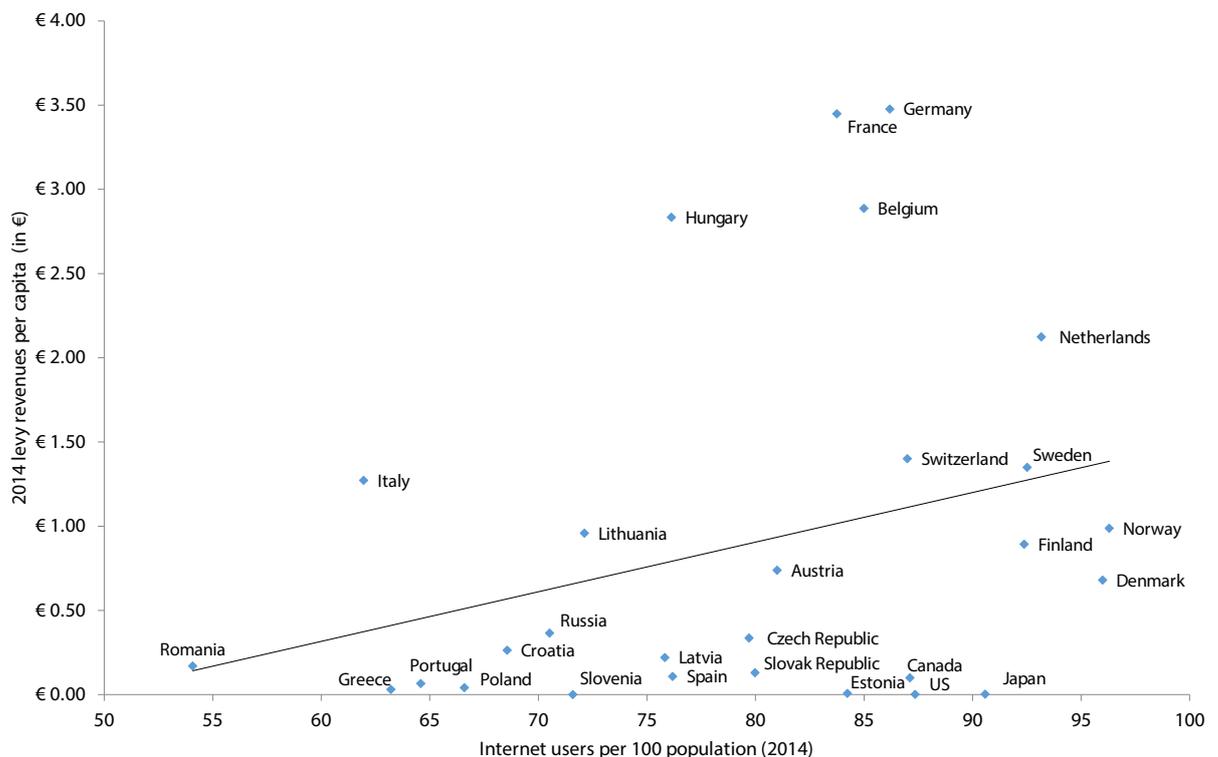
Note: GNI per capita retrieved from <http://data.worldbank.org/> (September, 21 2015) and converted from current US\$ values into € using the average annual dollar/euro exchange rate provided by the World Bank. For Austria, Czech Republic, Finland, Slovak Republic, Slovenia, Spain and Switzerland, GNI for 2013 is used. No levy revenue figures are available for Burkina Faso, Paraguay, Turkey and Ukraine.

Figure 4: Levy revenues per capita per €1 million GNI in 2014



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 2014 revenues per capita against the number of Internet users per 100 inhabitants. Again, there appears to be a correlation, in particular within the EU. The correlation coefficient for the whole sample is 0.30, which for the EU subsample increases to 0.42. 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 leviable private copies and that legal copies acquired from the Internet may or may not be leviable, 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 2014 € v Internet users per 100 inhabitants



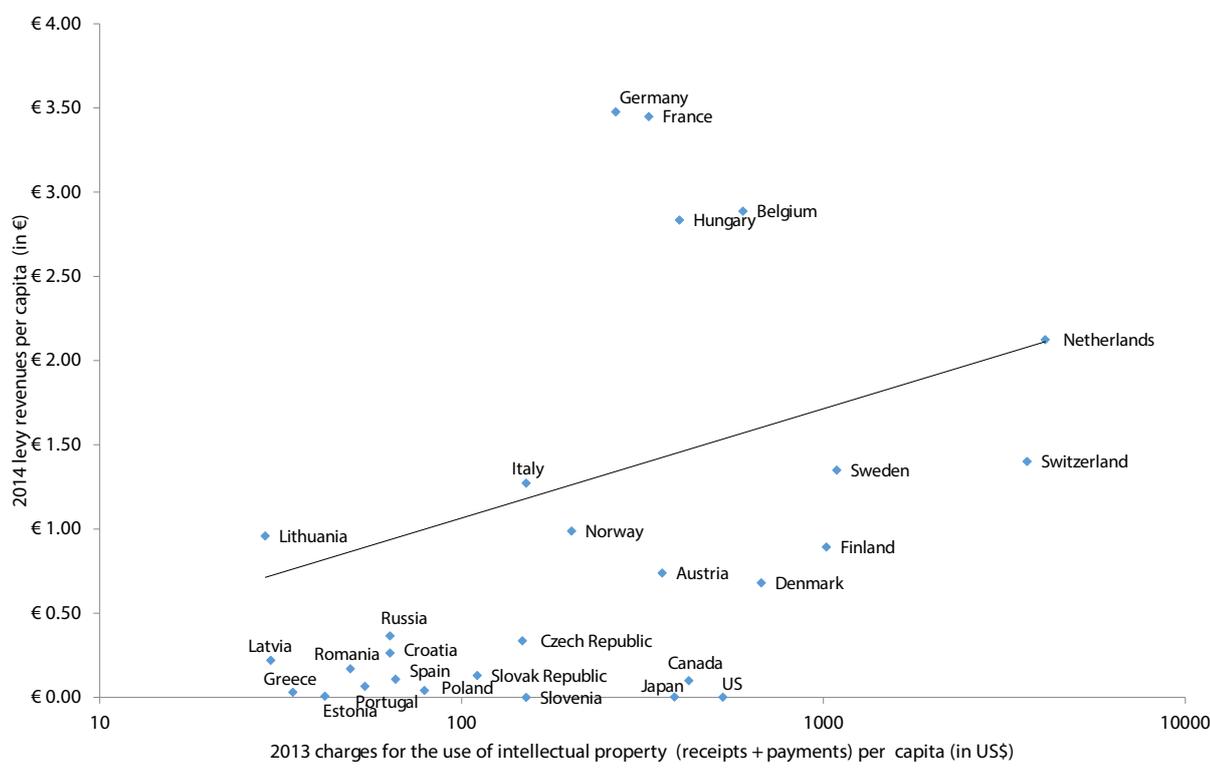
Note: Internet users per 100 inhabitants retrieved from <http://data.worldbank.org/> (September 21, 2015). No levy revenue figures are available for Burkina Faso, Paraguay, Turkey and Ukraine.

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.¹⁸ 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.

¹⁸ <http://data.worldbank.org/>, retrieved on September 30, 2015. 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 plots the 2014 revenues per capita against the total payments for and receipts from IP per capita in 2013.¹⁹ Despite all the caveats mentioned above, these two variables have a substantial correlation coefficient of 0.31, increasing slightly to 0.33 when non-EU countries are excluded. The horizontal axis in Figure 6 has a logarithmic scale to account for the large variance in the per capita IP charges.

Figure 6: Levy revenues per capita in 2014 v total charges for IP per capita in 2013

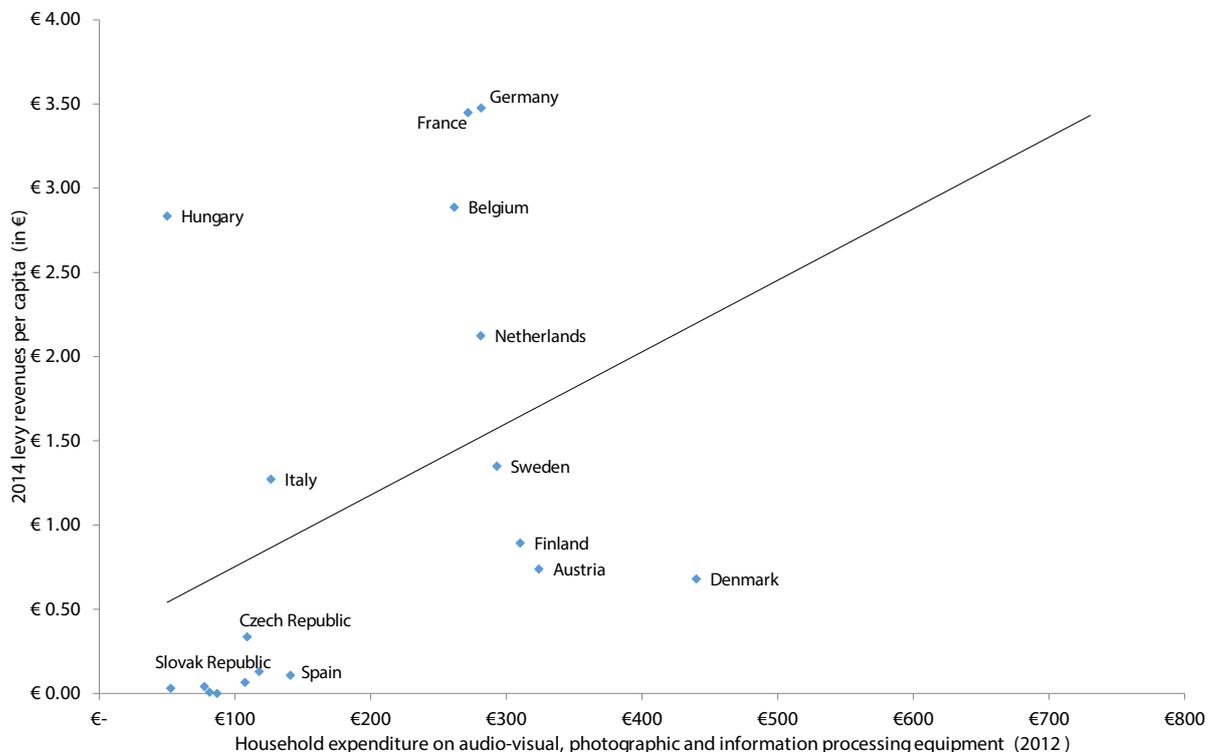


Lastly, levy revenues per capita are plotted against household final expenditure on audio-visual, photographic and information processing equipment. This variable is obtained from the OECD²⁰ and is only available for a limited number of countries and only until 2012. It can be considered a proxy for the expenditure on equipment used for making private copies. As was shown earlier in this summary (e.g. in Table 3), such equipment is the basis of imposing levies in many countries. As Figure 7 illustrates, the correlation between these variables is very weak: the correlation coefficient is 0.06. However, when the remaining non-EU countries, Canada, Norway and the United States, are removed from the dataset, this coefficient increases to 0.39, suggesting that in the EU there is a substantial correlation between household expenditure on audio-visual, photographic and information-processing equipment and per capita levies. Within the group of EU countries in Figure 7, a total of €724 million in levies was collected in 2014. These levies amount to approximately 0.9% of a total household expenditure of €79.1 billion in the same group of countries on such equipment in 2012.

¹⁹ Since there is a substantial number of missing values for 2014, data for 2013 is used. As receipts and payments have a correlation coefficient of 0.83, both are added to produce a single indicator.

²⁰ <http://stats.oecd.org/>, data retrieved on September 30, 2015. As the OECD clarifies, this dataset “presents the final consumption expenditure of households broken down by the COICOP (Classification of Individual Consumption According to Purpose) classification and by durability. It has been prepared from statistics reported to the OECD by Member countries in their answers to annual national accounts questionnaire. This questionnaire is designed to collect internationally comparable data according to the 1993 SNA”.

Figure 7: Levy revenues per capita in 2014 v household expenditure on audio-visual, photographic and information-processing equipment per capita in 2012



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 accepted more easily in some countries than in others; there is debate about the regulations, the scope of the 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 as a means to broaden the knowledge of this specific copyright and neighboring rights issue.

This 2015 edition of the *International Survey on Private Copying* shows that total revenues from private copying levy systems have increased from €598 million in 2007 to an all-time high of €804 million in 2014. 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 a significant decrease in 2011. By far the largest contributor to the volatility of total revenues is Germany. Germany was the country with the largest revenues of €281 million in 2014, comprising over a third of total revenues. Examples of other countries that show significant changes both in absolute and in relative terms are Spain, Russia and the Netherlands. Over the years, the EU countries in the survey are responsible for a fairly stable 84% to 92.5% of total revenues.

Revenues per capita range from less than €0.01 in the United States and Ukraine to €3.48 in Germany in 2014. In 2014, Germany collected the highest private copying levies per capita, closely followed by France and at some distance by Belgium and Hungary. Over the years, the population weighted average (for all countries with data available for every year) increased from €0.84 in 2007 to €1.11 in 2014. Within the EU, this average increased from €1.49 in 2007 to €1.97 in 2014.

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 in second, closely followed by Germany, Lithuania and Belgium.

Other correlations exist between revenues per capita on the one hand and on the other the number of Internet users per 100 inhabitants; per capita cross-border payments for and receipts from the use of intellectual property rights; and household expenditure on audio-visual, photographic and information processing equipment, which is a proxy for expenditure on equipment used for making private copies.

Much has been published on private copying and other exceptions and limitations in copyright. Further information on the subject can be found through 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://kluwercopyrightblog.com/>

<http://www.ivir.nl>

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

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

9. Annex

9.1 *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 art. 5(2)b of *Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society*.²¹

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>.

9.2 *C-467/08 – 21 October 2010 – Padawan v 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 harmonisation 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.

²¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32001L0029&from=EN>.

9.3 C-462/09 – 16 June 2011 – Stichting de Thuiskopie v Opus GmbH
Crossborder transactions

1. Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation 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 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.

9.4 C-277/10 – 9 February 2012 – Luksan v 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 harmonisation 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.

9.5 C-457/11-C-460/11 – 27 June 2013 – VG Wort v 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.

9.6 C-521/11 – 11 July 2013 – Amazon v Austro-Mechana
Indiscriminate application combined with a reimbursement scheme, payment of the revenue in part to social or cultural institutions, double payment in crossborder 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.

9.7 C-435/12 – 10 April 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 harmonisation 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.

9.8 C-463/12 – 5 March 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.

9.9 *C-470/14 – EGEDA and Others v Administración del Estado and Others*

1. Is a scheme for fair compensation for private copying compatible with Article 5(2)(b) of Directive 2001/29 where the scheme, while taking as a basis an estimate of the harm actually caused, is financed from the General State Budget, it thus not being possible to ensure that the cost of that compensation is borne by the users of private copies?
2. If the first question is answered in the affirmative, is the scheme compatible with Article 5(2)(b) of Directive 2001/29 where the total amount allocated by the General State Budget to fair compensation for private copying, although it is calculated on the basis of the harm actually caused, has to be set within the budgetary limits established for each financial year?

9.10 C-110/15 – *Nokia Italia v SIAE*

1. Does Community law, and in particular recital 31 in the preamble to, and Article 5(2)(b) of, Directive 2001/29/EC, preclude national rules (in particular, Article 71-sexies of the Italian *Legge sul Diritto d'autore* (Law on copyright), in conjunction with Article 4 of the [Decree of] 30 December 2009) that provide that, in the case of media and devices acquired for purposes clearly unrelated to private copying (that is to say, for professional use only), determination of the criteria for 'ex ante' exemption from the levy is left to private negotiation, or 'free bargaining', with particular regard to the 'application protocols' referred to in Article 4 above, failing any general provisions and any guarantee of equal treatment between the SIAE and persons obliged to pay the compensation, or their trade or professional associations?
2. Does Community law, and in particular recital 31 in the preamble to, and Article 5(2)(b) of, Directive 2001/29/EC, preclude national rules (in particular Article 71-sexies of the Italian Law on copyright, in conjunction with the [Decree of] 30 December 2009, and the instructions on reimbursement given by the SIAE, that provide that, in the case of media and devices acquired for purposes clearly unrelated to private copying (that is to say, for professional use only), reimbursement may be requested only by the final user rather than the producer of the media and devices?

1. Austria

Contact information

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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 from the time of first distribution in Austria. The reporting and payment obligation may be transferred to the supplier if there are no direct sales to consumers. Retailers are liable. Small retailers are exempt from liability (so long as they are not selling audio carriers with more than 5,000 hours or video carriers with 10,000 hours video per half-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 rightholders.

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 for copying is helpful but not obligatory. Levies are set in free negotiations between rightholders 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, e.g. single entrepreneurs.
Are there any products exempt from levies?	All media not used in a relevant scope for private copying, such as Dictaphones, are exempt. In addition, there is currently no levy on game consoles.

