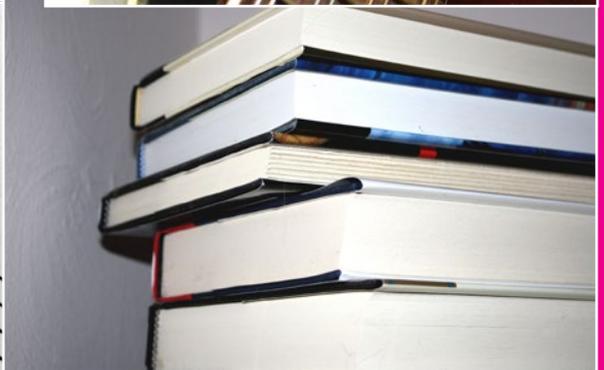
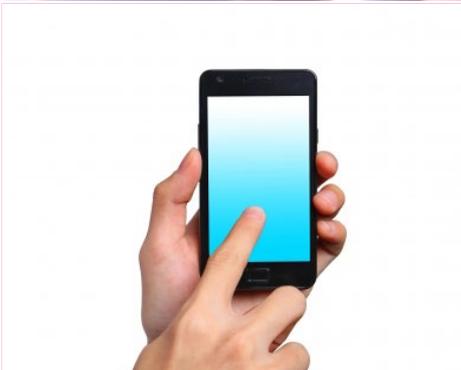


International Survey on Private Copying



Law & Practice 2013

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International Survey on Private Copying Law & Practice 2013



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EXECUTIVE SUMMARY

1. Introduction

The present survey represents a collection of key data on private copying compensation systems around the world. It appears now in its 23rd edition which, for the second time, is the result of collaboration between the Private Copying Collection body in the Netherlands Stichting de Thuiskopie and the World Intellectual Property Organization (WIPO).

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

Stichting de Thuiskopie started indexing legal and practical information about the private copying remuneration in neighbouring countries back in 1991. The survey quickly expanded, and soon included all European countries with a levy system in place. Over the years the scope has expanded to embrace countries outside of Europe. This 23rd edition covers 32 countries in almost all continents. New in this edition are Ukraine and Estonia. Bulgaria unfortunately is no longer listed, as the private copying exception is no longer executable.

In this edition World Bank data is added to examine further the context of levies and remunerations in participating countries. Some countries like France and the Netherlands have had new levies implemented in the last year. More information is provided regarding legal disputes and relevant jurisprudence in the field of private copying.

The data compiled in the Survey is exclusively provided by participating collecting societies entrusted with the collection and distribution of the private copying remuneration. Without the support of those societies, the production of this rich and varied collection of data would not have been possible. We want to express our gratitude to all for their cooperation, and their efforts to improve insight in the global private copying compensation systems. The Survey demonstrates the importance of this source of income for authors and other rights holders, supports efforts to unify and possibly harmonize collection and distribution practices, and helps to reduce differences in the various systems that may distort regular market conditions. Hopefully this Survey will be as useful as it has been in previous years when it was used as a reference in negotiations on levies, in background reports of the European Commission, in studies of rights holders and user organizations alike, or in policy papers of governmental bodies.

2. Methodology and Scope

2.1 Introduction

The Survey is an assembly of data delivered by collecting societies responsible for the administration of the private copying compensation. Data collection takes place through an extensive questionnaire, covering a wide selection of fields of interest. Each year, the questionnaire is thoroughly reviewed and updated. Comments from participants and experience gained from processing 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 that has been submitted in earlier rounds to identify and address possible inconsistencies. The data set used for the trends presented can be found in the attachment to this report. Information regarding the population, income, internet usage from participating countries is derived from the World Bank.¹

¹ <http://data.worldbank.org/>

2.2 Participation according to continent

While we hope that the Survey can be expanded in the future even further to other countries, this edition covers countries in Europe, North America, South America, Africa and Asia.

Europe

A private copying compensation system is very common in Europe. Information about levies in 20 European Economic Area (E.E.A.) countries is included in the Survey, as well as three non-E.E.A. countries. No compensation exists in Cyprus, Ireland, Luxembourg, Malta and the UK.

In a number of countries a working system of collection is not yet in place despite the fact that a private copying exception has been introduced in the law. This is the case in the Republic of Belarus, for example. In other countries the introduced exception has been amended leaving virtually no possibilities to collect levies, as is the case in Bulgaria.

Reasons for this vary: sometimes there is no collective management organization authorized to fulfill these functions; sometimes the debate about the system, legal proceedings or copyright reform paralyze collection and distribution.

North America

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

South America

In South-America, Paraguay, Ecuador and Peru have a legal compensation system in place regarding private copying.

Africa

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

Asia

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

2.3 Large variety of systems in the world

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

In Europe, in the early '90s, the European Commission attempted unification, but the Commission's efforts have not yet resulted in legislative proposals. In fact, they had the very opposite effect: legal and practical developments in the countries involved proceeded unhindered by any cross-border consideration. The recent renewed interest of the European Commission and Parliament to investigate the viability of measures that would further the approximation, and possibly harmonization of (the important parts of) the systems, is of great significance.

3. Legal background for private copying remuneration

3.1 Main principles

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

The European Commission has been working on a review of the copyright framework for some years now. During 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 that included a number of recommendations.² Authors' societies are divided according to some of these recommendations.³

3.2 Definition of private copying

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

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

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

4. Practical implementation of compensation systems

For reasons of efficiency, and the impossibility of collecting from individuals, the most common system is where importers and manufacturers, and sometimes the professional traders, are required to pay levies applied to recording equipment or media used by individuals for their private use (all who can be charged for the compensation are indicated as 'liable parties' in the Survey). It is assumed that levies will consequently be included in the selling price of the levied products. In Europe the EU Parliament proposes to make the levy visible for consumers in the sales price as a way of achieving more transparency.

In some jurisdictions, the compensation system applies to recording equipment as well as media. In other jurisdictions, levies are limited to blank media. This is the case in Canada, Denmark and Portugal.

It should be noted that the distinction between recording equipment and media is increasingly becoming blurred. In some countries with a media levy system (for instance Austria and France), hard disks in equipment such as audiovisual recorders, set-top boxes and tv sets with integrated hard disks, qualify as 'blank media'. A comparable example is found in countries where a memory unit (flash memory card) is levied only when used in a recording device and sold together with the device, albeit no compensation is due for the device, or for the separately sold memory unit. Multifunctional devices are increasingly included in the systems; technological developments resulting in connected living and a possibility to share, view and consume 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. On the other hand, it shows an increase in possibilities and opportunities to copy and enjoy creative works any place, any time.

² http://ec.europa.eu/internal_market/copyright/levy_reform/

³ <http://www.authorsocieties.eu/library/35/32/Statement-on-Mr-Vitorino-s-recommendations-on-private-copying-signed-by-AEPO-ARTIS-EUROCOPYA-GESAC-and-SAA>

Rate setting

The Survey reveals that Rate setting could differ considerably when comparing one jurisdiction to the other. The determination of which products should be levied or whether they are within the scope of the private copying exception is sometimes a matter to be decided upon by the legislator or the government. In other countries courts determine the scope of the compensation system on the basis of rights holders' claims. A third variation is found in countries where special bodies appointed by the government are responsible for selecting the products that can be levied, and the rates. Often these special bodies are appointed to advise the government who subsequently sets the rates.

Roughly speaking, Rate setting can be distinguished as being either a matter of direct state intervention (lawmaker, ministry, designated public body), or to be established through negotiations between rights holders (i.e. collecting societies administering the levies) and the industries (consumer electronics, IT-industry). Finally, in some countries rates are set by special bodies appointed by the government, acting as negotiation platforms (and sometimes advising the lawmaker).

Table 1: Rate setting Models

Models	Countries
Direct State Intervention	Burkina Faso, Czech r., Denmark, Estonia, Greece, Italy, Lithuania, Norway, Paraguay, Poland, Portugal, Romania, Russia, Slovakia, Spain, Turkey, Ukraine, USA
Negotiation industries and societies	Austria, Croatia, Germany
Special government appointed body	Belgium, Canada, France, Netherlands, Switzerland,
Set by law after proposals by rights holders or negotiation stakeholders	Finland, Hungary, Japan, Latvia, Sweden

4.1 Difference in tariffs

Countries commonly apply a fixed tariff directly related to the capacity of objects. As a variant to fixed tariffs, countries can also apply a tariff based on a percentage of the sales or import price to determine the height of the levy. The Czech Republic, Latvia and Lithuania combine fixed tariffs with a percentage. The different tariffs are presented separately to give an impression on the height of tariffs.

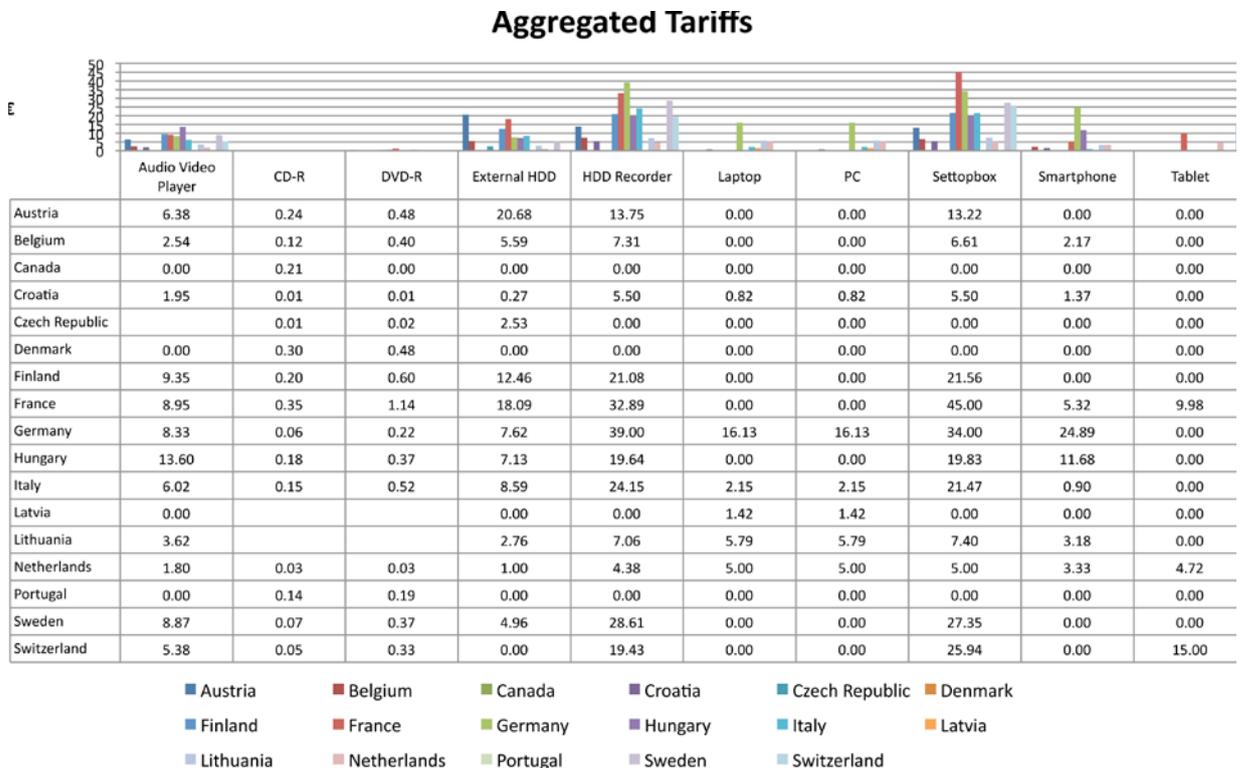
If we look at the different tariffs on products, we notice a shift from the levies on the traditional optical media to devices. The number of countries applying a levy on smart phones has surpassed the number of countries with pc/laptop levies. Only three countries have a tariff on the tablet: France, the Netherlands and Switzerland. Due to the interdependence between tariffs and capacity, an average tariff is presented in Table 2.

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

Country	Levy as a percentage of price
Estonia	8%
Greece	6%
Japan	1% or 3%
Poland	Ranging from 0.87% to 2.53%
Romania	0.5%
Russia	1%
Slovakia	0.5%
USA	3%

Figure 1: Average rates per object in euros (N=17)

Countries with only a percentage of import/base price have been left out.



5. Liability issues

5.1 Introduction

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

- What system should be applied – if any – to refund levies when products were exported?
- Does a levy apply when products are used in a professional situation?
- Who is liable when a consumer buys equipment or media online from a foreign seller (cross-border scenarios)?

5.2 Exports and exempted liability

The levies are meant to compensate for private copying in a certain country; rights owners whose works have been copied in that specific country have a right to be remunerated. For this reason *exports* are 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 an exporter (often a wholesaler) can have with the importer and/or the collecting society. In the Netherlands, for example, it is possible for a reselling party to buy without levies from an importer if both are registered. The reseller only has to levy sales made in his home country. In this way, the compensation system has less impact on the functioning of the market.

Some countries do not have a refund system in place; it is up to the exporter to report only the goods sold in the home country. In these cases, exports can often be recuperated in the next report to the collecting society. Finally, some countries like Finland or the Netherlands have multiple possibilities: to be exempted upfront or request a refund.

Table 3: Export models

Models	Countries
Exemption with refund	Austria, Belgium, Denmark, Estonia, Finland, France, Hungary, Italy, Latvia, Lithuania, Netherlands, Portugal, Russia, Switzerland
Upfront exemption	Canada, Croatia, Czech r., Germany, Greece, Japan, Slovakia, Sweden
No refund and/or exemption	Burkina Faso, Paraguay, Poland, Romania, Turkey, USA

5.3 Professional use and reduced liability

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

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

The situation was changed dramatically by the European Court of Justice's verdict in the Padawan-SGAE case (October 21, 2010). The court ruled that the indiscriminate application of the private copying levy to all types of digital reproduction equipment, devices and media, including cases in which such equipment is acquired by persons other than natural persons for purposes clearly unrelated to private copying, is incompatible with the 2001 Information Society (or Copyright) Directive. 'Padawan' has led to follow-up cases in national jurisdictions and new cases before the European Court of Justice to clarify the ruling further. In Spain the result was an abolishment of a system of collecting through media and devices, leaving Spanish rights holders with an amount determined annually by the government based on the harm caused to rights holders as a consequence of private copying. European rights holders have lodged a complaint with the European Commission.⁴ To this day, court cases resulting from the Padawan case are going on in many European countries.

5.4 Online sales and cross-border liability

The key question here is whether in a case of distance selling in which the buyer is located in a country other than that of the seller, the seller is to be seen as a liable party. Of relevance for member states of the European Union in the first place, but also interesting for other jurisdictions, is the judgment of the Court of Justice of the European Union in the so-called *ThuisKopie-Opus* case (2011).⁵ The Court ruled that the state that has a private copying exception in the law in conjunction with a levy system should ensure that the levy is paid. According to the judgment, '[...] it is for the Member State which has introduced a system of private copying levies chargeable to the manufacturer or importer of media for reproduction of protected works, and on the territory of which the harm caused to authors by the use for private purposes of their work by purchasers who reside there occurs, to ensure that those authors actually receive the fair compensation intended to compensate them for that harm'. In this case the Dutch court – country of residence of the buyer where a private copying compensation system in place – was asked to ensure recovery of the levy from the seller in Germany. Other than in the Netherlands, collecting societies are charging levies from cross-border online sellers in France and Austria, and legal proceedings regarding this issue are ongoing in many countries.

⁴ <http://www.authorsocieties.eu/library/15/32/GESAC-complaint-against-spain-on-private-copying>

⁵ <http://curia.europa.eu>

6. A few aspects of distribution

This section discusses the following issues:

- Cost deductions
- Determination of distribution schemes
- Social and cultural deductions

6.1 *Cost deductions*

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

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

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

The survey does not provide full information on the costs of collection and distribution. The reason for this is that in some countries costs are considered as sensitive information, resulting in a certain reluctance to provide information in this regard.

6.2 *Distribution schemes*

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

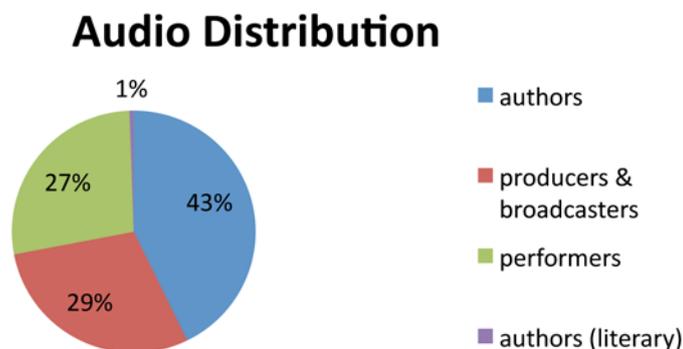
Where the distribution scheme is a matter for rights owners, the shares are established in negotiations between the different groups of rights holders.

In some cases the results have to be validated or approved by the government.

Audio and Video remunerations are split and in most cases two distribution schemes are introduced. Distribution to audio rights owners is split between authors, performers and producers. Video rights owners are to be found in more categories like authors (directors, screenwriters, music authors, literary authors), producers and performing artists (actors, dancers).

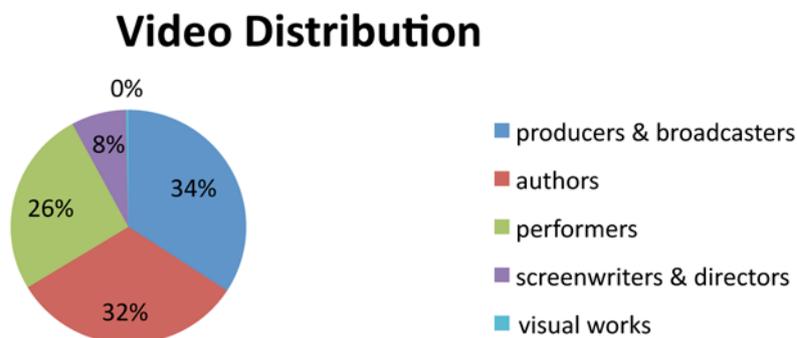
Ideally the split between the categories of rights owners should be based upon market research on the type of works copied on the various media. Some countries (like Switzerland) have a distribution scheme in place for each levied product the monies were received upon. Mostly, however, the split between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

Figure 2: Average distribution scheme for distribution of audio (N=21)



The figure gives an indication of the average proportion of different categories of right owners. Although the basis and outcome in individual countries differ, there is similarity regarding the distribution of categories (the dispersion within categories is < 8%). In all cases the combined part destined for authors is higher (16 times) or equal to (5 times $3 \times \frac{1}{3}$) the part destined for producers. So the distribution is not equally split, authors having often a larger share in musical revenues. Performers and producers share the remainder almost equally, bearing in mind that within distribution organizations these two are sometimes combined.

Figure 3: Average distribution scheme for distribution of video (N=20).



More categories exist within the distribution of video which makes it difficult to draw any conclusions. In some cases (e.g. Croatia) scriptwriters and directors are represented within the share allocated to producers, and in other cases broadcasters share in the distribution with producers. There is less consistency also within the categories; therefore these average distribution figures have to be interpreted cautiously. Due to the amount of different shareholders within each category of rights holders, the video distribution is more complex.

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 the funds allocated to promoting the culture of society and improving the position of rights holders. The percentages vary from 10% to 100%, the last one only applying in Turkey where levies are used entirely for cultural purposes by the Ministry of Culture.

Often a separate fund is created to select the cultural events or projects that receive financial support. In many cases, rights holders are members of the selection committees, and their vote is crucial in deciding how the money is spent. Are to be funded and rights holders often have a decisive vote on how the funds are spent. While it is not the collecting society that deducts cultural funds, the distributing organizations can sponsor activities or events helping their specific category of rights holders. This approach differs from cases in which the destination of private copying remunerations is determined by the government, e.g. Turkey.

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 rights owners, also 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 sums from private copying income.

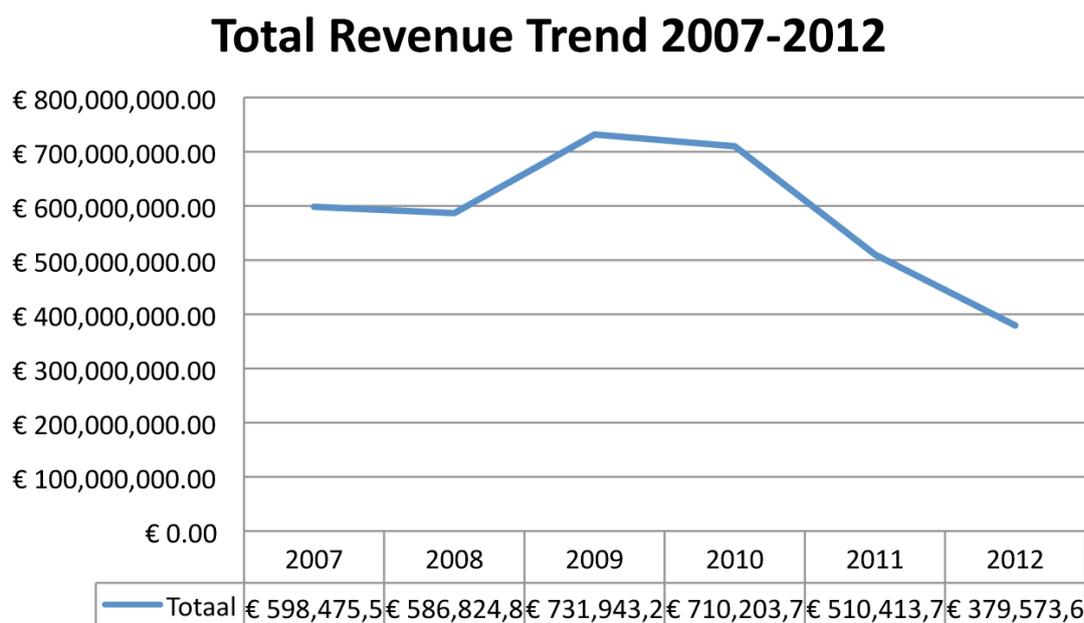
Table 4: Social and Cultural deductions

Country with social and cultural funds	% Social and cultural purposes	Determined by
Austria	50%	Law
Belgium	-	-
Burkina Faso	50%	Law – rights owners
Canada	-	-
Croatia	30%	Law
Czech Republic	0%	Rights owners
Denmark	33%	Law
Estonia	10%	Law
Finland	50% video 35% audio	Law
France	25%	Law
Germany	-	-
Greece	-	-
Hungary	10%	Law rights owners
Italy	50% video	Performing artists
Japan	20%	Law
Latvia	10%	Music authors
Lithuania	25%	Law
Netherlands	15%	Rights owners organizations
Norway		
Paraguay	10%	Law – authors and artists
Poland	yes	Rights owners organizations
Portugal	20%	Law
Romania	-	-
Russia	20%	Law – rights owners
Slovakia	-	
Spain	20%	Law
Sweden	-	
Switzerland	10%	Rights owners organizations
Turkey	100%	Law
Ukraine	-	-
USA*	-	-

7. Revenue trends

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

Figure 4: Total revenues of participating countries in Euros (mln)



The downward trend started in 2010 with a decline of 3% compared to the total revenue of participating countries in 2009. Despite the fact that several countries have introduced new levies applicable to the new digital technologies (Italy and Belgium, and more recently France and the Netherlands), the sum of total revenues declined ever further. If we examine the revenues more closely, the drop appears more dramatic in countries like Germany and Spain. Germany experienced problems with collecting due to several lawsuits, and in Spain revenues dropped as remunerations are currently determined by the government. More positive developments are found in countries like Russia. An overview of the entire revenue development is presented in Table 6.

Table 5: Total revenues of participating countries

Year	Revenues	Trend
2007	598,475,576.00	
2008	586,824,887.00	-2 %
2009	731,943,253.00	25 %
2010	710,203,727.00	-3 %
2011	510,413,736.22	-28%
2012	379,573,661.72	-25%

Figure 5: Revenues of individual countries

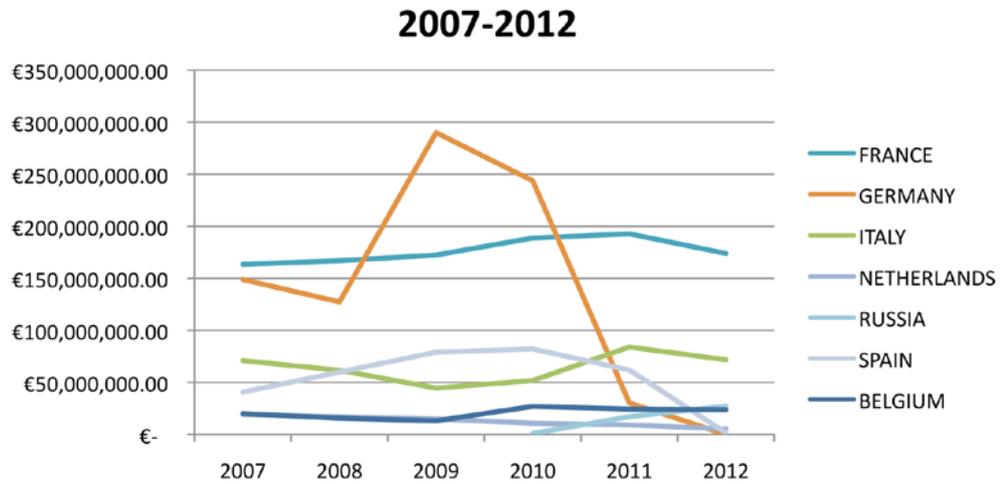


Table 6: Revenues per capita

Countries	Delta (revenues compared to 2011)	Revenues 2012	Population, total 2012, source: www. data.worldbank.org/country	Revenues per capita
		EUR	number	EUR
Austria	-16 %	6,616,000	8,462,446	0.78
Belgium	-2 %	23,827,891	11,142,157	2.14
Burkina Faso	-24%	895,817	16,460,141	0.05
Canada	-25%	6,061,236	34,880,491	0.17
Croatia	-12%	1,042,851	4,267,000	0.24
Czech Republic	-37%	3,272,589	10,514,810	0.31
Denmark	+71%	4,392,380	5,590,478	0.79
Finland	+ 30%	7,073,500	5,414,293	1.31
France	-10%	173,877,725	65,696,689	2.65
Germany	-100%	0	81,889,839	0.00
Greece	-79%	245,699	11,280,167	0.02
Hungary	+52%	12,105,551	9,943,755	1.22
Italy	-15%	71,738,387	60,917,978	1.18
Japan	-64%	8,779,962	127,561,489	0.07
Latvia	-7%	207,989	2,025,473	0.10
Lithuania	+1824%	1,972,906	2,985,509	0.66
Netherlands	42%	5,375,000	16,767,705	0.32
Paraguay		0	6,687,361	0.00
Poland	-5%	1,668,677	38,542,737	0.04
Portugal	-49%	1,179,084	10,526,703	0.11
Romania	+30%	2,001,733	21,326,905	0.09
Russia	+60%	27,276,782	143,533,000	0.19
Slovakia	+13%	433,088	5,410,267	0.08
Spain	-97%	1,559,490	46,217,961	0.03

Table 6: Revenues per capita (continued)

Sweden	17%	9,848,764	9,516,617	1.03
Switzerland	-24%	6,536,740	7,997,152	0.82
Ukraine	-68%	0	45,593,300	0.00
USA	-35%	1,500,000	313,914,040	0.00

Figure 6: Countries' revenues 2012



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

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

In addition, new devices make politicians hesitant to support new levies because of the devices' multifunctionality. Smartphones, for instance, are *inter alia* sold for their capability of recording and storing large amounts of songs. Not to mention the easy exchange between memory cards used in these devices, enabling consumers to swap songlists easily. Nonetheless, general support for levies on smartphones is almost non-existent, and producers of smartphones are at the front of the fight against the expansion of the compensation systems.

The internet is enabling consumers to be heard in a manner which was unthinkable 10 to 15 years ago. Copyright charges are passed on directly to consumers through the private copying compensation schemes. There is presumably a strong reluctance to be charged – indirectly as it may be – when copying to enable a platform shift (as when you copy your music to have it available in the car) or when time-shifting (recording a TV-show for later viewing). These and other circumstances create a climate wherein one can say that private copying compensation schemes are not overly popular, and *vox populi* is a factor to take into account when considering measures to include new technologies in the system.

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

The result is that rights holders are losing money while reproductions for personal use are on the increase in countries where the pace of change is far too slow, or where no change is taking place.

8. Final words

The private copying compensation systems in the world are not always unchallenged; we see governments, industry and rights owners struggle to adapt to the globalization of the use of protected works and to the digital environment. In some countries these adaptations are accepted more easily than in others; discussions arise about the regulations, the scope of the exceptions and the best way to ensure fair compensation for rights owners whose exclusive rights have been narrowed. On the other hand, we see the appreciation for creative content, the willingness to compensate rights owners for their creative efforts. It is important to keep following the developments in the field of private copying. It is hoped that this Survey will be a useful tool in negotiations or a means to broaden the knowledge of this specific Copyright and neighboring rights issue.

9. Relevant Jurisprudence:

- * C-467/08 – Padawan – SGAE
- * C-462/09 – Stichting de ThuisKopie – opus GMBH
- * C-457/11- VG Wort
- * C-521/11- Amazon
- * C-463/12 – Copydan Båndkopi

10. Additional Benchmark

A benchmark is executed to provide participating countries with knowledge of their revenues in relation to the number of citizens in each country, wealth, mobile and internet subscriptions. Data is presented without implying a direct relation between internet and mobile subscriptions with private copying. The data can be used in order to examine the impact and the relevance of levies in relation to the devices used by internet and mobile users.

Figure 7: Revenues per Capita

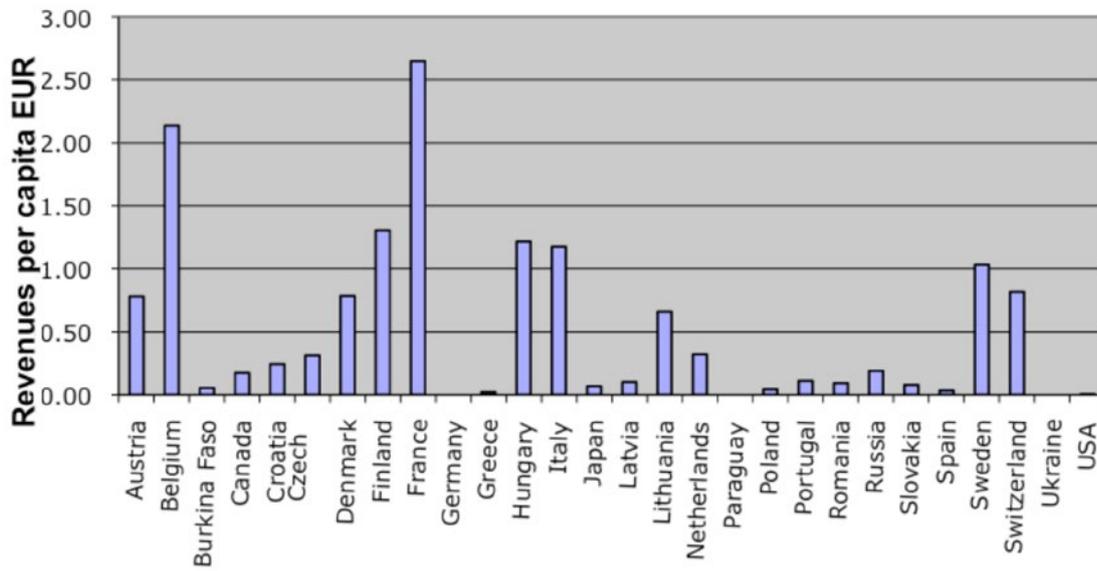


Figure 8: Revenues per capita, 15 years and older

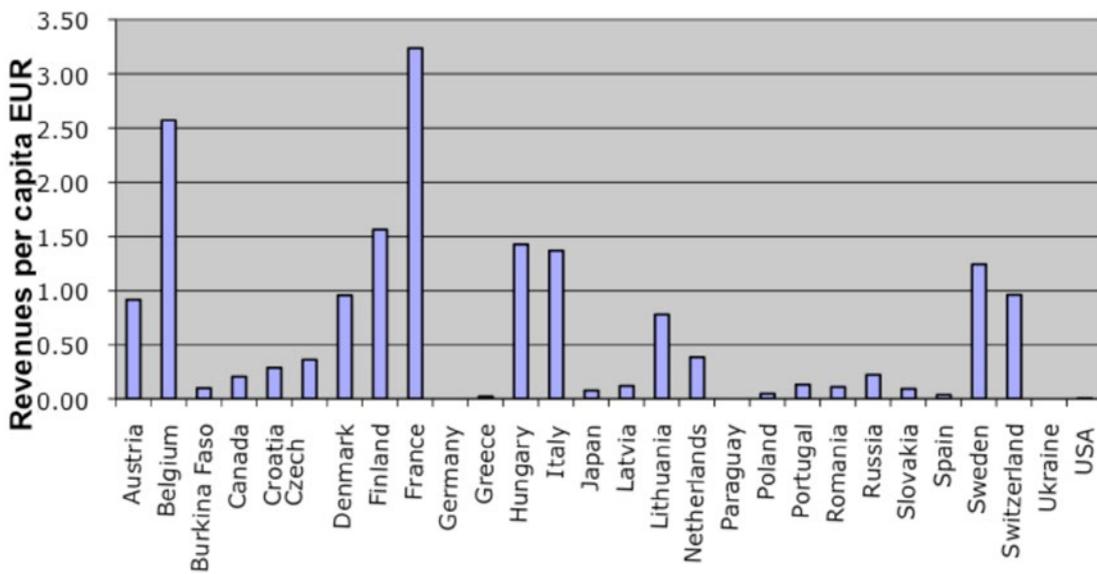
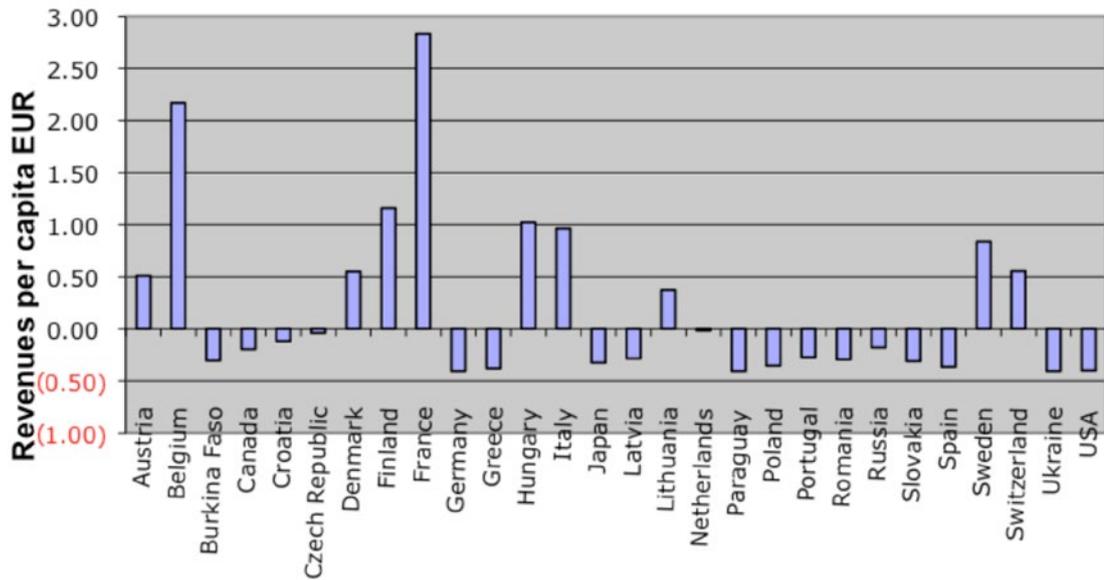


Figure 9: Revenues per capita 15 years and older, deviation from average, unweighed for population



Figures 10-11: Revenues in relation to online activity and to purchasing power parity

Figure 10: Revenues per mobile subscription

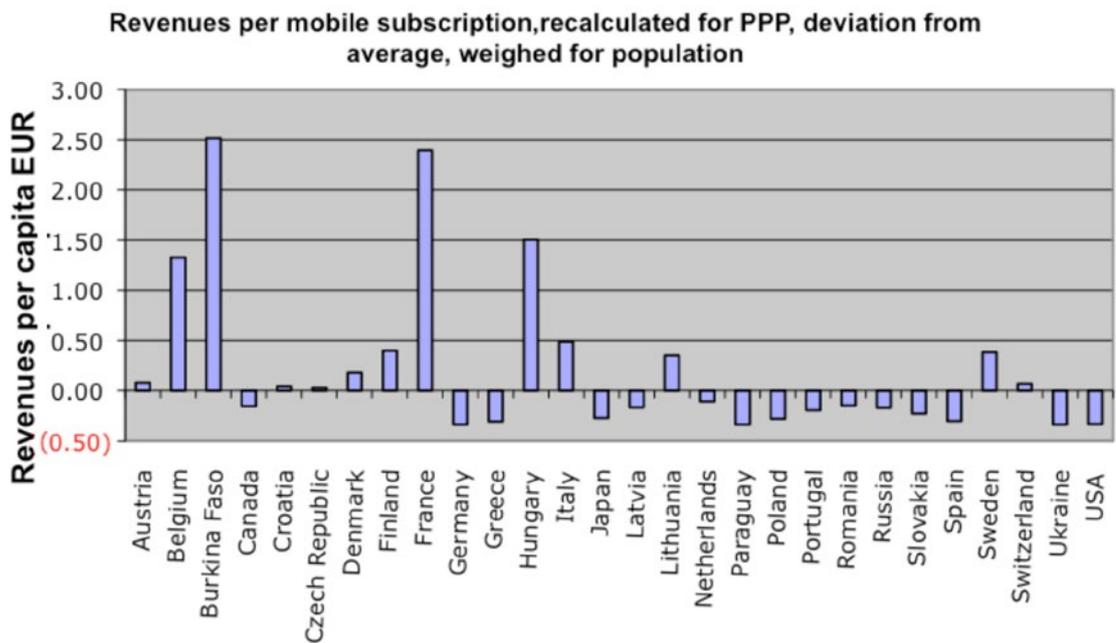
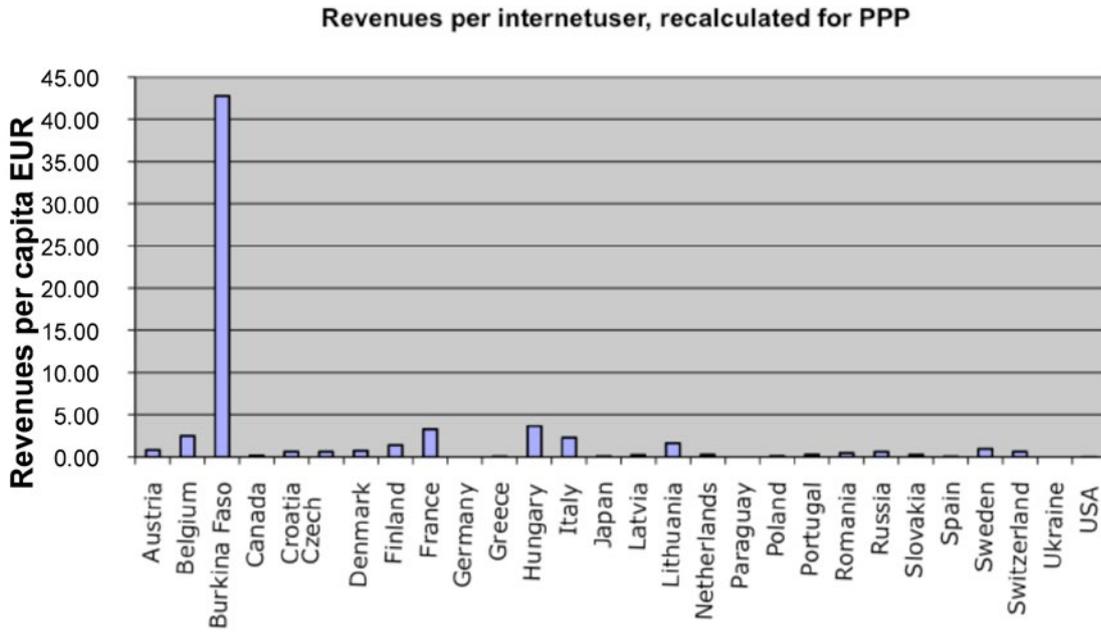


Figure 11: Revenues per internet user



Figures 12-14: Revenues per user in relation to online and mobile activity

Figure 12: Revenues per fixed broadband subscriber

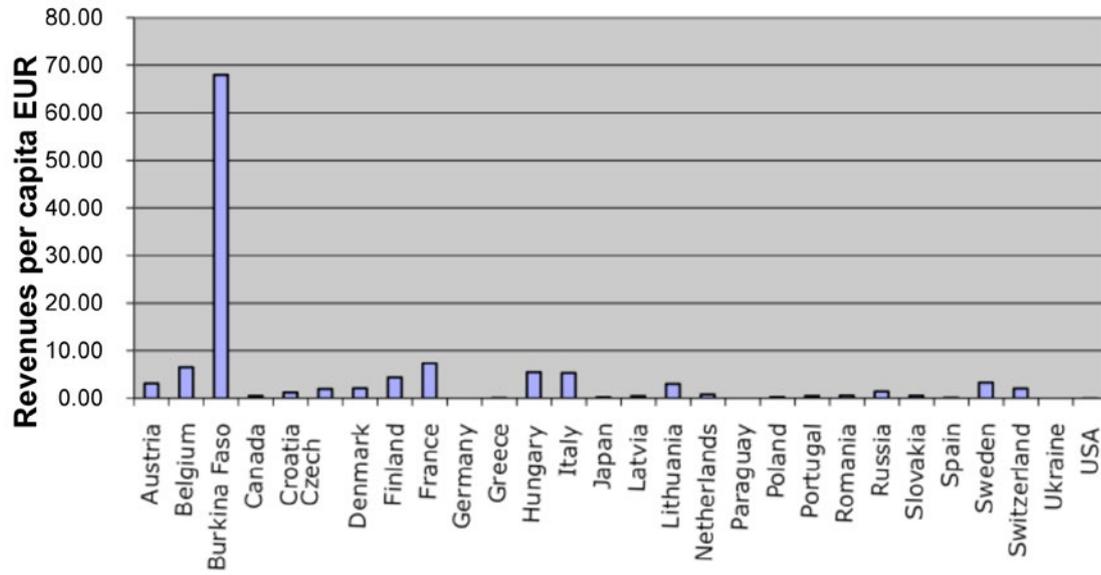


Figure 13: Revenues per internet user

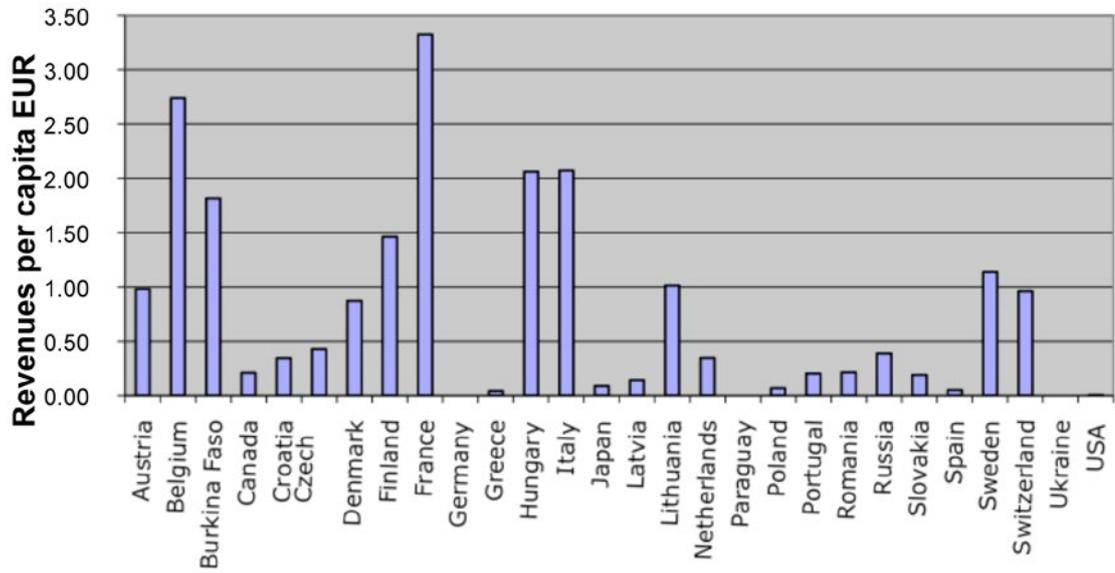
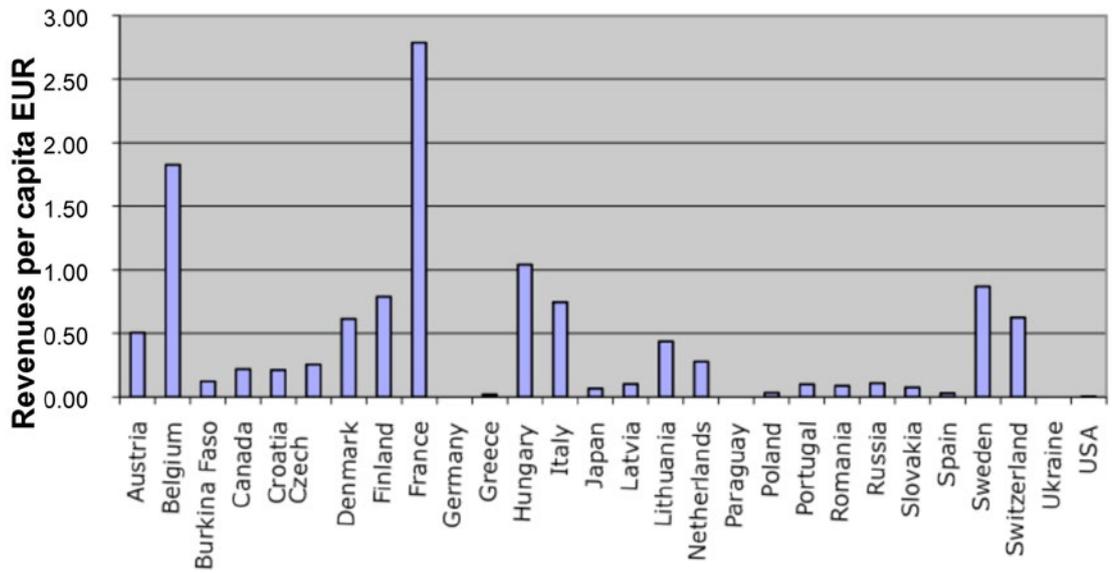


Figure 14: Revenues per mobile subscription



Calculation based upon Worldbank indicators 2011 and executed by

Gerard H. Koestering RA re ELAE
Company consultant
Cunningham Lindsey Nederland Holding bv
Postbus 23212, 3001 KE Rotterdam

Website: <http://www.cunninghamlindsey.nl>

Internet users 2011 (per 100 people), source: www.data.worldbank.org/indicator	Internet users 2011 coverage pop 15 years and older, source: www.data.worldbank.org/indicator
Fixed broadband Internet Subscribers 2011 (per 100 people), source: www.data.worldbank.org/indicator	Fixed broadband Internet Subscribers 2011 coverage pop 15 years and older, source: www.data.worldbank.org/indicator
Mobile cellular subscriptions 2011 (per 100 people), source: www.data.worldbank.org/indicator	Mobile cellular subscriptions 2011 coverage pop 15 yrs and older, source: www.data.worldbank.org/indicator
Internet users 2011, source: www.data.worldbank.org/indicator	Internet users 2011 coverage pop 15 years and older, deviation from average
Fixed broadband Internet Subscribers 2011, source: www.data.worldbank.org/indicator	Fixed broadband Internet subscribers 2011 coverage pop 15 years and older, deviation from average
Mobile cellular subscriptions 2011, source: www.data.worldbank.org/indicator	Mobile cellular subscriptions 2011 coverage pop 15 years and older, deviation from average
Internet users 2011 coverage, source: www.data.worldbank.org/indicator	
Fixed broadband Internet Subscribers 2011 coverage, source: www.data.worldbank.org/indicator	
Mobile cellular subscriptions 2011 coverage, source: www.data.worldbank.org/indicator	

1. AUSTRIA

Contact Information

Country	: Austria
Currency	: Euro
Population	: 8,440,465
Name organisation	: Austro Mechana
Website	: www.aume.at
Contact person	: Peter Dienstl
e-mail 2	: peter.dienstl@aume.at
Address	: Baumannstraße 10
Postcode	: 1030
City	: Wien
Phone	: +431 717 87
Fax	: +431 712 71 36

Legislation and fundamental facts

Legal basis

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

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

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

Collecting Society

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

Austro Mechana administrates the rights for composers, scriptwriters for music, publishers and distributes the revenues to the participating companies.

Rate setting

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

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

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

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

Collection process

Monthly reporting and payment are stipulated in the General Contract between rights owners and the Chamber of Commerce.

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

If material is not privately used – companies, public institutions and similar – no levy is due. This is in the law.

Exports are exempted and a refund can be obtained by presenting the export invoice / documents.

The first distributor in the Austrian Market is liable. If there are no consumer purchases, the external supplier is liable.

Distribution

Distribution schemes

Setting of distribution schemes is a matter for rights owners.

Distribution scheme, audio:

New percentage rates have yet to be determined, the latest being:

- 48.40% Austro Mechana (musical works)
- 1.60% Literar Mechana
- 49.00% LSG (neighbouring rights)
- 1.00% VGR (broadcast)

Distribution scheme, video:

- 14.87% Austro Mechana
- 13.63% Literar Mechana
- 6.25% LSG
- 26.02% VAM (producer)
- 20.98% VDFS (performing rights, directors)
- 1.75% VBK (photographs)
- 16.50% VGR

Distribution schemes for various media and devices

Audio:

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

Video:

- 15.56% of CDR Revenues
- 54.96% of DVD Revenues
- 3.42% portable Audio (MP3)- / Video-Player
- 70.88% of HD-Recorder Revenues
- 18.71% of USB-Stick revenues.

Additional comments

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

Social and cultural funds, collective purposes

50% is deducted for collective (social and/or cultural) purposes before distribution.

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

Professional uses

There is a legal exemption for professional use.

Legal developments

The current case regarding computer hard discs is still pending judgement by the Supreme Court. Due to the decision of the EU Court in the Amazon case, the lawsuit has been interrupted. As regards mobile phones, the court also interrupted the lawsuit in the second instance. The EU Court decision seems to be positive.

Remunerations / Levies

Table 7: Tariffs, Austria

Audio	Tariff	Capacity
Audiocassette	€ 0.12	60 minutes
Minidisc	€ 0.24	80 minutes
CD-R/-RW Audio	€ 0.24	80 minutes/700 MB
CD-R/-RW Data	€ 0.24	80 minutes/700 MB
Memory Cards (Only in combination with MP3-Player)	€ 1.50	< 512 MB
	€ 2.50	512 MB – 1 GB
	€ 5.25	1 – 4 GB
	€ 9.00	4 – 30 GB
Video		
Videocassette	€ 0.18	60 minutes
DVD+R/+RW	€ 0.36	120 minutes/4.7 GB
DVD-R/-RW	€ 0.36	120 minutes/4.7 GB
DVD-RAM	€ 0.36	120 minutes/4.7 GB
DVD DL	€ 0.72	240 minutes/8.5 GB
BR	€ 1.91	640 minutes/25 GB
Devices	Tariff	Capacity
MP3 Audio-Player	€ 1.50	< 512 MB
	€ 2.50	< 1 GB
	€ 5.25	< 4 GB
	€ 9.00	< 30 GB
MP3 / MP4-Player	€ 1.50	< 512 MB
	€ 2.50	< 1 GB
	€ 3.50	< 4 GB
	€ 6.00	< 30 GB
	€ 7.00	< 60 GB
	€ 8.00	< 90 GB
	€ 9.00	< 120 GB
	€ 10.00	< 160 GB and more

Table 7: Tariffs, Austria (continued)

Consumer electronics		
Hard disc-Receiver	€ 6.00	< 80 GB
(DVD-Recorder, Sat-Receiver)	€ 10.00	< 160 GB
	€ 12.00	< 250 GB
	€ 15.00	< 400 GB
	€ 20.00	< 600 GB and more
Ext. Multimedia Hard disc with recording function	€ 17.10	< 250 GB
	€ 19.40	< 500 GB
	€ 22.50	< 750 GB
	€ 24.30	< 1 TB and more
USB-Stick	€ 0.10	< 1 GB
	€ 0.20	< 4 GB
	€ 0.20	< 8 GB
	€ 0.40	< 16 GB
	€ 0.50	< 32 GB and more

Additional Comments:

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

Table 8: Revenues, Austria

Audio Revenues	2010 (€)	2011 (€)	2012 (€)
Audiocassette	77,000.00	58,000.00	33,000.00
CD-R/RW Audio	148,000.00	96,000.00	79,000.00
CD-R/RW Data	2,855,000.00	1,900,000.00	1,290,000.00
MP3-Player	1,392,000.00	1,163,000.00	921,000.00
Total 'Audio'	4,472,000.00	3,217,000.00	2,323,000.00
Video Revenues			
Videocassettes	340,000.00	203,000.00	176,000.00
DVD (all types)	3,774,000.00	2,904,000.00	2,065,000.00
Hard Disc Recorder	1,022,000.00	1,140,000.00	1,535,000.00
Total 'Video'	5,136,000.00	4,247,000.00	3,776,000.00
Device Revenues			
USB Stick	299,000.00	463,000.00	517,000.00
Total 'Devices'	299,000.00	463,000.00	517,000.00

Additional Information

In the 2012 Survey, the 2011 revenues are extrapolated based on the period from January to October. In the data sheet for the 2013 Survey, the final figures from 2011 are included.

2. BELGIUM

Contact Information

Country	: Belgium
Currency	: Euro
Population	: 10,839,905 (01/01/2010)
Name organisation	: Auvibel
Website	: www.auvibel.be
Contact person 1	: François Stroobant (<i>Managing Director</i>)
Contact person 2	: Maro Schrauwen
e-mail 1	: fst@auvibel.be
e-mail 2	: msc@auvibel.be
Address	: Havenlaan 86c 201a / Avenue du Port 86c 201a
Postcode	: 1000
City	: Brussels
Phone	: (+32) 02 650 09 50
Fax	: (+32) 02 650 09 58

Legislation and fundamental facts

Legal basis

1. Law of June 30, 1994 about authors' rights and neighbouring rights.
2. Royal Decree of March 28, 1996 about private copy remuneration for authors/composers, performing artists and producers of phonograms and audiovisual works.
3. (As of 1 December 2013) Royal Decree of 18 October 2013 on the right to remuneration for private copying.

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

Remuneration is collected through levies on media and/or equipment. Manufacturers, importers, intra EU-purchasers, foreign web-shops are liable for payment.

Collecting Society

Auvibel is responsible for the collection and distribution of private copying remunerations for all rights owners and has a legal monopoly. Royal Decree of January 21, 1997 appointed Auvibel for the collection and distribution of the levies for private copying.

The administrative costs are 4.40% (2011) = Costs incurred through both the collection and distribution of remunerations.

Auvibel is also responsible for distribution to rights holders. The remuneration is distributed through rights holders' organisations.

Rate setting

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

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

Furthermore, a study of the copying behaviour 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.

In this study we only focus on copies obtained after a purchase, download, broadcast or any other way of acquiring a work protected by copyright.

Professional use

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

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 media/equipment. Professional use is part of the 'a contrario' percentage. The percentage used for private copying is taken as the basis for the level of remuneration (the levy), thus excluding professional use.

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

No consumers or buyers are exempt from paying the levies but certain products are. Computers, servers, Blu Ray discs, tablets, pocket PCs, game consoles with internal HDD. DVD-R-CAM, DVD-RAM CAM and DVD for authoring are exempted.

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

Collection process

Obligation to report

The liable party is obliged to send a declaration to Auvibel each month.

For manufacturers, importers and intra-EU purchasers who are listed as wholesalers, declaration is due before the 20th of the month following the first sale.

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

For the foreign web-shops selling to Belgian web users, declaration is due before the 20th of the month following the first sale.

Manufacturers and wholesalers pay the remuneration for private copying within 60 days.

Retailers pay the remuneration for private copying within 15 days.

Market control

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

Exports

Exports are exempted by law. Exports from wholesalers or manufacturers are exempted as their responsibility starts only upon the first sale in Belgium.

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

Importer

The Royal Decree of March 28, 1996 defines the importer as someone who provides devices and blank media on the Belgian market which are subject to the levy for private copying and which come from a country that is not a member of the European Union. It describes 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 which come from a country that is a member of the European Union.

With regard to e-commerce, the Belgian court has pronounced as follows on this matter:

‘Anyone who offers products liable for the remuneration for private copy via a website and who thereby aims expressly at 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.’

Distribution

Auvibel distributes the remuneration on a yearly basis towards:

Board of authors/composers of works recorded on a sound medium (SABAM, SACD/SCAM, SAJ/JAM)

Board of Producers of works recorded on a sound medium (SIMIM, PROCIBEL)

Board of Performing Artists of works recorded on a sound medium (PLAYRIGHT)

Board of authors/composers of works recorded on an audiovisual medium (SABAM, SACD/SCAM, SAJ/JAM, SOFAM)

Board of producers of works recorded on an audiovisual medium (BAVP, IMAGIA, PROCIBEL)

Board of Performing Artists of works recorded on an audiovisual medium (PLAYRIGHT)

(As of 1 December 2013) Board of authors of literary and photographic works

(As of 1 December 2013) Board of publishers of literary and photographic works

Distribution schemes

First, the total amount to be paid to the Boards by the General Assembly will be divided between audio and video. This distribution occurs according to a key based on the actual collection on audio and audiovisual products, and, when it comes to multimedia products, according to an allocation key determined by Belgian studies and / or by comparison with neighbouring countries if these data are available.

Once the final share of audio and audiovisual works is defined, the legal allocation formula is applied to distribute the two amounts among the respective colleges – i.e., 1/3 for authors/composers, 1/3 for producers and 1/3 for performing artists.

Then each category of rights holders for each category of works sets up its own distribution rules, which are submitted to government for approval. The approved rules are then applied by the rights holders.

Distribution scheme, audio:

For 2005: 40.79%
For 2006: 40.88%
For 2007: 40.01%
For 2008: 40.36%
For 2009: 43.59%
For 2010: 46.33%
For 2011: 43.00%
For 2012: 43.50%

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%

Social and cultural funds collective purposes

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

Legal developments

On 24 October 2013, the Royal Decree of 18 October 2013 on the right to remuneration for private copying was published in the Belgian Official Journal.

This Royal Decree repeals completely the Royal Decree of 28 March 1996, which was applicable up until now, and introduces several tariff changes to ensure Auvibel maintains its current level of perceptions.

Firstly, the current rates of media (i.e. USB sticks, memory cards and external hard drives) are reduced as a result of an extension of the lowest capacity bracket, and a new product is introduced: the tablet.

Furthermore, the Royal Decree brings into force articles 5c and 6 to 10 of the Law of 31 December 2012 containing various provisions, in particular relating to justice, which extend the scope of the remuneration for private copying to new works and to new beneficiaries, more specifically the authors and publishers of literary and photographic works.

The Royal Decree of 18 October 2013 introduced a last modification by inserting a new chapter on the analysis of the Belgian market. Each year, the management company and the organizations representing the persons liable for the payment of the remuneration, who are represented within the Commission on private copying, will have to perform an analysis of the Belgian market.