Collection process

How frequently is payment due?	Monthly reporting and payment are stipulated in the Inclusive Contract between rightholders and the Chamber of Commerce. The payment time limit is 45 days from the distribution of the media.
How do you monitor or intervene in the market?	Austro-Mechana is allowed to check the reports made in accordance with the Inclusive Contract. 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 may be obtained by presenting the export invoice/documents.
Who is considered an importer?	The first distributor in the Austrian market is liable. For direct sales 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 to rightholders?	Austro-Mechana collects the monies and distributes them to the seven collecting societies authorized to collect the remuneration, including Austro-Mechana itself. The collecting societies involved distribute the monies to their respective rightholders at their 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 movie 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>Distribution scheme, audio:</p> <p>47.92% Austro-Mechana (musical works)</p> <p>1.58% Literar Mechana</p> <p>49.50% LSG (neighboring rights)</p> <p>1.00% VGR (broadcast)</p> <p>Distribution scheme, video:</p> <p>14.87% Austro-Mechana (music creators and publishers)</p> <p>13.63% Literar Mechana (writers and publishers)</p> <p>6.25% LSG (music producers and performers)</p> <p>23.50% VAM (movie producers)</p> <p>23.50% VDFS (actors, directors)</p> <p>1.75% Bildrecht (visual artists and photographers)</p> <p>16.50% VGR (broadcasts)</p> <p>Distribution schemes for various media and devices</p> <p>Audio: 54%</p> <p>Video: 46%</p>
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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 Funds for Social and Cultural purposes are responsible for the distribution.
What is the amount dedicated to the social and/or cultural fund in 2013?	About €2,993,000.
How can social and cultural funds be used?	For social assistance; for the organization of thematic festivals.

Legal developments and court cases

<p>Legal developments</p>	<p>A legal amendment clarifying the claims for digital media, particularly PCs, tablets and smartphones, will enter into force on October 1, 2015. The new law will not be retroactive.</p> <p>Austro-Mechana is still litigating claims on levies for computer hard disks and mobile phone storage media based on the current provisions on blank media levies. These proceedings against various computer and cell phone distributors cover claims some of which date back to 2006.</p> <p>Although the rightholders in principle welcome the final coming into law of a levy for which they fought for years, the law includes several provisos:</p> <ol style="list-style-type: none"> 1. The levy is now capped at €20 million per year, including amounts to be refunded to commercial and institutional users. If this threshold is exceeded, new tariff negotiations must be started in order to lower the tariffs for the future. The revenues for 2016 will be subsequently evaluated. If there is a substantial deviation from the guide value (less than €19 million) due to refunds, the cap will be renegotiated under the responsibility of the Minister of Justice. However, this last condition is soft law (parliamentary resolution) and not part of the new law. 2. Tariffs, which will – as before – be negotiated between the Chamber of Commerce and the Collecting Societies, have to fulfill eight completely new criteria. Formerly, only the potential playing time of a certain storage medium had to be considered. <i>Inter alia</i>, the tariffs of other EU-countries and the benefit to the user and the industry must be taken into account. What is more, the tariffs cannot exceed 6% of the “typical” price level. 3. For mere minimal harm suffered by a certain category of medium, no levy shall be due at all. However, no threshold has been determined. The provision thus remains very vague in its scope. It does not say who has to determine the “mere minimal use”. In the explanatory notes, memory cards for photo cameras are mentioned as an example, since they are, according to the notes, typically used not for private copies but for self-created images. 4. Refunds will be possible not only for exports and purely commercial/institutional use, as has always been the case in Austria, but also for any person who can certify (“make believe”) that they do not use a storage medium for private or own purposes. How this provision (which seems to defy CJEU case law) will work in practice for Austro Mechana remains to be seen. 5. New exceptions have been introduced and existing exemptions extended. Firstly, the exception for making copies of works for educational purposes has been extended to encompass not only schools and universities but also “other educational institutions”. There is, however, no additional or separate remuneration foreseen. The extension of the exemption will also be compensated by the levies in place. Secondly, public collections (such as university libraries) may now create and send electronic copies, on order, to third parties for own (educational purposes of schools, universities and their staff) or private purposes, limited to “research purposes”, and claim their own costs for such services. While in the past such a service could not have been remunerated at all (and was therefore never implemented in libraries), it is now very likely that any work will now be sent to e.g. students for a small fee. What is more, the harm suffered by the exception is to be compensated by the private copying levies only, which will not suffice due to the overall cap mentioned at (1) above. 6. Before claiming new tariffs, the collecting societies must collect and verify data on the actual use of the various media for private copying and publish the results. Additionally, an advisory council comprising representatives of user organizations and the collective society which collects the levy has been established.
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Legal developments (continued)	<p>7. There has always been an exception from the liability for retailers of media not selling (audio) media with more than 10,000 playing hours per half-year. This exception (now generally applicable regardless of the media type) has been maintained. The novelty is an exception which applies to “small businesses”, which are defined as businesses with a net turnover of €30,000 per year. It is worth noting that such businesses easily sell storages largely exceeding 10,000 playing hours.</p> <p>8. Reports of media imports are regulated by law. Any importation of storage media subject to the levy must be reported every quarter of the year. The report must be submitted by the 15th of the month following the quarter.</p> <p>Hitherto, there was no penalty levy in the law for failure to report or pay the levy. Austro-Mechana always applied the published “autonomous” tariffs in such cases, in contrast to the tariffs negotiated with the Chamber of Commerce, which are 20% less. According to the new law, Austro-Mechana may claim up to double the usual tariffs in such cases.</p>
Are there liable parties who deny responsibility or refuse payment for certain media/devices?	Most importers refuse payment for computer hard disks and memories in tablets and smartphones. Amazon and Cyberport refuse all claims.
Court cases	Because of the EU Court ruling in the Amazon case, all leading cases are ongoing. Regarding computer hard disks, the Supreme Court upheld the ruling that they must pay the private copying levy. This was a complete reversal of its ruling in 2005.
Implementation problems	There was a small-scale disagreement with some promotion material sellers on USB sticks, which Austro-Mechana won. From 2016, surveillance of online sellers will have to be reinforced because of the stipulation in the new law on levies for media of all kinds.

Applicable national rates

Audio	Tariff	Capacity
Audio cassette	€0.12	60 minutes
MiniDisc	€0.24	80 minutes
CD-R/-RW audio	€0.24	80 minutes/700MB
CD-R/-RW data	€0.24	80 minutes/700MB
Memory cards (Only in combination with MP3-player)	€1.50	< 512MB
	€2.50	512MB – 1GB
	€5.25	1 – 4GB
	€9.00	4 – 30GB
Video		
Video cassette	€0.18	60 minutes
DVD+R/+RW	€0.36	120 minutes/4.7GB
DVD-R/-RW	€0.36	120 minutes/4.7GB
DVD-RAM	€0.36	120 minutes/4.7GB
DVD DL	€0.72	240 minutes/8.5GB
BR	€0.54	120 minutes/25GB

Devices	Tariff	Capacity
MP3 audio-player	€1.50	< 512MB
	€2.50	< 1GB
	€5.25	< 4GB
	€9.00	< 30GB
MP3/MP4-player	€1.50	< 512MB
	€2.50	< 1GB
	€3.50	< 4GB
	€6.00	< 30GB
	€7.00	< 60GB
	€8.00	< 90GB
	€9.00	< 120GB
	€10.00	< 160GB and more
Consumer electronics		
Hard disc receiver	€6.00	< 80GB
DVD-recorder, sat-receiver	€10.00	< 160GB
	€12.00	< 250GB
	€15.00	< 400GB
	€20.00	< 600GB and more
Ext. multimedia	€17.10	< 250GB
Hard disc with recording function	€19.40	< 500GB
	€22.50	< 750GB
	€24.30	< 1TB and more
Devices	Tariff	Capacity
USB stick	€0.10	< 1GB
	€0.20	< 4GB
	€0.20	< 8GB
	€0.40	< 16GB
	€0.50	< 32GB and more

Additional Comments:

The levy is on the integrated memory/hard disc, not on the device.

The tariffs for PCs, notebooks, HDs, tablets and smartphones are still in dispute.

Revenues

	2012	2013	2014
Audio Revenues			
Audio cassette	€33,000.00	€23,451.00	€15,225.00
CD-R/RW audio	€79,000.00	€102,169.00	€90,196.00
CD-R/RW data	€1,290,000.00	€1,663,555.00	€1,028,969.00
MP3-player	€921,000.00	€579,596.00	€1,260,106.00 **
Total "Audio"	€2,323,000.00	€2,368,771.00	€2,394,496.00
Video Revenues			
Video cassettes	€176,000.00	*	€82,399.00
DVD (all types)	€2,065,000.00	€1,980,931.00	€1,618,800.00
Hard disc recorder	€1,535,000.00	€962,310.00	€1,355,974.00
Total "Video"	€3,776,000.00	€2,943,241.00	€3,057,173.00
Device revenues			
USB stick	€517,000.00	€673,435.00	€851,687.00
Total "Devices"	€517,000.00	€673,435.00	€851,687.00

* payments in DVD

**incl. payments for previous years

2. Belgium

Contact information

Country	Belgium
Currency	Euros
Name of organization	Auvibel
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Contact Person 1	François Stroobant (Managing Director)
Contact Person 2	Maro Schrauwen
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Address	Havenlaan 86c 201a/Avenue du Port 86c 201a
Postcode	1000
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Fax	(+32) 02 650 09 58

Legislation and fundamental facts

Copyright law	<ol style="list-style-type: none">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.2. Royal Decree of October 18, 2013 on the right to remuneration for private copying.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.
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"> – 2012: 4.50% – 2013: 5.12% – 2014: 3.62%
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 "a contrario" 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>
Are there any consumers or buyers exempt from paying the levies?	<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"> – 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); and – 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.

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>
<p>Who is considered an importer?</p>	<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, the Belgian court has issued the following definition concerning importers:</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>
<p>Who distributes the collected remunerations to rightholders?</p>	<p>Auvibel</p>
<p>Frequency of distribution</p>	<p>The remuneration is distributed on a yearly basis.</p>

<p>Which rightholders?</p>	<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, REPROGRESS, SABAM, SEMU)</p>
<p>How are the distribution schemes determined?</p>	<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: 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->11/2013: 43.50% 12/2013: 41.76% For 2014: 44.54%</p> <p>Distribution scheme, video: 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->11/2013: 56.50% 12/2013: 54.24% For 2014: 48.86%</p> <p>Distribution scheme, literary/photographic: For 12/2013: 4.01% For 2014: 6.60%</p>
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Distribution process

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.
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Legal developments and court cases

Legal developments	<ol style="list-style-type: none"> 1. 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. 2. 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.
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Applicable national rates

Blank Media	Tariff valid from 2013-12-01	Capacity
Audio cassette analog	€0.12	
Audio cassette DAT	€0.12	
Video cassette analog	€0.40	
Optical Storage Media		
MiniDisc	€0.12	
CD-R/RW audio	€0.12	
CD-R/RW data	€0.12	
DVD	€0.40	
Flash media		
Memory card and USB stick	€0.15	From 0 to 4GB
	€0.50	More than 4GB to 16GB
	€1.35	More than 16GB
Mobile phones		
MP3-player, MP4-player, mobile phone with MP3 and/or MP4 function, tablets	€1.00	From 0 to 2GB
	€2.50	More than 2GB to 16GB
	€3.00	More than 16GB
Devices Hardware, HDD		
External hard disk drive	€1.30	From 0 to 500GB
	€6.75	More than 500GB to 1TB
	€9.00	More than 1TB
Home devices with integrated hard disks	€3.30	From 0 to 256GB
	€10.75	More than 256GB to 1TB
	€13.00	More than 1TB
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

Blank Media	2012 (€)	2013 (€)	2014 (€)
Audio media	€171,711.14	€202,501.76	€78,665.52
Video media	€154,378.10	€64,560.80	€47,975.60
CD-R/RW data	€1,190,358.08	€741,079.68	€624,411.10
DVD	€2,386,081.48	€1,784,175.60	€1,334,882.40
Flash Media			
Memory card and USB stick	€2,426,847.25	€2,231,274.25	€2,250,463.45
Devices Hardware, PC, HDD	2012 (€)	2013 (€)	2014 (€)
External hard disk drive	€2,951,429.55	€3,468,667.65	€3,181,984.30
Multimedia center	€136,005.15	€71,509.10	€56,891.00
Audio devices	€118,295.40	€56,888.15	€107,734.45
Video devices	€8,790,683.30	€7,926,460.65	€14,089,103.45
Mobile phones			
MP3-player, MP4-player, mobile phone with MP3 and/or MP4 function	€5,502,101.15	€7,501,434.00	€8,236,842.00
Tablets		€357,434.50	€2,397,716.00
TOTAL	€23,827,890.60	€24,405,986.14	€32,406,669.27 *

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

3. 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

	2010	2011	2012
TOTAL	€686,122	1,181,691	895,817

The revenues shown above are the total remunerations collected yearly.

4. Canada

Contact information

Country	Canada
Currency	€1.00 = \$1.369 as of May 15, 2015
Name organization	Canadian Private Copying Collective
Website	www.cpcc.ca
Contact Person 1	Anna Bucci, Executive Director
Contact Person 2	Laurie Gelbloom, General Counsel
E-mail 1	abucci@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">selling or renting out, or by way of trade exposing or offering for sale or rental;distributing, whether or not for the purpose of trade;communicating to the public by telecommunication; orperforming or causing to be performed in public.
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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:	Canadian Private Copying Collective. 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.
Administrative costs for collecting private copying remunerations	From 2000 to 2013, on average, the CPCC has retained 12.22% of revenue for all operating expenses.
Administrative costs for distribution of private copying remunerations	In 2013, distribution expenses were 2.36% of revenue.
Distribution process	The Copyright Board of Canada sets the percentage allocated to each rights holder group after considering evidence submitted by the CPCC at tariff hearings. 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.

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, which 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?	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. The levy is not payable on blank audio recording media sold to associations that represent persons with a perceptual disability.
Are there any products exempt from levies?	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. 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.

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 exported blank audio recording media.

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.
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Legal developments and court cases

<p>Legal developments</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 cents (Canadian) 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 cents (Canadian) per unit.</p> <p>In March 2011, the CPCC filed a proposed tariff for 2012-2014 that maintained the levy on CD-R, CD-RW, CD-R audio and CD-RW audio at the current rate and proposed a levy on micro SD electronic memory cards. 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. On August 30, 2013, the Copyright Board concluded that, because 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 a majority 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, which defines an "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 to 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>
<p>Court cases</p>	<p>The CPCC has brought litigation in order to enforce compliance with the Copyright Act and private copying tariffs.</p>

Applicable national rates

Blank Media		Capacity
CD-R/RW	Pursuant to the Private Copying Tariff 2015 – €0.21	Per unit
Audio CD-R/RW	Pursuant to the Private Copying Tariff 2015 – €0.21	Per unit

Revenues

1 euro =	\$1.2838	\$1.3673	\$1.4675
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Blank Media	2012 (€)	2013(€)	2014(€)
			Not Final
CD-R/CD-RW	€6,100,705.36	€4,427,108.26	€3,403,503.05
CD-RA/CD-RWA	€304,562.35	€159,767.84	€110,586.20
Tape	€56.86		
MiniDisc			
Total Blank Media	€6,405,324.57	€4,586,876.10	€3,514,089.26

5. Croatia

Contact information

Country	Croatia
Currency	Croatian kuna (HRK) 7,657708 middle exchange rate of Croatian national bank on January 1, 2015
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Legislation and fundamental facts

Copyright law	<p>Provisions of the Articles 32 and 82 of Croatian Copyright Law, Official Gazette: Narodne Novine Nos. 167/03; 79/07; 80/11; 125/11; 141/13; and 127/14.</p> <p>Implementation began on January 1, 2007.</p> <p>RIGHT TO REMUNERATION FOR REPRODUCTION OF A COPYRIGHT WORK FOR PRIVATE OR OTHER PERSONAL USE</p> <p>Article 32</p> <ol style="list-style-type: none">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.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.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.
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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 concern 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>REPRODUCTION OF THE WORK FOR PRIVATE OR OTHER PERSONAL USE Article 82</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 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	Costs of distribution are included in the costs of collection.
Distribution process	<p>HDS ZAMP distributes to other collective organizations and they distribute the collected amounts to individual rightholders.</p> <p>Regarding distribution to individual rightholders, HDS ZAMP distributes directly only to authors of musical works.</p>

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 taken into account for determining the levies are market circumstances, copying behavior of the consumers and 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. Explicit exemption is determined by copyright law and applies to ephemeral recordings used in broadcasting and to certain institutions (public libraries, courts or other administrative procedures, public archives and educational or social institutions) if they do not have any commercial activities.
Are there any products exempt from levies?	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.