Remunerations / Levies

Table 9: Tariffs, Belgium

Blank Media	Tariff valid from 2010-02-01	Capacity
Audio cassette analogue	€ 0.12	
Audio cassette DAT	€ 0.12	
Video cassette analogue	€ 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	From 0 to 4GB More than 4GB to 16GB More than 16GB	€ 0.15 € 0.50 € 1.35

Devices Hardware, PC, HDD	Tariff valid from 2010-02-01	Capacity
External hard disk drive	€ 1.30 € 6.75 € 9.00	From 0 to 500GB More than 500GB to 1TB More than 1TB
Recording devices, possibly integrated, without internal support	€ 2.00	
Home devices with integrated hard disks	€ 3.30 € 10.75 € 13.00	From 0 to 256GB More than 256GB to 1TB More than 1TB
Mobile Phones		
MP3 player, MP4 player, Mobile phone with MP3 and/or MP4 function	€ 1.00 € 2.50	From 0 to 2GB More than 2GB to 16GB
tablets	€ 3.00	More than 16GB

'Integrated device'

The term 'integrated system' refers to a system that combines a reproduction function for sound or audiovisual works with at least a reception function for sound or audiovisual works, or a function that offers the possibility of reading only media different from those used for the reproduction function of sound and audiovisual 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 are devices that are generally known as micro-systems, mini-systems, midi-systems, radio-recorders and TV-video combinations.

Revenues

Table 10: Revenues, Belgium

Blank Media	2010 (€)	2011 (€)	2012 (€)
Media audio	€ 103,646.17	€ 133,145.84	€ 171,711.14
Media video	€ 249,019.41	€ 182,173.50	€ 154,378.10
CD-R/RW data	€ 2,330,901.00	€ 1,667,104.24	€ 1,190,358.08
DVD	€ 4,747,153.67	€ 3,421,107.15	€ 2,386,081.48
Flash Media			
Memory card and USB stick	€ 1,418,299.30	€ 1,924,495.70	€ 2,426,847.25
Devices, Hardware, PC, HDD	2010 (€)	2011 (€)	2012 (€)
External hard disk drive	€ 3,868,096.55	€ 4,766,060.49	€ 2,951,429.55
Multimedia center	€ 377,722.05	€ 150,377.65	€ 136,005.15
Devices audio	€ 125,575.87	€ 111,287.60	€ 118,295.40
Devices video	€ 4,327,779.19	€ 6,814,492.53	€ 8,790,683.30
Mobile Phones			
MP3 player, MP4 player, Mobile phone with MP3 and/or MP4 function	€ 4,437,299.50	€ 5,082,168.60	€ 5,502,101.15
TOTAL	€ 21,985,492.71	€ 24,252,413.30	€ 23,827,890.60

3. BURKINA FASO

Contact Information

Country	: BURKINA FASO	
Currency	: FCFA	€ 1.00 = 650 FCFA (June 24 th , 2013)
Population	: 16,241,811 (2005)	
Name organisation	: Bureau Burkinabè du Droit d'Auteur (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, au 22, rue 4.55 villa de la Victoire	
Postcode	: 01 BP 3926	
City	: Ouagadougou	
Phone	: +(226) 50 30 22 23	

Legislation and fundamental facts

Legal basis

Loi 032/AN of December 22nd, 1999. Importers are liable for payment. The definition of private copy according to law is valid.

Remunerations are collected through a levy system. Importers are liable for payment.

Collecting Society or Collective Management Organisation:

Bureau Burkinabè du Droit d'Auteur (BBDA) is appointed by law.

The Administrative costs for collecting and distribution of private copying remunerations is 10% of the remunerations collected.

Rate setting

Levies/remuneration are determined by law. Professional use is taken into account, an upfront exemption.

Collection process

Payment is due on importation. The importer is the person who introduces the product into the country. Customs are in charge of collecting. No control on the internal market.

Distribution

Bureau Burkinabè du Droit d'Auteur (BBDA) distributes the collected remunerations on a yearly basis directly to individual rights holders. These are music, audiovisual and dramatic rights holders.

Distribution schemes:

Schemes are set by law.

Distribution scheme, audio: authors 50%; performers 25%; producers 25%

Distribution scheme, video: authors 50%; producers and performers 50%

Social and cultural funds, collective purposes

There is a social and/or cultural deduction of 50% for the National Fund for Cultural Promotion.

The Comité de Gestion du Fonds de Promotion Culturelle (Management Committee of the Fund for Cultural Promotion), is responsible for the allocation of funds.

In 2012, 125 million CFA were dedicated to the social and cultural Fund

Funds are allocated for all types of cultural productions.

The social fund is meant mainly for health, deaths and happy events.

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.

Other developments; disputes/court cases regarding the system, certain products, professional use or other issues relating to the private copying system:

Discussions with the group of professional of information and communication technologies have resulted in an exemption of mobile phones, which does not include devices for recording of copyrighted works, and a reduction of 5% of the remuneration for private copying on devices whose cost does not exceed 20,000 FCFA.

Remunerations / Levies

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

Revenues

Table 11: Revenues, Burkina Faso

	2010	2011	2012
TOTAL	445,979,450 FCFA	768,099,294 FCFA	582,281,013 FCFA

The revenues shown above are the total remunerations collected yearly.

4. CANADA

Contact Information

Country	: Canada	
Currency	: CAD	€ 1.00 = 1.3567 as of June 11, 2013
Population	: 34,880,550	
Name organisation	: Canadian Private Copying Collective ('CPCC')	
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	: 150 Eglinton Avenue East, Suite 403	
Postcode	: M4P 1E8	
City	: Toronto, Ontario	
Phone	: +1 416 486 6832	
Fax	: +1 416 486 3064	

Legislation and fundamental facts

Legal basis:

Copyright Act of Canada as amended in 1997.

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.

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

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

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

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

The private copying levy applies to blank CD-R, CD-RW, CD-R Audio and CD-RW Audio.

The levy is payable by manufacturers or importers of blank media upon first sale or disposition in Canada.

Collecting Society:

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.

From 2000 to 2011, on average, the CPCC has retained 12.11% of revenue for expenses.

Distribution:

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 rights holders that they represent. The CPCC distributes the levies to its member collectives which then pass them on the rights holders.

In 2011, distribution expenses were 1.64% of revenue.

Rate setting

The Copyright Board of Canada sets the levy rate after considering evidence submitted by the CPCC and other parties at Tariff hearings. The CPCC has commissioned Circum Network Inc. to conduct monthly surveys that collect information about the private copying of music in Canada.

Professional use:

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

Companies may register in the CPCC's Zero-Rating programme by entering into agreements with the CPCC. The Zero-Rating programme is run voluntarily by the CPCC in recognition of the fact that companies and organizations use leviable blank media for their business purposes. The programme 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.

The Copyright Board determines the media that is ordinarily used to copy music after considering evidence submitted by the CPCC and other parties at the Tariff hearings.

Collection process

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.

Market control:

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.

The CPCC is in litigation against a number of companies whom the CPCC has alleged are importing and selling blank media without payment of the private copying levies.

Exports

No levy is payable on blank audio recording media that is exported.

Distribution

The CPCC's member collectives distribute the levy to the rights holders that they represent.

The CPCC distributes the levy to the CPCC's member collectives upon receipt of claims submitted by the member collectives.

The CPCC's member collectives represent eligible performers, makers, authors and publishers.

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

Distribution schemes:

Distribution scheme, 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).

Distribution scheme, video:

None

Social and cultural funds, collective purposes

There is no social and/or cultural deduction.

Legal developments

In March 2011, the CPCC filed a proposed Tariff for 2012-2014 which maintained the levy on CD-R, CD-RW, CD-R Audio and CD-RW Audio at the current rate and proposed a levy on microSD electronic memory cards. On November 7, 2012, the government of Canada published a regulation exempting microSD electronic memory cards from the private copying levy effective as of October 18, 2012. The Copyright Board has not issued a decision regarding the levy on blank CD-R media. A decision is also pending on whether the Copyright Board will be proceeding with a hearing with regards to microSD electronic memory cards for the period January 1, 2012 to October 18, 2012.

On December 19, 2011, the Copyright Board issued an Interim 2012-2013 Tariff which extended the 2011 Tariff until the Board has certified a tariff for 2012 and 2013.

Other developments; disputes/court cases regarding the system, certain products, professional use or other issues relating to the private copying system

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.

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. Section 79 defines 'audio recording medium as a recording medium, regardless of its material form, onto which a sound recording may be reproduced and that is of a kind ordinarily used by individual consumers for that purpose, excluding any prescribed kind of recording medium.' The Copyright Board has ruled that blank CD-R media meet the criteria of audio recording media stipulated in the Copyright Act.

Remunerations / Levies

Table 12: Tariffs, Canada

Blank Media	Tariff valid from... [date]	Capacity
CD-R/RW	Pursuant to the Interim Private Copying Tariff 2012-2013 – € 0.21	Per unit
Audio CD-R/RW	Pursuant to the Interim Private Copying Tariff 2012-2103 – € 0.21	Per unit

Revenues

Table 13: Revenues, Canada

Blank Media	2010 (€)	2011 (€)	2012 (€) (Not Final)
CD-R/CD-RW	11,067,880.84	7,600,223.18	5,772,981.18
CD-RA/CD-RWA	757,815.43	446,903.53	288,201.26
Tape	4,384.12		53.65
Mini Disc	485.32		
Total Blank Media	11,830,565.71	8,047,126.71	6,061,236.09

5. CROATIA

Contact Information

Country	: CROATIA	
Currency	: kuna (kn)	€ 1,00 = 7.46 kn
Population	: 4,437,460	
Name organisation	: HDS ZAMP	
Website	: www.zamp.hr	
Contact person 1	: Katarina Matanovac Furic, Head of Mechanical Rights	
Contact person 2	: Nenad Marcec, General Director	
e-mail 1	: katarinamf@hds.hr	
e-mail 2	: nenad.marcec@hds.hr	
Address	: Heinzelova 62a	
Postcode	: 10 000 Zagreb	
City	: ZAGREB	
Phone	: +385 1 6387 000	
Fax	: +385 1 6387 001	

Legislation and fundamental facts

Legal basis:

Provisions of the Articles 32 and 82 of Croatian Copyright Law, Official Gazeta Narodne Novine no.167/03; 79/07. Implementation started on 1st of January 2007.

Definition of private use: reproduction made only for a natural person, for non-commercial, private use, no matter if reproduction was made in an analogue or digital environment. Private use implies usage/exploitation in the private sphere, in a circle of people that are in some way personally connected to the consumer.

Remuneration is levied on media and equipment.

Importers, manufacturers, traders or others are liable at the time of distribution – first selling to the consumer in retail sale, or wholesale distribution. The responsible party is the importer or producer of media or equipment. Due to the fact that we do not have producers in Croatia, the responsible party can only be the importer or retailer.

Collecting Society:

HDS ZAMP collects for HUZIP (performers), ZAPRAF (phonogram producers), DHFR (audiovisual rights), ZANA (publishers of literary works), DHK (authors of literary works).

HDS ZAMP is appointed by law and collects for all right holders, but is responsible for distribution only for music authors' rights.

HDS ZAMP distributes to organisations of rights holders which distribute individually. Copyright law sets the costs to a maximum of 30%, but we have only 20%.

Rate setting

Levies are determined by negotiation with importers.

Criteria that are taken into account for determining the levies are copying behaviour of consumers and the harm caused by copying. The analysis of the level of remuneration was made for EU countries comparatively.

Professional use (copies not made for private purposes or other uses) is taken into account in determining the tariff by lowering its level. No refund is due since there is no exemption.

Exemption is determined by Copyright law, and it applies to for ephemeral recordings used in broadcasting, and to certain institutions (public libraries, courts or other administrative procedures, public archives, educational or social institutions) if they do not have any commercial activities.

Specific products not falling within the scope of the private copying system are those not meant for private use, e.g. Betacam, and XD card for pictures.

Collection process

Remuneration is paid on a sale basis.

We have a control mechanism operated by a customs service and retail stores.

Export is exempted in quarterly reports. Documentation acknowledging that is needed.

The legal subject is responsible for the first entrance of goods into Croatian territory.

The current definition of importer was changed on July 1, 2013 when Croatia joined the EU.

Distribution

Depending on the agreement with rights holders organisations, distribution is made every half year, quarterly or monthly.

HDS ZAMP (music rights) is collecting for HUZIP (performers), ZAPRAF (phonogram producers), DHFR (audiovisual rights), ZANA (publishers of literary works), and DHK (authors of literary works).

Distribution schemes:

They are determined with a mutual agreement.

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, collective purposes

Deduction on collected remunerations is made for cultural and social needs of right holders, and amounts to 30% for music right holders. It was mandated by law.

HDS assesses the proposed projects and decides yearly which projects are supported. allocated. In 2012 € 90,393 was allocated.

Every society that administers neighbouring rights has allocated 30% for social and cultural purposes.

Legal developments

Discussions are being held on:

- new devices such as tablets and smart phones and allocated tariffs.
- border reform, given that Croatia is becoming a full member of EU, meaning that there will be no border regime that provides continuous control over goods subject to private copying levy.

Remunerations / Levies

Table 14: Tariffs, Croatia

Blank Media	Tariff valid from 1 st of January 2006, in Euro	Capacity
Optical Storage media		
Audiocassette	0.01	Per unit
Audio CD R/W	0.01	Less than 1 GB
Videocassette	0.08	Per unit
DVD R/W	0.01	Per unit/less than 10 GB
Flash Media		
Memory card	0.55	Less than 16 GB
	1.10	More than 16 GB
USB stick	0.55	Less than 16 GB
	1.10	More than 16 GB
Devices Hardware, PC, HDD	Tariff	Capacity
MP3 player	1.93	Per unit
CD writer (internal)	0.55	Per unit
CD recorder (external)	2.75	Per unit
DVD writer (internal)	0.55	Per unit
DVD recorder (external)	4.13	Per unit
Computer hard disc	0.27	Per unit
Analogue audio recorder	0.82	Per unit
Analogue video recorder	1.37	Per unit
PC – personal computer	0.82	Per unit
Hifi HD recorder	5.50	Per unit
Apple iPod	1.95	Per unit
Mobile Phones		
Mobile phone with MP3 function	1.37	Per unit

Revenues

Table 15: Revenues, Croatia

Blank Media	2010 (€)	2011 (€)	2012 (€)
Optical Storage media			
Audiocassete	505.28	290.33	233.09
Audio CD R/W	101,433.05	50,760.58	42,250.01
Videocassete	6,876.25	7,814.44	4,625.73
DVD R/W	147,225.74	72,111.75	59,120.59
Flash Media			
Memory card	212,972.89	179,454.53	149,691.86
USB stick	99,555.28	78,634.98	73,977.70
Devices			
Hardware, PC	2010 (€)	2011 (€)	2012 (€)
Devices with MP3 player (cell phone with MP3 player, digital audio/video player)	837,645.97	746,045.06	625,187.39
Other devices	2010 (€)	2011 (€)	2012 (€)
(Analogue audio/video player, Hi-Fi CD recorder, CD recorder, DVD recorder, DVD hard disc recorder)	196,565.72	116,997.03	87,765.11

6. CZECH REPUBLIC

Contact Information

Country	: Czech Republic	
Currency	: CZK	€ 1,00 = 25.923 (average during the 1 st half of 2013)
Population	: 10,516,125 as of January 2013	
Name organisation	: OSA	
Website	: www.osa.cz	
Contact person 1	: Karel Fort	
Contact person 2	: Peter Dvornicky	
e-mail 1	: karel.fort@osa.cz	
e-mail 2	: peter.dvornicky@osa.cz	
Address	: Cs. crmady 20	
Postcode	: 160 56	
City	: Prague 6	
Phone	: +420 220 315 000	

Legislation and fundamental facts

Legal basis:

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.

Private copy defined by law. Art.30 of Act No. 121/2000 Coll.

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.

Remuneration is collected by levies of blank record carriers and devices for making audio or audio-visual reproductions and/or recordings.

The person liable to pay remuneration shall be:

- 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 about the details necessary for the identification of the importer, consignee or producer;
- the provider of paid reproduction services, in the case of printed reproductions; provider of paid reproduction services shall also mean the person who makes available, for a consideration, the device for making printed reproductions.

Collecting Society:

OSA collects for the authors of musical works, lyrics and publishers.

(OSA collects some remuneration also for DILIA and OOA-S.)

INTERGRAM – performers and producers

DILIA – theatre, literary, and audiovisual agency

OOA-S – fine arts and architecture

OSA has authorisation granted by the Ministry of Culture. The administrative costs for collecting private copying remunerations are:

- 8% – OSA (both collection and distribution)
- 13% – INTERGRAM, DILIA, OOA-S (collection)

OSA distributes collections directly to individual rights holders.

Rate setting

Levies are determined by law. Levies of devices and PC components are determined by their prices. Levies of blank record carriers are fixed by pieces on audio tapes, video tapes, CDs, DVDs, minidiscs or determined by capacity on electronic media such as USB flash disks, memory cards, external HDDs, SSDs.

There is no legal exemption for professional use, which is not taken into account.

The remuneration shall not apply to digital camcorders, digital cameras, mobile telephones and cordless telephones. Where such devices are supplied with an embedded memory medium, the remuneration shall be paid only for the capacity of the embedded medium.

Collection process

Payment is based on a half-year period. Liable parties are obliged to submit a report of manufactured or imported specified goods.

Control of the market: OSA receives the customs clearance statistics from the Czech Customs Administration.

The liable parties exclude the exports from their reports.

The most discussed products are tablets and record TVs. Some liable parties refuse to pay remuneration (3% of the import price).

Cross-border business and foreign e-shops are not yet covered by our jurisdiction. However, our attempts to address those businesses have been mainly successful.

Distribution

OSA distributes the collected remunerations quarterly towards authors and publishers. The distribution rules are determined by general assembly.

Distribution schemes:

One scheme for both audio and video, please find below the statement from OSA Distribution Rules:

5.10. Royalties for reproductions of musical works for personal use

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.

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:

- (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.

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:

- (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.

Social and cultural funds, collective purposes

There is no deduction from blank levies (otherwise there is). The general assembly (based on Czech Copyright Act) decided on 0% from blank levies.

Remunerations / Levies

Table 16: Tariffs, Czech Republic

Blank Media	Tariff valid from 1.1.2008	Capacity
Audiotapes	0.029	Up to 60 min.
Audiotapes	0.039	Over 60 min.
Videotapes	0.069	Up to 180min.
Videotapes	0.093	Over 180 min.
Minidiscs	0.081	
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	0.031 max. 1.840	Per 1GB
External HDD		
Up to 1TB	0.003	Per 1GB
Over 1TB	3.356 + 0.002	Per 1GB

Table 16: Tariffs, Czech Republic (continued)

Devices Hardware, PC, HDD	Tariff valid from 1.1.2008	Capacity
CD writer	1.59%	
DVD writer	1.74%	
Memory card writer	1.59%	
HDD (internal only)	1.74%	
Consumer electronics		
Audio device without radio	1.50%	
Audio device with radio	0.75%	
Video device without TV	1.80%	
Video device with TV	0.90%	
E-book	3.00%	
Mobile Phones		
N/A		

Revenues

Table 17: Revenues, Czech Republic

Blank Media	2010 (€)	2011 (€)	2012 (€)
Audiotapes	5,326	3,179	2,344
Videotapes	25,843	13,749	13,438
Minidiscs	386	639	472
Optical Storage media			
CD	59,448	76,751	77,051
DVD	242,902	307,870	263,935
Flash Media			
Memory card, flash disc	418,880	596,794	915,815
External HDD	605,380	695,713	650,684

Devices Hardware, PC, HDD	2010 (€)	2011 (€)	2012 (€)
CD writer	30,223	35,549	15,405
DVD writer	218,522	215,779	236,036
Mem. card writer	8,543	11,019	5,308
HDD internal	708,038	733,358	685,454
Consumer electronics			
Audio	118,688	153,372	128,858
Video	282,727	326,481	264,709
e-book	0	8,124	13,080
Mobile Phones			
NA			

2010 – 1€ = 26.50CZK,
 2011 – 1€ = 24.60CZK,
 2012 – 1€ = 25.90CZK

7. DENMARK

Contact Information

Country	: Denmark	
Currency	: DKK	€ 1.00 = 7.46
Population	: 5,602,628	
Name organisation	: Copydan KulturPlus	
Website	: http://www.cdkp.dk/	
Contact person 1	: Dicle Duran	
Contact person 2	: Michael Horn	
e-mail 1	: ddu@copydan.dk	
e-mail 2	: mho@copydan.dk	
Address	: Bryggervangen 8, 1.	
Postcode	: 2100	
City	: København Ø	
Phone	: +45 35 44 14 95	
Fax	: +45 35 44 14 03	

Legislation and fundamental facts

Legal basis:

Consolidated Act on Copyright no. 202 of February 27 2010, with later changes.

Exception applies only when source is legal.

Digital copies are restricted to the manufacturer's personal use or that of his household. In regards to analogue copies, the definition is broader in that it includes the manufacturer and his closest circle of acquaintances.

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

Payment is due at the time of the import or distribution by the factory.

Collecting Society:

Copydan KulturPlus

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

Administrative costs:

Approx. DKK 3,670,000 – For both collecting and distributing to rights holder organizations.

Distribution does not go to individual rights holders.

Individual distribution happens through a range of organizations of rights holders.

Rate setting

Levies/remuneration determined by law, only on certain blank media specified by law.

Professional users can be exempted through an agreement with KulturPlus. Alternatively, a refund can be given.

Professional users including educational institutions are exempted, provided they have a valid agreement with KulturPlus.

Collection process

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

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 control visits. When making a control visit the accountant or administrative employee has the right to examine any accounting material which is believed to have any value in relation to undertaking the control.

Exports are refunded upon presentation of export documentation the levies. The importer is the person or entity that brings the media into the country.

Nokia has challenged the levy on separate flash memory cards for mobile phones. See below.

Distribution

Distribution happens annually to more than 20 rights holder organizations.

Distribution schemes are determined by the individual organizations subject to a distribution manual made by Kulturplus.

A distribution key has been settled between categories of rights holders.

Where possible, individual distribution is based on statistical surveys of private copying. Applies to both Audio and Video.

Social and cultural funds, collective purposes

There is a social and/or cultural deduction of 1/3. It is mandated by law. In 2012 approx. DKK 11,000,000.00 were dedicated.

Other developments; disputes/court cases regarding the system, certain products, professional use or other issues relating to the private copying system

ECJ C-463/12 – ‘Båndkopi’ (Preliminary ruling pending on the conformity with the infococ-directive of the Danish private copying remuneration scheme in general, and specifically regarding the levy on flash memory cards for use in mobile phones.)

Remunerations / Levies

Table 18: Tariffs, Denmark

Blank Media	Tariff valid from... 01/01/2013	Capacity
Analogue audiocassette	DKK 0.0723	Pr. Minute
Analogue videocassette	DKK 0.1007	Pr. Minute
Mini-disc	DKK 2.27	Pr. Unit
CD R/RW	DKK 2.27	Pr. Unit
DVD, Blu-Ray, HD DVD	DKK 3.60	Pr. Unit
Flash Media		
USB, U3	5.13	
Memory card	5.13	

Revenues

Table 19: Revenues, Denmark

Blank Media	2010 (€)	2011 (€)	2012 (€)
Analogue audiocassette	€ 14,216.94	€ 7,411.01	
Analogue videocassette	€ 78,106.90	€ 38,375.38	€ 61,525.76
Mini-dics	€ 993.79	€ 889.40	€ 19.39
CD R/RW	€ 923,850.03	€ 717,062.35	€ 517,920.36
DVD, Blu-Ray, HD DVD	€ 1,313,260.35	€ 805,135.16	€ 607,598.91
DVD compensation	€ 1,636,617.30	€ 2,015,011.70	€ 2,218,379.71 (estimate for 2012)
Flash Media			
USB, U3	€ 568,883.40	€ 627,329.80	€ 603,818.43
Memory card	€ 508,354.92	€ 377,833.46	€ 383,117.55

8. ESTONIA

Contact Information

Country	: Estonia
Currency	: EURO
Population	: 1,290,000
Name organisation	: Estonian Author's Society
Website	: www.eau.org
Contact person 1	: Kalev Rattus
Contact person 2	: Viive Lillemäe
e-mail 1	: kalev@eau.org
e-mail 2	: viive@eau.org
Address	: Lille 13
Postcode	: 10614
City	: Tallinn
Phone	: +372 668 43 60
Fax	: +372 668 43 61

Legislation and fundamental facts

Legal basis:

Copyright Law § 26 and § 27 Ministerial Regulation no.14 (17 January 2006).

Remuneration provided for in § 26 of the Copyright Act in order to compensate for private use of audiovisual works and sound recordings of works.

Manufacturers, importers, sellers of storage media and recording devices are responsible for payment.

The seller shall pay the remuneration when the manufacturer, importer, or the person who brings storage media and recording devices from the Community customs territory into Estonia has not paid such remuneration.

Collecting Society:

Estonian Author's Society, appointed by the Ministry of Justice.

The Minister of Justice shall appoint a collective management organisation as the collector of remuneration and the organisation has the right to deduct expenses related to the collection and payment of remuneration from the remuneration collected.

The remuneration shall be distributed on the basis of a distribution plan for the preparation of which the Minister of Justice shall appoint a committee every year, which is proportionally composed of collective management organisations representing the authors, performers and producers of phonograms and a representative of the Ministry of Justice.

Rate setting

The amount of remuneration is calculated on the basis of § 27 subsections 7 of the Copyright Act and is as follows:

1. for recording devices – 3% of the value of the goods;
2. for storage media – 8% of the value of the goods.

Professional use:

The remuneration shall be repaid on the storage media and recording devices:

1. which, due to their technical characteristics, do not enable the reproduction of audiovisual works and sound recordings of works as single copies;
2. exported or transported from Estonia into the 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;
6. used for making recordings for the benefit of disabled persons.

Collection process

Any manufacturer, importer and person who brings recording devices and storage media from the customs territory of the European Community into Estonia is to 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.

The collective management organisation which is appointed as the collector of remuneration has the right to obtain necessary information from customs authorities and statistical organisations and manufacturing and importing organisations 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.

Exports are exempted by law. The remuneration shall be repaid on the storage media and recording devices exported or transported from Estonia into the Community customs territory.

The Ministry of Justice distributes the remunerations yearly. The remuneration shall be distributed among authors, performers and producers of phonograms according to the use of works and phonograms.

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

Distribution schemes:

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, collective purposes

Remuneration may also be paid to organisations for the development of music and film culture and in order to finance educational and research programmes or for use thereof for other similar purposes, but only in an amount not exceeding 10% of the remuneration subject to distribution.

Legal developments

The situation in Estonia has not changed in 2012.

The currently valid Resolution of the Government of Estonia has not been amended for almost 15 years and allows us to collect the private copy only for analogue audio/video recorders, blank audio/video cassettes, mini-discs (MD) and CD/DVD discs.

On February 18 this year the Estonian Authors' Society (EAU), the Estonian Performers Association (EEL) and the Estonian Association of Phonogram Producers (EFÜ) made a complaint to the Administrative Court of Tallinn, in order to highlight the conflict with the Constitution of the currently valid but practically outdated list of recording devices and carriers on which basis the state calculates the compensation to the authors for the income loss from the reproduction of their works. The mentioned organizations also claim the damage compensation in the sum of 541,708 Eur for the loss of income incurred in the years 2010-2012.

Remunerations / Levies

Table 20: Tariffs, Estonia

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

Table 21: Revenues, Estonia

Total	2010 (€)	2011 (€)	2012 (€)
			24.883

9. FINLAND

Contact Information

Country	: Finland
Currency	: Euro
Population	:
Name organisation	: Finnish Composers' Copyright Society Teosto
Website	: www.hyvitysmaksu.fi ; www.teosto.fi
Contact person 1	: Mr. Turo Pekari, Researcher
Contact person 2	: Mr. Olli Valkama, Director of the Private Copying Unit
e-mail 1	: turo.pekari@teosto.fi
e-mail 2	: olli.valkama@teosto.fi
Address	: Lauttasaarentie 1
Postcode	: 00200
City	: Helsinki
Phone	: +358 9 681 011
Fax	:

Legislation and fundamental facts

Legal basis:

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

Whenever an audio or video tape, or any other device on which sound or image can be recorded and which to a substantial extent is used for the reproduction of a work for private use, is produced or imported into the country for distribution to the public, the manufacturer or the importer shall pay a levy, determined on the basis of the playing time or the recording capacity of the device, to be used as direct compensation to the authors of said works and as indirect compensation to the authors for their common purposes.

The manufacturer or the importer is liable for payment. The retailer must pay the remuneration in case the importer or the manufacturer fails to do so. However, the retailer may claim the payment back from the importer or the manufacturer.

Collecting Society:

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 organisations of rights holders.

The administrative costs are 8%, in 2012: 542,000 EUR.

Rate setting

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

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

The Finnish Copyright Act expressly states that the remuneration should be based on the available research data. One of the main goals of the informal body is to provide this information. The scope of the compensation includes audio or video carriers manufactured or imported to be distributed to the general public or other equipment that enables the reproduction of a work and which is to a significant extent used to make copies for private use. Illegal copying and licenced copies are not considered private copying. Research on digital private copying has been conducted since 1999.

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

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 Audiovisual producers in Finland Tuotos, Phonogram Producers and Performers Gramex, IFPI Finland, the Electronic Wholesalers Association ETK, Nokia and the Ministry of Culture and Education.

Criteria taken into account include copying behaviour of consumers, the volume of private copying onto different devices and carriers, the original source of the copy, DRMs.

Professional use:

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

Companies/Communities may be granted the right to buy recordable media/carriers without paying private copying remuneration. To receive the exemption, one must sign a declaration to the Private Copying Unit, which states that carriers are not used for private copying. Professional users receive a unique ID, which 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. Refund must be applied within 3 months after the end of the purchase year.

Exemptions:

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

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

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

Collection process

Liabe parties have to report monthly. Customers with contracts are audited annually or biennially for the biggest customers.

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-contract customer, The Provincial Government has the right to conduct an investigation on the premises of a party liable to pay the remuneration. This is used very seldom.

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 needs to be enclosed with the application.

Clients of 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.

Based on the ECJ ruling on *Stichting de ThuisKopie vs Opus GmbH* (Case C-462/09), and the Helsinki Court of Appeals ruling on the case *Teosto vs Verkkokauppa.com* (2013), Teosto considers cross-border retailers as importers and responsible for paying the levy.