Collection process

How frequently is payment due?	Quarterly.
How do you monitor or intervene in the market?	Control of customs reports, review of importers' documentation and field controls 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 collective organizations and they distribute the collected amounts to individual rightholders. Regarding distribution to individual rightholders, HDS ZAMP distributes directly only to authors of musical works.
Frequency of distribution	Monthly to collective organizations and every half-year 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 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?	By law, the deduction from collected remunerations is made for cultural and social needs of rightholders; it is 30% for music rightholders.
Which body is responsible for the allocation of funds to artists, cultural productions or social schemes?	Collective management organizations.
What was the amount dedicated to the social and/or cultural fund in 2013?	HDS ZAMP has dedicated €101,271.68.
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 as a support for e.g. young artists, festivals, start up projects related to the 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. There are no pending cases on principal matters.
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Applicable national rates

Per unit	2015	1 € = 7.657708 kn
CD 1GB	0.08 kn	€0.01
DVD 10GB	0.12 kn	€0.02
Audio tape	0.10 kn	€0.01
Video tape	0.60 kn	€0.08
Memory card	3.00 kn	€0.39
USB stick	3.00 kn	€0.39
Hard disc	3.00 kn	€0.39
CD/DVD recorder	4.00 kn	€0.52
PC/laptop	6.00 kn	€0.78
Tablet	10.00 kn	€1.31
Digital audio player	14.00 kn	€1.83
Digital video player	14.00 kn	€1.83
Mobile phone with MP3-player/smartphone	10.00 kn	€1.31
Analog audio recorder	6.00 kn	€0.78
Analog video recorder	10.00 kn	€1.31
Hi-Fi CD recorder	20.00 kn	€2.61
Hi-Fi DVD recorder	30.00 kn	€3.92
Hi-Fi HD recorder	40.00 kn	€5.22

Revenues

Media/Devices			
	2012 (€)	2013 (€)	2014(€)
Optical Storage Media			
Audio cassette	€233.09	€166.42	€40.57
Audio CD R/W	€42,250.01	€31,049.23	€21,650.90
Video cassette	€4,625.3	€3,334.15	€1,323.34
DVD R/W	€59,120.59	€44,489.22	€28,177.86
Flash Media			
Memory card	€149,691.86	€135,879.84	€92,302.48
USB stick	€73,977.70	€81,905.76	€87,283.47
Devices			
	2012 (€)	2013 (€)	2014(€)
Hardware, PC		€91,198.33	€97,339.80
Devices with MP3-player (cell phone with MP3-player, digital audio/video player)	€625,187.39	€734,435.50	€763,079.31
Other devices			
	2012 (€)	2013 (€)	2014(€)
(Analog audio/video player, Hi-Fi CD recorder, CD recorder, DVD recorder, DVD hard disc recorder)	€87,765.11	€31,306.78	€24,924.56
Total revenues	€1,042,851.48	€1,153,765.25	€1,116,122.29

6. Czech Republic

Contact information

Country	Czech Republic
Currency	CZK
Name of organization	OSA
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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 in 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	Remuneration is collected by levies of blank record carriers and devices for making audio or audio-visual reproductions and/or recordings.
Liable for payment	<p>The person liable to pay remuneration shall be:</p> <ul style="list-style-type: none">– 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");– the manufacturer, importer or consignee of technical devices for making printed reproductions;– the manufacturer, importer or consignee of blank record carriers;– 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; and– 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.

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 on blank recording media are applied per unit to audio tapes, video tapes, CDs, DVDs and MiniDiscs or determined by capacity for electronic media such as USB flash disks, 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?	The remuneration does not apply to digital camcorders, digital cameras, mobile telephones and cordless telephones. Where such devices are supplied with an embedded memory medium, the remuneration is paid only for the capacity of the embedded medium.

Collection process

How frequently is payment due?	Payment is based on a half-yearly period. 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 the official statistical data and in rare cases by way of audits.
Who is considered an importer?	The person or company who imports the good to the territory of the Czech Republic from countries outside the EEA.

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 its 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 distribution rules.

Distribution keys	<p>There is one scheme for both audio and video. The OSA Distribution Rules stipulate the following:</p> <p>5.10. Royalties for reproductions of musical works for personal use</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 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"> a. 90% in line with the incomes from mechanical rights (incl. mechanical rights from on-line uses) b. 10% in line with the incomes from public performance of live music. <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"> a. 90% in line with the amounts for mechanical rights (incl. mechanical rights from on-line uses) b. 10% in line with the amounts for public performance of live music.
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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 the Czech Copyright Act) decided on 0% deduction from blank levies.
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Legal developments and court cases

Are there liable parties who deny responsibility or payment 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	Proceedings against Nokia with regard to the levy to be paid for smartphones are still pending.

Applicable national rates

Audio	Tariff (€)	Capacity
Blank Media		
Audio cassettes	€0.028	Up to 60 min.
Audio cassettes	€0.037	Over 60 min.
Video cassettes	€0.065	Up to 180 min.
Video cassettes	€0.088	Over 180 min.
MiniDiscs	€0.077	
Optical Storage Media		
CD-R	€0.008	
CD-RW	€0.041	
DVD-R	€0.023	
DVD-RW	€0.113	
Flash Media		
Memory card, flash disc	€0.029 max. 1.75	Per 1GB

External HDD		
Up to 1TB	€0.003	Per 1GB
Over 1TB	€3.188 +€0.002	Per 1GB
Devices Hardware, PC, HDD		
CD writer	1.59%	On sales price of sold devices
DVD writer	1.75%	On sales price of sold devices
Memory card writer	1.59%	On sales price of sold devices
HDD (internal only)	1.75%	On sales price of sold devices
Consumer Electronics		
Audio device without radio	1.50%	On sales price of sold devices
Audio device with radio	0.75%	On sales price of sold devices
Video device without TV	1.80%	On sales price of sold devices
Video device with TV	0.90%	On sales price of sold devices
E-book	3.00%	On sales price of sold devices

Revenues

1 Euro =	25.15 CZK	25.98 CZK	27.54 CZK
	2012 (€)	2013 (€)	2014 (€)
Blank Media			
Audio cassettes	€2,413.48	€2,524.73	€1,391.98
Video cassettes	€13,836.32	€10,070.98	€3,969.38
MiniDiscs	€485.99	€194.44	€68.85
Optical Storage Media			
CD	€79,334.90	€68,630.25	€64,320.32
DVD	€271,758.40	€222,882.78	€158,137.59
Flash Media			
Memory card, flash disc	€942,961.03	€1,001,165.23	€1,184,910.85
External HDD	€669,971.18	€789,519.07	€830,212.11
Hardware, PC, HDD			
CD writer	€15,861.63	€14,538.11	€19,535.58
DVD writer	€243,032.43	€206,058.26	€194,831.90
Memory card writer	€5,465.34	€4,936.78	€3,918.49
Internal HDD	€705,771.81	€687,412.28	€721,288.65
Consumer Electronics			
Audio	€132,677.53	€101,240.28	€117,149.60
Video	€272,555.34	€237,742.96	€216,305.27
e-book	€13,467.71	€7,562.21	€8,401.75
Total revenues	€3,369,593.08	€3,354,478.36	€3,524,442.31

7. Denmark

Contact information

Country	Denmark
Currency	DKK € 1.00 = 7.46 DKK
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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.
Remuneration system	Remuneration levied on media and additional state funding to compensate for the difference in proceeds on DVDs between a given year and 2005. Articles 39-46a + executive order.
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. €348,525, for both collecting and distributing to rightholder organizations.
Administrative costs for distribution of private copying remunerations	Approx. €348,525, for both collecting and distributing to rightholder organizations.
Distribution process	Remuneration is distributed to rightholder organizations and not to individual rightholders – individual distribution occurs through the different rightholder organizations.

Rate setting

How are levies/remuneration determined?	Levies/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 can be exempted through an agreement with Copydan KulturPlus. Alternatively, a refund can be made. Professional users, including educational institutions, are exempted, provided they have a valid agreement with Copydan KulturPlus.
Are there any products exempt from levies?	All products not specifically named in the legislation.

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 refunded upon the 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?	The 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, 1/3 of which is mandated by law.
Which body is responsible for the allocation of funds to artists, cultural productions or social schemes?	The organizations representing the different categories of rightholders are responsible.
What is the amount dedicated to the social and/or cultural fund in 2013?	1/3 or approx. €1,242,180 in 2013 and €1,107,238 in 2014.
How can social and cultural funds be used?	The funds can be used as 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>.²¹</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 had argued that the Danish levy on SD cards was in violation of EU Law. The main arguments from Nokia were as follows:</p> <ol style="list-style-type: none"> 1. Copying on SD cards constitutes minimal harm, especially because they are multifunctional, so implementing a levy is not allowed. 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. <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 affects the size of the levy.</p> <p>Secondly, the CJEU ruled that the courts in the member states must determine whether there are legitimate objective reasons for not subjecting internal memory in mobile phones to a levy. However, CJEU did not indicate that the lack of a levy on 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 restated many opinions that strengthen the European remuneration schemes.</p> <p>The case will now shortly resume before the Danish Court of Appeals. The case mainly concerns the legality of the levies on SD cards, so it is unclear whether the Court of Appeals will deliberate on the absence of a levy on the internal memory of mobile phones.</p>
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Applicable national rates

2014		
Analog audio cassette	€0.0098	Per minute
Analog video cassette	€0.0137	Per minute
MiniDisc	€0.3097	Per unit
CD R/RW	€0.3097	Per unit
DVD, Blu-Ray, HD DVD	€0.4906	Per unit
Flash media	€0.6997	Per unit
USB, U3	€0.6997	Per unit
Memory card	€0.6997	Per unit

²² <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:62012CA0463&qid=1446981614130&from=EN>.

Revenues

Media/devices			
1 Euro =	7.443 DKK	7.457 DKK	7.446 DKK
Blank Media	2012 (€)	2013 (€)	2014 (€)
Analog audio cassette	€3,212.73	€1,077.41	€302.22
Analog video cassette	€62,257.88	€16,391.70	€6,060.61
MiniDiscs	€102.61	€736.57	€6.09
CD R/RW	€526,359.95	€396,593.89	€243,178.34
DVD, Blu-Ray, HD DVD	€620,318.37	€464,538.81	€202,665.10
DVD compensation	€2,320,372.61	€2,373,431.40	€2,667,767.04
Flash media	€544,546.51	€507,175.58	€403,163.09
USB, U3, memory card	€405,424.08	€410,162.32	€310,429.42
Total	€4,482,594.74	€4,170,107.68	€3,833,571.90

8. Estonia

Contact information

Country	Estonia
Currency	EURO
Name of organization	Estonian Authors' Society
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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 pays the remuneration when the manufacturer, importer or 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:	The CMO is the Estonian Authors' Society, appointed by the Ministry of Justice. Under the law, the Minister of Justice appoints a CMO (Estonian Authors' 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.
Administrative costs for distributing private copying remunerations	The distribution of collected amounts in 2014 did not take place because the expenses were higher than the collected remuneration.

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: <ul style="list-style-type: none"> – 3% of the value of the goods in the case of recording devices; – 8% of the value of the goods in the case of storage media.
Which criteria are used for determining the levies/remuneration?	Copying behavior, according to a survey of people.
Are there any products exempt from levies?	The remuneration is repaid on storage media and recording devices: <ol style="list-style-type: none"> 1. which, due to their technical characteristics, do not enable the reproduction of audio-visual works and sound recordings of works as single copies; 2. exported or transported from Estonia into the European Community customs territory; 3. (which are used in the course of the activities specified in the articles of association of the undertaking; 4. which are used in an activity in the case of which 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; 5. which are intended for recording activities in educational and research institutions for the purpose of teaching or scientific research; and 6. used for making recordings for the benefit of disabled persons.

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 a period of 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 has been appointed the collector of remuneration and has the right to obtain necessary information from customs authorities, 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 storage media and recording devices exported or transported from Estonia into the European Community customs territory.
Who is considered an importer?	Manufacturers, importers and sellers of storage media and recording devices are responsible for payment. The seller pays the remuneration when the manufacturer, importer or 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 shall be distributed based on a distribution plan for the preparation of which the Minister of Justice shall appoint 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 in order to finance educational and research programs or for use thereof 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 2014?	In 2014, the distribution fund was 0 euros.

Legal developments and court cases

Legal developments	The situation in Estonia did not change in 2014.
Are there liable parties who deny responsibility or payment 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. The Estonian Authors' Society can thus collect remuneration only from analog devices and 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 on behalf of rightholders.
Court cases	Given the lack of any positive changes, the Estonian Authors' Society (EAU), the Estonian Performers Association (EEL) and the Estonian Association of Phonogram Producers (EFÜ) filed a complaint to the Tallinn Administrative Court in February 18, 2013 requesting that the still valid but basically obsolete list of recording devices and means, on the basis of which the State calculates remuneration for income not received as a result of private copying of their works, should be considered inconsistent with the Constitution of Estonia. Furthermore, the above societies have requested compensation for damages from the state for income not received for 2010-2014, for 831,416 euros.

Applicable national rates

2015		
Blank Media	Tariff	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

	2012	2013	2014
Media/Devices	€24,883.00	€23,993.00	€9,438.00

9. Finland

Contact information

Country	Finland
Currency	Euros
Name of organization	Finnish Composers' Copyright Society, TEOSTO
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Name of organization (as of 2015)	Ministry of Education and Culture
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Legislation and fundamental facts

Copyright law	December 19, 2014: Copyright Act sections 26(c)-26(f) and 26(h) repealed. Amendments to section 26(a) and 26(b), section 45(7), section 46(3), section 46(3)(a) 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 new 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	In 2014, the manufacturer or the importer was liable for payment. The retailer had to pay the remuneration in case the importer or the manufacturer failed to do so. However, the retailer could claim the payment back from the importer or the manufacturer. As of 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 organizations of rightholders.</p> <p>2015 System replaced by annual state budget financing on January 1, 2015.</p>
Administrative costs for collecting/distribution private copying remunerations	The administrative costs were 7.5% in 2013, €480,000.
Distribution process	The remuneration is distributed through organizations of rightholders.

Rate setting

How are levies/remuneration determined?	<p>The Finnish Government sets the level and the scope of the remuneration. Before the decision, negotiations with manufacturers, importers and organizations representing authors are held by the Ministry of Education and Culture.</p> <p>The negotiations have traditionally been held in December. TEOSTO has invited a group of interested parties, such as importers, resellers and rightholders, to an informal meeting to discuss issues relating to the level and scope of the remuneration. This group meets quarterly.</p> <p>The Finnish Copyright Act expressly states that the remuneration should be based on the available research data. One of the main goals of the informal body is to provide this information. The scope of the compensation includes audio or video carriers manufactured or imported to be distributed to the general public and other equipment that enables the reproduction of a work and which is to a significant extent used to make copies for private use. Illegal copying and licensed copies are not considered private copying. Research on digital private copying has been conducted since 1999.</p> <p>The system was replaced by annual state budget financing January 1, 2015.</p>
Which criteria are used for determining the levies/remuneration?	<p>Annual surveys on private copying are designed and supervised by a research working group, operating under Finland's advisory board for private copying remuneration. The delegations represented in the advisory board for private copying remuneration are the copyright organizations, manufacturers and importers, as well as the Ministry of Education, the Ministry of Employment and the Economy, the Ministry of Transport and the Communications and Consumer Agency.</p> <p>The research working group is responsible for designing and monitoring the surveys. In 2013, it had representatives from the Confederation of Finnish Industries EK, the Finnish Composers' Copyright Society TEOSTO, the Copyright Society Kopiosto, the Copyright Association for Audio-visual producers in Finland Tuotos, Phonogram Producers and Performers Gramex, IFPI Finland, the Electronic Wholesalers Association ETK, Nokia and the Ministry of Culture and Education.</p> <p>Criteria taken into account include the copying behavior of consumers, the volume of private copying onto different devices and carriers, the original source of the copy and DRMs.</p> <p>The system was replaced by annual state budget financing January 1, 2015.</p>

<p>Are there any consumers or buyers exempt from paying the levies?</p>	<p>Professional users are exempted from the levy. All company or community-related copying can be considered professional use, and therefore it is not included in the private copying remuneration scheme. For example, user back-up of files is considered a justification for exemption of private copying remuneration.</p> <p>Companies/communities may be granted the right to buy recordable media/carriers without paying private copying remuneration. To receive the exemption, one must sign a declaration for the Private Copying Unit, which states that carriers are not used for private copying. Professional users receive a unique ID that entitles them to purchase carriers from importers and manufacturers, who have a sales contract with the Private Copying Unit. Professional users may apply for refunds afterwards. Refunds must be applied for within three months of the end of the purchase year.</p> <p>The system was replaced by annual state budget financing January 1, 2015.</p>
<p>Are there any products exempt from levies?</p>	<p>The Copyright Act provides an exemption from the private copying remuneration when the products are:</p> <ul style="list-style-type: none"> - exported; - used to store material that is protected by the Copyright Act if the copy is made for professional use, teaching or scientific purposes; - used to store material for disabled persons; and - used as a memory for storage devices in professional data processing (for example, all digital storing of data that is part of normal business practices). <p>There is no private copying levy on mobile phones, computers, navigators, tablets, game consoles and USB sticks.</p> <p>The system was replaced by annual state budget financing January 1, 2015.</p>

Collection process

<p>How frequently is payment due?</p>	<p>Liabile parties have to report monthly. Customers with contracts are audited annually or biennially for the biggest customers.</p> <p>The system was replaced by annual state budget financing January 1, 2015.</p>
<p>How do you monitor or intervene in the market?</p>	<p>The contract gives a private copying unit the right to conduct an inspection in the company's premises for the purposes of authenticating the company's monthly reports and verifying compliance with its contractual obligations. If there is a need to audit a non-contractual customer, the provincial government has the right to conduct an investigation on the premises of a party liable to pay the remuneration. This instrument is very seldom used.</p> <p>The system was replaced by annual state budget financing January 1, 2015.</p>
<p>Are exports exempted?</p>	<p>Exports are exempted. The exporter can apply for a refund by filling in the application form. A copy of the purchase invoice and an export document need to be enclosed with the application.</p> <p>Clients of a Private Copying Unit that import products and sell them in Finland to retailers, or export them, can report the products they have exported in their monthly report. They do not need to fill in a refund application.</p> <p>The system was replaced by annual state budget financing January 1, 2015.</p>
<p>Who is considered an importer?</p>	<p>Based on the CJEU ruling on <i>Stichting de Thuiskopie v Opus GmbH</i> (Case C-462/09), and the Helsinki Court of Appeals ruling in the case of <i>TEOSTO v Verkkokauppa.com</i> (2013), TEOSTO considers cross-border retailers to be importers and responsible for paying the levy.</p> <p>The system was replaced by annual state budget financing January 1, 2015.</p>

Distribution process

Who distributes the collected remunerations to rightholders?	Gramex, Kopiosto, TEOSTO, Tuotos distribute to rightholders yearly. These are composers, publishers, phonogram producers and performers, film authors and other authors. Distribution schemes are determined by governmental/ministerial decree.
Frequency of distribution	Yearly
Which rightholders?	These are composers, publishers, phonogram producers and performers, film authors and other authors.
How are the distribution schemes determined?	Distribution schemes are determined by governmental/ministerial decree.
Distribution keys	<p>Distribution scheme, audio: 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: 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>

Social and cultural funds for collective purposes

Is there a social and/or cultural deduction?	There is a social and/or cultural deduction of Audio: 35%, Video 50%. It is mandated by ministerial decree.
Which body is responsible for the allocation of funds to artists, cultural productions or social schemes?	<p>Responsibility for the allocation of funds lies with the Promotion Centre for Audio-visual Culture AVEK, The Finnish Performing Music Promotion Centre ESEK and The Foundation for the Promotion of Finnish Music LUSES.</p> <p>The Finnish Music Foundation (MES) was founded in 2012 to promote and support Finnish music, both performing and creative. It continues the funding activities of ESEK and LUSES, which have ceased their activities.</p>
What is the amount dedicated to the social and/or cultural fund in 2013?	€2,684,000 was distributed to social/cultural funds in 2014 (from 2013 revenues).
How can social and cultural funds be used?	Examples: promotion of recording, music production, audio-visual production.

Legal developments and court cases

Legal developments	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 will enter into force on January 1, 2015. The amendment introduces a new financing system for fair compensation. The collection of device-based levies from consumers, which had been applied since 1984, was replaced by annual state budget financing. The main features of the new model are as follows: Annual fair compensation from the state budget in 2015 and 2016 will be 11 million euros. As of 2017, the situation will be annually reviewed on the basis of the development of private copying. Consequently, all device-based levies will be annulled as of the beginning of 2015. Allocation of fair compensation to CMOs to be further distributed to rightholders will be conducted by the Ministry of Culture. The Ministry will also assume responsibility for conducting surveys on private copying. A consultative committee will be established to assist the Ministry in designing the studies. The phase-out period of the device-based system will be three months, during which time Teosto will continue to administer the remaining tasks. Thereafter all responsibilities will be taken over by the Ministry.
Are there liable parties who deny responsibility or payment for certain media/devices?	In its verdict on March 9, 2015, the Highest Court of Finland did not change the verdict of the Helsinki Court of Appeal (March 5, 2013) according to which Arctecho Oü and Verkkokauppa.com are obliged to pay a compensation of €3.5 million plus interest for neglecting to pay private copying levies for products included in the Finnish Private Copying Levy scheme. In October 2008, Teosto sued the Estonian company Arctecho Oü and the Finnish company Verkkokauppa.com to Helsinki District Court for the private copying levies due since 2006. Verkkokauppa.com offered blank media and devices imported from Estonia without private copying levies for Finnish consumers.

Applicable national rates

Rates applicable until December 31, 2014; state budget financing from January 1, 2015.

Audio	Rate	Capacity
Blank Media	Rate applicable from January 1, 2013 to December 31, 2014	
C-Cassette	0.3	60min
	0.45	90min
	0.6	120min
VHS	0.912	120min
	1.368	180min
	1.824	240min
Recordable CD, DVD, Blu-ray disc and MiniDisc	0.2	Memory up to maximum of 1GB
	0.6	Memory over 1GB, max. 10GB
	1.2	Memory over 10GB, max. 25GB
	1.8	Memory over 25GB

Devices Hardware, PC, HDD	Rate applicable from January 1, 2013 to December 31, 2014	Capacity
External Hard Discs (including Flash/ SSD)	9	Memory minimum 50GB, max. 250GB
	12	Memory over 250GB, under 1TB
	18	Memory minimum 1TB, max. 3 TB
Consumer Electronics		
Digital recorders with integrated storage capacity – e.g. mp3- recorders and set-top-boxes with hard discs.	4	Memory over 512MB, max. 1GB
	7	Memory over 1GB, max. 20GB
	10	Memory over 20GB, max. 50GB
	12	Memory over 20GB, max. 50GB
	15	Memory over 50GB, max. 150GB
	18	Memory over 150GB, max. 250GB
	25	Memory over 250GB, max. 500GB
	30	Memory over 500GB, max. 750GB
	36	Memory over 750GB

Revenue

	2012 (€)	2013 (€)	2014 (€)
Blank Media			
C-Cassette	€19,300	€14,700	€11,200
VHS	€26,100	€27,700€	€23,000
Optical Storage Media			
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
Devices, Hardware, PC, HDD			
External hard disc	€1,998,000	€2,661,000	€2,441,000
Consumer Electronics			
Digital video recorder (set-top boxes)	€2,644,000	€2,116,000	€1,414,000
MP3-player	€774,000	€475,000	€257,000
Total Revenue	€7,073,300	€6,407,100	€4,878,300

Note: For 2014, the total revenue, including December 2014 sales, was 5,200,000 euros (annual revenue is calculated from December to November). State budget financing started on January 1, 2015.

10. France

Contact information

Country	France
Currency	Euro
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Legislation and fundamental facts

Copyright law	Articles L311-1 to L311-8 CPI, Book III, Part I, of the Intellectual Property Code. <ol style="list-style-type: none">1. The scope of the exception, in accordance with the <i>Padawan</i> decision, was amended 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 storage media or devices acquired for professional use and which are not presumed to be used for private purposes;2. All kinds of media not included within the scope of the decisions of the administrative commission in charge of setting the rates, and specific decisions exclude DAT, C10 and C15 tapes, and 8cm DVDs.
Remuneration system	Levy on media and equipment with internal storage capacity, according to its capacity.
Liable for payment	Importers and manufacturers of liable media/devices.

Collecting society: Collection and distribution

Collecting society or CMO is appointed by:	Copie France
Administrative costs of collecting private copying remunerations	0.80%
Administrative costs of distributing private copying remunerations	Copie France is not responsible for distributing PCR directly to right holders. 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 'general interest'. Decisions are discussed, voted upon and officially published.</p> <p>IPC, L 311-4 gives the commission the obligation to determine the level of remuneration based on usage.</p>
Are there any consumers or buyers exempt from paying the levies?	<p>The scope of the exception in accordance with the <i>Padawan</i> decision was amended 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 storage media or devices acquired for a professional use and which are not presumed to be used for private purposes.</p>
Are there any products exempt from levies?	<p>According to the law, professionals are entitled to a refund, and may apply for an exemption agreement.</p> <p>Any end-user of liable media may apply for a refund or an exemption agreement. They are also exempt if they can prove that they are the end-users of the storage media, making it impossible to presume usage of such media for private copying.</p> <p>All categories of media are not included within the scope of the decisions of the administrative commission, and specific decisions exclude DAT, C10 & C15 Tapes, 8cm DVD.</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 media or equipment abroad do not have to pay levies.</p> <p>When distributors/retailers export levied products bought in France, they must provide Copie France with 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 effectively been paid by the supplier, refunds the incurred costs to the supplier, and then informs the exporting company that its supplier will, in turn, refund its 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

Are there any social and/or cultural deductions?	There are social and/or cultural deductions determined by law IPC L321-9.
Which body is responsible for the 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 2013?	25%
How can social and cultural funds be used? Please give examples.	For complete information, visit www.copieprivee.org , a special 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 French PCR system, relative to the European directive on private copying (2001/29). The challenges relate mainly to the exemption of professional users of liable media.

Applicable national rates

Blank analog carriers

Carrier	Recording duration	Private copying remuneration in 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 in 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 100GB (i.e. €0.90 per 4.7GB)	€19.15
MiniDiscs and Audio CD R	Per 100 hours (i.e. €0.56 per 74 mins)	€45.73
Micro floppy disc 3 1/2"	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 in euros
Up to 8GB	€6.30
Over 8GB and up to 40GB	€12
Over 40GB and up to 80GB	€18
Over 80GB and up to 160GB	€25
Over 160GB and up to 250GB	€30
Over 250GB and up to 320GB	€37.50
Over 320GB and up to 500GB	€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 8GB	€1.50/GB
Over 8GB up to 32GB	€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 4GB	€1.50/GB
Over 4GB and up to 8GB	€0.88/GB
Over 8GB and up to 16GB	€0.50/GB
Over 16GB and up to 32GB	€0.35/GB
Over 32GB and up to 96GB	€0.33/GB

USB keys

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

Memory cards

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

Standard External Hard Discs

Storage capacity	Private copying remuneration in euros
Up to 120GB	€8.40
Over 120GB and up to 320GB	€9.60
Over 320GB and up to 500GB	€11
Over 500GB and up to 1000GB	€20
Remuneration in euros per gigabyte (€/GB)	
Over 1000GB and up to 5000GB	€0.015/GB
Over 5000GB and up to 10,000GB	€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
- Which are integrated in or connected to a decoder and are not exclusively used for recording video content (box with multimedia HDD or recording capacities).

Storage capacity	Private copying remuneration in euros
Up to 8GB	€6.30
Over 8GB and up to 40GB	€9.30
Over 40GB and up to 80GB	€12.50
Over 80GB and up to 160GB	€16
Over 160GB and up to 250GB	€23
Over 250GB and up to 320GB	€27
Over 320GB and up to 500GB	€30
Over 500GB and up to 1TB	€31
Over 1TB and up to 2TB	€32

Mobile phones with music and video playback functionality

Storage capacity	Remuneration in euros per gigabyte (€/GB)
Up to 8GB	€0.7000/GB
Over 8GB and up to 16GB	€0.5000/GB
Over 16GB and up to 32GB	€0.3095/GB
Over 32GB and up 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 media for music playback	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 8GB	€0.8000/GB
Over 8GB and up to 16GB	€0.5250/GB
Over 16GB and up to 32GB	€0.3281/GB
Over 32GB and up to 64GB	€0.1969/GB

Data storage media sold as part of a "package deal" or "complimentary offer" with a recording device.

The rate applied to the device is calculated by taking into account: (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 several data storage 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 ("complimentary offer"), is determined by calculating the total recording capacities of the storage media and the device and applying the relevant rate of the device to the resulting total capacity.
2. No remuneration shall be paid for storage media sold as part of a "package deal" or "complimentary offer" with a device whose recording capacity is not subject to a private copying levy.

Revenue

Audio Revenue	2012	2013	2014
Data CD R/RW	€8,307,802	€8,384,000	€4,808,000
Audio cassettes	€85,131	€ 567,000	€ 129,000
Audio CD	€191,066		
MiniDiscs	€11,504		
Total "Audio"	€8,595,503	€8,951,000	€4,937,000.00

Video Revenue	2012	2013	2014
Video cassette	€2,796,901	€535,000	€223,000
DVD data	€16,381,548	€8,990,000	€6,272,000
Total "Video"	€19,178,449	€9,525,000	€6,495,000

Device Revenue	2012	2013	2014
Hard discs or memory fitted into a digital audio (mp3) player	€4,535,756	€2,994,000	€1,959,000
Hard disc fitted into a video recorder	€2,499,869		
Memory or hard disc fitted into a multimedia Walkman or devices	€11,816,912	€9,678,000	€5,525,000
Hard disc inserted a decoder and TV set	€12,354,452	€21,673,000	€12,200,000
Multimedia boxes or multimedia hard disc		€7,285,000	€18,793,000
Memory or hard disc fitted into Hi-Fi devices	€11,202		
USB sticks	€23,147,754	€17,512,000	€18,592,000
Removable memory cards	(in 2012 included in USB stick data)	€7,369,000	€9,821,000
External hard discs	€32,461,189	€35,036,000	€27,487,000
Walkman phones	€52,184,074	€55,219,000	€79,437,000
Others			
Tablets	€6,421,319	€31,890,000	€29,641,000
Memories fitted into a global positioning system (GPS) or a car radio	€671,246	€840,000	€1,974,000
Total "Devices"	€146,103,773	€207,972,000	€216,861,000

Additional Information

(1) For hybrid devices, data CD-R, data DVD, USB key, external hard discs and memory cards, revenue are split between audio, video, written and visual arts works remunerations.

For memory or hard discs inserted into multimedia devices, revenue is split between audio and video remunerations.

(2) In France, revenue is collect on media inserted into devices, not on devices themselves.

11. Germany

Contact information

Country	Germany
Currency	Euro
Name of organization	<i>Zentralstelle für private Überspielungsrechte</i>
Web site	www.zpue.de
Contact Person 1	Dr. Till Zimmer
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E-mail 2	tzimmer@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 26, 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 54(2) and (3) UrhG. In Germany, the term "private copies" applies to all the above copies.
Remuneration system	There is no remuneration for copies made from illegal sources. Remuneration is levied on media and devices.
Liable for payment	Importers, manufacturers, resellers and retailers.

Collecting society: Collection and distribution

Collecting society or CMO is appointed by:	ZPÜ (Zentralstelle für Private Überspielungsrechte) 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. ZPÜ is appointed by its member societies (collecting societies), which represent their rightholders.
Distribution process	ZPÜ distributes to member societies. Member societies distribute to their rightholders. Distribution has to be agreed upon by all member societies. ZPÜ makes no distinction between the collection costs and distribution costs of private copying remunerations.

Rate setting

How are levies/remuneration determined?	Levies are set by ZPÜ through negotiation with associations of manufacturers and importers. If negotiations fail, then the rates are set by ZPÜ based on market research data. This regularly leads to judicial proceedings such that a new and valid rate is ultimately suggested and set by the arbitration board or by the courts.
What criteria is used to determine 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 various exemptions for professional and industrial users. There are no exemptions for consumers.
Are there any products exempt from levies?	All devices and media used for private copying are subject to remuneration levies.

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 investigated by accountants in cases of reasonable doubt about the accuracy of reports. The reports of importers and manufacturers are checked against the figures reported by retailers.
Are exports exempted?	Exports are exempted by law, article 54 II UrhG.
Who is considered an importer?	In cross-border sales, the German party is liable, if the recipient is a commercial entity. The party abroad is liable if the German recipient is a private consumer.

Distribution process

Who distributes the collected remuneration to rightholders?	ZPÜ distributes to member societies. Member societies distribute to their rightholders.
Frequency of distribution	Distribution is done at the discretion of ZPÜ and partners. At the moment, there is no regular frequency.
Who are the rightholders?	
How are the distribution schemes determined?	Distribution schemes are determined through negotiations among ZPÜ member societies.

Social and cultural funds for collective purposes

Are there any social and/or cultural deductions?	No
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Legal developments and court cases

Legal developments	Lawsuits in progress for all types of media and equipment. There is a general agreement PCs for 2011-2016 (see rates).
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Applicable national rates

PCs	Rate valid from January 1, 2011	
Consumer PC	€13.1875	per unit
Business PC	€4.0000	per unit
Small mobile PC	€10.250	per unit
Internal CD/DVD-writer	€0.00	per unit

Blank Media	Rate valid from January 1, 2008	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	Rate valid from January 1, 2010	
CD-R up to 900MB	€0.062	per unit
CD-RW up to 900MB	€0.197	per unit
DVD+/-R GB	€0.139	per unit
DVD+/-RW 4.7GB	€0.271	per unit
DVD-RAM 4.7GB	€0.550	per unit
DVD-RAM 9.4GB	€1.264	per unit
DVD double sided 9.4GB	€0.117	per unit
DVD double layer/dual layer 8.5GB	€0.386	per unit
Flash Media	Rate valid from July 1, 2012	
USB stick ≤ 4GB	€0.91	per unit
USB stick > 4GB	€1.56	per unit
Memory card ≤ 4GB	€0.91	per unit
Memory card > 4GB	€1.95	per unit
PCs	Rate valid from January 1, 2008 December 31, 2010	
PC with CD/DVD-writer	€17.0625	per unit
PC without CD/DVD-writer	€15.1875	per unit
Internal CD/DVD-writer	€1.8750	per unit
HDDs	Rate valid from January 1, 2008	
Multi-media HDD with recording function	€34.00	per unit
Multi-media HDD without recording function	€19.00	per unit
Network HDD < 1TB	€5.00	per unit
Network HDD ≥ 1TB	€17.00	per unit
External HDD < 1TB	€7.00	per unit
External HDD ≥ 1TB	€9.00	per unit
	Rate valid from January 1, 2010	
External CD/DVD-writer	€7.00	per unit
Consumer Electronics	Rate valid from January 1, 2008	
Set-Top-Box with external HDD	€13.00	per unit

	Rate valid from January 1, 2010	
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	Rate valid from January 1, 2011	
Mobile phones with touchscreen < 8GB storage	€16.00	per unit
Mobile phones with touchscreen ≥ 8GB storage	€36.00	per unit
Mobile phones without touchscreen	€12.00	per unit

Revenue

Collected Amounts	Media/Devices		
	2012	2013	2014
USB/Flash Media	€7,580,000	€26,454,000	€30,994,000
CD/DVD/Audio /Video blank Media	€18,135,000	€7,756,000	€17,761,000
Consumer Electronics	€130,267,000	€129,232,000	€26,472,000
Mobile Phones	€1,079,000	€119,000	€99,544,000
PCs + CD/DVD Writer	€996,000	€11,226,000	€253,781,000
HDDS	€3,841,000	€15,470,000	€3,627,000
Tablets	0	€11,649,000	€88,000
Reserve for bad debt/allowance	€-87,781,000	€-99,360,000	€-151,063,000
Total	€74,117,000	€102,546,000	€281,204,000

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

12. 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 a. The reproduction of a "LAWFULLY PUBLISHED WORK" for private use is the object of the exception (See Article 18 (1) of the Law below). b. 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."
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 collecting remuneration for authors, composers and rightholders of musical works WHO ARE MEMBERS OF AEPI.
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 right owners 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?	Levies are imposed on consumer products as per the non-restrictive list of media/devices hereunder.