Distribution

Gramex, Kopiosto, Teosto, Tuotos distribute to rights holders yearly. These are composers, publishers, phonogram producers and performers, film authors and other authors. Distribution schemes are determined by governmental/ministerial decree

Distribution schemes:

Distribution scheme, audio:

- 65% – individual rights holders via copyright society:
- 51% – Gramex (phonogram producers and performers)
- 44% – Teosto (musical authors)
- 5% – Kopiosto (other authors)

Distribution scheme, video:

- 50% – individual rights holders:
- 69.4% – Kopiosto (other authors)
- 11.4% – Teosto (musical authors)
- 11% – Tuotos (film producers)
- 8.2% – Gramex (phonogram producers and performers)

Social and cultural funds, collective purposes

There is a social and/or cultural deduction of Audio: 35%, Video 50%

It is mandated by ministerial decree.

Responsibility for the allocation of funds lies with the Promotion Centre for Audiovisual Culture AVEK, The Finnish Performing Music Promotion Centre ESEK and The Foundation for the Promotion of Finnish Music LUSES.

The Finnish Music Foundation (MES) was founded in 2012 for promoting and supporting Finnish music, both performing and creative. It continues the funding activities of ESEK and LUSES which have ceased their activities.

In the 2012 2011 collections, 2,642,000 EUR were dedicated. Examples: promotion of recording, music production, music marketing, touring, grants for composing, creative industry R&D projects, content creation for digital handsets.

Legal developments

The Finnish Government is committed to renewing the private copying remuneration system and the new system should be operative in 2014. The reform process has been ongoing for several years, and it remains a difficult political question in Finland.

In 2011, The Minister of Culture appointed an expert reviewer to investigate and propose an alternative to the present device-based compensation scheme. The report identified 3 possible alternatives:

Compensation linked to a communications fund to be instituted on the basis of the current State Television and Radio Fund, widening the scope of the device-based system or a tax-based system. Suggestions did not lead to a new system.

New national mediation process on the revision of private copying system started in spring 2012 with an aim to have a new private copying system in place in 2013. Mediators suggested setting up a three-point collection model, which was widely rejected.

In spring 2012, Finnish Composers' Copyright Society Teosto, Media Company Sanoma Entertainment, IFPI Finland, and Nokia published a joint initiative to reshape the digital environment in Finland. According to the initiative, the present Finnish private copying remuneration system should be supplemented with a new fee collected from taxpayers alongside the recently introduced payment for the financing of YLE, the Finnish national broadcasting company (effective from the beginning of 2013). The specific new fee could gradually replace the current device-based levy system.

Decisions about the future of the Finnish private copying remuneration system are likely to be made in the autumn 2013 by the Finnish Government.

Other developments; disputes/court cases regarding the system, certain products, professional use or other issues relating to the private copying system

Helsinki Court of Appeals' decision, March 5, 2013: Verkkokauppa.com and Arctecho Oü ordered to pay 3.5 million Euros to Teosto Private Copying Unit for violation of private copying levy payments. According to the decision, Arctecho Oü and Verkkokauppa.com are obliged to pay jointly 3.5 million Euros to Teosto Private Copying Unit plus the interest for late payment since November 1, 2011.

The decision of the Helsinki Court of Appeals complies with the legal practice of the Court of Justice of the European Union. Teosto sued the Estonian Arctecho Oü and Finnish Arctecho Ltd (current Verkkokauppa.com) in October 2008 for evasion of private copying levies.

Products included in the private copying remuneration scheme had been offered through the Verkkokauppa.com online store without levies and imported from Estonia. Products in the online store have been on sale only in Finnish language and for Finnish consumers.

Remunerations / Levies

Table 22: Tariffs, Finland

Blank Media	Tariff valid from... [1.1.2013]	Capacity
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 and MiniDisc-discs	0.2	Memory max 1 gigabyte
	0.6	Memory over 1 gigabyte, max 10 gigabytes
	1.2	Memory over 10 gigabytes, max 25 gigabytes
	1.8	Memory over 25 gigabytes

Devices Hardware, PC, HDD	Tariff valid from... [1.1.2013]	Capacity
External Hard Disks (inc. Flash/SSD)	9	Memory minimum 50 gigabytes, max. 250 gigabytes
	12	Memory over 250 gigabytes, under 1 terabyte
	18	Memory minimum 1 terabyte, max. 3 terabytes
Consumer electronics		
Digital recorders with integrated storage capacity, for example, mp3-recorders and set-top-boxes with hard disks.	4	Memory over 512 megabytes, max. 1 gigabyte
	7	Memory over 1 gigabyte, max. 20 gigabytes
	10	Memory over 20 gigabytes, max. 50 gigabytes
	12	Memory over 20 gigabytes, max. 50 gigabytes
	15	Memory over 50 gigabytes, max. 150 gigabytes
	18	Memory over 150 gigabytes, max. 250 gigabytes
	25	Memory over 250 gigabytes, max. 500 gigabytes
	30	Memory over 500 gigabytes, max. 750 gigabytes
	36	Memory over 750 gigabytes

Revenues

Table 23: Revenues, Finland

Blank Media	2010 (€)	2011 (€)	2012 (€)
C-Cassette	23,000	25,000	19,000
VHS	58,000	43,000	26,000
Optical Storage media			
CD	945,000	692,000	525,000
DVD	1,787,000	1,414,000	1,075,000
Blu-ray	12,500	11,400	12,000
Minidisc	600	600	500

Devices Hardware, PC, HDD	2010 (€)	2011 (€)	2012 (€)
External Hard Disk		1,100,000	1,998,000
MP3 player	1,641,000	997,000	774,000
Video Hard Disk Recorder (set-top box)	2,011,500	2,245,000	2,644,000
Consumer electronics			
Digital video recorder (set-top boxes)	2,011,500	2,245,000	2,644,000
Digital audio recorder (MP3 players)	1,641,000	997,000	774,000

10. FRANCE

Contact Information

Country	: France
Currency	: Euro
Population	: 65,001,000
Name organisation	: Copie France
Web site	: www.copiefrance.fr
Contact Person 1	: Charles-Henri Lonjon
Contact Person 2	: Cécile Kremnicky
E-mail 1	: charles.henri.lonjon@copiefrance.fr
E-mail 2	: cécile.kremnicky@copiefrance.fr
Address	: 225 avenue Charles de Gaulle
Postcode	: 92210
City	: Neuilly sur Seine
Phone	: (33) 1 47 15 87 53 / (33) 1 47 15 87 56
Fax	: (33) 1 47 15 87 97

Legislation and fundamental facts

Legal basis:

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

1. The scope of the exception, in accordance with the Padawan decision, has been redrafted in last December (IPC, L 311-8 II- law dated Dec. 20th 2011, enacted on Dec 23rd 2011): the obligation to pay remuneration shall not apply to carriers or devices acquired for professional use and which are not presumed to be used for private purposes;
2. All kinds of carriers not included in the scope of the decisions of the administrative commission in charge of setting the tariffs and specific decisions excluding DAT, C10 & C15 Tapes, 8 cm DVD.

Levy on media and equipment with internal storage capacity, according to the capacity.

Importers and manufacturers of submitted carriers/devices.

Collecting Society:

Copie France appointed by law.

Distribution schemes are the result of a three-step process.

1st step: split of the PCR collected into 4 parts according to the kind of carrier (dedicated or hybrid) between audio, video, written works and visual artwork.

2nd step: each of the 4 parts of the 1st step is then split according to the law between authors, performers and producers/publishers.

Audio: 50% to authors' organizations

25% to performers' organizations

25% to phonogram producers' organizations

Video: 1/3 to authors' organizations

1/3 to performers' organizations

1/3 to videogram producers' organizations

Written works and visual arts:

50% authors

50% publishers

3rd step: contractual split between organizations.

Rate setting

The tariffs are set by a specific administrative commission composed of 24 members: 12 are representatives of right holders organisations, 6 of manufacturers and importers, and 6 of consumers' organisations. A President, with a specific voting power, represents the State and the 'general interest'. Decisions are made after negotiations, by the majority of members present. In case of a tie, the chairman has a casting vote. When the President makes use of the option provided for in Article L. 311-5, request a second deliberation, the decision is adopted by a majority of two thirds of the votes cast. IPC, L 311-4: obligation to determine the level of the remuneration on the basis of use.

Professional use:

The scope of the exception in accordance with the Padawan decision has been redrafted last December (IPC, L 311-8 II- law dated Dec. 20th 2011, enacted on Dec 23rd 2011): the obligation to pay remuneration shall not apply to carriers or devices acquired for a professional use and which are not presumed to be used for private purposes.

According to the law, professionals have the right to a refund, and they may apply for an exemption agreement.

Any end user of a submitted carrier can apply for a refund or an exemption agreement.

They should also be exempted if they can prove they are the end user of the carrier, in which case it is not possible to presume uses of private copying.

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

Collection process

Payment is due monthly. The market is controlled on a voluntary basis or through court decisions.

Exports are exempted. French manufacturers and importers that sell carriers or equipment abroad do not have to pay levies.

When distributors/retailers export the levied products bought in France, they must pass to Copie France a proof that the levied product has been exported and that the remuneration has been paid by its supplier.

Copie France checks that the remuneration has been paid by the supplier, then refunds the supplier the costs incurred, informing the exporting society that its supplier has to refund them in return.

Since the Opus case, Copie France has ordered several foreign-based websites to stop selling to French consumers without levies and to report all deliveries to the French market. Court cases are ongoing.

Distribution

Copie France distributes monthly to authors, performers and producers.

Schemes are determined by the law.

Distribution schemes:

Distribution schemes are the result of a three-step process.

1st step: split of the PCR collected into 4 parts according to the kind of carrier (dedicated or hybrid) between audio, video, written works and visual artwork.

2nd step: each of the 4 parts of the 1st step is then split according to the law between authors, performers and producers/publishers.

Audio: 50% to authors' organizations

25% to performers' organizations

25% to phonogram producers' organizations

Video: 1/3 to authors' organizations

1/3 to performers' organizations

1/3 to videogram producers' organizations

Written works and visual arts:

50% authors

50% publishers

3rd step: contractual split between organizations.

Social and cultural funds, collective purposes

There is a social and/or cultural deduction determined by law IPC L321-9.

Authors', producers' and performers' organizations are responsible for the attribution of the above-mentioned 25%.

Remunerations / Levies

Table 24: Tariffs, France

Analogic blank 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 recordable carriers		
Carrier	Recording duration or storage capacity	Private copying remuneration in Euros
Data CD R & RW	Per 100 000 Mb (i.e. 0.35 € per 700 Mb)	50.00 €
Data DVD Ram & DVD R & RW	Per 100 Gb (i.e. 0.90 € per 4.7 Gb)	19.15 €
Minidiscs & Audio CD R	Per 100 hours (i.e. 0.56 € per 74 mn)	45.73 €
Micro floppy disc 3' 1/2	Per 1.44 Mb	0.015 €
DVHS	Per 100 hours (i.e. 3.77 € per 180 mn)	125.77 €

Memories & Hard disc integrated in a TV set, a video recorder or a TV decoder/ADSL-box (decoders and ADSL-box exclusively dedicated to the recording of audiovisual broadcasts)	
Storage capacity	Private copying remuneration in Euros
Up to 8 Gb	6.30 €
Over 8 Gb up to 40 Gb	12 €
Over 40 Gb up to 80 Gb	18 €
Over 80 Gb up to 160 Gb	25 €
Over 160 Gb up to 250 Gb	30 €
Over 250 Gb up to 320 Gb	37.50 €
Over 320 Gb up to 500 Gb	45 €

Memories & Hard disc integrated in an audio Walkman (MP3 Walkman) or lounge device	
Storage capacity	Remuneration in Euros per Gigabyte (€/Gb)
Up to 8 Gb	1.50 €/Gb
Over 8 Gb up to 32 Gb	1 €/Gb

Memories & Hard disc integrated in an audio+video Walkman (MP4 Walkman) or lounge device	
Storage capacity	Remuneration in Euros per Gigabyte (€/Gb)
Up to 4 Gb	1.50 €/Gb
Over 4 Gb up to 8 Gb	0.88 €/Gb
Over 8 Gb up to 16 Gb	0.50 €/Gb
Over 16 Gb up to 32 Gb	0.35 €/Gb
Over 32 Gb up to 96 Gb	0.33 €/Gb

Table 24: Tariffs, France (continued)

USB keys	
Storage capacity	Remuneration in Euros per Gigabyte (€/Gb)
Up to 2 Gb	0.20 €/Gb
Over 2 Gb up to 4 Gb	0.16 €/Gb
Over 4 Gb up to 8 Gb	0.13 €/Gb
Over 8 Gb	0.10 €/Gb

Memory cards	
Storage capacity	Remuneration in Euros per Giga byte (€/Gb)
Up to 2 Gb	0.09 €/Gb
Over 2 Gb up to 4 Gb	0.08 €/Gb
Over 4 Gb up to 8 Gb	0.07 €/Gb
Over 8 Gb	0.06 €/Gb

Standard External Hard Discs	
Storage capacity	Private copying remuneration in Euros
Up to 120 Gb	8.40 €
Over 120 Gb & up to 320 Gb	9.60 €
Over 320 Gb & up to 500 Gb	11 €
Over 500 Gb & up to 1000 Gb	20 €
	Remuneration in Euros per Gigabyte (€/Gb)
Over 1000 Gb & up to 5000 Gb	0.015 €/Gb
Over 5000 Gb & up to 10 000 Gb	0.012 €/Gb

Note: included in this category are:
 External hard discs with USB or Firewire interface
 SSD (Solid State Drive) systems
 Network storage systems (NAS & NDAS) for households (desktop version)

Table 24: Tariffs, France (continued)

Multimedia external hard discs or memories:	
<ul style="list-style-type: none"> – With audio/video and/or registered jack(s) output interfaces allowing the display of audio/video contents without a PC; – With audio/video and/or registered jack(s) output interfaces and input interfaces allowing the recording of audio/video contents without a PC; – That are integrated or connected to a decoder and are not exclusively dedicated to the recording of video contents (box with multimedia HDD or recording capacities); 	
Storage capacity	Private copying remuneration in Euros
Up to 8 Gb	6.30 €
Up to 8 Gb up to 40 Gb	9.30 €
Up to 40 Gb up to 80 Gb	12.50 €
Up to 80 Gb up to 160 Gb	16 €
Up to 160 Gb up to 250 Gb	23 €
Up to 250 Gb up to 320 Gb	27 €
Up to 320 Gb up to 500 Gb	30 €
Up to 500 Gb up to 1 To	31 €
Up to 1 To up to 2 To	32 €

Mobile phones enabling the display of music and videograms	
Storage capacity	Remuneration in Euros per Gigabyte (€/Gb)
Up to 8 Gb	0.7000 €/Gb
Over 8 Gb up to 16 Gb	0.5000 €/Gb
Over 16 Gb up to 32 Gb	0.3095 €/Gb
Over 32 Gb up to 64 Gb	0.2360 €/Gb

Memories and hard discs dedicated to the storage and display of audio integrated in a global positioning system (GPS) or a car radio and separated from the capacity devoted to other elements such as the navigation software and road map information.	
Storage capacity dedicated to music display	Remuneration in Euros per Gigabyte (€/Gb)
Any capacity	1.25 €/Gb

Multimedia Tactile tablets running with a specific operating system or a mobile device operating system.	
Storage capacity	Remuneration in Euros per Giga byte (€/Gb)
Up to 8 Gb	0.8000 €/Gb
Over 8 Gb up to 16 Gb	0.5250 €/Gb
Over 16 Gb up to 32 Gb	0.3281 €/Gb
Over 32 Gb up to 64 Gb	0.1969 €/Gb

Carriers sold in a 'Bundle' or 'complemental offer' with a recording device.

Application of the tariff scheme to the device, by addition of a) the storage capacity of the carrier and b) the storage capacity of the device.

The tariff applicable to recording devices sold with one or several recording capacities (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 ('complemental offer'), is obtained by adding together the recording capacities of the carrier and the device, this total capacity being invoiced with the tariff scheme of the device.

No remuneration shall be paid for recording capacities sold in a 'bundle' or 'complemental offer' with a device whose recording capacities are not submitted to a private copying levy.

Revenues

Table 25: Revenues, France

Audio Revenues	2010 (€)	2011 (€)	2012 (€)
Data CD R/RW	€ 17,010,859	€ 12,204,878	€ 8,307,802
Audiocassettes	€ 257,716	€ 148,114	€ 85,131
Audio CD	€ 158,347	€ 150,977	€ 191,066
Minidiscs	€ 33,795	€ 158,564	€ 11504
Total 'Audio'	€ 17,460,717	€ 12,662,533	€ 8,595,503

Video Revenues	2010 (€)	2011 (€)	2012 (€)
Video cassette	€ 2,599,503	€ 1,125,196	€ 2,796,901
DVD data	€ 27,094,288	€ 19,425,738	€ 16,381,548
Total 'Video'	€ 29,693,791	€ 20,550,934	€ 19,178,449

Device Revenues	2010 (€)	2011 (€)	2012 (€)
Hard discs or memory inserted into digital audio (mp3) player	€ 7,500,688	€ 5,660,384	€ 4,535,756
Hard disk inserted into a Video Recorder	€ 8,962,197	€ 6,325,305	€ 2,499,869
Memory or hard disk inserted into a multimedia Walkman or devices	€ 19,539,832	€ 14,312,834	€ 11,816,912
Hard disk inserted a Decoder and TV set	€ 8,276,640	€ 13,632,102	€ 12,354,452
Memory or hard disk inserted into Hi-Fi devices	€ 159,941	€ 41,580	€ 11,202
USB sticks and removable memory cards	€ 13,021,887	€ 15,261,407	€ 23,147,754
External hard discs	€ 47,235,690	€ 50,063,382	€ 32,461,189
Walkman Phones	€ 36,868,149	€ 50,501,477	€ 52,184,074
Others	€ 17,864	€ 41,579	
Tablets		€ 3,593,538	€ 6,421,319
Memories in a global positioning system (GPS) or a car radio		€ 175,066	€ 671,246
Total 'Devices'	€ 141,582,888	€ 159,567,074	€ 146,103,773

Additional Information

- 1) For hybrid devices, data CD-R, data DVD, USB key, external hard discs and memory cards, revenues are split between audio, video, written works and visual arts remunerations.
For memory or hard discs inserted into multimedia devices, revenues are split between audio and video remunerations.
- 2) In France we do collect on carriers inserted into devices, nor on devices themselves.

11. GERMANY

Contact Information

Country	: Germany
Currency	: €
Population	: ca. 82,000,000
Name organisation	: Zentralstelle für private Überspielungsrechte
Website	: www.zpue.de
Contact person 1	: Erich Wulff
Contact person 2	: Dr. Till Zimmer
e-mail 1	: ewulff@zpue.de
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

Legal basis:

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

Not only private copies are subject to copy remunerations (§ 53 Abs. 1 UrhG), but also other kinds of copies mentioned in § 54 Abs. 2 and Abs. 3 UrhG. All these are meant in Germany when speaking of 'private copies'.

There is no remuneration for copies from illegal sources. Remuneration is levied on media and devices. Importers and manufacturers, as well as resellers and retailers, are also liable.

Collecting Society:

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 rights holders.

ZPÜ distributes to member societies. Member societies distribute to their rights holders.

Distribution has to be agreed upon by all member societies.

ZPÜ does not distinguish between costs for collecting and for distributing private copying remunerations.

Rate setting

Levies are set by ZPÜ as a result of negotiations between ZPÜ and associations of manufacturers and importers.

If the negotiations are not successful, tariffs will be set by ZPÜ based on market research data.

This regularly leads to judicial proceedings, so that in the end a new and valid tariff is suggested / set by the arbitration board or by the courts.

Empirical studies about the usage of devices and storage media are used.

Professional use:

There are different exemptions for professional and industrial users.

There are no exemptions for consumers.

All devices and media, the type of which is used for private copying, are subject to remunerations.

Collection process

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

Exports are exempted by law, § 54 II UrhG. In cross-border sales, the German party is responsible, if the recipient is a commercial entity. The party abroad is responsible if the German recipient is a private consumer.

Distribution

ZPÜ distributes to member societies. Member societies distribute to their rights holders.

Distribution occurs when ZPÜ-Partners decide to distribute – at the moment there is no regular frequency.

Distribution schemes are determined by negotiations among ZPÜ's member societies.

Social and cultural funds, collective purposes

None

Other developments; disputes/court cases regarding the system, certain products, professional use or other issues relating to the private copying system

Nearly all products are subject to negotiations and/or court cases.

Remunerations / Levies

Table 26: Tariffs, Germany

All Tariffs in €

Blank Media	Tariff valid from 01.01.2008	Capacity
Audiocassette	0.0614	per hour
DAT/MD	0.0614	per hour
Audio-CD-R/RW	0.0614	per hour
VHS	0.0870	per hour
Optical storage media	Tariff valid from 01.01.2010	
CD-R up to 900MB	0.062	per piece
CD-RW up to 900MB	0.197	per piece
DVD+/-R GB	0.139	per piece
DVD+/-RW 4.7GB	0.271	per piece
DVD-RAM 4.7GB	0.550	per piece
DVD-RAM 9.4GB	1.264	per piece
DVD Double Sided 9.4GB	0.117	per piece
DVD Double Layer / Dual Layer 8.5GB	0.386	per piece
Flash media	Tariff valid from 01.07.2012	
USB-Stick ≤ 4 GB	0.91	per piece
USB-Stick > 4 GB	1.56	per piece
Memory Card ≤ 4 GB	0.91	per piece
Memory Card > 4 GB	1.95	per piece
PCs etc.	Tariff valid from 01.01.2008	
PC with CD/DVD-writer	17.0625	per piece
PC without CD/DVD-writer	15.1875	per piece
Internal CD/DVD-writer	1.8750	per piece
Multi-Media HDD with recording function	34.00	per piece
Multi-Media HDD without recording function	19.00	per piece
Network HDD < 1TB	5.00	per piece
Network HDD ≥ 1TB	17.00	per piece
External HDD < 1TB	7.00	per piece
External HDD ≥ 1TB	9.00	per piece
External CD/DVD-writer	7.00	per piece
Consumer electronics	Tariff valid from 01.01.2008	
Set-Top-Box with external HDD	13.00	per piece
VHS-Recorder	15.00	per piece
DVD-Recorder	22.00	per piece
DVD+VCR-Recorder	30.00	per piece
DVD-HDD-Recorder	39.00	per piece
DVD+VCR+HDD-Recorder	49.00	per piece
Set-Top-Box+HDD-Recorder	34.00	per piece
HDD-Recorder	34.00	per piece
TV with HDD	34.00	per piece

Table 26: Tariffs, Germany (continued)

AC-Recorder	7.00	per piece
MD-Recorder	25.00	per piece
CD-Recorder	13.00	per piece
MP3-Player	5.00	per piece
MP4-Player Display < 3"	5.00	per piece
MP4-Player Display ≥ 3" ≤ 4"	15.00	per piece
Mobile phones	Tariff valid from 01.01.2011	
Mobile phones with touchscreen < 8 GB storage	16.00	per piece
Mobile phones with touchscreen ≥ 8 GB storage	36.00	per piece
Mobile phones without touchscreen	12.00	per piece

Additional Comments:

Lawsuits in progress for all types of media and equipment.

Revenues

Table 27: Revenues, Germany

Collected amounts	2010	2011	2012
Audio / Video blank media	755,068.33		
CD / DVD Writer	-38,624,483.36		
HDDs			
Mobile Phones			
PCs	452,274,452.75		
DVD-R/RW / CD-R/RW	7,152,288.07		
Consumer electronics	18,140,761.41		
USB/Flash Media	1,161,937.80		

Additional Information

Figures show revenues, not payments. Due to lawsuits, the full amounts have not been paid.

12. GREECE

Contact Information

Country	: GREECE
Currency	: EURO
Population	: 10,815,197 (official figure as of 28.12.2012)
Name organisation	: AEPI
Website	: 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

Legal basis:

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

Scope

- (a) The reproduction of a 'Lawfully Published Work' for private use is the object of the exception (See our par. 1 of Article 18 of our Law below).
- (b) Definition of private use, according to par. 1 of Article 18: 'Without prejudice to the provisions laid down in the following paragraphs, it shall be permissible for a person to make a reproduction of a lawfully published work for his own private use, without the consent of the author and without payment. The term private use shall not include use by an enterprise, a service or an organization.'

Remuneration is a levy (%) on recording media and/or equipment. Importers or manufacturers are liable for payment.

Collecting Society:

AEPI is an organisation responsible for the collection of remunerations for Authors – Composers – Rights Owners of Musical Works – Members of AEPI only.

It is appointed by its members.

AEPI is responsible for distribution and collection *only to its members*, i.e. authors – composers – rights owners of musical works. It distributes directly to individual rights holders.

Administrative costs are a standard 8% commission.

Rate setting

Levies are determined by law. As the rate of the levy was set by the legislator, the criteria were legislative and authoritative.

Professional use:

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

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

Collection process

The law stipulates that payment must be made 3 months after the import took place. Usually submission of statutory statement and payments are contractually regulated between the Organizations and the importer.

Each collecting society is entitled to request verification of the accuracy of the contents of any statutory statement by a certified accountant appointed by the Organization of Intellectual Property (OIP), declaring the true total value of the equipment/media suitable to reproduce musical and/or audiovisual works, which he imported or produced in Greece. If the liable party fails to submit that declaration, the one-member district Court, judging the procedure of injunction measures, orders the liable party to submit immediately the above statutory statement, providing for a pecuniary fine varying from € 3,000 to € 30,000 in favour of the applicant Collecting Society, in case of non-compliance. Further sanctions are applied.

Exports are exempted (not by Law)

Mobile phone importers have been extra-judicially called to declare mobile phone imports in Greece, but we have already received some replies denying responsibility. The same applies also to certain video cameras' importers with whom we are currently in legal proceedings as they are arguing against the imposition of the levy.

Distribution

All organizations collecting private copying remuneration are distributing rights to their members.

Aepi's distributions are semestrial. The legislator has settled the following distribution scheme (applied to both audio and video sectors):

55% to creators (all categories of rights owners)

25% to interpreters and performers

20% to producers of audio and video carriers.

Distribution schemes:

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

Distribution scheme Video: out of the 55% attributed to creators: 19,1% Music authors (AEPI), 1.5% AFTODIAXEIRISI (music authors), 4% OSDEL (writers/publishers), 5.4% THESPIS (theatrical writers/translators of plays), 52.5% ATHINA (directors/scriptwriters), 3% OSDEETE (artists of fine arts), 11,5% FIVOS (photographers).

*(AEPI collects the 85% for audio out of the total of the creators' share of 55%, and 19,1% for video out of the total of the creators' share of 55%.

The remaining 45% in both categories of levied products is attributed to producers and performers according to their agreed shares.

Other developments; disputes/court cases regarding the system, certain products, professional use or other issues relating to the private copying system

All Hellenic organizations representing authors as well as producers have recently initiated legal proceedings (extra-judicial letters have been sent to most mobile phone importers operating in Greece), and we have already received replies arguing that mobile phones are not products eligible to be subjected to the levy.

Remunerations / Levies

Table 28: Tariffs, Greece

Blank Media	Tariff
Audio Carriers	6% on all products/devices' import price
Cassettes (MC) Audio CD-R Audio CD-RW DAT Mini Disc DVD-Audio	
Audio Devices	6% on all products/devices' import price
Digital Audio Recorders – MP3 players Hifi CD Writer (consumer) Hifi tape recorder Midi Car Hifi Hard disc or memory slots Music Servers (Jukeboxes) ICDs (digital voice recorders) MICRO PA Hifi Minidisc Mini – micro systems Music Mobile phones	
Video Carriers	6% on all products/devices' import price
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 Disk CD-R Data CD-RW Data	

Table 28: Tariffs, Greece (continued)

Video Devices	6% on all products/devices' import price
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 (I-pods, 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	
Mini discs	
Compact Flash memories	
USb Flash, memory sticks, cards	
Smart media memory cards,	
Portable hard disk (external) ZIP drives, USM (Sony Data USB) Jazz Drives	
Mobile phones (except music mobiles)	

Revenues

Table 29: Revenues, Greece

Audio Revenue	2010 (€)	2011 (€)	2012 (€)
	548,949.24	1,045,324.60	53,910
Video Revenue	2010 (€)	2011 (€)	2012 (€)
	229,251.87	137,393.16	191,788.60

Additional Comments:

Audio and Video categories contain both carriers and devices belonging to each category pertaining only to the % allocated to AEPI (85% in the audio sector out of the 55% for creators, and 19,1% in the video sector respectively). Also, the sums mentioned in each category include royalties for past periods, collected retroactively.

13. HUNGARY

Contact Information

Country	: HUNGARY	
Currency	: Hungarian forint	€ 1,00 = 300.33 HUF (24 June 2013)
Population	: 9,960,000	
Name organisation	: ARTISJUS	
Website	: www.artisjus.hu	
Contact person 1	: David Kitzinger	
Contact person 2	: Brigitta Puskas	
e-mail 1	: dkitzinger@artisjus.com	
e-mail 2	: bpuskas@artisjus.com	
Address	: Mészáros u. 15-17.	
Postcode	: 1016	
City	: Budapest	
Phone	: + 361 488 26 60	
Fax	: + 361 212 1542	

Legislation and fundamental facts

Legal basis:

Copyright Act LXXVI. of 1999. Under §20 (1) and (2) CA the definition reads as follows:

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

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

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

Professional use under the CA, export exception under the CA (both: § 20 (3), extended professional use exception in accordance with the Padawan decision under the relevant Tariff Chart of Artisjus, and detailed stipulations on the application of the statutory exceptions.

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

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

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

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

Collecting Society:

Artisjus. Registration by the responsible public administration agency. The Hungarian Intellectual Property Office to collect and distribute private copy remuneration.

Our admin cost is 17%. No further deduction applies in our distribution. The other CMS that receive their share from Artisjus under a statutory proportion might apply a further deduction.