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 equipment/media fit to reproduce musical and/or audio-visual works, imported or produced in Greece. In cases in which 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 that party pays a fine of €3,000 to €30,000 to the applicant Collecting Society. Provision is made for further sanctions.
Are exports exempted?	Exports are exempted (not by Law).
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 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 right holders: creators, producers and performers.
How are the distribution schemes determined?	By legislators.
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% OSDEL (writers/publishers), 1.5% THESPIS (playwrights/translators of plays) and 1.5% ATHINA (directors/scriptwriters).</p> <p>Distribution scheme for video: the 55% awarded to creators is distributed as follows: 19.1% for AEPI (music authors), 1.5% for AFTODIAXEIRISI (music authors), 4% OSDEL (writers/publishers), 5.4% THESPIS (playwrights/translators of plays), 52.5% ATHINA (directors/scriptwriters), 3% for OSDEETE (fine artists) and 11.5% FIVOS (photographers).</p> <p>*(AEPI collects the 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
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Legal developments and court cases

Court cases	Mobile phone importers: legal proceedings initiated in 2013 were terminated 2014. A few importers and one manufacturer deny the responsibility of paying PCR altogether, but there is a very limited chance of their winning.
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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 inserted 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) jazz drives	
Mobile phones (except music mobiles)	

Revenue

	2012 (€)	2013 (€)	2014 (€)
Audio revenue	€53,910.00	€135,489.57	€132,028.17
Video revenue	€191,788.60	€162,175.77	€204,626.28
Total	€245,698.60	€297,665.34	€336,654.45

Additional Comments:

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.

13. Hungary

Contact information

Country	Hungary
Currency	Hungarian forint (HUF) 1€ = 314.89 HUF (1/1/2015)
Name of organization	ARTISJUS
Web site	www.artisjus.hu
Contact Person 1	David Kitzinger
Contact Person 2	Brigitta Puskas
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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 §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 society (Artisjus) in agreement with the other affected collective management societies representing film authors, film producers, visual artists, performers and sound recording producers. Remuneration rates are to be included on a rates chart that is subject to government approval.

<p>Liabile for payment</p>	<p>Manufacturers and producers of liable devices and media are liable for payment.</p> <p>There are exemptions for:</p> <ul style="list-style-type: none"> – professional users under the CA (Art. 20 (3)); – export exemption under the CA (Art. 20 (3)); – upfront exemption for extended professional use, in accordance with the Padawan 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. <p>The private copy remuneration under CA Art.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>http://www.artisjus.hu/wp-content/uploads/2013/04/aktualis_jogdijkozlemany_u.pdf</p> <p>Resellers, wholesalers and retailers also bear a joint and several liability.</p>
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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 CMS, which receive their share from Artisjus in a statutory proportion, may apply a further deduction.</p>
<p>Administrative cost of distributing private copying remunerations</p>	<p>Administrative cost of 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.</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 societies 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 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 ACI Adam 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 Padawan ruling. We provide upfront exemption from paying the levies.</p>
<p>Are there any products exempt from levies?</p>	<p>The rates chart indicates the relevant products, and the current list does not include PCs, notebooks, ultrabooks or CD-DVD writers.</p>

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"> 1. Hologram stickers on the products 2. IMEI registration number for mobile phones 3. Regular spot checks in shops, markets, shopping malls, etc.
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 details are provided in the rates chart.
Who is considered an importer?	The importer is the legal person who first 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 right holders.
Frequency of distribution	Annually.
Who are the rightholders?	Musical and literary rightholders are 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"> 45% authors (ARTISJUS) 30% performers (EJI) 25% producers (MAHASZ) <p>Distribution scheme, audio-visual works:</p> <ul style="list-style-type: none"> 20% authors (ARTISJUS) 80% rights owners, such as: <ul style="list-style-type: none"> 13% Film producers (FILMJUS) 22% cinematographic creators (FILMJUS) 4% visual artists (HUNGART) 16% script writers (FILMJUS) 20% authors of music and literature (ARTISJUS) 25% performers (EJI)

Social and cultural funds for collective purposes

Are there any social and/or cultural deductions?	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 provision of the CA 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 2013?	In 2012, the sum of 184,176,688 Hungarian forints was allocated to the fund from the amount collected for music composers and songwriters.
How can social and cultural funds be used?	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 social and cultural funds is 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 integrated memories of mobile phones as MP3-players, was valid (the defense of unfairness was also rejected).
Implementation problems	No practical difficulties.

Applicable national rates

Blank Media	Rate valid from	Capacity
	[January 1, 2013]	
Audio cassette	€0.08	Per unit
Video cassette	€0.20	Per unit
Optical Storage Media		
CD-R, CD-RW	€0.05	< 300MB
DATA CD-R/RW	€0.15	< 700MB
DATA CD-R/RW	€0.21	> 700MB
Audio CD	€0.21	Per unit
MiniDisc	€0.21	Per unit
DVD-R/+R/RW	€0.05	< 4.7GB
DVD-R/+R/RW	€0.25	4.7GB
DVD RAM	€0.25	4.7GB
DVD double layer	€0.60	< 9.4GB

Other high capacity optical discs (e.g. Blu-ray disc)	€0.25	< 4.7GB
	€0.60	4.7GB – 9.4GB
	€1.00	9.4GB – 15GB
	€1.33	15GB – 25GB
	€1.66	25GB – 50GB
	€2.33	50GB – 100GB
	€2.66	100GB – 200GB
	€2.83	> 200GB
Flash Media	Rate valid from January 1, 2015	
USB stick, pen drive, external SSD	€0.29	< 1GB
	€0.58	1GB – 2GB
	€1.162	2GB – 4GB
	€1.74	4GB – 8GB
	€3.48	8GB – 16GB
	€6.97	16GB – 32GB
	€8.32	> 32GB
Devices Hardware, PC, HDD	Rate valid from January 1, 2015	Capacity
External HDD	€3.64	< 250GB
	€5.161	250GB – 500GB
	€6.68	500GB – 1TB
	€8.201	1TB – 2TB
	€13.66	> 2TB
MP3-player	--	< 32MB
	--	32MB – 64MB
	€1.32	64MB – 128MB
	€1.98	128MB – 256MB
	€3.301	256MB – 512MB
	€4.95	512MB – 1GB
	€5.94	1GB – 2GB
	€9.90	2GB – 4GB
	€13.20	4GB – 8GB
	€19.80	8GB – 16GB
	€23.301	16GB – 40GB
	€26.40	40GB – 80GB
	€29.70	> 80GB
Memory card	€0.12	< 64MB
	€0.24	64MB – 128MB
	€0.30	128MB – 256MB
	€0.36	256MB – 512MB
	€0.44	512MB – 1GB
	€0.89	1GB – 2GB
	€1.48	2GB – 4GB

	€2.37	4GB – 8GB
	€4.75	8GB – 16GB
	€9.50	16GB – 32GB
	€10.101	> 32GB
Consumer Electronics		
Storage capacity integrated into electronic devices for storing audio and/or audio-visual content*		
	€10.65	< 80GB
	€13.32	80GB – 160GB
	€18.65	160GB – 250GB
	€23.97	> 250GB
Mobile Phones		
(and tablets from 2014)	--	64MB – 128MB
	€1.013	128MB – 256MB
	€1.69	256MB – 512MB
	€2.53	512MB – 1GB
	€3.041	1GB – 2GB
	€5.071	2GB – 4GB
	€6.75	4GB – 8GB
	€10.131	8GB – 16GB
	€11.82	16GB – 40GB
	€13.51	40GB – 80GB
	€15.20	> 80GB

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

Media/Devices	2012 (€)	2013 (€)	2014 (€)
1 Euro =	289.23 HUF	297.01 HUF	308.60 HUF
Blank Media			
Audio cassette	€22,992.97	€2,476.34	€30.77
Video cassette	€46,837.42	€8,375.26	€1,946.40
Optical storage media			
Data-CD R/RW	€595,656.38	€491,811.81	€416,476.56
Audio CD	€3,181.61	€1,963.54	€1,321.06
MiniDisc	€288.67	€ -	€72.58
DVD+/-R/RW, DVD RAM	€1,082,805.62	€703,806.11	€567,741.11
Other high capacity optical discs (e.g. Blu-ray)	€11,143.95	€14,520.75	€10,357.63
Flash Media			
USB Stick, Pendrive, External SSD	€2,038,576.19	€2,184,860.38	€2,598,704.66

Devices Hardware, PC, HDD	2012 (€)	2013 (€)	2014 (€)
External HDD	€586,526.89	€1,047,329.35	€1,259,851.86
MP3-player	€335,034.06	€1,776,040.57	€2,070,892.61
Memory card	€2,127,554.41	€4,498,755.71	€3,190,644.87
	€6,850,598.20	€10,729,939.82	€10,118,040.11
Consumer Electronics			
Storage capacity integrated into electronic devices for storing audio and/or audio-visual content*	€1,632,256.96	€435,618.08	€1,115,462.28
Mobile Phones**	€4,087,374.26	€8,303,367.29	€13,079,048.24
Tablets	€0.00	€0.00	€3,637,461.21
Total	€12,570,229.42	€19,468,925.19	€27,950,011.84

14. Italy

Contact information

Country	Italy
Currency	Euro
Name of organization	S.I.A.E. – Società Italiana degli Autori ed Editori
Web site	http://www.siae.it
Contact Person 1	Daniela Amodeo
Contact Person 2	Maria Assunta Bianchi
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Postcode	00144
City	Roma
Phone	+39 06 59903577/2686

Legislation and fundamental facts

Copyright law	<p>Copyright Law (L. 633/41 art. 71-septies); 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-sexies) 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 the 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. – Società Italiana degli Autori ed Editori, Italian Copyright Law (L. 633/41 – art. 71-septies)
Administrative costs for collecting private copying remunerations	According to Italian law, SIAE must distribute the amount collected minus the costs incurred. In 2012 SIAE kept a percentage of 7%.
Administrative costs for distribution of private copying remunerations	SIAE applies a rate of 3% for distribution to the authors. 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 National Heritage (subject to a three-yearly update) and issued on the advice of the Permanent Consultative Committee for Authors' Rights (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 regarding consumer behavior in relation to private copying and market research on the sales of the subjected 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?	Video game consoles (until March 2016); memory cards with a capacity of 0-32MB.

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 (Agenzia delle Entrate) 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 remunerations to rightholders	According to Italian Copyright Law (art. 71-octies 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 remunerations semiannually directly to authors. Every organization of rightholders 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-octies 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 for original producers of audio-visual works, producers of videograms and performing artists.

Social and cultural funds for collective purposes

Is there a social and/or cultural deduction?	50% of the video distribution share assigned to performing artists is allocated to study and research activities as well as the promotion, training and professional support of artists and performers. This is determined by law (art. 71-octies L. 633/41).
Which body is responsible for the allocation of funds to artists, cultural productions or social schemes?	The association of artists and performers is responsible for the allocation of funds.

Legal developments and court cases

Legal developments	In 2014, a new decree of the Minister of Culture and National Heritage set the rates.
Court cases	In September 2014, the biggest companies in the industry appealed against the new decree before the Administrative Court. In February 2015, the Second Instance Administrative Court (Consiglio di Stato) issued the judgment for the appeals against the old decree (2010), confirming the system of private copying in Italy, but made two applications to the European Court of Justice relating to 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
Optical Storage Media		
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
Flash Media		
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	20.01/GB	1GB and more
Memory or hard disc inserted into a multimedia (audio/video) Walkman or other multimedia devices	€3.22	to 1GB
	€3.86	> 1GB to 5GB
	€4.51	> 5GB to 10GB
	€5.15	> 10GB to 20GB
	€6.44	> 20GB to 40GB
	€9.66	> 40GB to 80GB
	€12.88	> 80GB to 120GB
	€16.10	> 120GB to 160GB
	€22.54	> 160GB to 250GB
	€28.98	> 250GB to < 400GB
€32.20	400GB and more	
Memory or hard disc inserted into MP3 music player or other Hi-Fi devices	€0.64	up to 128MB
	€2.21	> 128MB to 512MB
	€3.22	> 512MB to 1GB
	€5.15	> 1GB to 5GB
	€6.44	> 5GB to 10GB
	€7.73	> 10GB to 15GB
	€9.66	> 15GB to < 20GB
	€12.88	20GB 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 80GB
	€6.44	> 80GB to 120GB
	€7.73	> 120GB to 160GB
	€10.42	> 160GB to 250GB
	€12.88	> 250GB to 400GB
	€14.81	> 400GB to < 700GB
	€14.81 will increase by €1.84 every 200 GB	700GB 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 40GB
	€9.66	> 40GB to 80GB
	€12.88	> 80GB to 120GB
	€16.10	> 120GB to 160GB
	€22.54	> 160GB to 250GB
	€28.98	> 250GB to 400GB
	€32.20	> 400GB 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 1GB
	€1.93	> 1GB to 5GB
	€2.25	> 5GB to 10GB
	€2.58	> 10GB to 20GB
	€3.22	> 20GB to 40GB
	€4.83	> 40GB to 80GB
	€6.44	> 80GB to 120GB
	€8.05	> 120GB to 160GB
	€11.27	> 160GB to 250GB
	€14.49	> 250GB to 400GB
€16.10	> 400GB 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	
Mobile Phones		
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	> 8GB to 16GB
	€4.80	> 16GB to 32GB
	€5.20	> 32GB and more
TV set with no internal HDD and with recording function	€4.00	per unit

*Memory card: maximum levy applicable for each unit is 25.00.

*USB stick: maximum levy applicable for each unit is 29.00.

*External HDD: maximum levy applicable for each unit is 220.00.

Revenue

Media/Devices			
Blank media	2012 (€)	2013 (€)	2014 (€)
Audio cassette	€98,628	€73,616	€51,348
Video cassette	€65,245	€49,728	€34,212
Optical Storage Media			
CD-R	€3,039,825	€2,331,500	€1,496,601
DVD-R	€4,454,814	€3,327,293	€2,282,487
Blu-ray	€34,535	€24,612	€19,121
Flash Media			
Memory card	€2,806,217	€2,229,195	€4,469,291
USB stick	€6,010,678	€5,925,234	€6,397,571
Devices Hardware, PC, HDD	2012 (€)	2013 (€)	2014 (€)
External HDD	€7,766,264	€7,517,916	€6,501,732
Computer + tablet	€9,259,014	€12,834,119	€15,682,040
DVD writer and recorder	€368,076	€375,787	€457,777
CD writer and recorder	€15,003	€8,233	€16,978
MP3-player	€3,540,019	€2,511,780	€1,447,736
Other audio recording equipment	€592,170	€409,416	€210,529.19
Other video recording equipment	€15,638,909	€14,716,563	€11,032,932
Mobile phones			
Mobile phones + smartphones	€18.,48,990	€14,751,707	€27,886,151
TOTAL	€71,738,387	€67,086,699	€77,986,505

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

15. 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	www.sarah.or.jp (SARAH)
Contact Person	Norio Kobayashi (SARAH)
E-mail	sarah-koby@zc.wakwak.com (SARAH)
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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"> – analog cassette tape recorders and tapes; – devices used for recording sessions at recording studios; – personal computers, telephones and smartphones. 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 labeled as “for audio” or “for video” are mentioned in the Cabinet Order.

Collection process

How frequently is payment due?	Every half-year.
How do you monitor or intervene in the market?	Basically SARAH/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 the 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/corporate member 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 phonograms. Video: producers of cinematographic works, broadcasters, writers, authors of musical works, performers, producers of phonograms.
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 the Rights of Authors, Composers and Publishers.</p> <ol style="list-style-type: none"> 1. Writers Guild of Japan (1.5%) <ol style="list-style-type: none"> a. Japanese Writers' Association b. Japanese Writers' Guild <p>32% Performers, Japan Council of Performers' Rights and Performing Arts Organizations.</p> <p>32% Producers of Phonograms, Recording Industry Association of Japan.</p>
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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 the Cabinet Order based on 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 to such activities as contributing to the protection of copyright and neighboring rights as well as to the 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 allocated to the social and/or cultural fund in 2014?	2014: 5,703,639 Japanese yen (€40,592), 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"> 1. Education about the copyright system or awareness-raising about copyright law; 2. Promotion and dissemination of works; 3. International cooperation on copyright systems and copyright protection; and 4. Study on technical protection measures related to digital audio/video recordings.

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?	One manufacturer of audio recording media is challenging SARAH in an effort to obtain a lower levy rate. There has been no court case.
Court cases	<p>Video:</p> <p>Japan decided to complete the transition from analog to digital broadcasting on 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 the 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. Consequently, SARVH sued Toshiba, demanding cooperation or compensation. The transition from analog to digital was completed in July 2011, but the lawsuit has not yet been settled.</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 rightholders has stopped.</p> <p>There is no pending case. SARVH lost the case. 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	Capacity
Audio		
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	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

Comments

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

Media/devices			
1 Euro =	102.52 Yen	129.58 Yen	140.56 Yen
Blank Media	2012 (€)	2013 (€)	2014 (€)
Audio			
MD	€501,963.86	€275,555.89	€7,462.32
CR-R/RW	€1,023,390.73	€799,724.55	€145,265.77
DAT	€2,517.64	€1,364.61	€ –
Digital compact cassette	€ –	€ –	€ –
Total "Audio media"	€1,527,872.22	€1,076,645.05	€152,728.09
Video			
Digital Video cassette	€82.74		
Digital VHS	€38.34		
DVD-RAM/R/RW	€806,033.17		
Blu-ray Disc	€623,798.44		
Total "Video media"	€1,429,952.69		
Devices Hardware, PC, HDD	2012 (€)		
Audio			
MD	€1,628,097.49	€369,823.27	€45,042.81
Audio CD-R/RW	€115,600.53	€47,529.37	€55,839.92
DAT	€-30.27	€ –	€ –
DCC	€ –	€ –	€ –
Total "Audio devices"	€1,743,667.74	€417,352.64	€100,882.73
Video			
Digital video cassette recorder	€ –		
D-VHS recorder	€ –		
DVD recorder	€119,824.51		
Blu-ray disc recorder	€4,038,314.10		
Total "Video devices"	€4,158,138.61		
Total "Audio"	€3,271,539.97	€1,493,997.69	€253,610.82
Total "Video"	€5,588,091.30		
Total Revenue	€8,859,631.27	€1,493,997.69	€253,610.82

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, the compensation revenue is declining dramatically.

Video:

The compensation system for private recordings is not functioning, having practically collapsed after SARVH lost a lawsuit against a manufacturer (see 'Other developments').

16. 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 rights holder 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?	Hard discs, memory cards and mobile phones with mp3 functionality and all analog devices and media are not levied.

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 remunerations 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 the allocation of funds to artists, cultural productions or social schemes?	The Authors' Council is responsible for this allocation.
What was the amount allocated 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.

National rates

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

Devices Hardware, PC, HDD	Rate	Capacity
All types of PCs	2.85% **	

*Percentage from sale prices.

Revenue

Blank Media	2012 (€)	2013 (€)	2014 (€)
Audio cassettes	€209.62	0	0
Video cassettes	€299.91	0	0
Optical Storage Media			
MiniDiscs	€10.54	0	0
CD-R/RW	€31,231.00	€7,119.74	€11,624.42
DVD-R/RW	€57,496.76	€9,000.49	€10,386.64
Flash Media			
USB flash drive	€2,445.16	€28,418.35	€31,903.03
Devices Hardware, PC, HDD			
All types of PCs	€70,235.80	€222,942.00	€383,952.00
Consumer Electronics			
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		
Video tape recorder	0		
Total	€124,592.63	€267,480.58	€437,866.09

17. Lithuania

Contact information

Country	Lithuania
Currency	Litas; Euros as of January 1, 2015
Name of organization	Lithuanian Neighboring Rights Association (AGATA)
Web site	www.agata.lt
Contact Person 1	Managing Director Agnė Masalskytė
Contact Person 2	Senior Specialist of Music License Department Linas Ežerinis
E-mail 1	agne@agata.lt
E-mail 2	linas@agata.lt
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	Article 20 of the Lithuanian Law on Copyright and Related Rights. Government Resolution No. 699 of 13/06/2012, which regulates the collection, distribution, payment and refund system for private copying remuneration. http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=471807 Scope: A natural person can, 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.
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:	The Lithuanian Neighboring Rights Association (AGATA) is appointed by the Minister of Culture in accordance with the Law.
Administrative costs for collecting private copying remuneration	Costs incurred for collection of remunerations were €32,754.87 (113,096 litas). This sum also includes the distribution costs of private copying remuneration to other collective rights management associations, which represent owners of copyright and related rights. Furthermore, the organs of each collective rights management association, which make further distribution to their represented rightholders, set aside a percentage for administrative costs annually.
Administrative costs for distribution of private copying remuneration	The same sum of €32,754.87 (113,096 litas) 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 further distribution to their represented rightholders, set aside a percentage for administrative costs annually.
Distribution process	<p>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 phonogram producers). 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?	<p>Media for professional uses are not included:</p> <p>Internal and external non-integrated solid state discs (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>

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 contact 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 email to inform them of their duties and legal liabilities. 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 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 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 remunerations 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 between the groups of rightholders, are determined in the Resolution of the Government.
How are the distribution schemes determined?	According to the Resolution: 1. The sums for programs relating to creative activities and copyright, and to related rights protection, have to be deducted from the collected remuneration; 2. After these deductions, administrative costs are deducted from the remaining amount. On the basis of this data, AGATA distributes the remuneration, transferring the relevant shares to collective rights management organizations for further distribution and payment to the represented rightholders.
Distribution keys	Levies for blank audio media and devices: 1/3 – Authors 1/3 – Performers 1/3 – Phonogram producers Levies for blank video media and devices: 1/3 – Authors 1/3 – Performers 1/3 – Producers of audio-visual works (The audio and video shares of remuneration collected for levied media and devices are calculated on the basis of an independent survey).

Social and cultural funds for collective purposes

Is there a social and/or cultural deduction?	25% from collected remuneration is assigned to programs relating to creative activities and copyright and related rights protection (these programs are administered by the Ministry of Culture).
What is the amount allocated to the social and/or cultural fund in 2013?	In 2014, some €949,544.10 were allocated. The sum for programs of creative activities and copyright and for related rights protection was transferred to the Ministry of Culture for the first time this year. This is because the amendments to the Law came into force on the 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 to the Law have been in force since March 1, 2012. Consequently, there are no court cases in this area yet.
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Applicable national rates

Blank Media	Rate valid from March 1, 2012	Capacity
Audio cassette	6% of first sales price	Per unit
Video cassette	6% of first sales price	Per unit
Optical Storage Media		
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
Flash Media		
USB and non-integrated memory cards	€0.14	< 1GB
	€0.29	for 1-2GB
	€0.58	for 2.1-4GB
	€0.87	for 4.1-8GB
	€1.44	for 8.1-16GB
	€2.02	for 16.1-32GB
	€2.89	for > 32GB

Devices Hardware, PC, HDD	Rate valid from March 1, 2012	Capacity
External and internal non-integrated SSD, HDD	€1.44	< 250GB
	€2.31	for 250.1-500GB
	€2.89	500.1GB-1TB
	€4.34	> 1TB
PC	€5.79	Per unit
Consumer electronics		
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	< 1GB
	€1.01	for 1-2GB
TV with a memory device and audio and video recording capability;	€4.34	for 2.1-8GB for 8.1-32GB
Set-top box with a memory device and audio and video recording capability	€5.79	for 32.1-250GB
	€7.24	for 250.1-500GB
	€8.69	for 500.1-750GB
	€10.14	for 750.1GB-1TB
	€11.58	> 1TB
Mobile Phones		
Mobile phones with a memory device and audio and video recording	€0.43	< 1GB
	€1.01	for 1-2GB
	€1.44	for 2.1-8GB
	€4.34	for 8.1-32GB
	€5.79	for 32.1-250GB
	€7.24	for 250.1-500GB
	€8.69	for 500.1-750GB
	€10.14	for 750.1GB-1TB
€11.58	> 1TB	

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

Blank Media	2012	2013	2014
Audio cassette	€146.77	€60.44	€19.14
Video cassette	€3,401.60	€2,555.46	€1,222.03
Optical Storage Media			
MiniDisc	€30.90	€10.34	€1.37
CD	€25,788.60	€23,922.65	€19,971.96
DVD	€29,604.38	€20,016.52	€15,404.54
Blu-ray	€279.06	€346.29	€405.12
Flash Media			
USB	€176,249.12	€225,551.21	€210,493.92
Non-integrated Memory Cards	€163,989.19	€203,102.67	€201,493.92
Devices Hardware, PC, HDD			
SSD	€10,804.03	€21,311.54	€35,074.10
HDD	€87,839.95	€133,718.25	€122,729.05
PC	€883,309.64	€1,197,863.17	€1,227,517.67
Consumer Electronics			
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
TV with a memory device and audio and video recording			
Set-top box with a memory device and audio and video recording capability			
Mobile Phones	€552,531.13	€786,494.03	€953,211.42
TOTAL	€1.972.906,11	€2.642.205,69	€2.808.503,46

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 the deduction of administrative costs (and from March 1, 2012, after the deduction of 25% for the programs relating to creative activities and copyright and to related rights protection).

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

18. Netherlands

Contact information

Country	The Netherlands
Currency	Euro
Name of organization	Stichting de ThuisKopie
Web site	www.thuiskopie.nl
Contact Person 1	Hester Wijminga
Contact Person 2	Wouter Klomp
E-mail 1	Hester.wijminga@cedar.nl
E-mail 2	Wouter.klomp@cedar.nl
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 7.5%.
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 remunerations 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 the rates by royal decree.
Which criteria are used for determining the levies/remuneration?	A market survey of 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 to the public and the desire 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 on 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 audited by <i>Thuiskopie</i> .
Are exports exempted?	Yes
Who is considered an importer?	The first commercial seller on the Dutch market is considered to be the importer. Foreign sellers can be considered importers if they deliver directly to consumers in a cross-border situation (see the <i>Opus</i> case).

Distribution process

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

Distribution keys	<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: 33.75% authors – Stemra (distribution Stemra-part: Stemra 30.52%, Lira 34.96%, Vevam 30.22%, Pictoright 4.3%) 25.50% performing artists – Norma (video) 40.75% producers – Sekam video (33.75%) and broadcasting organizations (7%).</p>
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Social and cultural funds for collective purposes

Is there a social and/or cultural deduction?	<p>There is currently no deduction by <i>Stichting de Thuiskopie</i> 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>
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Legal developments and court cases

Legal developments	<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 preceding this ruling, private copying levies in the Netherlands were restricted to blank CD-R and DVD-R. The Court of Appeal held, following the ECJ 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 <i>Thuiskopie</i> for damages and paid €33.5 million in 2015.</p> <p>In April 2014 the European Court of Justice in the case of <i>ACI-Thuiskopie</i> ruled that downloading from an illegal source is not within scope of the Private Copying Regulation. In the Netherlands it is permitted to make a copy of a copyright-protected work for one's own 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 reproduction of works without the consent of rightholders has always been illegal. On January 1, 2015 a new decree was issued by the State Secretary for Justice that lowered 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>
Are there liable parties who deny responsibility or payment for certain media/devices?	<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 paid only 50% of the remunerations.</p>

Court cases	<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 <i>ThuisKopie</i>. <i>ThuisKopie</i> 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 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. Consequently, 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>
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Applicable national rates

Blank Media	Rate valid from January 2015	Capacity
Optical Storage Media		
CD-R/RW	€0.02	Unit
DVD-R/RW	€0.02	Unit

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

Revenue

Blank Media	2012 (€)
CD-R/RW	€1,819,000
DVD-R/RW	€3,434,000
Analog audio	€51,000
Analog video	€71,000
TOTAL	€5,375,000

	2013 (€)	2014 (€)
Blank Media	€2,445,000	€859,000
Devices Hardware, PC, HDD		
PC/laptop	€4,451,000	€5,890,000
Tablet	€8,039,000	€8,194,000
External hard disc drive	€829,000	€785,000
Consumer Electronics		
Audio/Video (mp3) player	€473,000	€644,000
Set-top box/hard disc recorder	€1,110,000	€2,640,000
E-reader	€0	€0
Mobile Phones		
Smartphone/phone mp3 function	€13,483,000	€16,803,000
Total	€30,831,000	€69,295,000*

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

19. Norway

Contact information

Country	Norway
Currency	NOK – Norske kroner
Name of organization	NORWACO
Web site	www.norwaco.no
Contact Person 1	Simen Halsan Øien
E-mail 1	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 rightholders 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 remunerations	A deduction is made to cover the administrative costs of distribution.
Distribution process	The government defines the criteria for distribution, for example 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 between 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: the copying behavior of consumers, the source of the copy, etc.

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 that represent different rightholders' groups. There are 35 in total, representing approximately 60,000 rightholders. They are also responsible for non-members.
Frequency of distribution	Annually.
Which rightholders?	Every rightholders' group receives compensation, in accordance with the guidelines of the Norwegian government.
How are the distribution schemes determined?	The government defines the criteria for distribution, for example 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 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
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Legal developments and court cases

Legal developments	The compensation was reduced for 2015. This is in contrast to the documented increase in private copying. There has been a hearing on the economic situation of Norwegian artists, at which we have strongly advocated that (due to a significant increase in copying) there should be an increase in compensation for 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

	2012	2013	2014
Total (in krone)	42,423,000	43,823,000	45,357,000
Total (in euros)	€5,675,556.42	€5,438,514.38	€5,074,136.85

20. Paraguay

Contact information

Country	Paraguay
Currency	Guaraní
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 remunerations	Cost is unlimited. It is variable and changes monthly. Generally it is no more than 30%.
Administrative costs for distribution private copying remunerations	Phonogram producers' entity: 0%. Artists' entity: discount to term archive and social assistance: 20%. Authors entity: 10% for social assistance and 30% for administrative costs.
Distribution process	The collecting society transfers 10% (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. Therefore the rates have been determined in Regulatory Decree No. 6780 of June 2011
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?	Article 35o – 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.

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. They then 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 distribute 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 the 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 in 2013?	10% of the collection.
How can social and cultural funds be used?	For the payment of medical consultations and assistance towards the costs of medical tests, 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?	
Court cases	The 30 major importers initiated action, on the grounds of unconstitutionality, before the Supreme Court of Justice in July 2011. The Court has decided as an interim measure that the decree does not apply to these companies until a final verdict is reached. We were hoping for a final judgment two years ago. The current situation is absolutely unfair for rightholders.

21. Poland

Contact information

Country	Poland
Currency	Polish zloty
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
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, which are imposed on producers and importers. Article 23 of the Polish Law on Copyright regulates the scope of personal use:</p> <p>Article 23.</p> <ol style="list-style-type: none"> 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. [...] 2. The scope of personal use shall include use of single copies of works by a circle of people having personal relationships, and in particular any consanguinity, affinity or social relationship.
Remuneration 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"> 1. tape recorders, video recorders and other similar devices; 2. photocopiers, scanners and other similar reprographic devices used to make copies of all or a part of a published work; 3. blank media used for recording, for personal 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 for the benefit 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.
Liable 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 remunerations	Costs for collecting private copying remunerations are directly incurred by the CMOs (ZAIKS, SAWP, ZPAV) appointed to collect levies.
Administrative costs for distribution of private copying remunerations	The administrative costs for collecting private copying levies were 6.18% of the amount collected in 2013, and in 2014 were 8.88% of the amount collected.

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 the 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?	Laptops, PCs, smartphones, mobile phones with MP3 functionality, tablets, MP4-players and devices with MP4 functionality.

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 the art. 449 (5), paragraph 2 CC, 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 distribution of levies are ZAIKS, SAWP, ZPAV in the audio sector and SFP, ZASP, ZPAV in the video sector.
Frequency of distribution	The 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 and 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 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 the organizations that represent 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 made 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 state law; they are made in accordance with the statutes of the relevant society.
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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 to, 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>
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Applicable national rates

Device or carrier	The percentage (%) of the fee deducted from the sales price of the equipment or carrier	Capacity
MP3 single function	3.00%	Per unit
CD-R 12 cm	1.72%	
CD-RW 12 cm	2.89%	
DAT cassette	3.00%	
MD record (MiniDisc)	3.00%	
Audio cassette	3.00%	
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 a recording function	0.70%	
Stacking Hi-Fi with DVD/CD player with FLASH recording function	0.17%	
Stacking Hi-Fi with tape recorder and DVD player with a recording function	1.04%	
Stacking Hi-Fi with hard disc/FLASH	0.19%	
Radio-cassette recorder with CD player	0.74%	
Radio-cassette recorder with CD player with a recording function	0.69%	
Radio-cassette recorder	0.96%	
Radio with MD player with a recording function	0.98%	
Radio with CD player with a recording function	0.54%	
Radio with CD player with a recording function FLASH	0.05%	
CD player with a MD player with a recording function	0.94%	
MD player with a recording function	1.71%	
Computer hard disc STANDARD	1.00%	
Other computer hard discs included in the remaining devices which can be used to record works or subjects under the neighboring rights, including audio or audio-visual	1.00%	
Computer CD recorder	1.54%	
Computer DVD recorder	2.28%	
Tape recorder	2.03%	

Multifunctional multimedia player of MP3 format	1.14%	
Car stereo set comprising a CD player with recording functions	1.08%	
Car stereo set comprising a CD player with the a capability to record on other carriers	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	3.00%	
VHS/D cassette	3.00%	
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 with recording function into 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

1 Euro =	4.1842 zlotys	4.1965 zlotys	4.1852 zlotys
	2012 (€)	2013 (€)	2014 (€)
Total "Audio"	€1,355,024	€1,987,412	€1,376,128
Total "Video"	€287,824	€130,825	€155,342
Total revenue	€1,642,848	€2,118,237	€1,531,470

22. 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	The new Portuguese Law on Private Copy (No. 49/2015) was published on June 5, 2015 and entered into force on the July 5, 2015. It amends the current private copying law by extending the list of devices subject to private copying levies. The collection and management of remunerations for private copy is made by AGE COP, both for audio-visual and reprographic works
Remuneration system	Concerning levies on equipment and blank media, which benefit music and audio-visual rightholders, all importers and manufacturers of such items are obliged to collect the levy when the first sale of the product takes place. As for remunerations that benefit reprographic rightholders, the collection is made by all public and private entities that sell photocopies and have signed contracts with AGE COP.
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.
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Rate setting

How are levies/remuneration determined?	The legislator determines the levies.
Are there any consumers or buyers exempt from paying the levies?	Levies are not paid when the equipment or media are procured by audio-visual communication bodies or by producers of phonograms or videograms for their own productions; by bodies that use them for purposes exclusively connected to providing assistance to persons with visual or hearing impairment, pursuant to a joint order of the Ministers of Finance and of Culture; or by cultural non-profit-making entities for use in relevant projects of public interest. Professional users can obtain a refund.