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

Artisjus distributes directly to individual musical and literary rights holders it represents, but has been designated in the CA to transfer statutory shares to other collective management societies of sound recording producers, performers, film right holders and visual artists.

Administrative costs for distribution: 10% of the total. Other rights holders might apply further deductions.

Rate setting

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

We conduct user surveys, focusing on media usage patterns. We also monitor prices and technology trends.

We are moving from a purely user behaviour approach to a harm-based one. This approach incorporates user patterns and market trends.

We offer exemption to professional users under the Tariff Chart in accordance with the Padawan ruling. We provide upfront exemption from paying the levies.

The Tariff Chart indicates the relevant products, and the list does not include at present PCs, notebooks, ultrabooks, tablets and CD-DVD writers.

Collection process

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

Control of obliged parties:

1. Hologram stickers on the products
2. IMEI nr. registration for mobile phones
3. Regular audits in shops, markets, shopping malls, etc.

Exports are exempted by law. There is no refund scheme in the CA. In daily practice, Artisjus accepts refund claims when authentic invoices and delivery notes (EU exports), or statements of customs clearance, are submitted in conjunction with the clearance. The detailed rules are provided in the Tariff Chart.

Some mobile phone importers/manufacturers refuse to pay. We do have a final decision against one of the biggest importers that holds that mobile phones are subject to the remuneration.

The importer is the entity who puts the goods into circulation in Hungarian territory first, no matter whether the product comes from the internal market or outside the EU.

Distribution

Artisjus is responsible for the annual distribution of remunerations to the musical and literary rights holders it represents. Other collective management entities distribute to their right holders.

Distribution schemes are determined through an algorithm that connects private copy remuneration to other license uses such as RTV broadcasting, mechanical reproduction, etc.

Distribution schemes:

Distribution scheme, audio:

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

Distribution scheme, video:

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

Social and cultural funds, collective purposes

There is a social and/or cultural deduction.

The deduction is based on the provision of the CA and the social cultural plan decided by the delegates' meeting and approved by the Ministry of Justice. 7% covers cultural support that has to be transferred to the national Cultural Fund. Artisjus provides social support (3%) via its foundation.

In 2012 105,487,488 HUF was dedicated to the fund,

Legal developments

At present we are not aware of any planned copyright reform.

Other developments; disputes/court cases regarding the system, certain products, professional use or other issues relating to the private copying system

Artisjus won against Nokia before the Supreme Court that refused all the arguments put forward by the defendant. We are waiting for the written version of the award to commence collection. The essence of the decision is that mobile phones are subject to the remuneration, and the applicable tariff chart that regarded the integrated memories of mobile phones as if they had been MP3 players is valid (defence of unfairness was also rejected).

Remunerations / Levies

Table 30: Tariffs, Hungary

Blank Media	Tariff valid from [01 January 2013]	Capacity
Audiocassette	0.08	Per unit
Videocassette	0.20	Per unit
Optical Storage media		
CD-R, CD-RW	0.05	<300 MB
DATA CD-R/RW	0.15	<700 MB
DATA CD-R/RW	0.21	> 700 MB
Audio CD	0.21	Per unit
Minidisc	0.21	Per unit
DVD-R/+R/RW	0.05	< 4.7 GB
DVD-R/+R/RW	0.25	4.7 GB
DVD RAM	0.25	4.7 GB
DVD double layer	0.60	< 9.4 GB
Other high capacity optical discs (e.g. Blu ray disc)		
	0.25	< 4.7 GB
	0.60	4.7 GB – 9.4 GB
	1.00	9.4 GB – 15 GB
	1.33	15 GB – 25 GB
	1.66	25 GB – 50 GB
	2.33	50 GB – 100 GB
	2.66	100 GB – 200 GB
	2.83	> 200 GB
Flash Media		
USB Stick, Pendrive, External SSD	0.33	< 1 GB
	0.67	1 GB – 2 GB
	1.33	2 GB – 4 GB
	2.00	4 GB – 8 GB
	4.00	8 GB – 16 GB
	7.99	16 GB – 32 GB
	8.32	> 32 GB

Table 30: Tariffs, Hungary (continued)

Devices Hardware, PC, HDD	Tariff valid from [01 January 2013]	Capacity
External HDD	4.00	< 250 GB
	5.66	250 GB – 500 GB
	7.33	500 GB – 1 TB
	8.99	1 TB – 2 TB
	14.98	> 2 TB
MP3-player	0.33	< 32 MB
	0.67	32 MB – 64 MB
	1.33	64 MB – 128 MB
	2.00	128 MB – 256 MB
	3.33	256 MB – 512 MB
	4.99	512 MB – 1 GB
	5.99	1 GB – 2 GB
	9.99	2 GB – 4 GB
	13.32	4 GB – 8 GB
	19.98	8 GB – 16 GB
	23.31	16 GB – 40 GB
	26.64	40 GB – 80 GB
	29.97	> 80 GB
Memory card	0.13	< 64 MB
	0.27	64 MB – 128 MB
	0.33	128 MB – 256 MB
	0.40	256 MB – 512 MB
	0.50	512 MB – 1 GB
	1.00	1 GB – 2 GB
	1.66	2 GB – 4 GB
	2.66	4 GB – 8 GB
	5.33	8 GB – 16 GB
	10.65	16 GB – 32 GB
11.32	> 32 GB	
Consumer electronics		
Storage capacity integrated into electronic devices for storing audio and/or audio visual content*		
	10.65	< 80 GB
	13.32	80 GB – 160 GB
	18.65	160 GB – 250 GB
	23.97	> 250GB
Mobile Phones		
	1.07	64 MB – 128 MB
	1.60	128 MB – 256 MB
	2.66	256 MB – 512 MB
	4.00	512 MB – 1 GB
	4.79	1 GB – 2 GB

Table 30: Tariffs, Hungary (continued)

	7.99	2 GB – 4 GB
	10.65	4 GB – 8 GB
	15.98	8 GB – 16 GB
	18.65	16 GB – 40 GB
	21.31	40 GB – 80 GB
	23.97	> 80 GB

Additional Comments:

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

Revenues

Table 31: Revenues, Hungary

Blank Media	2010 (€)	2011 (€)	2012 (€)
Audiocassette	42,203	31,070	22,143
Videocassette	98,078	69,758	45,106
Optical Storage media			
Data-CD R/RW	1,110,189	868,551	573,637
Audio CD	2,672	2,035	3,064
Minidisc	918	580	278
DVD+/-R/RW, DVD RAM	1,964,090	1,465,798	1,042,778
Other high capacity optical discs (e.g. Blu ray)	7,961	15,769	10,732
Flash Media			
USB Stick, Pendrive, External SSD	1,152,726	1,215,244	1,963,217

Devices Hardware, PC, HDD	2010 (€)	2011 (€)	2012 (€)
External HDD	–	–	564,845
MP3-player	2,080,831	1,544,646	322,649
Memory card	1,714,575	1,822,944	2,048,906
Consumer electronics			
Storage capacity integrated into electronic devices for storing audio and/or audio visual content*	1,410,707	909,830	1,571,918
Mobile Phones**	–	1,341,021	3,936,278

Additional Information

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

** in 2009-2010 they were listed under MP3 players.

Currency rate: revenues 2010 € 1 = 272.55 HUF

Currency rate: revenues 2011 € 1 = 310.77 HUF

Currency rate: revenues 2012 € 1 = 300.33 HUF

14. ITALY

Contact Information

Country	: Italy
Currency	: Euro
Population	: 59,685,227 (2012)
Name organisation	: S.I.A.E. – Società Italiana degli Autori ed Editori
Website	: http://www.siae.it
Contact person 1	: Roberta Luise
Contact person 2	: Maria Assunta Bianchi
e-mail 1	: roberta.luise@siae.it
e-mail 2	: assunta.blanchi@siae.it
Address	: Viale della Letteratura, 30
Postcode	: 00144
City	: Roma
Phone	: +39 06 59902598
Fax	: +39 06 59903683

Legislation and fundamental facts

Legal basis:

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

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

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

Remuneration is levied on carriers and devices that enable recording of audio and video.

Manufacturers and importers have to pay the private copy levy upon their sales. The liability moment is when the goods are put on the market.

Collecting Society:

S.I.A.E. – Società Italiana degli Autori ed Editori, Italian Copyright Law (L. 633/41 – Art. 71-septies)

According to Italian law, SIAE has to distribute the amount collected minus the costs incurred. In 2012 SIAE kept a percentage of 7%.

SIAE is also responsible for distribution to rights holders.

SIAE distributes both directly to individual rights holders (authors) and through organisations of rights holders.

SIAE deducted about 3% for all authors, though cinema authors faced a deduction of 7%.

Rate setting

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

Among the elements considered in the approval procedure of the Decree, there was a poll regarding consumer behaviour in private copying and a 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.

For professional use there is both a refund system and upfront exemptions.

Videogames consoles (until march 2014); Memory Cards with capacity 0-32 Mb; USB Sticks with capacity 0-256 Mb; Floppy discs and Audio microcassettes (for answerphones) are not in the decree.

Collection process

Manufacturers and importers have to report their sales and pay levies quarterly.

SIAE made an agreement with the Internal Revenue Service (Agenzia delle Entrate) regarding import data. By law, SIAE has to carry out an inspection activity. Exporters can claim a refund for paid levies.

The importer is the person who buys foreign products which 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

According to Italian Copyright Law (Art. 71-octies L. 633/41), S.I.A.E. distributes yearly to audio and video authors, producers and performers.

Distribution schemes are set and determined by law (Art. 71-octies L. 633/41).

Distribution schemes:

Distribution scheme, audio:

50% authors;

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

Distribution scheme, video:

30% to the authors

70% in three equal parts to the original producers of audio-visual works, to the producers of videogames, to performing artists.

Social and cultural funds, collective purposes

50% of the video distribution scheme assigned to performing artists is dedicated to study and research activities as well as to the promotion, training and professional support for artists and performers. It is determined by law (Art. 71-octies L. 633/41).

The association of artists and performers is responsible for the allocation of funds.

Legal developments

The decree of Minister of Culture and National Heritage that set tariff is subject to a triennial update. The last Decree that set levies in force was in 2010, so an update is due soon.

Other developments; disputes/court cases regarding the system, certain products, professional use or other issues relating to the private copying system

In March 2012 the administrative court turned down the appeals, lodged by the biggest companies of the industry, against the ministerial decree. They appealed against it, so we are awaiting the new sentence. In the civil court SIAE won some important appeals relating to professional use (the court stated that the interested parties, not SIAE, have to meet burden of proof about the professional destination of products).

Remunerations / Levies

Table 32: Tariffs, Italy

Blank Media	Tariff valid from Jan. 14 th 2010	Capacity
Audiocassette	€ 0.23	1 hour
Audio CD-R/RW	€ 0.22	1 hour
Minidisc	€ 0.22	1 hour
Videocassette	€ 0.29	1 hour
D-VHS	€ 0.29	1 hour
Optical Storage media		
Data CD-R/RW	€ 0.15	700 Mb
DVD+R/RW	€ 0.41	4.7 Gb
DVD-R/RW	€ 0.41	4.7 Gb
DVD Ram/DL	€ 0.41	4.7 Gb
Blu Ray/RW	€ 0.41	25 Gb
Flash Media		
Memory Card	€ 0.00	0-32 Mb
	€ 0.05/Gb	>32 Mb to <5 Gb
	€ 0.03/Gb	5 Gb and more
USB Stick	€ 0.00	0-256 Mb
	€ 0.10/Gb	>256 Mb to <4 Gb
	€ 0.09/GB	4 Gb and more

Table 32: Tariffs, Italy (continued)

Devices Hardware, PC, HDD	Tariff valid from Jan. 14 th 2010	Capacity
External HDD	€ 0.02/Gb	>400 Gb
	€ 0.01	400 Gb and more
Memory or Hard disk inserted into a multimedia (audio/video) walkman or other multimedia devices	€ 3.22 € 3.86 € 4.51 € 5.15 € 6.44 € 9.66 € 12.88 € 16.10 € 22.54 € 28.98 € 32.20 € 32.20 will increase by € 2.76 every 200 Gb	to 1 GB >1 to 5 Gb >5 to 10 Gb >10 to 20 Gb >20 to 40 Gb >40 to 80 Gb >80 to 120 Gb >120 to 160 Gb >160 to 250 Gb >250 to 400 Gb >400 to <700 Gb 700 Gb and more
Memory or Hard Disk inserted into MP3 Music Player or other Hi-Fi devices	€ 0.64 € 2.21 € 3.22 € 5.15 € 6.44 € 7.73 € 9.66 € 12.88 € 12.88 will increase by € 2.76 every 10 Gb	up to 128 Mb >128 Mb to 512 Mb >512 Mb to 1 Gb >1 Gb to 5 Gb >5 Gb to 10 Gb >10 Gb to 15 Gb >15 Gb to 20 Gb >20 Gb to <30 Gb 30 Gb and more
Multimedia external Hard Disk with Audio/Video OUT plugs allowing the display of audio/video content on a TV or Hi-Fi device	€ 4.51 € 6.44 € 7.73 € 10.42 € 12.88 € 14.81 € 14.81 will increase by € 1.84 every 200 Gb	up to 80 Gb >80 Gb to 120 Gb >120 Gb to 160 Gb >160 Gb to 250 Gb >250 Gb to 400 Gb >400 Gb to <700 Gb 700 Gb and more
Multimedia external Hard Disk with Audio/Video IN & OUT plugs allowing the recording and display of audio/video content on a TV or Hi-Fi device	€ 3.22 € 3.86 € 4.51 € 5.15 € 6.44 € 9.66 € 12.88 € 16.10 € 22.54 € 28.98 € 32.20 € 32.20 will increase by € 2.76 every 200 Gb	up to 1 GB >1 Gb to 5 Gb >5 Gb to 10 Gb >10 Gb to 20 Gb >20 Gb to 40 Gb >40 Gb to 80 Gb >80 Gb to 120 Gb >120 Gb to 160 Gb >160 Gb to 250 Gb >250 Gb to 400 Gb >400 Gb to <700 Gb 700 Gb and more

Table 32: Tariffs, Italy (continued)

Memory or Hard Disk inserted into a video recorder, a decoder or a TV	€ 6.44 € 9.66 € 12.88 € 16.10 € 22.54 € 28.98 € 32.20 € 32.20 will increase by € 2.76 every 500 Gb	up to 40 Gb >40 Gb to 80 Gb >80 Gb to 120 Gb >120 Gb to 160 Gb >160 Gb to 250 Gb >250 Gb to 400 Gb >400 Gb to <1000 Gb 1000 Gb and more
Memory or Hard Disk inserted in other devices not included in previous categories allowing the recording and display of audio or video content	€ 0.64 € 0.97 € 1.29 € 1.61 € 1.93 € 2.25 € 2.58 € 3.22 € 4.83 € 6.44 € 8.05 € 11.27 € 14.49 € 16.10 € 16.10 will increase by € 1.84 every 200 Gb	up to 256 Mb >256 Mb to 384 Mb >384 Mb to 512 Mb >512 Mb to 1 Gb >1 Gb to 5 Gb >5 Gb to 10 Gb >10 Gb to 20 Gb >20 Gb to 40 Gb >40 Gb to 80 Gb >80 Gb to 120 Gb >120 Gb to 160 Gb >160 Gb to 250 Gb >250 Gb to 400 Gb >400 Gb to <700 Gb 700 Gb and more
Computer with integrated burner	€ 2.40	per piece
Computer without integrated burner	€ 1.90	per piece
Recording devices with no integrated memory or hard disk	5% of price	
Mobile Phones		
Memory or Hard disk inserted into devices having communication as main purpose (mobile phone)	€ 0.90	per piece

Additional info:

*Memory card: maximum levy applicable for each unit is € 5.00;

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

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

Revenues

Table 33: Revenues, Italy

Blank Media	2010 (€)	2011 (€)	2012 (€)
Audiocassette	406,613	256,580	98,628
Videocassette	1,297,382	485,289	65,245
Optical Storage media			
CD-R	8,776,833	5,929,101	3,039,825
DVD-R	10,942,586	8,179,638	4,454,814
Blu-ray	19,989	33,497	34,535
Flash Media			
Memory Card	759,442	2,384,533	2,806,217
USB Stick	1,788,097	4,181,062	6,010,678

Devices Hardware, PC, HDD	2010 (€)	2011 (€)	2012 (€)
External HDD	4,404,375	12,335,612	7,766,264
Computer	5,442,131	9,782,451	9,259,014
DVD Writer and recorder	1,686,257	613,016	368,076
CD Writer and recorder	13,353	19,652	15,003
MP3 Player	1,573,006	4,116,949	3,540,019
Other Audio Recording Equipment	1,203,120	523,151	592,170
Other Video Recording Equipment	4,297,499	19,607,770	15,638,909
Mobile Phones			
Mobile phones	9,192,148	15,560,813	18,048,990

TOTAL	2010 (€)	2011 (€)	2012 (€)
	51,802,831	84,009,114	71,738,387

Additional Information

In Other Video Recording Equipment are included Memory/Hard Disks integrated into Decoders/TVs, Media Centers, MP4 Players.

15. JAPAN

Contact Information

Country	: Japan	
Currency	: Yen	€ 1,00 = 103.45 Yen
Population	: 128,057,352	
Name organisation	: Society for the Administration of Remuneration for Audio Home recording (SARAH)	
	: Society for the Administration of Remuneration for Video Home recording (SARVH).	
Website	: www.sarah.or.jp (SARAH)	
	: www.sarvh.or.jp (SARVH)	
Contact person 1	: Sigeru YAMATO (SARAH)	
Contact person 2	: Akio TAKAHIRAS (SARVH)	
e-mail 1	: sarahyamato@bd.wakwak.com (SARAH)	
e-mail 2	: sarvh02@mint.ocn.ne.jp (SARVH)	
Address	: Kojimachi YK bldg. 2F, 1-8-14, Kojimachi, Chiyoda-ku, Tokyo, 102-0083 JAPAN (sarah/SARVH)	
Postcode	: 102-0083	
City	: Tokyo, JAPAN	
Phone	: +81 332 613 444(SARAH) / +81 335 603 107 (SARVH)	
Fax	: +81 332 613 447(SARAH) / +81 355 702 560 (SARVH)	

Legislation and fundamental facts

Legal basis:

The Copyright Law, amended in 1992.

The Japanese compensation system for private recording was introduced by the copyright amendment of 1992.

The Compensation system for audio recording has been implemented since 1993; the one for visual recording since 1999.

At that time, analogue recording devices were widespread, and there was limitless recording of copyright work. Under such circumstances, rights holders, especially those of musical works, raised the issue regarding the protection of rights holders from private recording. The government decided to introduce a revision in the copyright law for the protection of rights holders in accordance with the spirit of the Berne Convention. The commission, composed of scholars, rights holders, manufacturers, consumers, and established by the

government, has discussed the private copying system, but it has not been easy to reach a consensus. It took about 15 years to come an agreement. After the deliberations in the Diet, the copyright amendment act of 1992 was established.

Japanese copyright law states that: 'It shall be permissible for a user to reproduce by himself a work forming the subject matter of copyright for the purpose of his personal use, family use or other similar uses within a limited circle' and 'Any person who, for the purpose of private use, makes sound or visual recording on such a digital recording medium as specified by Cabinet Order by means of such a digital recording device as specified by Cabinet Order shall pay a reasonable amount of compensation to the copyright holders concerned.'

In this way, copyright law permits users to make private copy without the authorization of rights holders. This provision means the limitation of rights holders' rights. As a compensation for this limitation, the Japanese compensation system for private recording was introduced. That is, 'the compensation for limitation to right' is the basic idea of the private recording compensation system for the Japanese government.

'Sound recording' means the fixation of a sequence of sounds on some material forms and the multiplication of such fixation.

'Visual recording' means the fixation of a sequence of images on some material forms and the multiplication of such fixation.

Definition of private copy according to law or as a result of litigation.

- (a) Private use means 'personal use, family use or other similar uses within a limited circle.'
- (b) Copyright law stipulates that private copy limitation does not apply, (i) where reproduction is made by means of automatic reproduction machines intended for use by the public; (ii) where reproduction is made by a person who knows that such reproduction becomes possible by the circumvention of technological protection measures or it ceases to cause obstruction, by such circumvention, to the results of acts deterred by such measures; (iii) where a digital sound or visual recording is made by a person who knows that such recording is made upon reception of an interactive transmission which infringes copyright (including an interactive transmission which is made outside this country and which would constitute an infringement on copyright if it was made in this country).

Compensation is levied on a digital recording medium and device.

1. Analogue devices/media were excluded from the compensation because they were widespread at the time when the compensation system was introduced, and it was thought that making analogue recording devices/media subject to compensation was practically impossible and might have caused social confusion.
2. Digital devices/media are subject to compensation mainly because they can make many works of high quality, comparable to the original work, without deterioration.
3. Copyright law states that the media subject to compensation are specified by Cabinet Order.

Importers, manufacturers, traders or others are liable for payment.

Payment liability: Users/Purchasers

Cooperation liability: Manufactures/Importers

Copyright law provides as follows.

1. Any person who, for the purpose of private use, makes a sound or visual recording on such a digital recording medium as specified by Cabinet Order by means of such a digital recording device specified by Cabinet Order shall pay a reasonable amount of compensation to the rights owners concerned.
2. Purchasers of the media/devices specified by the Cabinet Order have to pay, at the time of the purchase and on the claim by the designated association (SARAH/SARVH), a fixed, lump-sum compensation for private recording.
3. Manufactures/importers have to cooperate with the designated association (SARAH/SARVH) in claiming and receiving the compensation.
4. Any person who has paid compensation by purchasing the specified device/media may claim its repayment from the designated association (SARAH/SARVH) by certifying that he or she uses such a specified device/media for the purpose other than that of private recording.

Copyright law makes it obligatory for those who make sound or visual recordings for the purpose of private use by making use of a digital recording device/medium specified by the Cabinet Order, to pay compensation to the relevant right holders (*users are liable for payment).

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

1. Purchasers of the specified device/medium have to pay, at the time of the purchase and on the claim by the association designated by the Government (SARAH/SARVH), a lump-sum compensation for private recording;
2. Compensation is included in the prices of the specified device/medium and sent to SARAH/SARVH by manufactures/importers of the specified device/medium (*manufactures/importers owe cooperation liability).

Collecting Society:

Organisations responsible for the collection of remunerations:

Audio: SARAH (Soc. for the Administration of Remuneration for Audio Home recording)

Video: SARVH (Soc. for the Administration of Remuneration for Video Home recording)

The associations for private recording (audio/video) are designated by the commissioner of the Agency for Cultural Affairs according to the copyright law.

Costs incurred by collection of remunerations:

The amount corresponding to 20% of the compensation received is allocated to administration costs (*) according to the rule of the designated association (SARAH/SARVH).

(* 'administration costs' include the cost of collection and the cost of distribution)

SARAH/SARVH is responsible for the collection and distribution to all rights holders.

SARAH/Audio:

SARAH distributes the compensation for sound private recording to 3 rights holders' organizations(*). After that, each rights holders' organization distributes to their members or individual rights holders.

*organization of copyright holders (author of musical work), organization of performers, organization of producers of phonograms.

SARVH/Video:

SARVH distributes the compensation for visual private recording to 3 rights holders' organizations (*). After that, each rights holders' organization distributes to their members or individual rights holders.

*organization of copyright holders (producer of cinematographic work, writer, author of musical work), organization of performer, organization of producers of phonograms.

Costs incurred by distribution of remunerations

The amount corresponding to 20% of the compensation received is allocated to administration costs (*) according to the rule of the designated association (SARAH/SARVH).

(* 'administration costs' include the cost of collection and the cost of distribution)

Rate setting

The designated association (SARAH/SARVH) negotiates rates with organizations which are composed of manufacturers.

The designated association (SARAH/SARVH) negotiates rates with organizations which are composed of manufacturers, taking into consideration that the rate of compensation is not too burdensome for the party liable for the payment (user/purchaser).

When SARAH/SARVH and the organization of manufactures reach an agreement, SARAH/SARVH submits the agreed rates to the Agency for Cultural Affairs for approval.

Professional use is not taken into account in determining the rate of compensation.

The specific media/devices for a purpose other than that of private use such as professional use are shipped by manufacturers/importers without including compensation.

Are there specific products not falling within the scope of the private copying system?

1. Analogue media/devices,
2. Devices with special efficiency, generally not for private use but for professional use,
3. (Devices with sound or visual recording functions incidental to the primary functions are exempted according to the copyright law.

1. Only a device dedicated for sound or visual recording can be specified by Cabinet order. In other words, general purpose devices are excluded from the compensation.
2. Only the media with the indication of 'for audio/video' are subject to compensation. The media with the indication of 'for data' are excluded from the compensation.

Collection process

Manufacturers/Importers (cooperation liability party) include the compensation in the price of the specified medium/device when they ship it, and they send the compensation to the designated association (SARAH/SARVH) every March and September according to the agreement with SARAH/SARVH.

Control:

Manufacturers/Importers owe cooperation liability for the claim and receipt of compensation under the copyright law.

Copyright law provides that the designated association (SARAH/SARVH) has the authority to deal, on behalf of the rights holder and in its own name, with juridical and non-juridical matters in regard to the right to claim compensation for private recording.

Exports are legally exempted.

Domestic manufacturers divide the media/devices into 'for domestic purpose' and 'for export purpose' when they ship the specified devices/media. The devices/media for export purpose are shipped without including compensation because only a domestic user/purchaser owes payment liability under Japanese copyright law.

Levies are set on products which are disputed, and the collecting society cannot claim compensation.

Audio:

There is no case in which liability parties have directly denied the cooperation liability. But the media/devices specified by the Cabinet Order do not reflect the products actually being used for private recording.

Video:

A manufacturer denied cooperation liability for a device described below. SARVH sued the manufacturer but lost. As a result, the compensation system is not functioning, having practically collapsed (see 'distribution process').

Copyright law provides that any manufacturer and 'importer of specified recording device or media' owe cooperation liability.

The importer offers the cooperation spontaneously or does its duty after receiving a warning from the designated association (SARAH/SARVH).

Distribution

1. SARAH distributes the compensation for sound private recording to 3 rights holders' organizations.
2. SARVH distributes the compensation for visual private recording to 3 rights holders' organizations.
3. These 3 rights holders' organizations distribute to their members or individual rights holders.

Manufacturers/Importers send the compensation to the designated association (SARAH/SARVH) every 6 months, and SARAH/SARVH distributes the compensation received every May and November.

SARAH: audio

Rights holders related to sound recording: author of musical work, writer, performer, producer of phonogram.

SARVH: Video

Rights holders related to visual recording: producer of cinematographic work, writer, author of musical work, performer, producer of phonogram.

SARAH/SARVH determines the distribution schemes.

1. Copyright law provides that the designated association (SARAH/SARVH) shall establish rules on the matters related to the distribution of compensation and report those rules to the commissioner of the Agency for Cultural Affairs.
2. The 3 rights holders' organizations (organization of authors, organization of performers, organization of producers of phonogram) which receive distribution from SARAH/SARVH establish the rules for distribution and submit them to SARAH/SARVH.
3. The 3 rights holders' organizations report the distribution to SARAH/SARVH after they distribute to their members or individual rights holders.

Distribution scheme, audio:

- 36% Copyright holders of musical works and literary works, Japanese Society for Rights of Authors, Composers and Publishers.
- i. Writers Guild of Japan (1.5%)
 - (a. The Japan Writers' Association)
 - (b. Japan Writers' Guild)
- 32% Performers, Japan Council of Performers' Rights and Performing Arts Organisations.
- 32% Producers of Phonograms, Recording Industry Association of Japan.

Distribution scheme, video:

- 68% Copyright holders of cinematographic works (36%)
- i. The Japan Commercial Broadcasters' Association.
 - ii. Japan Broadcasting Corporation.
 - iii. Association of All Japan TV Programme Production Companies.
 - iv. Motion Picture Producers' Association of Japan, Inc.
 - v. The Association of Japanese Animations.
 - vi. Japan Video Software Association.
 - vii. Japan Film Makers' Association.
- Copyright holders of musical works (16%), Japanese Society for Rights of Authors, Composers and Publishers.
- Copyright holders of literary works (16%), Writers' Guild of Japan.
- i. The Japan Writers' Association.
 - ii. Japan Writers' Guild.
- 29% Performers, Japan Council of Performers' Rights and Performing Arts Organisations.
- i. Japan Association of Music Enterprises.
- 3% Producers of Phonograms Recording Industry Association of Japan.
- i. Music Publishers' Association of Japan.

Other distribution scheme (Video):

Copyright holders of literary work or musical work, performers and producers of phonogram, including foreign rights holders, claim distribution from the organization described above even if he/she is not a member of the organization.

Japanese copyright holders of cinematographic work claim distribution from the organization described above even if he/she is not a member of the organization; foreign copyright holders of cinematographic works claim distribution directly from SARVH.

Copyright holders of other fields claim distribution directly from SARVH.

*Attention: The compensation system for visual private recording is not functioning, having practically collapsed after SARVH lost the lawsuit with the manufacturer (see 'Other developments').

Products category:

Audio:

The revenues from the specified device/media are distributed collectively, regardless of the type of the specified medium/device, to the rights holders related to sound recording.

Video:

The revenues from the specified device/media are distributed collectively, regardless of the type of the specified medium/device, to the rights holders related to visual recording.

Social and cultural funds, collective purposes

20% of the compensation received. This rate is fixed by the Cabinet Order based on the copyright law.

When the compensation system for private recording was established, it was thought that it is practically impossible to identify all rights holders, and the rate of unidentifiable right holders would be about 20% of all rights holders.

Therefore, it was decided that the amount corresponding to 20% of the compensation is allocated for 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 grounded in the idea that allocating 20% to such activities is beneficial for all rights holders, including unidentifiable rights holders, and it would serve as indirect distribution.

If you have this deduction, you are requested to indicate if it is mandated by law or a decision of rights holders.