Collection process

How frequently is payment due?	Importers and manufacturers of equipment and blank media subject to the private copy remuneration are obliged to report the quantity of blank media sold; they also have to report the sales price of equipment as the remuneration is calculated based on such data (remuneration is only collected for analog equipment and corresponds to 3% of the net selling price).
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 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. AGE COP can audit the accounts of all importers with whom it has signed contracts. It can also do same for 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 compliance with the regulations governing private copying.
Are exports exempted?	To get 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 companies are eligible for membership of AGE COP, so they distribute remuneration to rightholders. Distribution schemes are determined by law.
How are the distribution schemes determined?	Distribution schemes are defined in the law. Only collecting companies are eligible to membership of AGE COP, so they distribute remuneration to rightholders.
Distribution keys	AGE COP distributes as follows: remunerations from equipment and blank media: 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 from photocopies: 50% for collecting societies representing authors; and 50% for collecting societies representing publishers.

Social and cultural funds for collective purposes

Is there a social and/or cultural deduction?	There is a social and/or 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 retained are invested in cultural activities, such as workshops, scholarships, etc., and in activities to promote public awareness and the investigation of copyright-related matters.

Applicable national rates

Blank Media	Rate as of July 2015	Capacity
AUDIO LEVIES		
Audio cassette	€0.10	per unit
MiniDisc	€0.05	per unit
Data-CD-R	€0.05	per unit
Data-CD-RW	€0.10	per unit
CD 8 cm	€0.05	per unit
VIDEO LEVIES		
Video cassette	€0.10	per unit
DVD-R	€0.10	per unit
DVD-RW	€0.10	per unit
DVD RAM	€1.00	per unit
Blu-ray disc	€0.20	per unit
Analog Devices		
	Rate	Capacity
Audio recorders	€0.20	per unit
Video recorders	€0.20	per unit
Digital Devices without Memory or Hard Drive		
CD-recorder	€1.00	per unit
DVD-recorder	€2.00	per unit
CD and DVD recorder	€3.00	per unit
Blu-ray recorder	€3.00	per unit
Support and Storage Devices		
Analog audio media such as cassettes and tapes	€0.10	per unit
Analog video media such as cassettes/tapes	€0.10	per unit
USB flash drives	€0.20	per unit
Memory cards	€0.016	per GB limit €15.-
Memory/HD integrated in devices with copy functions	€0.016	per GB limit €15.-
External hard drive with audio/video in/out	€0.016	per GB limit €15.-
Memory/HD in television sets and devices with interface broadcasting signal and TV including set-top box, decoders etc.	€0.016	per GB limit €15.-
Memory devices and HD integrated in computers	€0.004	Per GB limit €7.50
External or internal hard drive used on a computer or other device for audio/video reproduction	€0.004	Per GB limit €7.50
Memory/HD built into devices that reproduce, playback and store phonograms or any musical work in compressed format (MP3)	€0.20	per GB limit €15.-
Memory/HD built into mobile phones	€0.12	per GB limit €15.-
Memory/HD built into multimedia tablet devices	€0.12	per GB limit €15.-

Revenue

Blank Media	2012 (€)	2013 (€)	2014 (€)
TOTAL	€1,179,084	€880,490	€680,209

23. Romania

Contact information

Country	Romania
Currency	€ 1.00 = 4.4446 LEI (2014)
Name of organization	The Union of Phonogram Producers in Romania
Web site	www.upfr.ro
Contact Person 1	Adina Scriosteanu
Contact Person 2	Simona Isac
E-mail 1	adina.scriosteanu@upfr.ro
E-mail 2	simona.isac@upfr.ro
Address	88b Nicolae Titulescu Blvd. Sector 1.
Postcode	Postal Code 011145
City	Bucharest
Phone	021.222.20.45/3
Fax	021.222.20.43

Legislation and fundamental facts

Copyright law	<p>Private copying is subject to a compensatory remuneration established by Law No. 8/1996 (14.03.1996). ORDA's Decision No.107/2005 contains the list of devices and media. Law No.329/2006 contains new percentages for devices and media. ORDA's Decision No.61/2009 contains new devices and media.</p> <p>The relevant article is Article 130(1)(h) of Law No. 8/1996; ORDA's Decisions are entirely relevant.</p>
Remuneration system	<p>The private copying levy is compensatory remuneration established by Law No.8/1996. The levy is paid by business entities that manufacture or import into Romanian territory:</p> <p>Storage media used for analog or digital sound and audio-visual recordings; Devices for making analogical or digital copies.</p>
Liable for payment	Importers and manufacturers (including intra-community purchases).

Collecting society: Collection and distribution

Collecting society or CMO is appointed by:	The Union of Phonogram Producers in Romania (UPFR). In 2005, UPFR was appointed by the Copy Right Office in Romania (ORDA) as the sole collecting society for private copying for audio-visual works. It has a legal monopoly. UPFR annually distributes the amounts collected from private copying to the other societies entitled to benefit from this right.
Administrative costs for collecting private copying remunerations	Administrative costs for collection are 2% of the total amount (this includes distribution costs for other collecting societies – authors, performers, etc.).
Administrative costs for distribution of private copying remunerations	The administrative costs of distribution are 15% of UPFR's share for distribution to UPFR members (this includes the administrative costs for collecting private copying remunerations).
Distribution process	The Union of Phonogram Producers in Romania distributes the amounts collected from private copying to the other societies entitled to benefit from this right.

Rate setting

How are levies/remuneration determined?	The rate is set by law; the collecting societies negotiated with users' representatives and an arbitration court nominated by ORDA established the list of media and devices.
Which criteria are used for determining the levies/remuneration?	There is only one criterion: the purpose of the device. If the device is for recording purposes, the remuneration is 0.5% of the tax value; if the device is for storage purposes, the remuneration is 3% of the tax value.
Are there any consumers or buyers exempt from paying the levies?	Professional use is not taken into account.
Are there any products exempt from levies?	There are no specific products excluded. The list of devices and media for compensatory remuneration is established by decision of ORDA and can be updated every three years.

Collection process

How frequently is payment due?	Payment is due monthly.
How do you monitor or intervene in the market?	Part of UPFR's role is to verify reports regularly by inspecting the accounting documents of companies.
Are exports exempted?	Yes, exports are exempted. Generally, manufacturers do not declare in their monthly export figures; if they are declared in a given month, any changes in declaration are noted and deducted from the next month's payments.
Who is considered an importer?	Importers are considered to be companies that introduce their merchandise into Romanian territory, regardless of the origin of the merchandise (intra-community products are considered to be imports).

Distribution process

Who distributes the collected remuneration to rightholders?	The Union of Phonogram Producers in Romania distributes.
Frequency of distribution	Monthly.
Which rightholders?	Authors, performers and producers.
How are the distribution schemes determined?	The distribution schemes are determined by law.
Distribution keys	<p>Analog copy: 40% – Authors 30% – Performers 30% – Producers</p> <p>Digital copy: 33.33% – Authors 33.33% – Performers 33.33% – Producers</p>

Social and cultural funds for collective purposes

Is there a social and/or cultural deduction?	There is no social and/or cultural deduction.
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Legal developments and court cases

Legal developments	Nothing planned for 2015.
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Tariffs own country

Audio Levies	Levy	Capacity
Audio cassette	3%	Per unit
MiniDisc	3%	Per unit
Audio CD-R/RW	3%	Per unit
Data – CD-R/RW	3%	Per unit
Video Levies	Levy	Capacity
Video cassette	3%	Per unit
DVD + R/RW	3%	Per unit
Blue ray	3%	Per unit
HD-DVD	3%	Per unit
Device levies	Levy	Capacity
MP3-player	0.50%	Per unit
CD writer (internal)	0.50%	Per unit
Built-in CD writer	0.50%	7% of the entire computer value
CD recorder (external)	0.50%	Per unit
DVD writer (internal)	0.50%	Per unit
Built-in DVD writer	0.50%	7% of the entire computer value
DVD recorder (external)	0.50%	Per unit
Computer hard disc	0.50%	Per unit
Memory card	0.50%	Per unit
USB stick	0.50%	Per unit
Audio recorder	0.50%	Per unit
MiniDisc recorder	0.50%	Per unit
Video recorder	0.50%	Per unit

MP3 recorder	0.50%	Per unit
Blu-ray recorder (external)	0.50%	Per unit
HD-DVD recorder (external)	0.50%	Per unit
External HDD with audio-video in/out socket	0.50%	Per unit
Built-in hard disc	0.50%	10% of the entire computer value
TV and digital recorders with HDD or built-in storage medium. MP4 player. iPod media player with AVI. MPEG-1, MPEG-2, MPEG-4. XVID, DIVX, XVID/VCD, SVCD, DVD, ACC, WMA, WMV, ASF, MP3, MP4, WAV, IMOD or any later version.	0.50%	Per unit
Mobile phone with internal memory (>64MB)	0.50%	Per unit

Additional information: All rates are percentages of CIF value (import or base price).

Revenue

Audio Revenue	2012 (€)	2013 (€)	2014 (€)
Audio cassette	€144.99	€751.08	€141.90
MiniDisc	€12.00	€2.56	€-0.95
CD blank	€39,126.60	€25,800.72	€45,955.69
Data CD-R/RW	€253.99	€792.63	€416.63
Total "Audio"	€39,537.59	€27,346.99	€46,513.27

Video Revenue	2012 (€)	2013 (€)	2014 (€)
Cassettes	€31.00	€87.21	€768.14
DVD+R/RW	€192,633.13	€57,325.02	€57,761.71
Blu-ray disc	€1,616.94	€475.09	€2,660.34
Total "Video"	€194,281.07	€57,887.32	€61,190.19

Device Revenue	2012 (€)	2013 (€)	2014 (€)
Memory card	€89,544.81	€127,225.20	€289,499.04
USB stick	€15,093.46	€23,619.37	€52,537.42
HD DVD recorder	€3,120.89	€2,789.05	€2,637.29
Audio recorder	€1,863.93	€315.21	€340.58
Video recorder	€314.99	€8,479.25	€7,005.82
CD writer/recorder	€126.00	€0.00	€965.30
DVD writer/recorder	€14,429.49	€20,795.22	€20,366.85
Mobile phones	€1,478,802.25	€2,012,992.44	€2,381,622.03
MP3 recorder	€8,192.71	€2,506.53	€3,298.14
TV and digital recorders	€59,450.88	€88,140.84	€117,842.68
Built-in CD writer	€1,146.96	€4,864.57	€3,617.05
Built-in DVD writer	€24,763.12	€23,127.86	€29,660.26
External hard disc	€24,393.13	€37,078.36	€105,237.49
Built-in hard disc	€46,600.34	€67,789.34	€162,892.72
Total "Devices"	€1,767,842.94	€2,419,723.25	€3,177,522.67
	2012 (€)	2013 (€)*	2014 (€)*
Total Revenue	€2,001,661.60	€2,533,338.10	€3,370,395.20

* includes penalties and court costs.

24. Russia

Contact information

Country	Russia
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 of the Russian Federation. 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 was established by the Russian government.
Liable for payment	Importers and local manufacturers are liable for payment.

Collecting society: Collection and distribution

Collecting society or CMO is appointed by:	The Russian Union of Rightholders (RUR). The 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, the RUR is a monopoly organization.
Administrative costs for collecting private copying remunerations	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	The 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?	The criteria for determining the levies/remuneration are: (1) the copying behavior of consumers; (2) reproduction/playback; and (3) copying for private purposes.
Are there any consumers or buyers exempt from paying the levies?	Professional use does not count as private copying in Russia. Professional equipment is not levied. This does not affect the rate. The current legislation in Russia (see art.1245 of the Civil Code) exempts from levies manufacturers of exported products and professional equipment that are not intended for private use. The number of such manufacturers is limited by law.
Are there any products exempt from levies?	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

Collection process

How frequently is payment due?	The terms of payment by 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?	The RUR sues the liable parties who are not compliant and/or takes other legal action.
Are exports exempted?	Exporters have the right to claim a refund for paid levies if they confirm that the equipment has not been used within the territory of the Russian Federation.
Who is considered an importer?	According to the law, the importer is the person responsible for declaring the imported goods to the customs union, which comprises Russia, Belorussia and Kazakhstan.

Distribution process

Who distributes the collected remuneration to rightholders?	It is the legal obligation of the RUR.
Frequency of distribution	According to the RUR statute, remuneration is distributed no less than once a year (the frequency of payment is determined by the organs of the RUR).
Which rightholders?	<ol style="list-style-type: none"> 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 the relevant collecting societies on physical media sales, digital sales, etc.
Distribution keys	<p>Distribution scheme for audio:</p> <ol style="list-style-type: none"> 1. 40% to authors of musical works; 2. 30% to performers of musical works; and 3. 30% to manufacturers of musical works. <p>Distribution scheme for video:</p> <ol style="list-style-type: none"> 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?	The 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 the 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 the 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 was the amount dedicated to the social and/or cultural fund in 2013?	2013 – 680,793,132.00 RUB 2014 – 533,080,530.00 RUB
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. Magnetic tapes and magnetic discs.
3. Optical media.
4. Semi-conductor media.

Revenue

Media/Devices			
RUR does not split the allocated compensation between types of equipment. Only the final figures of the total collection can be provided.			
1 Euro =	39.62 RUB	42.27 RUB	50.92 RUB
	2012 (€)	2013 (€)	2014 (€)
Total collections	€27,276,782.10	€80,478,161.90	€52,543,705.21

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	<p>Act No. 618/2003 Coll. on Copyright and Related Rights</p> <p>The private copy system is defined in article 24 of Copyright Act No. 628/2003 Coll.:</p> <ol style="list-style-type: none"> 1. A natural person may make a copy of a published work for personal use and for direct or indirect non-commercial purposes without the author's consent; such usage of the work shall not give rise to an obligation to pay remuneration to the author. 2. A natural person or a legal entity may make a copy of a published work by transferring the work on paper or other similar media using a technical device for making printed reproductions or other technical equipment, without the author's consent; such a copy may be publicly distributed through sale or other form of transfer of the title. Such usage shall not give rise to an obligation to pay remuneration to the author. 3. The author of any work which may be copied pursuant to Paragraph 1 above shall be entitled to compensatory remuneration. 4. The author of any work which may be copied pursuant to Paragraph 2 above shall be entitled to compensatory remuneration.
Remuneration system	Remuneration levied on media and equipment (devices).
Liable for payment	Persons who place blank carriers, devices or equipment on the market in the Slovak Republic for all purposes – i.e. producers; recipients from a member state; importers from a third country or other person who places media or devices for sale on the Slovak market for the first time.

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 remunerations	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. The criteria used are undisclosed by the legislator.
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 used for levied objects intended for the personal use of the importer or recipient.

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; 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 (ergo 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.
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Legal developments and court cases

Legal developments	Several importers began to pay private copying levies for mobile phones and tablets. In 2014, we started discussions on a new wording for the Copyright Act and respective provisions at the Ministry of Culture, together with other stakeholders. We believe that the new Copyright Act will include provisions with clear obligations regarding all devices on the market that can be used to copy protected works.
Are there liable parties who deny responsibility or payment for certain media/devices?	Several parties still refuse to pay levies for new media devices.

Tariffs own country

Blank Media	Rate	Capacity
Optical storage media	6% of sale or import price of the media [January 1, 2004]	
Flash media	6% of sale price or import price of the media [January 1, 2004]	

Devices Hardware, PC, HDD	Rate	Capacity
Consumer electronics	3% of sale or import price of the device [January 1, 2004]	
Mobile phones	3% of sale price or import price of the device [January 1, 2004]	

Additional Comments:

The Slovak Copyright Act sets a fixed rate for the levies, which is 3% of the sale or import price of any device, and 6% of the sale or import price of any media capable of copying protected content. There is a separate rate for personal computers, which is 0.5% of the sale or import price of the computer's built-in HDD.

Revenue

	2012 (€)	2013 (€)	2014 (€)
Audio revenue (media)	€76,061.00	€36,394.05	€81,502.40
Video revenue (media)	€120,557.00	€155,878.23	€210,619.01
Devices revenue			
Total "devices"	€236,470.00	€217,626.58	€408,581.00
TOTAL REVENUE	€433,088.00	€409,898.86	€700,702.41

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
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E-mail 2	miha.sinkovec@ipf.si
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Postcode	1000
City	Ljubljana
Phone	+38615272930
Fax	+38615272931

Legislation and fundamental facts

Copyright law	<p>"Copyright and Related Rights Act" & "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 sound or visual fixation; 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:	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, the IPF had a temporary license, issued for 2008 and 2009.
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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 copies are exempt from remuneration provided they are: (a) made by an individual for private use; 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?	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 for authors, performers and producers respectively.