1. Copyright law provides that the designated association (SARAH/SARVH) shall allocate an amount corresponding to the rate fixed by Cabinet Order within 20% of the compensation received for such activities as contributing to the protection of copyright and neighboring rights as well as to the promotion of the creation and dissemination of works (*the rate fixed by Cabinet Order is 20%).
2. Some organizations which received compensation from SARAH/SARVH allocate some of the compensation they received for the same kind of activities.

Dedicated in 2012: SARAH: 50,800,736 Yen (491,065.6 Eur); SARVH: 226,666,554 Yen (2,191,073.5 Eur)

SARAH/SARVH conducts the following activities with the fund described above (common interests fund).

1. Education of copyright system or dissemination of the knowledge of copyright law.
2. Promotion and dissemination of works.
3. International cooperation related to copyright system and copyright protection.
4. Study on technical protection measures related to digital audio/video recordings.

Legal developments

In the case of audio, the devices/media specified by Cabinet Order do not reflect the products actually being used for private recording. Therefore, the compensation revenue is declining dramatically.

In the case of video, the compensation system for private recording is not functioning, having practically collapsed after SARVH lost the lawsuit with the manufacturer (see 'Other developments').

Under these circumstances, the Japanese government has started a discussion to arrange for the system to receive proper consideration (June, 2013).

Other developments; disputes/court cases regarding the system, certain products, professional use or other issues relating to the private copying system

Audio:

Products which can make recordings have been brought to the market one after another but there have been no changes in the devices/media specified by Cabinet Order since 1998. The specified devices/media do not reflect the products actually being used for private recording. Consequently, the compensation revenue is declining.

The compensation system for audio private recording has been implemented according to the copyright law, but rights holders are not granted sufficient protection because there has been no revision of copyright law since 1992 and no changes in the products specified by Cabinet Order since 1998. They have failed to catch up with the developments in digital technology.

Video:

Japan decided to complete the transition from analogue to digital broadcasting on July 2011. The Japanese manufacturer Toshiba has denied cooperation liability in 2009 for its recording devices dedicated to digital broadcasting, insisting that such devices were not covered by the provisions specified by Cabinet Order. Other manufacturers which manufacture the same kind of devices followed Toshiba's example.

The designated association for visual private recording (SARVH) negotiated with Toshiba but could not reach an agreement. Therefore, SARVH sued Toshiba demanding cooperation or compensation. The transition from analogue to digital was completed in July 2011, but the lawsuit has not been settled yet.

After the transition, all manufacturers of recording devices and media denied cooperation or payment. As a consequence, SARVH has received no compensation from manufacturers since July 2011, and the distribution to rights holders has stopped.

Manufacturers denied cooperation for recording media, too. They insist that they cannot cooperate for a medium which is used with devices that are not covered by Cabinet Order.

With respect to the lawsuit with Toshiba, the grounds for judgement were different between the first and the second instance, but SARVH lost in both cases, and the supreme court dismissed the petition for a final appeal. As a result, the Japanese compensation system for visual private recording is not functioning, having practically collapsed.

Remunerations / Levies

Table 34: Tariffs, Japan

Blank Media	Tariff	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
Video		
Digital Video Cassette	1% of wholesale price	Per unit
Digital VHS	1% of wholesale price	Per unit
DVD-RAM/R/RW	1% of wholesale price	Per unit
Blu-ray Disc	1% of wholesale price	Per unit
Digital Video Cassette		

Devices Hardware, PC, HDD	Tariff	Capacity
Audio		
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
Video		
Digital Video Cassette Recorder	1% of wholesale price	Per unit
Digital VHS recorder	1% of wholesale price	Per unit
DVD recorder	1% of wholesale price	Per unit
Blu-ray Disc recorder	1% of wholesale price	Per unit

Audio

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

Video

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

Revenues

Table 35: Revenues, Japan

Blank Media	2010 (€)	2011 (€)	2012 (€)
Audio			
MD	941,914	685,585	497,450
CR-R/RW	1,076,518	1,093,769	1,014,188
DAT	6,663	5,761	2,495
Digital Compact Cassette	0	0	0
Total 'Audio media'	2,025,095	1,785,115	1,514,133
Video			
Digital Video Cassette	517	350	82
Digital VHS	256	115	38
DVD-RAM/R/RW	3,383,132	2,503,060	798,785
Blu-ray Disc	1,046,828	1,606,579	618,189
Total 'Video media'	4,430,733	4,110,104	1,417,094

Devices Hardware, PC, HDD	2010 (€)	2011 (€)	2012 (€)
Audio			
MD	1,164,646	636,773	1,613,457
Audio CD-R/RW	32,138	27,966	114,561
DAT	0	-359	-30
DCC	0	0	0
Total 'Audio devices'	1,196,784	664,380	1,727,988
Video			
Digital Video Cassette Recorder	-9	-38	0
D-VHS recorder	85	0	0
DVD recorder	4,284,622	2,190,391	118,747
Blu-ray Disc Recorder	13,704,698	16,696,346	4,002,000
Total 'Video devices'	17,989,396	18,886,699	4,120,747
Total 'Audio'	3,221,879	2,449,495	3,242,121
Total 'Video'	22,420,129	22,996,803	5,537,841
Total Revenues	25,642,008	25,446,298	8,779,962

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 the lawsuit with the manufacturer (see 'Other developments').

Additional Information:

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

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

2012 Exchange rate used for 2012: 1 EUR = 103.45 Yen (annual average)

16. LATVIA

Contact Information

Country	: Latvia	
Currency	: LVL	€ 1,00 = 0.702804 LVL
Population	: 2,068,000	
Name organisation	: AKKA/LAA	
Website	: 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	: 37167506131	
Fax	: 37167315620	

Legislation and fundamental facts

Legal basis:

Copyright Law, Cabinet Regulation No.321.

Remuneration levied on media and equipment; importers and manufacturers are liable for payment.

Collecting Society:

AKKA/LAA, appointed by rights holders, by approval of the Ministry of Culture.

The collecting society is responsible for distribution to rights holders through organisations of rights holders.

Rate setting

Levies are determined by Copyright Law, Cabinet Regulation No.321 through negotiations between all interested parties under the guidance of Ministry of Culture.

Hard discs, memory cards and mobile phones with mp3, all analogue devices and carriers are not levied.

Professional users are taken into account and receive a refund.

Collection process

Payment is due monthly. AKKA/LAA carries out regular inspections to business places and storehouses. Sometimes AKKA/LAA cooperates with police authorities.

Exports are exempted and exporters receive a refund.

Distribution

AKKA/LAA distributes the collected remunerations yearly to rights holders: authors, performers, phonogram producers and film producers. Distribution schemes are set up and approved by the Ministry of Culture after consultations with the working group of rights owners and importers.

Authors	– 38.66%
Performers	– 30.67%
Phonogram producers	– 24%
Film producers	– 6.67%

Social and cultural funds, collective purposes

For musical authors, according to the reciprocal representation agreements, 10% deductions for the Cultural and Educational Fund are possible.

The Authors' Council is responsible for allocation. In 2012, EUR 640 were allocated.

Legal developments

On 01.11.2013 changes in Cabinet Regulation No.321 were made, in which many products, like all analogue devices and carriers, were exempted, but USB flash drives were added.

Remunerations / Levies

Table 36: Tariffs, Latvia

Blank Media	Tariff valid from 01.11.2013	Capacity
Optical Storage media		
CD	6 % *	
DVD	6 % *	
Flash Media		
USB Flash drive	4% *	
Devices Hardware, PC, HDD		
All types of PCs	1.42 **	

Additional Comments:

*Percentage from sale prices.

Revenues

Table 37: Revenues, Latvia

Blank Media	2010 (€)	2011 (€)	2012 (€)
Audicassettes	615.15	399.54	209.62
Videocassettes	1,056.74	619.55	299.91
Optical Storage media			
Minidiscs	10.84	6.4	10.54
CD-R/RW	40,887.22	45,377.09	31,231.00
DVD-R/RW	87,515.72	81,640.69	57,496.76
Flash Media			
USB Flash drive	0	0	2,445.16
Devices Hardware, PC, HDD	2010 (€)	2011 (€)	2012 (€)
All types of PCs	0	0	70235.80
Consumer electronics			
Digital jukebox, MP3 players	16,661.83	13,185.75	13,160.14
DVD Harddisc recorder	257.54	34.15	359.99
CD writer internal/external	406.94	589.07	1,580.81
DVD writer internal/external	56,265.28	81,289.25	30,958.84
Video tape recorder	85.37	0	0

17. LITHUANIA

Contact Information

Country	: Lithuania	
Currency	: Litas (Lt)	€ 1,00 = 3.4528 Lt
Population	: 2,957,445	
Name organisation	: Lithuanian Neighbouring Rights Association (AGATA)	
Website	: www.agata.lt	
Contact person 1	: Managing Director Agnė Masalskytė	
Contact person 2	: Senior Specialist of Music License Department Aušra Sadaunykaitė	
e-mail 1	: agne@agata.lt	
e-mail 2	: vp@agata.lt	
Address	: S. Žukausko str. 39	
Postcode	: LT-09130	
City	: Vilnius	
Phone	: +370 5 260 84 13	
Fax	: +370 5 263 94 66	

Legislation and fundamental facts

Legal basis:

Article 20 of the Lithuanian Law on Copyright and Related Rights http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=417078&p_query=&p_tr2=2

Governmental Resolution no. 699 of 13/06/2012, which regulates the order of collection, distribution, payment and refund system of the remuneration for private copying.

http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=427725&p_query=&p_tr2=2

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

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 is the first seller of imported or manufactured media and devices in the Lithuanian territory.

Collecting Society:

Lithuanian Neighbouring Rights Association (AGATA). Appointed by The Minister of Culture in accordance with the Law.

Costs incurred by collection of remunerations were 31,481.70 Eur. This sum also includes the distribution costs of remuneration of private copying for other collective rights management associations, which represent owners of copyright and owners of related rights. Also the organs of each collective right management association, which make the further distribution to their represented rights holders, set a percentage of administrative costs annually.

AGATA is responsible for the distribution of remuneration to collective rights management associations, which represent owners of copyright and owners of related rights.

Remuneration is distributed through the collective rights management associations.

The main distribution of collected remuneration is prepared by AGATA. This distribution sends out a remuneration to authors and the subjects of related rights.

Remuneration is decided by two authors' associations (LATGA-A and NATA (for music authors)) and AGATA (for performers and producers of phonograms). Then these associations carry out the further distribution to their represented rights holders. Distribution to producers of an audiovisual work is also made by AGATA.

Costs incurred by the distribution of remunerations.

The same sum (31,481.70 Eur) applies to the collection of remuneration and the main distribution between collective rights management associations. Also the organs of each collective right management association, which make the further distribution to their represented rights holders, set a percentage of administrative costs annually.

Rate setting

Levies are determined by law. Criteria used are copying behaviour of consumers, the harm caused by copying and the source of the copy.

If the levied media or devices are used for professional purposes, there is a possibility to have the remuneration refunded. The group of buyers who have this right are:

- Exporters;
- Professional users;
- People with disabilities.

Specific products not falling within the scope of the private copying system are:

Media for professional uses are not included:

- Internal and external non-integrated solid state disk (SSD) and hard disk drives (HDD), which are bigger than 2.5-inch SATA drives;
- Hard disk drives (HDD), bigger than 2.5-inch SATA drives and with SCSI, iSCSI, SAS, FC, SATA, FATA interfaces, usually used for the servers, data arrays and similar professional engineering purposes;
- Solid state disk (SSD) and hard disk drives (HDD), which are integrated into the PC at the time of sale.

Collection process

Legal liability moment – when the first sale takes place in the Lithuanian territory.

Payment period – Once a quarter or once a month.

Monitoring of the market, and direct contact with companies or persons. If they have a duty to pay remuneration, they make contract with the responsible association AGATA and pay this levy in accordance with the Resolution of the Government. If the liable party is not compliant, the responsible association contacts them by telephone or email to inform them about their duties and legal liability. If this is not effective, AGATA provides a formal claim. Then the liable party is referred to a law firm, which represents AGATA, and lawyers for that company also submit a claim. The last step is a court procedure where the civil claim is lodged (not practised yet).

Also according to the Resolution of the Government, the responsible association has a right to inspect the correctness of the reports about the 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 in the working place.

Exports are exempted and exporters can claim a refund for the paid levies.

The importer is the person who makes the import from the EU and third countries (not EU countries).

In Lithuania the duty to pay remuneration for private copying arises when the first seller executes the first sale of imported or manufactured levied media or devices.

Distribution

AGATA is responsible for the distribution of remuneration to collective rights management associations, which represent owners of copyright and of related rights. Then these associations execute the further distribution to their rights holders. These are authors, performers and the producers of audiovisual works and phonograms.

Distribution is yearly. The monies collected in a year will be distributed by the 1st of March of the following year.

The shares of rights holders for distribution are indicated in the Law. Basic rules, and how the responsible association has to distribute the collected remuneration between the groups of rights holders, are determined in the Resolution of the Government.

According to the Resolution:

1. The sums for programmes of creative activities and copyright, and related rights protection programmes have to be deducted from the collected remuneration;
2. After these deduction, administrative costs are deducted from the remaining amount;
3. The final amount of remuneration is distributed as follows:

Distribution schemes:

Levies for audio blank media and devices:

- 1/3 – Authors
- 1/3 – Performers
- 1/3 – Producers of a phonogram

Levies for video blank media and devices:

- 1/3 – Authors
- 1/3 – Performers
- 1/3 – Producers of an audiovisual work

(How much remuneration from levied media and devices goes to audio and video shares is calculated on the basis of an independent survey).

On the basis of these data AGATA distributes the remuneration and transfers the remuneration to the collective rights management organisations for further distribution and payment to the represented rights holders.

Social and cultural funds, collective purposes

25% from collected remuneration is assigned to programmes of creative activities and copyright and related rights protection programmes (these programmes is administered by the Ministry of Culture).

In 2012, 493,226.53 Eur were allocated. The sum for programmes of creative activities and copyright and related rights protection programmes was transferred to the Ministry of Culture for the first time this year. This is because the amendments of the Law came into force on the 1st of March, 2012. Therefore, the Ministry of Culture is currently preparing the conditions of the tender. After that the interested parties can submit their projects.

Other developments; disputes/court cases regarding the system, certain products, professional use or other issues relating to the private copying system

The new amendments of the Law have been in force from 1st of March, 2012; therefore, there are no court cases in this area yet.

Remunerations / Levies

Table 38: Tariffs, Lithuania

Blank Media	Tariff valid from 2012-03-01	Capacity
Audiocassette	6% of first sale price	Per unit
Videocassette	6% of first sale price	Per unit
Optical Storage media		
Minidisc	6% of first sale price	Per unit
All types of DVD	6% of first sale price	Per unit
All types of CD	6% of first sale price	Per unit
Blu-Ray	6% of first sale price	Per unit
Flash Media		
USB and non-integrated Memory Cards	€ 0.14	< 1 GB
	€ 0.29	for 1-2 GB
	€ 0.58	for 2.1-4 GB
	€ 0.87	for 4.1-8 GB
	€ 1.45	for 8.1-16 GB
	€ 2.03	for 16.1-32 GB
	€ 2.90	for > 32 GB

Devices Hardware, PC, HDD	Tariff valid from 2012-03-01	Capacity
External and internal non-integrated SSD, HDD	€ 1.45	< 250 GB
	€ 2.32	for 250.1-500 GB
	€ 2.90	500.1-1 TB
	€ 4.34	> 1 TB
PC	€ 5.79	Per unit
Consumer electronics		
Digital and analogue audio and video player with a memory device and audio and video recording capability: audio cassettes, VCRs, CDs, DVDs, HD-DVD drive, Blu-ray players, home theatre, musical centres, car radio, radio set, MP3 players, MP4 players, HD media players and other players;	€ 0.43	< 1 GB
	€ 1.01	for 1-2 GB
	€ 1.45	for 2.1-8 GB
	€ 4.34	for 8.1-32 GB
TV with a memory device and audio and video recording capability;	€ 5.79	for 32.1-250 GB
Settop box with a memory device and audio and video recording capability	€ 7.24	for 250.1-500 GB
	€ 8.69	for 500.1-750 GB
	€ 10.14	for 750.1 GB-1 TB
	€ 11.58	> 1 TB

Table 38: Tariffs, Lithuania (continued)

Mobile Phones		
Mobile phones with a memory device and audio and video recording	€ 0.43	< 1 GB
	€ 1.01	for 1-2 GB
	€ 1.45	for 2.1-8 GB
	€ 4.34	for 8.1-32 GB
	€ 5.79	for 32.1-250 GB
	€ 7.24	for 250.1-500 GB
	€ 8.69	for 500.1-750 GB
	€ 10.14	for 750.1 GB-1 TB
	€ 11.58	> 1 TB

Additional Comments:

When the remuneration for private copying was collected only from CD, DVD, videocassette, audiocassette Blu-Ray and minidisc, the revenues decrease annually. When the list of levied media and devices was expanded (from 1st of March 2012) the collected remuneration significantly increased (for example the remuneration (after all deductions) for 2012 was 1,448,197.89 Eur; in 2011 it was 50,748.89 Eur). The expanded list of levied media and devices is valid for a little over one year. The new Law determines the review of that list every two years, so after such review it will be possible to assess the changes in revenue.

Revenues**Table 39: Revenues, Lithuania**

Blank Media	2010 (€)	2011 (€)	2012 (€)
Audiocassette	€ 276.40	€ 156.32	€ 146.77
Videocassette	€ 10,095.11	€ 5,004.81	€ 3,401.60
Optical Storage media			
Minidisc	Minidisc, Blu-ray € 190.10	Minidisc, Blu-ray € 124.70	€ 30.90
CD	€ 40,711.12	€ 22,694.89	€ 25,788.60
DVD	€ 80,111.30	€ 37,944.27	€ 29,604.38
Blu-ray			€ 279.06
Flash Media			
USB	–	–	€ 176,249.12
Non-integrated Memory Cards	–	–	€ 163,989.19

Table 39: Revenues, Lithuania (continued)

Devices Hardware, PC, HDD	2010 (€)	2011 (€)	2012 (€)
SSD	–	–	10,804.03 EUR
HDD	–	–	87,839.95 EUR
PC	–	–	883,309.64 EUR
Consumer electronics			
Digital and analogue audio and video player with a memory device and audio and video recording capability: audio cassettes, VCRs, CDs, DVDs, HD-DVD drive, Blu-ray players, home theatre, musical centres, car radio, radio set, MP3 players, MP4 players, HD media players and other players			38,931.74 Eur
TV with a memory device and audio and video recording			
Settop box with a memory device and audio and video recording capability			
Mobile Phones	–	–	552,531.13 EUR

Note:

The amounts (with deducted debts) in the table are before the costs of collection and/or distribution have been deducted. In Lithuania the collected remuneration is distributed just after the deduction of administrative costs (and from the 1st of March, 2012 after the deduction of the 25% for the programmes of creative activities and copyright and related rights protection programmes).

18. NETHERLANDS

Contact Information

Country	: The Netherlands
Currency	: Euro
Population	: 16,700,000
Name organisation	: Stichting de Thuis kopie
Website	: www.thuiskopie.nl
Contact person	: Hester Wijminga
e-mail 1	: hester.wijminga@cedar.nl
e-mail 2	: thuiskopie@cedar.nl
Address	: P.O. box 3060
Postcode	: 2130 KB
City	: Hoofddorp
Phone	: +31 (0)23-7997019
Fax	: +31 (0)23-7997018

Legislation and fundamental facts

Legal basis:

Copyright Act 1912, amended last in 2004. Royal decree of 23 October 2013, based on a recommendation from the SONT. The Private Copying Levy Agency (SONT) is a consultative body in which the persons obliged to pay and the Home Copy Association are represented.

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.

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

Collecting Society:

Stichting de Thuis kopie. Founded by rights holders and appointed by the Minister of Justice.

Administrative costs for collecting remunerations are 10%. Costs for distribution by organisations of rights holders may not exceed 15%.

Stichting de Thuis kopie is responsible for collection and distribution of private copying remunerations to all rights owners. The private copying remunerations are distributed by Thuis kopie to organisations of rights holders.

Rate setting

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

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

Professional use:

Since the Padawan verdict of 2011, the new regulations on professional use are taken into account in a different manner; there is no longer a system of mutualisation but certain products are to be exempted if sold to professional end-users.

In a contractual situation importers can deliver PCs, laptops, tablets, external hard drives and blank media without levies towards professional users. In a non-contractual situation, every professional user can ask for a refund with Stichting de ThuisKopie directly if he can show the levies have been paid.

There are court proceedings about the professional use of mobile phones. Professional use is not possible because private copying on these items is always personal. Some do not pay because of these regulations.

Collection process

Based upon the law, the obligation to pay arises directly upon import or when the product is manufactured and ready to be put into the market. In a contractual situation contractors can report within 15 days after the end of the month in which the product was sold to the Dutch market.

The first commercial seller is to be considered the importer. Foreign sellers can be considered importers if they deliver directly towards consumers in a cross-border situation (Opus case)

An enforcement officer does regular checks on the market; an anonymous reporting system is place. Contractors can be audited by ThuisKopie.

Export:

All exporters can ask for a refund if they can show levies have been paid. Refund only takes place if ThuisKopie has received the funds from the importer. In a contract situation exports can be exempted upfront.

Distribution

Stichting de ThuisKopie distributes quarterly to organisations of rights holders.

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

Distribution schemes:

The distribution schemes are set by rights holders and have to be approved by the Supervisory board instituted by law.

Distribution scheme, audio:

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

Distribution scheme, video:

- 33.75% authors – Stemra (distribution Stemra-part: Stemra 30.52%, Lira/Vevam 34.96%, Vevam 30.22%, Pictoright 4.3%).
- 25.50% performing artists – Norma (video)
- 40.75% producers – Sekam video (33,75%) en NOS (7%)

Distribution scheme, other:

Distribution scheme, interactive:

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

With the new regulations, talks will start about the distribution schemes.

Social and cultural funds, collective purposes

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

The rights holders' organisations that distribute the private copying remunerations to individual rights owners can.

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

Legal developments

The regulation is valid until December 31st 2013; the negotiating body (SONT) has advised the State Secretary on a new regulation as of 2014. The proposal includes a levy on e-readers and proposes to make a visible levy on all invoices mandatory. We are awaiting the decree to be formulated by the state, and to see if it follows the advice of SONT. The state secretary is not obligated to follow the advice.

Other developments; disputes/court cases regarding the system, certain products, professional use or other issues relating to the private copying system

Several court cases will prove to be relevant for the implementation and execution of the decree which was valid as of January 2013.

- The branch organisation of consumer electronics industry together with HP, Dell, Acer and Imation has started a court case against the Dutch state fighting the legality of the new decree and stating that tariffs are not based on the actual harm. Parties who are not paying are being sued by ThuisKopie in summary proceedings.
- Nokia started a similar court case against ThuisKopie and the Dutch State. Especially the professional use which is not relevant for smart phones is contested.
- After the Padawan case the blank media importer Imation stopped paying levies altogether claiming they had paid too much in the past when mutualisation was in force. In first instance the judge ruled in favour of Imation but a claim could not be calculated since Imation has to prove professional use on each and every single CD-R/DVD-R. An attempt to seize the accounts of ThuisKopie failed as the judge let the interests of rights holders to receive compensation for private copying prevail.

Remunerations / Levies

Table 40: Tariffs, Netherlands

Blank Media	Tariff valid from January 2013	Capacity
Optical Storage media		
CD-R/RW	€ 0.03	Unit
DVD-R/RW	€ 0.03	Unit
Devices Hardware, PC, HDD		
PC/ Laptop	€ 5.00	Unit
Tablet	€ 2.50	≤ 8GB
Tablet	€ 5.00	> 8GB
External hard disk	€ 1.00	Unit
Consumer electronics		
Audio/Video (mp3) player	€ 1.00	≤ 2 GB
Audio/Video (mp3) player	€ 2.00	> 2 GB
Settop box/Hard disk recorder	€ 2.50	≤ 160 GB
Settop box/Hard disk recorder	€ 5.00	> 160 GB
Mobile Phones		
Smartphone/phone mp3 function	€ 2.50	< 16GB
Smartphone/phone mp3 function	€ 5.00	≥ 16 GB

* capacity for mobile phones includes maximum expendable memory

Revenues

Table 41: Revenues, Netherlands

Blank Media	2010 (€)	2011 (€)	2012 (€)
CD-R/RW	2,299,00	3,284,000	1,819,000
DVD-R/RW	8,128,000	5,578,000	3,434,000
Analogue audio	125,000	110,000	51,000
Analogue video	268,000	238,000	71,000 ^e
TOTAL	€ 10,820,000	€ 9,210,000	€ 5,375,000

Additional Information:

The collected amounts for 2013 will prove to be much higher, an estimated 25 million.

19. NORWAY

Contact Information

Country	: Norway	
Currency	: NOK – Norske kroner	€ 1,00 = 7.86 NOK
Population	: 5,051,275	
Name organisation	: NORWACO	
Website	: www.norwaco.no	
Contact person 1	: Hans Fredrik Hag	
Contact person 2	: Elin Urkedal	
e-mail 1	: hfh@norwaco.no	
e-mail 2	: eu@norwaco.no	
Address	: Postboks 8903 Youngstorge	
Postcode	: 0028	
City	: OSLO	
Phone	: +47 23 31 68 07	
Fax		

Legislation and fundamental facts

Legal basis:

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

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

Collecting Society:

Norwaco is a Collective Management Organization.

Norwaco is owned by our 34 member organizations, which represent different groups of rights holders in Norway. We are also approved and appointed by the Norwegian Government to distribute the compensation.

Norwaco will distribute parts of the compensation to the different rights holders' organizations, and then the organizations are responsible for the further distribution to the individual rights holders.

A deduction for administrative costs in connection with the distribution is made.

Rate setting

The rate is set in the national budget each year. We also provide a yearly statistical analysis of private copying.

Criteria used are: copying behaviour of consumers, whether copies are licensed or not, the source of the copy, etc.

Distribution

We pay out the remuneration once a year, and the organizations do the same.

In Norway there are different organizations which represent the different rights holders' groups. There are 34 organizations in total, which represent approximately 37,000 rights holders. They are also responsible for non-members.

Every rights holders' group will receive compensation.

This is in line with the guidelines from the Norwegian Government.

Legal developments

The scheme in Norway is not under a legislative process at the moment. It has remained unchanged since it was first implemented in 2005.

Revenues

Table 42: Revenues, Norway

2013	2012
43,800,000 NOK	42,400,000 NOK

20. PARAGUAY

Contact Information

Country	: Paraguay	
Currency	: Guaraní	€ 1,00 = 5.900 Guaraníes (3 July 2013)
Population	: 6,568,290	
Name organisation	: -SGP-, Sociedad de Gestión de Productores Fonográficos del Paraguay	
Website	: www.sgp.com.py	
Contact person 1	: Maria Elena Ojeda	
Contact person 2	: Silvia Cabañas	
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

Legal basis:

Ley 1.328/98 'De Derechos de Autor y Derechos Conexos', Art. 34 a 37.

Definition of private copy according to law, Art. 34.

Levy system: according to the provisions of the regulatory decree, importers and manufacturers are liable for payment.

Collecting Society:

AIE-Paraguay: by agreement of the three entities, the regulatory decree states that the society of performers is the collecting agency.

Appointed by rights holders.

Cost is unlimited. It is variable and changes monthly. Generally no more than 30%.

The collecting society delivers 10% (after expenses) to the state for the promotion of intellectual property rights. The balance is divided into three equal parts: one for authors, one for producers and one for interpreters.

Rate setting

Law 1328/98 provides that the State shall regulate the right. Therefore the rates have been determined in the Regulatory Decree No. 6780 of June 2011.

We believe that the authority has taken into account the harm caused by the copy. The larger the size of the copy, the higher the rate.

Professional users are exempted.

Artículo 35°. –

The foregoing remuneration shall not be payable for equipment and materials that are used by the producers of audiovisual works and phonograms and publishers or their licensees, neither shall it be payable by studios concerned with sound recordings or the postsynchronization of sound and images, or companies that work under contract to any of them, with respect to the legitimate production or reproduction of their works and products, provided that the equipment or media in question are intended solely for such activities.

36.

The organization of artists, responsible for revenue collection, distribute each month to authors and producers the levies of the previous month after deducting expenses.

Collection process

The mechanism is established in the decree. No 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.

Distribution

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).

According to the decree only producers of musical works, musical performances and phonographic productions are compensated. Each society decides how to distribute. The Artists' Society's and the Producers' Society's income is distributed according to airplay.

Each of the three entities determines the distribution scheme. For the time being, 100% is generally allocated to audio.

Social and cultural funds, collective purposes

The Society of Authors and the Society of Artists are subject to a social and/or cultural deduction. The producers do not. The maximum rate is 10% according to law 1.328/98.

Other developments; disputes/court cases regarding the system, certain products, professional use or other issues relating to the private copying system

The 30 major importers filed an *inconstitucionalidad* [unconstitutionality] action to 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.

Two years ago we had hoped for a final judgment. It is an absolutely unfair situation for rights holders.

Remunerations / Levies and Revenues not provided

21. POLAND

Contact Information

Country	: Poland
Currency	: PLN
Population	: 38,500,000
Name organisation	: Stowarzyszenie Autorów ZAIKS
Website	: www.zaiks.org.pl
Contact person	: ZAIKS: Grzegorz Burakiewicz : Biuro ZAIKS, SAWP, ZPAV ds. czystych nośników
e-mail 1	: grzegorz.burakiewicz@zaiks.org.pl
e-mail 2	: biuro@czystenosniki.pl
Stowarzyszenie Autorów ZAIKS	
Address	: ul. Hipoteczna 2
Postcode	: 00-092
City	: Warszawa
Phone	: +48 (22) 827 606169
Fax	: +48 (22) 828 9204
Biuro ZAIKS, SAWP, ZPAV ds. czystych nośników (head office of ZAIKS, SAWP, ZPAV of blank media)	
Address	: ul. Nalewki 8
Postcode	: 01-158
City	: Warszawa
Phone	: +48 (22) 620 01 98
Fax	: +48 (22) 620 01 98

Legislation and fundamental facts

Copyright Law and Law on Neighboring Rights of 4th of February, 1994 (Journal of Law no 24, item 83 with further amendments). Regulations of Minister of Culture of 2nd of June, 2003 and on 15th of December, 2008, amending the Regulation on the specification of the categories of devices and carriers used for fixing works, and on the fees on account of their sale by producers and importers.

Article 23 of the Polish Law on Copyright regulates the scope of the personal use:

Article 23.

1. It shall be permitted to use free of charge the work having been already disseminated for purposes of personal use without the permission of the author. (...)
2. The scope of personal use shall include use of single copies of works by a circle of people having personal relationships, and in particular any consanguinity, affinity or social relationship.

Remuneration is collected through levies on media and equipment.

Article 20 of the Polish Law on Copyright regulates the remuneration system:

Article 20.1. Producers and importers:

1. of tape recorders, video recorders and other similar devices;
2. of photocopiers, scanners and other similar reprographic devices which allow to make copies of all or a part of a published work;
3. of blank carriers used for fixing, within the scope of personal use, works or objects of related rights, with the help of the devices listed in subparagraphs 1 and 2 – shall be obliged to pay to collective management organizations specified in paragraph 5 which act to the benefit of artists, artistic performers, producers of phonograms and videograms, and publishers, fees at not more than 3% of the amount due from the sale of those devices and carriers.

The Minister of Culture and National Heritage determines by regulation the list of devices and carriers, and also the level of levies paid for them (see attachment).

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

Collecting Society:

Stowarzyszenie Autorów ZAIKS – creators

Stowarzyszenie Artystów Wykonawców Utworów Muzycznych i Słowno-Muzycznych SAWP – performing artists

Związek Producentów Audio-Video ZPAV – producers phonograms and videograms

Collective Management Organisations (ZAIKS, SAWP, ZPAV) are appointed by the regulation of the Minister of Culture and Protection of National Heritage. The above-mentioned organisations have no legal monopoly.

Costs for collecting private copying remunerations are directly incurred by Collective

Management Organisations (ZAIKS, SAWP, ZPAV) appointed for collecting levies.

Administrative costs for collecting private copying levies are as follows:

personal costs, costs of the office staff of ZAIKS, SAWP, ZPAV of blank media, office supplies and equipment, energy, rent and auditing costs from the enterprises obliged to make payments, e.g. in 2012 it was 6.83% of the collection.

The Minister of Culture and Protection of National Heritage indicated by his regulation of 2nd July 2003 that collective management organisations shall be responsible for levies' distribution.

Distribution in the audio sector is carried out by:

- ZAIKS – for creators
- SAWP – for performing artists
- ZPAV – for producers phonograms and videograms

Distribution in the video sector is carried out by:

- SFP – for creators
- ZASP – for performing artists
- ZPAV – for producers phonograms and videograms

By the Regulation of 2nd of June, 2003 the Minister of Culture determined the process of levies' distribution.

Under this Regulation, collective management organisations responsible for levies' distribution (ZAIKS, SAWP, ZPAV in the audio sector, SFP, ZASP, ZPAV in the video sector) distribute levies to the organizations representing rights owners proportionally for fixing works, artistic performances, phonograms and videograms for personal use made by the rights owners they represent.

Collective management organisations responsible for levies' distribution (ZAIKS, SAWP, ZPAV in the audio sector, SFP, ZASP, ZPAV in the video sector) divide levies on the basis of the agreements concluded by all organizations representing rights owners, and determine which part of the levies is due to particular categories of rights owners after taking into account survey results which cover the use of works, artistic performances, phonograms and videograms and reflect the structure and scope of fixing works, artistic performances, phonograms and videograms for personal use.

The Minister of Culture indicated in the Regulation of 2nd of June, 2003 the process of costs distribution for private copying.

Collective management organisations responsible for levies' distribution (ZAIKS, SAWP, ZPAV in the audio sector, SFP, ZASP, ZPAV in the video sector) divide the collected levies for private copying after deducting reasonable and appropriately documented costs incurred through their collection (claims) and division.

Rate setting

The Minister of Culture and National Heritage determines by regulation the list of devices and carriers and also the level of levies paid for them.

The Minister of Culture and National Heritage shall define by his regulation categories of devices and carriers as well as the fees, on the basis of the capacity of a device and carrier to reproduce works, and the designed use thereof for functions other than reproduction of works.

Professional use:

The basic criterion in the Polish system for the collection of levies on sales of devices/carriers by producers and importers of a certain device/carrier is based on their destination, for the purposes of private copying.

Levies can be collected on devices and carriers destined for the private use of the purchaser only,.

Such a way of establishing the obligation to pay levies does not require legislation on the scope of the exception for equipment destined for professional use.

Collection process

Producers and importers of devices and blank media shall be obliged to pay levies within two weeks at the end of each quarter wherein the sales took place.

Control:

Three collecting societies appointed by the Minister of Culture for the collection of levies order a professional from outside the company 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.

Export refund procedures are not implemented in Polish legal regulations.

The definition of an importer is specified in the Civil Code. Under the Art. 449 (5) § 2 CC an importer is anyone who introduces a product of foreign origin into domestic trade 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

Collective management organizations responsible for levies' distribution are: ZAIKS, SAWP, ZPAV in the audio sector, SFP, ZASP, ZPAV in the video sector.

Frequency of distribution is determined on the basis of the agreements concluded by all organizations representing rights owners of the categories in question (e.g. creators).

There are three categories of rights holders:

- creators
- performing artists
- producers of phonograms and videograms

The distribution schemes are determined on the basis of the Copyright Law and Law on Neighboring Rights of 4th of February, 1994, and by the regulation of the Minister of Culture and National Heritage.

Distribution schemes:

Article 20, Section 2 of the Copyright Law and Law on Neighboring Rights determines the distribution of levies to various categories of rights owners, and their percentage share of the Audio and Video sector.

Distribution scheme, audio:

Authors: 50%,
Performers: 25%,
Phonogram Producers: 25%.

In this sector the organizations responsible for levies' distribution are: ZAIKS, SAWP and ZPAV.

Distribution scheme, video:

Authors: 35%,
Performers: 25%,
Video producers: 40%.

In this sector the organizations responsible for levies' distribution are: SFP, ZASP and ZPAV.

Distribution scheme other:

Collective management organizations responsible for levies distribution (ZAIKS, SAWP, ZPAV in the audio sector, SFP, ZASP, ZPAV in the video sector) divide levies on the basis of the agreements concluded by all organizations representing rights owners after taking into account survey results. The survey commissioned by organizations indicates the relation between the products levied and the category in which distribution takes place.

Social and cultural funds, collective purposes

In the Polish two-grade distribution system (the first: statutory distribution in two sectors; the second: distribution is made by societies representing various categories of rights holders) possible deductions for social or cultural purposes are applied by societies responsible for distribution to their members. The deductions are not determined by the law enacted by the State, and are made in accordance with the statutes of a society.

Legal developments

There is a discussion and legal development concerning amendments to the legal regulations of Copyright.

Remunerations / Levies

Table 43: Tariffs, Poland

List of tape recorders and other similar devices as well as blank carriers and the amount of fees collected therefrom		
No.	Device or carrier	The percentage (%) of the fee deducted from the sale price of the equipment or carrier
1.	MP3 Single Function	3.00%
2.	CD-R 12 cm	1.72
3.	CD-RW 12 cm	2.89
4.	DAT Cassette	3.00
5.	MD record (MiniDisc)	3.00
6.	Audio Cassette	3.00
7.	Memory card (including pen drive and other semiconducting Massive Storage Devices)	0.47
8.	Stacking hi-fi with tape recorder and CD player	0.76
9.	Stacking hi-fi with tape recorder and DVD player	0.76
10.	Stacking hi-fi with tape recorder and CD player with a recording function	0.70
11.	Stacking hi-fi with DVD/CD player with FLASH recording function	0.17
12.	Stacking hi-fi with tape recorder and DVD player with a recording function	1.04
13.	Stacking hi-fi with hard disc/FLASH	0.19
14.	Radio-cassette recorder with CD player	0.74
15.	Radio-cassette recorder with CD player with a recording function	0.69
16.	Radio-cassette recorder	0.96
17.	Radio with MD player with a recording function	0.98
18.	Radio with CD player with a recording function	0.54
19.	Radio with CD player with a recording function FLASH	0.05
20.	CD player with a MD player with a recording function	0.94
21.	MD player with a recording function	1.71
22.	Computer hard disc STANDARD	1.00
23.	Other computer hard discs included in the remaining devices allowing fixing of works or subjects under the neighboring rights, including audio or audio-visual	1.00
24.	Computer CD recorder	1.54
25.	Computer DVD recorder	2.28
26.	Tape recorder	2.03
27.	Multifunctional multimedia player of MP3 format	1.14
28.	Car stereo set comprising a CD player with recording functions	1.08
29.	Car stereo set comprising a CD player with recording into other carriers function	0.30

Table 43: Tariffs, Poland (continued)

List of video recorders and other similar devices as well as blank carriers and the amount of fees collected therefrom		
No.	Device or carrier	The percentage (%) of the fee deducted from the sale price of the equipment or carrier
1.	DVD-R 12 cm	2.53
2.	DVD-RW 12cm	2.95
3.	DVD RAM 12 cm	3.00
4.	Blu-Ray R 12 cm	2.10
5.	Blu-Ray RE 12 cm.	2.10
6.	HD DVD-R 12 cm	2.10
7.	HD DVD-RW 12 cm	2.44
8.	VHS cassette	3.00
9.	VHS/D cassette	3.00
10.	HD DVD or Blu-Ray computer recorder	1.89
11.	Video recorder	2.14
12.	Video player with recording function	2.35
13.	DVD player with recording function	1.46
14.	DVD player with recording function into other carrier via USB	0.27
15.	DVD player with recording function and hard disc	2.23
16.	DVD and VHS player with recording function	2.23
17.	DVD and VHS professional player with recording function and hard disc	1.86
18.	High Definition player with recording function	1.21
19.	High Definition player with recording function and hard disc	1.85
20.	Disc memory which registers AV stream (including digital TV decoder with hard disc	0.87
21.	TV set comprising video recorder	0.51
22.	TV set comprising hard disc	0.51
23.	TV set comprising DVD recorder	0.35
24.	TV set comprising DVD recorder and hard disc	0.87

Revenues

Table 44: Revenues, Poland

Audio Revenues	2010 (€)	2011 (€)	2012 (€)
Total Audio	1,606,780	1,451,327	1,368,315
Video Revenues	2010 (€)	2011 (€)	2012 (€)
Total Video	300,808	303,208	300,362
Total Revenue	1,907,588	1,754,535	1,668,677

Additional Information:

In 2010 'Audio' and 'Video' in total: € 1,907,588 (€1 = PLN 3.9603 [exchange rate of 31.12.2010])

In 2011 'Audio' and 'Video' in total: € 1,754,535 (€1 = PLN 4.4168 [exchange rate of 31.12.2011])

In 2012 'Audio' and 'Video' in total: € 1,668,677 (€1 = PLN 4.0882 [exchange rate of 31.12.2012])

22. PORTUGAL

Contact Information

Country	: Portugal
Currency	: Euro
Population	: 10,788,126
Name organisation	: AGECOP – Associação para a Gestão da Cópia Privada
Website	: www.agecop.pt
e-mail 1	: geral@agecop.pt
Address	: Av. Estados Unidos da América, 94, 7.º B
Postcode	: 1700-178 Lisboa
City	: Lisboa
Phone	: +351 21 848 66 05
Fax	: +351 21 848 66 07

Legislation and fundamental facts

Legal basis:

The collection of remunerations for private copy is imposed by Law 62/98, amended by Law 50/2004, both approved by Parliament, pursuant to the established articles 81 and 82 of the Copyright Code. The collection and management of remunerations for private copy is made by AGECOP, both for audiovisual and reprography.

Definition of private copy according to law or as a result of litigation.

Concerning the remunerations over equipment and blank media, which benefit music and audiovisual rights holders, all importers and manufacturers of such items are obliged to collect when the first sale of the product takes place. As for remunerations that benefit reprographic rights holders, the collection is made by all the public and private entities that sell photocopies, which have entered into contracts with AGECOP.

Liable for payment are importers, manufacturers, traders or others.

Collecting Society:

AGECOP: The incorporation of AGECOP was mandatory and was made in 1998. Our members are all the collecting societies existing in Portugal and representing authors, artists and performers, publishers and music and video producers.

Distribution schemes are set in the Law. As the members of AGECOP can only be collecting societies, distribution to rights holders is made by them. AGECOP distributes as follows: remunerations from equipment and blank media – 40% for collecting societies representing authors; 30% for collecting societies representing artists and performers; 30% for collecting societies representing music and video producers. Remunerations from photocopies – 50% for collecting societies representing authors and 50% for collecting societies representing publishers.

Rate setting

The Legislator determines the levies.

Importers and manufacturers of equipment and blank media subject to the private copy remuneration are obliged to report the number of blank media sold; as for equipments, they also have to report the sale price, as the remuneration is calculated over such amounts (the remuneration is only collected for analogue equipment and corresponds to 3% of the net selling price). In addition, importers and manufacturers have to report data concerning exports and exemptions for professional uses. All the data has to be reported to AGECOP and also to the Inspection of Cultural Activities, a body of the Ministry of Culture. Also, the public and private entities that sell photocopies are obliged to report the number of copies of works made each year.

Professional use:

The remunerations shall not be due when the equipment or media are exclusively acquired by audiovisual communication bodies or by producers of phonograms or videograms for their own productions, or by bodies which use them for purposes exclusively connected to providing assistance to people with a visual or hearing disability, as well as, pursuant to a joint order from the Ministers for Finance and for Culture, by non-profit-making entities of a cultural nature for the use thereof in projects of a relevant public interest.

Professional users can obtain a refund.

Collection process

The remunerations over photocopies are due once a year and the remunerations from equipment and blank media are due quarterly.

AGECOP can audit the accounts of all importers that have entered into contracts with AGECOP.

We also have such powers over public and private entities that have entered into contracts to pay the remuneration over the selling price of photocopies. All administrative and police authorities are competent to supervise the compliance with private copy legal regulations.

In order to be refunded for exports, importers and manufacturers have to present the same documents that are requested by the VAT services when applying for a VAT refund.

Distribution

As the members of AGECOP can only be collecting societies, distribution to rights holders is made by them. Distribution schemes are set by law.

Distribution schemes: Distribution schemes are set in the law. As the members of AGECOP can only be collecting societies, distribution to rights holders is made by them. AGECOP distributes as follows: remunerations from equipment and blank media – 40% for collecting societies representing authors; 30% for collecting societies representing artists and performers; 30% for collecting societies representing music and video producers. Remunerations from photocopies – 50% for collecting societies representing authors and 50% for collecting societies representing publishers.

Social and cultural funds, collective purposes

There is a social and/or cultural deduction. The Law establishes an obligation to retain 20% of the total amounts collected for collective purposes. 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.

Remunerations / Levies

Table 45: Tariffs, Portugal

Blank Media	Tariff	Capacity
AUDIO LEVIES		
Audiocassette	0.14	per unit
Minidisc	0.19	per unit
Audio-CD R	0.13	per unit
Audio-DC RW	0.19	per unit
Data-CD R	0.05	per unit
Data-CD RW	0.14	per unit
CD 8 cm	0.27	per unit
VIDEO LEVIES		
Videocassette	0.26	per unit
DVD+ R	0.14	per unit
DVD- RW	0.30	per unit
DVD- R	0.14	per unit
DVD- RW	0.30	per unit
DVD RAM	1.00	per unit

Revenues

Table 46: Revenues, Portugal

Blank Media	2010 (€)	2011 (€)	2012 (€)
TOTAL	€ 2,359,418	€ 2,292,392	€ 1,179,084

23. ROMANIA

Contact Information

Country	: ROMANIA	
Currency	: LEI	€ 1,00 = 4.4560 LEI (2012)
Population	: 19,000,000	
Name organisation	: The Union of Phonogram Producers in Romania	
Website	: 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, Bucharest, Romania – Postal Code 011145	
Phone/Fax	: 021.222.20.45/3	

Legislation and fundamental facts

Legal basis:

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.

Private copying is a compensatory remuneration established by Law no.8/1996, and the levy is to be paid by the economic agents that manufacture or import into Romania's territory:

- Storage Media permitting analogical or digital sound and audiovisual recordings;
- Devices for making analogical or digital copies.

Collecting Society:

The Union of Phonogram Producers in Romania. In 2005, UPFR was appointed by the Copy Right Office in Romania (ORDA) as the sole collecting society for private copying for audiovisual works. It has a legal monopoly. The Union of Phonogram Producers in Romania annually distributes the amounts collected from private copying to the other societies entitled to benefit from this right.

Administrative costs for collection are 2% of the total amount (this includes distribution costs for other collecting societies – authors, performers, etc.).

The Union of Phonogram Producers in Romania distributes the amounts collected from private copying to the other societies entitled to benefit from this right.

Administrative costs for distributing are 15% of UPFR's share for distribution to UPFR members (this includes the administrative costs for collecting private copying remunerations).

Rate setting

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.

There is only one criterion: the purpose of the device. If the device is for recording purposes the remuneration is 0.5% from the tax value; if the device is for storage purposes, the remuneration is 3% from the tax value.

Professional use is not taken into account.

There are no specific products excluded. The list of devices and media for compensatory remuneration is established by ORDA's decision and can be updated every 3 years.

Collection process

Payment is due monthly. Part of UPFR's legal task is to undertake regular checks on the declaration by checking the accounting documents of the companies.

There is a dispute over the receivers offered by the cable operators which have also recording functions.

Distribution

The Union of Phonogram Producers in Romania distributes monthly to authors, performers and producers. Distribution schemes are stated by Law.

Analogue process copy:

- 40% – Authors
- 30% – Performers
- 30% – Producers

Digital process copy:

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

Social and cultural funds, collective purposes

There is no social and/or cultural deduction.

Legal developments

The last change was introduced in 2009. Since then there have been no changes or discussions. For 2013 there is nothing planned either.

Other developments; disputes/court cases regarding the system, certain products, professional use or other issues relating to the private copying system

There are customers who are not willing to pay, and these are taken to court. Up until now, there have been no indications that court decisions are having an effect on private copy system or on revenues.

UPFR won all the court cases involving the payment of private copying, including any late payment penalties adjusted for inflation.

UPFR also won a court case over the payment of private copying for intra-community acquisitions.

Remunerations / Levies

Table 47: Tariffs, Romania

Audio levies	Levy	Capacity
Audiocassette	3%	Per unit
Minidisc	3%	Per unit
Audio CD R/RW	3%	Per unit
Data –CD R/RW	3%	Per unit
Video levies	Levy	Capacity
Videocassette	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%	Per unit
CD recorder (external)	0.50%	Per unit
DVD writer (internal)	0.50%	Per unit
Built-in DVD writer	0.50%	Per unit
DVD recorder (external)	0.50%	Per unit
Computer hard disk	0.50%	Per unit
Memory card	0.50%	Per unit
USB stick	0.50%	Per unit
Audio recorder	0.50%	Per unit
Minidisk 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
TV and digital recorders with HDD or built-in storage medium, MP4 player, I-pod 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 tariffs are percentages of CIF value (import or base price).

Revenues

Table 48: Revenues, Romania

Audio Revenues	2010 (€)	2011 (€)	2012 (€)
Audiocassette	611	414	145
Minidisc	80	409	12
CD blank	43,326	40,779	39,128
Data CD R/RW	578	591	254
Total 'Audio'	44,595	42,193	39,539
Video Revenues	2010 (€)	2011 (€)	2012 (€)
Cassettes	153	10	31
DVD+R/RW	58,996	59,693	192,640
Blu ray disc	164	291	1,617
Total 'Video'	59,313	59,994	194,288
Device Revenues	2010 (€)	2011 (€)	2012 (€)
Memory card	153	10	31
USB stick	21,314	19,735	15,094
HD DVD recorder	556	2,344	3,121
Audio recorder	4,714	5,083	1,864
Video recorder	614	1,792	315
CD writer/recorder	351	11	126
DVD writer/recorder	10,977	19,098	14,430
Mobile phones	622,634	1,103,496	1,478,855
Mp3 recorder	16,031	12,980	8,193
TV and digital recorders	22,084	43,197	59,453
Built-in CD writer	734	951	1,147
Built-in DVD writer	22,349	20,974	24,764
External hard disk	31,815	38,732	24,394
Built-in hard disk	41,363	38,937	46,602
Total 'Devices'	866,068	1,439,269	1,767,906
	2010 (€)	2011 (€)	2012 (€)
Total Revenues	970,012	1,541,873	2,001,733

24. RUSSIA

Contact Information

Country	: Russia	
Currency	: Rouble	€ 1,00 = 43
Population	: 142,000,000	
Name organisation	: Russian Union of Right-holders	
Website	: 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	: bld. 73/1, Novoslobodskaya	
Postcode	: 127055	
City	: Moscow	
Phone	: +7 495 988 50 89	
Fax		

Legislation and fundamental facts

Legal basis:

Article 1245 of the Civil Code of the Russian Federation.

The authors, performers, and manufacturers of sound recordings and audiovisual works are entitled to receive a fee for a free reproduction/playback of the sound recordings and audiovisual works exclusively for personal purposes. Such a fee is of a compensatory nature and is payable to rights holders from the funds payable by the manufacturers and importers of the equipment and material media used for the reproduction/playback.

The levy system is set up by the Russian Government. Importers into the territory of Russia and local manufacturers are liable for payment.

Collecting Society:

Russian Union of Right-holders. 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 according to the Civil Code. RUR is a monopoly organization.

Administrative costs for collecting private copying remunerations: in accordance with the law, deductions can be up to 15%. The current rate is 15%.

RUR distributes remuneration directly to the rights holders.

Rate setting

Levies/remuneration are determined by the Russian Government.

Criteria for determining the levies/remuneration are: 1) copying behaviour of consumers; 2) reproduction/playback; 3) copying for personal purposes.

Professional use does not count as private copying in Russia. Professional equipment is not levied. This does not affect the tariff.

The current legislation in Russia (cf. 4 art.1245 of the Civil Code) exempts from levies the manufacturers of exported products and professional equipment that are not used in private. The number of such manufacturers is limited by law.

There are no specific groups that do not have to pay except for the companies importing and producing professional equipment. The products made for professional use do not fall within the scope of the private copying system.

Collection process

The terms of payments by the liable parties depend on the import frequency into the territory of the Russian Federation.

Payment is due once a quarter unless the agreement states otherwise.

RUR sues the liable parties who are not compliant and/or take other legal actions.

The exporters have the right to claim a refund for paid levies if they confirm that the equipment has not been used on the territory of the Russian Federation.

According to the law, the importer is a person who is responsible for the imported goods to be declared to the Customs Union. The Customs Union is represented by Russia, Belorussia and Kazakhstan.

Distribution

According to the RUR statute the remuneration is distributed no less than once a year (frequency of payment is fixed by the bodies of RUR). For the time being, the remuneration is allocated twice a year.

1. Authors of musical and audiovisual works
2. Performers (singers and actors)
3. Manufacturers of sound recordings or audiovisual works.

The distribution schemes are determined by law, the Civil Code of the Russian Federation.

Distribution schemes:

Distribution scheme, audio:

1. 40% Authors of musical works
2. 30% Performers of musical works
3. 30% Manufacturers of musical works.

Distribution scheme, video:

1. 40% Authors of audiovisual works
2. 30% Performers of audiovisual works
3. 30% Manufacturers of audiovisual works

Social and cultural funds, collective purposes

RUR is obliged to deduct a sum for social and cultural purposes which should not be more than 20% of the total collections.

Deduction for social and cultural purposes is set up by law and should be approved by the rights holders (art. 1243 (4) of the Civil Code).

The decision is taken by the Council of RUR, and afterwards it must be implemented by the management of the organization. All deductions are transferred to the Funds which are responsible for further actions.

In 2012, 234,580,326.39 RUR were dedicated.

Remunerations / Levies

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

The list of equipment and material media is set up by the Government.

The list contains a number of equipment and material media with the following features:

1. Equipment having a sound-recording or video-recording device 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 device and using magnetic, optical or semi-conductor media, 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

Revenues

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

Table 49: Revenues, Russia

	2010 (€)	2011 (€)	2012 (€)
Total collections	€ 952,484.9	€ 17,094,833.38	€ 27,276,782.10

25. SLOVAKIA

Contact Information

Country	: Slovak Republic
Currency	: EUR
Population	: 5,397,036
Name organisation	: SOZA – Slovak Performing and Mechanical Rights Society
Website	: 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

Legal basis:

Act No. 618/2003 Coll. on Copyright and Rights Related to Copyright

Definition of private copy system set in Article 24 of Copyright Act No. 628/2003 Coll.:

1. A natural person may make a copy of a work released for his personal use and for, whether directly or indirectly, non-commercial purposes without the author's consent; such use of the work does not result in obligation to pay remuneration to the author.
2. A natural person or a legal entity may make a copy of a work released by transferring the work on paper or other similar basis by means of a technical device for making printed reproductions or other technical equipment without the author's consent; such a copy may be publicly distributed by sale or other form of transfer of the title. This use does not result in obligation to pay remuneration to the author.
3. The author of the work, a copy of which may be made pursuant to par. 1, shall be entitled to the compensation of remuneration.
4. The author of the work, a copy of which may be made pursuant to par. 2, shall be entitled to the compensation of remuneration.

Remuneration levied on media and equipment (devices).

The person that places the blank carrier, device or equipment on the market in the Slovak Republic for the purpose of sale thereof – i.e. producer, recipient from a member state, importer from a third country or other person who places the carriers or devices on sale for the first time on the Slovak market.

Collecting Society:

SOZA, appointed by rights holders – SOZA, OZIS, LITA, SLOVGRAM – collective management organisations representing different rights holders (by general representation agreement between the societies).

Joint administrative costs for collecting and distributing private copying remunerations represent 10% of the collected amount of remuneration.

The collecting society is responsible for distribution of remunerations to the above-mentioned four collective societies, which are in turn responsible for distribution of remunerations to rights holders.

Rate setting

Levies are set directly by the Slovak Copyright Act. The criteria used are undisclosed by the legislator.

The remuneration shall not be paid for levied objects that will be used for the personal use of the importer or recipient.

Collection process

Payment is due quarterly.

Market control is carried out by exchanging data with several state bureaux, mainly with the customs office.

Exports are exempted.

Liable parties are not levied on mobile phones, tablets, internal HDD.

Producers, recipients from a member state, importers from a third country or other persons who place the carriers or devices on sale for the first time on the Slovak market are considered the importer.

Distribution

Each of the four above-mentioned collective societies distributes to the respective rights holders associated with the respective organisation (society) on a yearly basis.

Distribution is to:

- LITA (literary, dramatic, audiovisual, choreographic, photographic works and visual arts)
- SOZA (musical works – writers, composers and publishers)
- OZIS (performers)
- SLOVGRAM (performers and producers of phonograms)

Distribution schemes are agreed on between respective collective management societies (ergo the rights holders).

26.52% – LITA (literary, dramatic, audiovisual, choreographic, 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, collective purposes

There is no deduction.

Legal developments

We are discussing the collection of remuneration for mobile phones, tablets and internal HDDs with the relevant entities in the Slovak market. Other than the discussion currently taking place within EU authorities

(Vittorino's recommendations), there are no discussions, law changes or reforms taking place with respect to the theme of this questionnaire.

Remunerations / Levies

Table 50: Tariffs, Slovakia

Blank Media	Tariff	Capacity
Optical Storage media	6% of sale or import price of the carrier [01.01.2004]	
Flash Media	6% of sale price or import price of the carrier [01.01.2004]	
Devices Hardware, PC, HDD	Tariff	Capacity
Consumer electronics	3% of sale or import price of the device [01.01.2004]	
Mobile Phones	3% of sale price or import price of the device [01.01.2004]	

Additional Comments:

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

Revenues

Table 51: Revenues, Slovakia

Audio revenues (media)	2010 (€)	2011 (€)	2012 (€)
Total audio	112,216	141,623	76,061
Video Revenues (media)	2010 (€)	2011 (€)	2012 (€)
Total video	104,560	75,756	120,557
Devices revenues	2010 (€)	2011 (€)	2012 (€)
Total 'devices'	475,067	165,369	236,470

Additional Comments:

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

Additional Information

TOTAL REVENUES:

2010: 691,843€

2011: 382,748€

2012: 433,088€

26. SPAIN

Contact Information

Country	: Spain
Currency	: €
Population	: 47,265,321
Name organisation	: SGAE
Website	: www.sgae.es
Contact person 1	: Maria J. Raudona
Contact person 2	:
e-mail 1	: mjraudona@sgae.es
e-mail 2	:
Address	: Fernando VI, 4
Postcode	: 28004
City	: MADRID
Phone	: 913499550
Fax	: 913499715

Legislation and fundamental facts

Legal basis:

Art. 25 of the Consolidated Text of the Spanish Law on Intellectual property (Law 23/2006, of 7 July).

On December 7, 2012, the Real Decreto 1657/2012 regulated the procedure for the payment of private copying on the State Budget.

Definition of private copy according to law.

There is a State-funded system.

Collecting Society:

In accordance with the new regulations, collecting societies receive the corresponding amount from the Ministry of Culture.

The administrative costs for collecting and distributing are 7%. Collecting societies distribute directly to individual rights holders.

Rate setting

There are no levies, but an amount fixed by the Ministry of Culture in State budgets.

The amount is based upon:

The damage actually caused to the rights holders as a result of reproduction of works which have been accessed legally. To calculate this damage, the main criteria are:

- the number of copies, excluding those made with devices and media that have not been made available to private users, and are clearly reserved for uses other than private copying;
- the degree of substitution of the original by the copy;
- the average unit price of each recording category;
- the digital or analogue character of recordings made.

Professional use

Is one of the criteria for determining remuneration paid by the Government.

Refunds are not applicable; remuneration is charged on the State budgets.

Collection process

The Ministry of Culture pays out once a year.

Distribution

Distribution schemes are determined by law. Each management society distributes to his rights holders. SGAE distributes to authors and publishers of music, audiovisual and dramatic works quarterly.