Social and cultural funds for collective purposes

Is there a social and/or cultural deduction?	No
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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 (€)
Revenue	0	0	0

27. Spain

Contact information

Country	Spain
Currency	euro
Name of organization	SGAE
Web site	www.sgae.es
Contact Person 1	Carlos Casado
E-mail 1	cacasado@sgae.es
Address	Fernando VI. 4
Postcode	28004
City	Madrid
Phone	913499573
Fax	913499631

Legislation and fundamental facts

Copyright law	Art. 25 of the Consolidated Text of the Spanish Law on Intellectual property (Law 23/2006. of 7 July). Royal Decree No. 1657/2012 of December 7, 2012 to regulate the procedure for the payment of private copying remuneration from the state budget.
Remuneration system	State-funded system.

Collecting society: Collection and distribution

Collecting society or CMO is appointed by:	In accordance with the new regulations, collecting societies receive the corresponding amount from the Spanish government.
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Rate setting

How are levies/remuneration determined?	There are no levies, only an amount determined by the Ministry of Culture and included in the state budget.
Which criteria are used for determining the levies/remuneration	The amount is based on the damage actually caused to the rightholders as a result of reproduction of works which have been accessed legally. The main criteria used to calculate this damage are: <ul style="list-style-type: none">- number of copies, excluding copies made using devices and media that are not available to private users and which are clearly reserved for uses other than private copying;- degree of substitution of the original by the copy;- average unit price of each recording category; and- digital or analog character of recordings made.

Collection process

How frequently is payment due?	The Spanish government pays out once a year.
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Distribution process

Distribution keys	<p>Distribution scheme for audio: 25% – AIE (music performers) 25% – AGEDI (phonogram producers) 50% – SGAE (authors and publishers)</p> <p>Distribution scheme for video: 6.67% – AIE (music performers); 26.67% – AISGE (audio-visual performers) 1.7233% – DAMA (audio-visual authors) 33.33% – EGEDA (audio-visual producers) 30.2766% – SGAE (authors and publishers) 1.3333% – VEGAP (authors of visual arts)</p>
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Legal developments and court cases

Court cases	<p>New Law No. 21/2014 of November 4 confirms State budget financing of private copying remuneration (Articles 31(2) and 25):</p> <p>Reference to Preliminary Ruling of CJEU by the Spanish Supreme Court</p> <p>Spanish Constitutional Court admits constitutional appeal v law in respect to private copying regulation</p> <p>Supreme Court Decisions of March 2015 (Nokia and Sony): Supreme Court considers memory cards to be subject to levy, but not mobile phones, following the minimum harm doctrine.</p>
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Revenue

In 2012, we received only €1,559,489.76 from the state budget and the total amount paid by the government to all collecting societies was €5,000,000. In 2013, we received only €1,406,822.76 from the state budget and the total amount paid by the government to all collecting societies was €5,000,000. The amount for the year 2014 has not yet been paid; it will also be €5,000,000.

28. Sweden

Contact information

Country	Sweden
Currency	SEK
Population	9,300,000
Name of organization	Copyswede
Web site	www.copyswede.se
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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 works that have been made public, 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 the opportunity 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:	Copyswede is responsible for the collection and distribution of the remuneration. 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 remuneration. Copyswede is tasked by its member organizations and co-operative partners with collecting 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).
Administrative costs for collecting private copying remunerations	The cost of collecting private copying remunerations was 7.7% in 2014.

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

Rate setting

How are levies/remuneration determined?	The levies are determined by 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 the reduction of levies (in practice this has 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 used for other purposes than private copying.
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.

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 monthly basis.
Frequency of distribution	Monthly.
Which rightholders?	Authors, performers and producers.
How are the distribution schemes determined?	The revenue for each product is divided between audio and video copying. For this purpose, 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 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.
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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 gained support in both the first (2014) and second instance for its claims (2015). An appeal has been filed against the judgements 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 drives. The companies in question refused to pay the remuneration on the products despite their participation in the so called UMA-proceedings (2013) during which an Arbitration Board had reviewed the law and found that this product was covered by the compensation system (as were USB sticks).</p>

Tariffs own country

Blank Media	Rate	Capacity
C-Cassette 0.025 SEK	€0.03	Per minute
MiniDisc 0.020 SEK	€0.02	Per minute
CD-R Audio 0.020 SEK	€0.02	Per minute
E-Cassette (VHS) 0.025 SEK	€0.03	Per minute
Optical Storage Media		
CD-R All up to 900MB 0.60 SEK (2000)	€0.07/unit	
CD-RW All up to 900MB 0.95 SEK	€0.11/unit	
DVD-R/+ R 4.7GB 2.65 SEK(2002)	€0.29/unit	
DVD-RW/+ RW 4.7GB 4.25 SEK	€0.47/unit	
DVD-RAM 4.7GB 4.25 SEK	€0.47/unit	
DVD-R/+ R Double Layer 8.5GB 4.80 SEK	€0.53/unit	
Flash Media (2012) USB sticks		
< 2GB – 80GB 1 SEK/GB	€0.11/GB	
> 80GB 80 SEK	€8.90/unit	

Devices Hardware, PC, HDD	Rate	Capacity
External hard drives (2012)		
< 2GB – 80GB 1 SEK/GB	€0.11/GB	
> 80GB 80 SEK	€8.90/unit	
Internal hard drives (2013)		
< 2GB – 80GB 1 SEK/GB	€0.11/GB	
> 80GB 80 SEK	€8.90/unit	
PC (2013)		
< 2GB-80 GB 1 SEK/GB	€0.11/GB	
> 80GB 80 SEK	€8.90/unit	
Tablets (2013)		
< 2GB – 80GB 1 SEK/GB	€0.11/GB	
> 80GB 80 SEK	€8.90/unit	
Mobile phones (2013)		
3.50 SEK/GB	€0.38/GB	
Consumer Electronics (2005)		
For 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 SEK/GB	€0.11/GB	
> 320 GB 320 SEK	€35.58/unit	

Revenue

Media/devices	2012	2013	2014
Audio cassette	€4,749	€2,387	€2,036
Audio CD	€12,622	€6,423	€4,976
MiniDisc	€179	€59	€14
Video cassette	€29,241	€22,865	€30,236
CD-R/RW	€335,858	€245,119	€176,057
MP3-players	€170,289	€88,509	€42,802
Hard disc video recorders	€2,731,755	€4,396,900	€6,650,787
DVD-R/RW	€1,277,398	€857,914	€602,162
USB memory	€773,785	€1,366,819	€1,353,251
External hard drives	€1,265,159	€2,668,683	€2,248,400
Computers	N/A	€979,754	€1,340,636
Tablets	N/A	€180,442	€267,222
Internal hard drives	N/A	€155,405	€336,514
Game consoles	N/A	€10,469	€5,591
Mobile phones	N/A	€3,309	€6,180
Total	€6,601,036.67	€10,985,056	€13,066,866

29. Switzerland

Contact information

Country	Switzerland
Currency	Swiss francs
Name of organization	SUISA
Web site	www.suisa.ch
Contact Person 1	Frank Dietiker
Contact Person 2	Anke Link
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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 in 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 rightholders.
Administrative costs for collecting private copying remunerations	2117,524 in 2013.
Administrative costs for distribution private copying remunerations	2439,904 in 2013.
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/remuneration are determined through negotiations between collecting societies and associations of blank media 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 percent of the proceeds from or cost of utilization for authors’ 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"> – the copying behavior; – already licensed copies (i.e. purchased from a licensed download shop like iTunes); and – the share of works that are not (or are no longer) copyright-protected. <p>As decreasing device prices lead to decreasing levies – although private copying increases – we started to bring up consumer savings as a basis for the 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, like from file sharing services, recordings from radio or TV etc.?</p> <p>If yes, how many?</p> <p>Are there any musical works you received free of charge as promotion?</p> <p>If yes, how many?</p> <p>How many of the works you received free of charge would you have purchased if you hadn’t had the opportunity to receive them free of charge?</p> <p>How many of the works you received as promotion would you have purchased if you hadn’t had the opportunity to receive them as promotion?</p> <p>We then multiply the result by the most common price for this kind of work, 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 will not 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 this 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 of getting back the levy. During negotiations on the rate for tablets, a survey commissioned by Swiss associations of importers and producers revealed that even professional users do make private copies.</p>
<p>Are there any products exempt from levies?</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. With five more rates for more advanced technical media in place today, exemptions only apply to hard discs in personal computers. However, if blank media are definitely not eligible for private copying, they are not levied.</p>

Collection process

How frequently is payment due?	Payment is due 30 days after the 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"> – holders of music copyrights; – holders of copyrights for literature and visual works; – holders of copyrights for dramatic and audio-visual works; – holders of copyrights for audio-visual works; and – holders of neighboring rights.
How are the distribution schemes determined?	According to article 60 of the 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 tariff 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 tariffs for blank media. However, one is only a combination of three former separated tariffs (audio/video cassettes, blank CD and blank DVD). In addition we have separate tariffs for:</p> <ul style="list-style-type: none"> – MP3-players, digital video recorders and the like (Common tariff 4d); – mobiles (Common tariff 4e); and – tablet PC (Common tariff 4f).” <p>As the tariffs for MP3-player, digital video recorders, mobiles and tablet PCs are the most significant, we only describe the schemes for these three tariffs.</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> <p>Distribution scheme for common tariff 4d for video (the scheme will probably change in 2016 due to a modification of the tariff – the tariff will then consist of a fixed rate for copyrights and another fixed rate for neighboring rights): 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:</p> <p>The tariff has 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 tariff rate for copyrights is distributed as follows: 80.5% – SUISA 11% – <i>Pro Litteris</i> 3.5% – SSA 5% – SUISSIMAGE</p>
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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 the 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 2013 was 702,766 Swiss francs (2565,397), representing 9.62% 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>The Swiss Ministry of Justice set up a working group to investigate the possibilities of optimizing the collection of copyrights. Members of this working group are representatives of artists, producers, associations of copyright users, consumers and the administration.</p> <p>As an outcome of the working group set up by the Swiss Ministry of Justice, the Swiss Federal Council will submit the first draft of a revised Copyright Law for consideration by the end of this year.</p> <p>There has also been a legislative initiative, introduced by a parliamentary group, that aims to abolish the levies on blank media. This legislative initiative was turned down.</p>
Court cases	<p>In the summer of 2014, we concluded a mutual agreement with the associations of producers and importers to withdraw the appeals. This agreement includes the payment of a lump sum for the past (including the year 2014) to the members of the associations we negotiated with and the acceptance of a new rate for 2015 and 2016. For non-members, the former rates came into force retroactively and can be applied retroactively.</p>

Applicable national tariffs

Audio	Rate Valid in 2015 1 euro = 1.04 Swiss francs	Capacity
Audio cassette	€0.32	60 minutes
CD-R/RW data	€0.05	60 minutes/525MB
DVD-R/+R	€0.30	4.7GB
DVD-RW/+RW/RAM	€0.84	4.7GB
DVD R Blu-ray/HD	€0.32	25GB
DVD RW Blu-ray/HD	€0.89	25GB
Video		
VHS		60 minutes
DVD+R/+RW		120 minutes/4.7GB
DVD-R/-RW	€0.44	120 minutes/4.7GB
DVD-RAM		120 minutes/4.7GB
DVD DL		240 minutes/8.5GB
BR		640 minutes/25GB
Consumer Electronics		
Flash media and HD in audio devices and all portable devices other than mobiles and tablet PCs, e.g. MP3-players	€0.60	-per GB ≤ 4GB
	€0.55	-per GB ≤ 8GB
	€0.40	-per GB ≤ 16GB
	€0.31	-per GB ≤ 32GB
	€0.24	-per GB > 32GB
Flash media and HD in audio-visual devices other than mobiles, tablet PCs and personal computers, e.g. digital video recorder	€0.08	-per GB ≤ 250GB
	€20.40	-250GB
	€0.07	-per GB > 250GB

Flash media and HD in tablets	€0.14	-per GB ≤16GB
	€0.12	-per GB ≤32GB
	€0.10	-per GB > 32GB
Mobile phones	€0.12	-per GB ≤4GB
	€0.10	-per GB ≤8GB
	€0.08	- per GB ≤16GB
	€0.07	- per GB ≤32GB
	€0.06	- per GB ≤64GB
	€0.06	- per GB > 64GB
		Max. 2% of catalogue

Revenue

1 euro =	1.205 Swiss francs	1.231 Swiss francs	1.215 Swiss francs
Blank Media	2012 (€)	2013 (€)	2014 (€)
Cassette, MiniDisc etc.	€54,097.97	€42,012.29	€34,596.79
VHS	€157,112.36	€66,050.08	€55,263.38
Optical Storage media			
CD-R/RW data	€759,415.99	€650,766.37	€400,780.42
DVD-R/+R	€2,505,251.71	€1,540,272.48	€1,047,504.76
DVD-RW/+RW/RAM			
DVD R Blu-ray/HD			
DVD RW Blu-ray/HD			
Consumer Electronics			
Flash media and HD in audio devices and all portable devices other than mobile, tablets and PCs	€2,138,446.99	€1,708,077.07	€951,722.70
Flash media and HD in audio-visual devices other than mobiles, tablet PCs and personal computers. e.g. digital video recorder	€922,404.95	€1,357,873.61	€1,083,280.50
Flash media and HD in tablets		€569,747.42	€2,987,059.92
Mobile phones*			€4,907,219.58
Total	€6,536,729.97	€5,934,799.32	€11,467,428.06

30. 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 on 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 Ministry of Culture and Tourism (MOCT), which has the legal monopoly.
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Rate setting

How are levies/remuneration determined?	The amount of payment on 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.
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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.
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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. Articles 38 and 44 must be amended according to the 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 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 monies 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>
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31. 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
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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	The 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 the decision of the Ministry of Science and Education.
	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 are exempted, and equipment imported by natural persons for private purposes is liable to a levy.

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 and producers, as well as their successors. The Ukrainian Music Alliance determines the distribution schemes; the remuneration is distributed according to sales figures for music and films.
Frequency of distribution	Annually.
Which rightholders?	Authors, performers and 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 sales figures for music and films.

Legal developments and court cases

Legal developments	There is a draft of a new Governmental Resolution that stipulates the rate and the list of levies. It is an unsatisfactory draft that was prepared without consulting rightholders and collecting societies (it was inspired by big importers). In fact this draft would introduce an extremely complicated levy collection system, if adopted.
Are there liable parties who deny responsibility or payment for certain media/devices?	Liable parties do not pay or deny responsibility for SMART TV.
Court cases	We have more than 50 cases against importers who refuse to pay levies.

Applicable national rates

In Ukraine the rate system is established by governmental resolution and is rather simple – 5% of the contractual price of blank media and 3% of the contractual price of equipment.

Revenue

Blank Media	2010 (€)	2011 (€)	2012 (€)
	129,644	186,438	58,938

32. United States

Contact information

Country	United States
Currency	\$1.09 as of May 28, 2015
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 a serial copy management system (SCMS) for 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 establishes a royalty system through which importers and manufacturers of digital audio recording devices and digital audio recording media make royalty payments for each device or medium they distribute. AHRA defines private copying as copying by consumers of legally obtained sound recordings for personal use.</p>
Liable for payment	<p>Under 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 manufacturers and/or distributors of digital audio recording devices, digital audio interface devices and digital media imported, manufactured or distributed in the United States. Manufacturers and/or distributors of digital audio recording devices, digital audio interface devices and digital media imported, manufactured or distributed in the United States are therefore liable for payment.</p>

Collecting society: Collection and distribution

Collecting society or CMO is appointed by:	Alliance of Artists and Recording Companies 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 from all the royalties it distributes that year.
Administrative costs for distribution private copying remunerations	Based on actual costs of distribution for a particular year, 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?	It does not include those devices that are used primarily for fixing non-musical works such as motion pictures, audio-visual works, computer programs or databases. It does not include works that consist entirely of spoken word. It also does not cover any computer-based program, professional model products, dictation machines and other audio recording equipment that is designed and marketed primarily for the fixation of non-musical sounds.

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 required parties.
Are exports exempted?	No. AHRA covers digital media, audio recording devices and digital audio interface devices that fall within the definitions specified in the law and that are sold in the US, regardless of where they are manufactured. These are the only types of product for which statements and payments are submitted.
Who is considered an importer?	AHRA covers the manufacturer or importer, whichever party distributes the media/device in the US for ultimate transfer to consumers in the US. There is no definition of n importer.

Distribution process

Who distributes the collected remuneration to rightholders?	The Alliance of Artists and Recording Companies distributes annually to Featured Recording Artists and Sound Recording Copyright Owners (Producers). The distribution methods are determined by the AHRA.
Frequency of distribution	Under 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 manufacturers and/or distributors of digital audio recording devices and digital audio interface devices imported, manufactured or distributed in the United States.
Which rightholders?	The 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?	The distribution schemes are determined by the AARC Board of Directors.

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

AHRA specifies the following: Devices Only: Maximum \$8 US (Approx. €12) per device or \$12 (Approx. €18) per multi-integrated device, and a minimum of \$1 per device.

Revenue

Type	2010 (€)	2011 (€)	2012 (€)	2013 (€)	2014 (€)
This figure represents blank media and devices.	€1,500,000	€1,800,000	€1,500,000	€700,000	€350,000

For more information contact WIPO at www.wipo.int

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