Distribution scheme, audio:

- AIE – 25% – Music performers
- AGEDI – 25% Phonomechanical producers
- SGAE – 50% Authors and publishers

Distribution scheme, video:

- AIE – 6.67% Music performers
- AISGE – 26.67% Audiovisual performers
- DAMA – 0.42% Audiovisual authors
- EGEDA – 33.33% Audiovisual producers
- SGAE – 32.91% Authors and publishers

Social and cultural funds, collective purposes

There is a Social and/or Cultural deduction of 20%, which is determined by law. For SGAE the FUNDACIÓN AUTOR is responsible for the allocation of funds. In 2012, €8,462,013 were allocated.

Legal developments

Currently there is a new Intellectual Property Law pending approval in Spain. It could mean in practice the complete elimination of private copying, by the drastic reduction of its traditional remit.

Remunerations / Levies

Revenues

Table 52: Revenues, Spain

Blank Media	2010 (€)	2011 (€)	2012 (€)
Optical Storage media			
Data CD-R/RW (audio share)	3,629,177€	1,960,514€	
Data CD-R/RW (video share)	906,625€	489,766€	
Audio CD-R/RW	45,402€	34,032€	
DVD-R/RW (audio share)	614,979€	316,538€	
DVD-R/RW (video share)	7,280,419€	3,747,350€	
Video DVD R/RW	16,446€	5,592€	
Flash Media			
Memory card (audio share)	3,289,601€	2,889,158€	
Memory card (video share)	285,581€	250,817€	
USB (audio share)	2,440,678€	2,144,860€	
USB (video share)	211,883€	186,202€	

Devices Hardware, PC, HDD	2010 (€)	2011 (€)	2012 (€)
MP3-player	2,041,461€	1,816,303€	
MP4 (audio share)	469,676€	251,491€	
MP4 (video share)	5,559,184€	2,976,693€	
CD recorder (external)	76,20€	56,40€	
CD recorder (video share)	10,605€	337,54€	
DVD recorder	129,053€	127,768€	
CD/DVD recorder (Audio)	3,590,408€	2,525,099€	
CD/DVD recorder (Video)	8,620,682€	6,062,843€	
VHS recorder			
DVD recorder	137,567€	97,917€	
External hard disc (Audio)	1,529,133€	1,231,108€	
External hard disc (Video)	18,100,310€	14,572,592€	
TV with DVD recorder	325,046€	215,580€	
TV hard disc recorder	2,058,708€	866,844€	
TV hard drive recorder with DVD recorder	272,195€	2,371€	
Digital tuner decoder with hard disc	2,021,136€	1,249,392€	
Mobile Phones	18,582,770€	17,843,540€	

Additional Comments:

In 2012, we have received only 1,559,489.76€ from the State budgets; the total amount paid by the Government to all collecting societies was 5,000,000€.

27. SWEDEN

Contact Information

Country	: Sweden	
Currency	: SEK	€ 1.00 = 8.76 SEK
Population	: 9,500,000	
Name organisation	: Copyswede	
Website	: www.copyswede.se	
Contact person 1	: Tanja Jalamo	
Contact person 2	: Egil Ekbom	
e-mail 1	: tanja.jalamo@copyswede.se	
e-mail 2	: egil.ekbom@copyswede.se	
Address	: Alströmergatan 12, 7 tr	
Postcode	: 112 47	
City	: Stockholm	
Phone	: 08-545 667 00	
Fax	: 08-667 88 11	

Legislation and fundamental facts

Legal basis:

Copyright Right Act (1960:729), Section 26 k-m.

According to Article 12 of the Copyright Act anybody is entitled to make, for private purposes, one or a few copies of works that have been made public. The provision does not confer a right to make copies from an illegal source.

Levy system. Importers and manufacturers are liable for payment. Retailers have the possibility to take over the responsibility from an importer to report and pay the levy.

Collecting Society:

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 neighbouring rights in the field concerned is entitled to collect the remuneration. Copyswede is tasked by its member organizations and co-operative partners to collect the remuneration. (The member organizations represent Swedish authors and performers, and Copyswede have partnership agreements with TV and radio corporations and organizations of film and phonogram producers).

The company is divided into separate business areas. During the year in progress, Copyswede analyses what proportion of work should be spent on different issues and what costs are to be attributed to each area. The cost of collecting private copying remunerations was 8.03% in 2012. The cost of distributing private copying remunerations was 4.47% in 2012.

Copyswede is responsible for distribution to rights holders, both directly to individual rights holders or through organisations of rights holders.

Rate setting

The levies are fixed in the law but have in practice been set through negotiations.

The law contains certain criteria to reduce the levies (in practice this is achieved through negotiations). Those criteria are, for example, if the authors have in some other form received compensation for the making of private copies, or if the remuneration is unreasonably high, taking into account the circumstances relating to the material support or other conditions on the market. This applies, for example, if the products are used for other purposes or to avoid market disturbance.

The law provides an explicit exception regarding sales for professional use. According to the law, all sales to organizations for functionally disabled persons are exempted from the levy.

Collection process

The payment is due once a month. The importer is, according to Article 26 k, 'When a businessman, in the course of his professional activities, manufactures or imports into this country'.

The market is regulated through market control and the right to audit importers and retailers. This is controlled through industry-wide agreements with the business.

Exports are exempted (upfront).

Mobile phones.

Distribution

Collected remunerations are distributed to Copyswede, STIM, SAMI/IFPI, film producers and broadcasting organizations on a monthly basis. These are authors, performers and producers.

Distribution schemes:

The revenue for each product is divided between audio and video copying. For this purpose, Copyswede commissions the market research company TNS SIFO to carry out annual copying surveys. The division of revenue is based on the results of the copying surveys. Following the proposition from Copyswede, negotiations take place between Copyswede and the organisations of rights holders, and both parties set the distribution schemes.

Distribution scheme, audio:

5.33% Union of Broadcasting Organisations (UBOS)
33.3 % STIM
33.3 % SAMI
33.3% IFPI

Distribution scheme, video:

5.33% Union of Broadcasting Organisations (UBOS)
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.
33% Video and film producers
67% IFPI and Copyswede's Member Organisations

Social and cultural funds, collective purposes

There is no social and/or cultural deduction.

Other developments; disputes/court cases regarding the system, certain products, professional use or other issues relating to the private copying system

In negotiations with importers and trade associations that Copyswede has had over the years, the importers have pointed out that some products are not covered by the law's conditions. The industry has claimed that compensation is not to be paid for products that are also used for storage of other kinds of material than copyright protected-material. In the autumn of 2011 Copyswede and the business organization Universal Media Alliance (UMA) agreed to let an Arbitration Board review the law and whether products such as external hard drives and USB sticks are covered by the obligation to pay the private copying levy. The parties managed to get a highly qualified board with three Supreme Court justices to examine the issue. The Board delivered its decision in October 2012 and concluded that the products at issue, i.e. external hard drives and USB sticks, are covered by the Act's liability. In the judgment, the Board presented extensive legal reasons and made general statements about how the system of private copying levy is to be interpreted.

Regarding mobile phones, Copyswede has filed remuneration claims against the industry from January 1, 2009. No importer has yet acknowledged the liability to pay the levy. In April 2012, Copyswede filed a lawsuit against Sony Mobile Communications.

As of September 1, 2013, Copyswede is requesting private copying remuneration for additional products such as a computer with built-in memory, single Internal Hard Drive Disk, tablet with built-in memory and game console with built-in memory.

Remunerations / Levies

Table 53: Tariffs, Sweden

Blank Media	Tariff	Capacity
C-Cassette 0.025 SEK	€ 0 (1999)	
MiniDisc 0.020 SEK	€ 0	
CD-R Audio 0.020 SEK	€ 0	
E-Cassette (VHS) 0.025 SEK	€ 0	
Optical Storage media		
CD-R All up to 900 MB 0.60 SEK (2000)	€ 0.07	
CD-RW All up to 900 MB 0.95 SEK	€ 0.11	
DVD-R / + R 4.7 GB 2.65 SEK(2002)	€ 0.29	
DVD-RW / + RW 4.7 GB 4.25 SEK	€ 0.47	
DVD-RAM 4.7 GB 4.25 SEK	€ 0.47	
DVD-R / + R Double Layer 8.5 GB 4.80 SEK	€ 0.53	
Flash Media (2012)		
USB-sticks		
> 2GB-80 GB 1 SEK/GB	€ 0.11/GB	
> 80 GB 80 SEK	€ 8.90	
Devices Hardware, PC, HDD	Tariff	Capacity
External hard drives (2012)		
> 2GB-80 GB 1 SEK/GB	€ 0.11	
> 80 GB 80 SEK	€ 8.90	
Consumer electronics (2005)		
For MP3 players, set top boxes with built-in hard drive, DVD players with built-in hard drive, TVs with built-in hard drive and other media players with built-in hard drive:		
0 – 320 GB 1 SEK/GB	€ 0.11/GB	
>320 GB 320 SEK	€ 35.58	

Revenues

Table 54: Revenues, Sweden

Blank Media	2010 (SEK)	2011 (SEK)	2012 (SEK)
	89,879,315	79,136,198	86,275,176
Euros	€ 9,889,162	€ 8,405,433	€ 9,848,764

28. SWITZERLAND

Contact Information

Country	: Switzerland	
Currency	: CHF	€ 1,00 = 1,24296
Population	: 8,000,000	
Name organisation	: SUISA	
Website	: www.suisa.ch	
Contact person 1	: Frank Dietiker	
Contact person 2	: Anke Link	
e-mail 1	: frank.dietiker@suisa.ch	
e-mail 2	: anke.link@suisa.ch	
Address	: Bellariastrasse 82	
Postcode	: 8038	
City	: Zürich	
Phone	: +41 44 485 66 66	
Fax	: +41 44 481 67 44	

Legislation and fundamental facts

Legal basis:

Swiss copyright code of 1992, last revised 2008.

Private copy according to law is any copy made for personal use, even from illegal sources.

Levy system on blank carriers also on digital memory embedded in devices but not on devices themselves.

Importers and manufacturers are liable for payment.

Collecting Society:

SUISA is appointed by rights holders. The administrative costs for the collection of remunerations in 2012 was EUR 185,125.

The collecting society is also responsible for distribution to rights holders. SUISA distributes directly to its own members the share for music copyrights. The rest is distributed through organisations of other rights holders. Costs incurred by distribution of remunerations: EUR 494,152.

Rate setting

Levies/remuneration are determined through negotiations between collecting societies and associations of blank carrier importers or producers. If there is no settlement, the Arbitration Commission appointed by the Ministry of Justice decides.

The criteria used are to be found in attachment 1.

Professional use:

Depending on the type of carrier, professional use is taken into account and leads to a lower levy. If carriers are verifiably used for commercial copying, there is the possibility to get the levies back, e.g. when the Swiss Broadcasting Corporation imports blank DVDs to make copies of their broadcasts. During negotiations about our tariff for tablets, a survey commissioned by Swiss associations of importers and producers proved that even professional users do make private copies.

When we first negotiated the tariff for blank audio and video tapes, we exempted tapes that are obviously not meant for private copying but for professional use. However, with 5 more tariffs for more advanced technical carriers in place today, there are only exemptions for hard disks in personal computers. But if a blank carrier is definitely not eligible for private copying, it is not levied.

Collection process

Payment is due 30 days after invoice date. At SUISA's request, producers and importers shall grant SUISA access to their warehouses and books for verification purposes. SUISA may request a corresponding confirmation from the producer's or importer's auditors. Verification may be entrusted to an independent third party; if the verifications show that the producer's or importer's declarations were false or incomplete, the latter shall bear the verification costs; otherwise those costs will be borne by the party who requested the third-party verification.

There are lists of members of the associations of producers and importers with whom we negotiate the tariffs. Additionally, we receive information from advertisements for consumer electronics retailers and also from our customers.

Exports are exempted, and exporters can claim a refund if exports can be proved.

We have not collected levies for mobile phones yet. The Swiss Arbitration Committee approved a tariff for mobile phones with mp3 player for the first time in March 2010. The associations of producers and importers appealed against this decision. In April 2011 the case was remanded due to procedural mistakes. The Swiss Administration Court did not decide anything substantial. In November 2011 the Swiss Arbitration Committee approved this tariff again. The associations of producers and importers appealed. The appeal is still pending.

The importer is any company importing blank carriers into the territory of Switzerland, regardless of whether it uses the carriers itself or offers them to retailers or directly to private customers.

As for cross-border situations, a foreign provider is also regarded as importer if the handling of a purchase for Swiss customers is equal to a purchase from a domestic provider.

Distribution

SUISA distributes directly to its own members the share for music copyrights. The rest is distributed through organisations of other rights holders.

Distribution to other collecting societies is quarterly; distribution to SUISA's rights holders is yearly.

Rights holders (categories) who receive private copying remunerations:

- holders of music copyrights
- holders of copyrights for literature and visual works
- holders of copyrights for dramatic and audiovisual works
- holders of copyrights for audiovisual works
- holders of neighbouring rights

Distribution schemes:

According to Art. 60 of Swiss Copyright Law the split between copyrights and neighbouring rights is 3:1. The distribution of the copyrights share is a matter for rights holders. The societies negotiate a distribution scheme per tariff based on studies about how consumers are using the carrier, i.e. what kind of repertoire is stored, and to what extent.

At the moment we have 6 tariffs for blank carriers (1 still without legal capacity). The distribution shares vary.

Distribution scheme, audio:

As an example, the shares for MP3 players and similar devices are:

- 58.7% SUISA (music copyrights)
- 4.37% Pro Litteris (copyrights for literature and visual arts)
- 2.15% SSA (copyrights for dramatic and audiovisual works)
- 9.78% SUISSIMAGE (copyrights for audiovisual works)
- 25% Swissperform (neighboring rights)

Distribution scheme, video:

As an example, the shares for digital storage in audiovisual devices like video recorders with hard disc or set top boxes are:

- 9.49% SUISA
- 5.325% Pro Litteris
- 2.66% SSA
- 57.525% SUISSIMAGE
- 25% Swissperform

Distribution scheme, other:

As the tariff for Flash Media and HD in devices other than mobiles, tablet PCs and personal computers (e.g. MP3-player and digital video recorder) is currently the most important tariff (see distributions schemes above), we refrain from indicating all distribution schemes. Besides, the distribution scheme for tablet PCs is not yet defined as the tariff came into effect only this month, while the tariff for mobile phones is still without legal capacity.

Social and cultural funds, collective purposes

There is no such deduction before distribution of the shares to the respective societies. But each society makes a deduction of its own. SUISA deducts 10% for social and cultural purposes.

The deductions are determined by rights owners.

SUISA:

Allocation to artists, cultural productions: SUISA Foundation for Music.

Allocation for social purposes: SUISA's pension fund for authors and publishers.

The amount dedicated to the Social and/or Cultural fund in 2012 was EUR 622,639.

The funds are spent on individual requests that are handled on a case-by-case basis.

Legal developments

Levies for private copying are highly disputed at the moment, as seems to be the case all over Europe.

The Swiss Ministry of Justice set up a working group to investigate the possibilities for optimizing the collection of copyrights. Members of this working group are representatives of the artists, producers, associations of copyright users, consumers and administration. The results are not available yet, but given the opposed interests of the members we do not expect them to be very helpful for defending private copying levies.

There is also a legislative initiative brought in by a parliamentary group aiming to abolish the levies on blank carriers. This initiative is still pending.

Other developments; disputes/court cases regarding the system, certain products, professional use or other issues relating to the private copying system

As mentioned above, there is still an appeal pending against levies on mobile phones.

Remunerations / Levies

Table 55: Tariffs, Switzerland

Blank Media	Tariff valid from	Tariff rate		Capacity
		CHF	EUR	
Cassette, Mini Disc etc.	01.01.2002	sfr. 0.33	€ 0.266	60 minutes
VHS	01.01.2002	sfr. 0.46	€ 0.370	60 minutes
Optical Storage media				
CD-R/RW data	01.01.2006	sfr. 0.05	€ 0.040	60 minutes / 525 MB
DVD-R/+R	01.01.2011	sfr. 0.31	€ 0.249	4.7 GB
DVD-RW/+RW/RAM	01.01.2011	sfr. 0.88	€ 0.708	4.7 GB
DVD R Blu-ray/HD	01.01.2011	sfr. 0.33	€ 0.266	25 GB
DVD RW Blu-ray/HD	01.01.2011	sfr. 0.93	€ 0.749	25 GB
Flash Media				
Only embedded in devices				

Devices Hardware, PC, HDD	Tariff valid from	Tariff rate		Capacity
		CHF	EUR	
No tariff				
Consumer electronics				
Flash Media and HD in audio devices and all portable devices other than mobiles and tablet PCs, e.g. MP3-player	01.01.2011	sfr. 0.70	€ 0.563	per GB ≤ 4 GB
		sfr. 0.65	€ 0.523	per GB ≤ 8 GB
		sfr. 0.50	€ 0.402	per GB ≤ 16 GB
		sfr. 0.38	€ 0.306	per GB ≤ 32 GB
		sfr. 0.30	€ 0.241	per GB > 32 GB
Flash Media and HD in audiovisual devices other than mobiles, tablet PCs and personal computers, e.g. digital video recorder	01.01.2011	sfr. 0.10	€ 0.081	per GB ≤ 250 GB
		sfr. 25.00 plus 0.08	€ 20.113 plus 0.064	250 GB per GB > 250 GB
Flash Media and HD in Tablets	01.07.2013	sfr.0.175	€ 0.141	per GB ≤ 16 GB
		sfr.0.142	€ 0.114	per GB ≤ 32 GB
		sfr.0.115	€ 0.093	per GB > 32 GB
Mobile Phones	Appeal still pending			

Revenues

Table 56: Revenues, Switzerland

Blank Media	2010 (€)	2011 (€)	2012 (€)
Cassette, Mini Disc etc.	146,952,996	106,346,243	54,097,973
VHS	367,619,999	232,875,223	157,112,359
Optical Storage media			
CD-R/RW data	1,537,453,185	1,095,971,523	759,415,988
DVD-R/+R	4,250,991,141	3,271,077,391	2,505,251,712
DVD-RW/+RW/RAM			
DVD R Blu-ray/HD			
DVD RW Blu-ray/HD			
Devices Hardware, PC, HDD	2010 (€)	2011 (€)	2012 (€)
Consumer electronics			
Flash Media and HD in audio devices and all portable devices other than mobile, tablets and PCs	4,511,761,463	2,833,089,046	2,138,446,991
Flash Media and HD in audiovisual devices other than mobiles, tablet PC and personal computers, e.g. digital video recorder	1,012,874,669	769,125,426	922,404,949
Mobile Phones			

ATTACHMENT 1

Which criteria are used for determining the levies/remuneration?

Please elaborate as to which criteria are taken into account (copying behaviour of consumers, are copies licensed or not, the source of the copy, the harm caused by copying)

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:

- the copying behavior
- already licensed copies (i.e. purchased from a licensed download shop like iTunes)
- share of works that are not (or no longer) copyright protected

As decreasing device prices lead to decreasing levies – although private copying increases – we started to bring up consumer savings as a basis for calculation of the levy. We argue that consumer savings are 'proceeds' according to Swiss law.

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):

- Do you have any musical works on your device that you received free of charge, e.g. from file sharing services, recording from radio or TV, etc.?
- If yes, how many?
- Are there any musical works you received free of charge as promotion?
- If yes, how many?
- How many of the works you received free of charge would you have purchased if you hadn't had the possibility to receive them free of charge?
- How many of the works you received as promotion would you have purchased if you hadn't had the possibility to receive them as promotion?

We then multiply the result by the most common price for this kind of works, and this forms the basis for calculating the levy.

However, *we have not yet agreed any calculation procedure* with our negotiating partner. Although the associations of producers and importers accept the device price as the basis for the calculation, they do not agree with our calculation. As to consumer savings, they vehemently protest against any calculation based on this criteria or any other attempt to bring up the harm caused by private copying.

29. TURKEY

Contact Information

Country	: Turkey	
Currency	: TL	€ 1,00 =
Population	:	
Name organisation	: Phonogram Producers Collecting Society (IFPI national group Turkey)	
Website	: www.mu-yap.org	
Contact person 1	: Asli Devrim Ugurlu	
Contact person 2	: Ahmet Asena	
e-mail 1	: disiliskiler@mu-yap.org	
e-mail 2	: genelsekreterlik@mu-yap.org	
Address	: Turnacibasi Cad.Kuloglu	
Postcode	: Mahallesi No:10, Beyoglu	
City	: Istanbul	
Phone	: +90 212 292 46 13	
Fax	: +90 212 292 46 17	

Legislation and fundamental facts

Legal basis:

Turkish Copyright Law, Article 38 and Article 44.

Private copying is allowed according to Article 38, but levies are not regulated in the law.

However there is an obligation for importers and manufacturers to pay an amount from the blank carriers and devices to the account of the Ministry of Culture and Tourism (MOCT).

Legal liability moment for importers: before the custom declaration of devices and blank carriers upon CIF amount. For manufacturers: within 15 days after distribution of the devices and carriers to the local market, with an amount based upon the manufacturing prices.

Collecting Society:

None. Collection of remunerations is done by the Minister of Culture and Tourism (MOCT).

Ministry of Culture and Tourism has the legal monopoly.

Rate setting

Blank media/devices, and amount of payment are determined by the Government.

The tariff is determined by a Government decision based on the General Tariff Statistic Position Number.

Collection

Importers and manufacturers have to report their imports and manufacturing quantities and prices to the Ministry of Culture and Tourism according to the Decision of Government.

Distribution

No distribution scheme.

Rights holders do not receive any fair compensation from these payments, and all these revenues from blank media and devices are exploited by the Ministry of Culture and Tourism.

Social and cultural funds, collective purposes

The Ministry of Culture and Tourism is fully authorized to use these amounts for cultural purposes.

Observations

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 importing fee) from the blank media and devices, but these are not levies in the Copyright Law.

Articles 38 and 44 have to be amended according to the Copyright Directive 2001/29 and international agreements. The articles are provided below, for your information:

Art. 38. (Amendment: 7.6.1995 – 4110/14; 21.2.2001 – 4630/19): It is permitted to reproduce all intellectual and artistic works for personal use without pursuing profit. However, such reproduction may not prejudice the legitimate interests of rights holders without good reason or conflict with the normal exploitation of the work.

Art.44 (second and other related paragraph), (Amendment: 21.2.2001 – 4630/23): Natural and legal persons who manufacture or import for commercial purposes any kind of materials carrying works such as blank video cassettes, audio cassettes, computer discs, CDs, DVDs and all kinds of technical equipment which serve the reproduction of intellectual and artistic works are obliged to collect every month and deposit, until the middle of the following month at the latest, in a special account to be opened with a national bank in the name of the Ministry of Culture and Tourism, an amount to be determined by the Council of Ministers not exceeding 3% of the manufacturing or importation costs. (Addition: 14.7.2004 – 5217/17): A quarter of the amounts collected in the special account shall be transferred to the account of the Ministry of Culture Central Accounting Office and shall be recorded as revenue in the budget.

(Amendment: 21.2.2001 – 4630/23; 14.7.2004 – 5217/17): The amounts remaining in this account shall be used for the purpose of strengthening the intellectual property system and the execution of cultural and artistic activities. The rules and procedures concerning the distribution and use of these monies shall be determined with a by-law to be issued by the Ministry of Culture and Tourism. The allowance which is necessary for activities concerning the protection of the cultural heritage within and outside the country shall be placed in the budget of the Ministry.

(Amendment: 3.3.2004 – 5101/15): Rules and procedures regarding the application of this article and the fees to be collected shall be determined with a by-law to be issued by the Ministry of Culture.

30. UKRAINE

Contact Information

Country	: Ukraine	
Currency	: hryvnya	€ 1,00 = 10.7945
Population	: 45,000,000	
Name organisation	: Ukrainian Music Alliance	
Website	: www.uma.in.ua	
Contact person 1	: Pavlo Kalenychenko, director	
Contact person 2	:	
e-mail 1	: pavlo@uma.in.ua	
e-mail 2	: uma@uma.in.ua	
Address	: off. 614, 1-5, Artema Str.	
Postcode	: 04053	
City	: Kyiv	
Phone	: +38 (044) 272 05 64	
Fax	: +38 (044) 272 05 64	

Legislation and fundamental facts

Legal basis:

Law of Ukraine 'On copyright and related rights' (also governmental resolution and orders of Ministries). It is stipulated on p. 2 of Art. 25 and p. 2 of Art. 42 of the Law.

There is a levy system where importers and manufacturers are liable for payment.

Collecting Society:

Ukrainian Music Alliance. Appointed by law and the decision of Ministry of Science and Education.

The alliance is responsible for the collection and distribution, and it distributes through rights holders and other collecting societies.

Rate setting

Levies are determined by law; a strict list of levies is established by the Resolution of Government Equipment. Exports are exempted, and equipment imported by physical persons for private purposes is liable for levy.

Collection process

Payment is due after import (manufacturing). The market used to be controlled when the music alliance received information from SIPSU (State Service of Intellectual Property of Ukraine), which in turn received this information from the Custom Service of Ukraine. Today SIPSU stopped providing us with this necessary information without any reasons.

Liabe parties do not pay or deny responsibility for SMART TV.

Distribution

Ukrainian Music Alliance distributes yearly to authors, performers, producers as well as their successors. Ukrainian Music Alliance determines the distribution schemes; the remuneration is distributed according to sales figures of music and films.

Legal developments

There is a draft of the new Governmental Resolution that stipulates the rate and the list of levies. It is an unsatisfactory draft that was prepared without consultations with rights holders and collecting society (it was inspired by big importers). In fact this draft would introduce an extremely complicated collection of levies if it was adopted.

Other developments; disputes/court cases regarding the system, certain products, professional use or other issues relating to the private copying system

We have more than 50 litigations with importers that refuse to pay levies.

Remunerations / Levies

Blank Media	Tariff	Capacity
In Ukraine the tariff system is established by governmental resolution and is rather simple – 5% from the contractual price of blank media and 3% from the contractual price of equipment.		

Revenues

Table 57: Revenues, Ukraine

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

31. UNITED STATES OF AMERICA

Contact Information

Country	: United States	
Currency	: US Dollars	€ 1,00 = \$1.30 as of June 28, 2013
Population	: 313,900,000 (2012)	
Name organisation	: Alliance of Artists and Recording Companies ('AARC')	
Website	: 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

Legal basis:

Audio Home Recording Act of 1992, Pub. L. No. 102-563, 106 Stat. 4237 (Oct. 28, 1992), codified at 17 U.S.C. §1001 et seq.

AHRA requires a serial copy management system (SCMS) in all digital audio recording devices and digital audio interface devices imported, manufactured or distributed in the United States. Such a system allows unlimited first generation digital copying of sound recordings, but prevents the making of digital copies from copies.

AHRA also establishes a royalty system through which importers and manufacturers of digital audio recording devices and digital audio recording media make royalty payments on each device or medium they distribute. Definition of private copy according to AHRA is copying by consumers of legally obtained sound recordings for personal use.

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.

Manufacturers and/or distributors of digital audio recording devices and digital audio interface devices imported, manufactured or distributed in the United States.

Royalties must be paid upon the first distribution of the qualifying devices or media.

Collecting Society:

Alliance of Artists & Recording Companies. Non-profit, tax-exempt private organization. Featured artists and producers contractually sign up with AARC.

Under AARC bylaws, AARC is allowed to deduct its actual costs of distribution from all the royalties it distributes that year.

AARC represents Featured Artists and Sound Recording Copyright Owners (Producers). AARC distributes directly to rights holders and through collectives based on bilateral agreements.

Based on actual costs of distribution for a particular year, not on an artificial percentage.

Rate setting

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.

Media: 3% for media.

Professional devices are exempt. Refunds are therefore not applicable.

If device or media falls within the definitions in AHRA, royalties must be paid.

It does not include those devices that are used primarily for fixing non-musical works such as motion pictures, audiovisual works, computer programmes or databases. It does not include works that consist entirely of spoken word. It also does not cover any computer-based programme. Professional model products, dictation machines, and other audio recording equipment that is designed and marketed primarily for the fixation of non-musical sounds.

Collection process

Payments are required to be paid quarterly.

AARC conducts enforcement activities to ensure payments are made by the required parties.

AHRA covers digital media, audio recording devices and digital audio interface devices that are sold in the US. These are the only types of product for which statements and payments are submitted.

Professional use:

Media/devices that do not fall within the definitions of AHRA, such as professional media/devices are exempted.

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 for importer.

Distribution

Alliance of Artists and Recording Companies distributes annually to Featured Recording Artists and Sound Recording Copyright Owners (Producers). Distribution methods are determined by the AHRA.

Distribution schemes:

Distribution scheme, audio:

Sound Recordings Fund (SRF) – 2/3 of total DART fund

AARC Distributes 96% for Sound Recording Copyright Owners and Featured Recording Artists

Sound Recording Copyright Owners' Subfund – 60%

Featured Recording Artists' Subfund – 40%

The AFM & SAG-AFTRA Intellectual Property Fund
 Non-Featured Artists – 4% of SRF
 Musical Works Fund (MWF) – 1/3 of total DART fund
 Writers' Subfund – 50% of MWF – ASCAP/SESAC/BMI
 Publishers' Subfund – 50% of MWF – Harry Fox

Distribution scheme, video:
 No private copy law for video.

Social and cultural funds, collective purposes

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

Remunerations / Levies

Table 58: Tariffs, USA

Blank Media	Tariff	Capacity
		3% of the transfer price for media
Devices Hardware, PC, HDD	Tariff	Capacity
.		2% of the transfer price for devices
		Devices Only: Not more than \$8 US (Approx. 12 Euro) per device or \$12 (Approx. 18 Euro) per multi-integrated device, under the copyright act.

Revenues

Table 59: Revenues, USA

Breakdown of funds is confidential per the US Copyright Office regulations. Totals represent devices and media combined.

Blank Media	2010 (€)	2011 (€)	2012 (€)
SEE ABOVE	1.5M Euro	1.8M Euro	1.5M Euro

For more information contact WIPO at www.wipo.int

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