

Joint Statement. European organisations representing authors, performers, publishers, producers and other rightholders from all creative sectors call on governments and EU decision-makers to take a firm stand against new attempts to undermine the EU private copying levy practice.

Brussels, 2 December 2024



Private copying compensation has existed in most EU member states for decades and it has evolved, improved and adapted to new technologies, business models and consumer behaviours over time. EU law offers consumers with an exception to the exclusive rights of authors, performers and producers, allowing them to make private copies of legally accessed copyright protected works on **old and new devices and carriers** they use daily. In return, private copying compensation guarantees rightholders a fair payment in exchange for the use of their works.

The concept of private copying compensation is part of the EU acquis (Article 5.2(b) of Directive 2001/29/EC) and has been affirmed by the **Court of Justice of the European Union**, which has through a substantial body of case law consistently confirmed its necessity and extended its application to new devices and services in a technologically neutral manner.

With the constant advance of technology and the immense as well as low-cost storage capacity of modern devices and of cloud services, the number of copies of copyrighted works made by consumers is multiplying, thus making the concept of private copying compensation still relevant and indispensable. While private copy levies have proven to not have any impact on the price paid by consumers, a major driver of the devices' commercial success is their increased ability to easily copy copyrighted works.

Nonetheless, private copying compensation is constantly **challenged by the consumer electronics industry**, orchestrated by US and Asian device manufacturers and their online platforms such as Apple, Samsung, Huawei, Hewlett Packard, LG, and Amazon.

These companies dominate the majority, if not the entire European market of consumer devices subject to private copy compensation and the broad application of private copying compensation has not hindered them from growing into a €178,6bn market in 2024 (Statista.com) which is projected to continue to grow annually by 2,62% in the coming years (CAGR 2024-2029).

These same companies are already at the centre of public scrutiny and concern as regards their tax evasion, environmental irresponsibility, labour law violations, anti-competitive behaviour, transparency and many others. Their only purpose in opposing private copying compensation is to **increase their already large profit margins at the expense of the European creative sectors and the consumer.**

Organisations representing creators, authors, performers, publishers, producers and other rightholders from **all creative sectors in Europe trust that the European Commission, national authorities and MEPs will continue defending the European interests in this sector and will not allow a change of existing EU laws to benefit exclusively the profits of US and Asian manufacturers.**

What is private copying compensation?

The ability to make a private copy stems from **an exception to the exclusive reproduction right** that allows consumers to make private copies of music, films and audiovisual content, images, articles and any other creative content they have lawfully acquired (Article 5.2(b) of Directive 2001/29/EC) without obtaining prior consent from the rightholders. EU legislation requires that when this exception is introduced at national level it **must be accompanied by the payment of a compensation** to all rightholders to compensate them adequately for the use of their protected works.

Most EU countries have implemented the payment of private copying compensation via a single levy **included in the price of the consumer devices** used to make such copies. The compensation is calculated using market research on the private copying of creative works through the relevant media and devices.

Who pays?

The principle is that **the user of the device** - who enjoys the benefits of the exception - is liable for paying the compensation. In practice, and as approved by the case law of the CJEU, such compensation is paid by the **manufacturers** or - more frequently in a market dominated by non-EU companies – the **importers** of electronic copy-enabling devices.

This is not the case when the compensation is paid based on a **state-funded system**. In a 2016 judgement concerning the funding of private copying compensation via the state budget in Spain (C-470/14, EGEDA), the CJEU held that this method was contrary to EU law and in particular, Directive 2001/29/EC. That this approach is – on top of being unlawful - unfair and regressive was recently demonstrated by the Finnish government's

decision to halve the compensation to rightholders as part of a quest to balance the state budget.

Who benefits?

Users, manufacturers and importers, creators and society, all benefit from the private copying compensation system.

The **user** gains access to tools that enable free and unrestricted copying of lawfully accessed content without the administrative burden of an individual license for each private copy made, and this does not increase the price of the original creative content.

The **manufacturers and importers** are the biggest beneficiaries. The legal certainty given to consumers offers these companies the possibility to provide their customers with readily usable devices.

Authors, performers, publishers, producers and other rightholders from all creative sectors benefit from the private copying compensation schemes, as they are remunerated through a mandatory system of distribution keys categorized by rightholder type. Private copying compensation throughout the EU also provides a vital payment to all that invest in the creation, production and dissemination of creative works, and particularly the most vulnerable ones. Today, it remains an integral part of the income of any professional artist.

In 2020, in the context of the COVID-19 crisis, specific measures to broaden the scope of the distribution of social and cultural deductions coming from private copying were adopted so that those sums could help impacted rightholders. This was the case, for example, in France where an Ordinance allowed those sums to be paid as financial aid to artists, authors, publishers, and neighbouring rightholders, whose income had been seriously affected by the crisis. Exceptional measures have also been implemented in the Netherlands, Austria, Germany, Spain, Italy and many other EU member states.

According to the publicly available transparency reports of CMOs, the cost for collecting the private copying compensation is extremely low, especially where industry and trade organizations cooperate.

Society benefits also. Private copying compensation schemes, managed by collective management organisations, contribute significantly to the funding of local cultural and social activities. Festivals, independent local bands, small film production companies, pension schemes or financial contributions to authors and performers in need, copyright awareness programs for children, training programs for young artists – these are just some of the beneficiaries of a wide-ranging system. As such, private copying compensation schemes contribute to fuelling grassroots culture, which eventually impacts the whole cultural sector and reduces the financial burden on Member States' cultural and social policy.

More on Private Copying?

If you are interested in learning more about private copying compensation in the EU and the rest of the world, read the most recent Private Copying Global Study, available on [the website of CISAC](#).

AEPO-ARTIS is a non-profit making organisation that represents 39 European performers' collective management organisations from 29 different countries. The number of performers (musicians, actors and dancers), from the audio and audiovisual sector, represented by AEPO-ARTIS member organisations is estimated at more than 650,000.

www.aepo-artis.org

BIEM (Bureau International des Sociétés gérant les droits d'enregistrement et de reproduction mécanique) is the international organisation representing mechanical rights societies.

www.biem.org

CISAC (International Confederation of Societies of Authors and Composers) is the world's leading network of authors' societies. With 227 member societies in 116 countries, CISAC represents more than 5 million creators from all geographic areas and all artistic repertoires: music, audiovisual, drama, literature and visual arts.

www.cisac.org

ECCD - the European Coalitions for Cultural Diversity is an association of national coalitions which promotes the diversity of cultural expressions. Within the coalitions are professional cultural and creative organisations from cinema, audiovisual, performing arts, editing, music, visual arts and multimedia... These organisations cover all professions in the artistic and cultural sectors such as authors, producers, composers, editors, artists interpreters, broadcasters...

<https://www.europeancoalitions.eu/>

ECSA (European Composer and Songwriter Alliance) represents over 30,000 professional composers and songwriters in 29 European countries. With 59 member organisations across Europe, the Alliance speaks for the interests of music creators of art & classical music (contemporary), film & audiovisual music, as well as popular music.

www.composeralliance.org

EUROKINEMA, Association of Film and Television Producers, aims to defend and promote the fundamental role of the film industry and film-makers in a politically and economically integrated Europe.

www.eurocinema.eu

EUROCOPYA, European Association of Audiovisual and Film Producers's private copy collective management societies, notably represents the interests of audiovisual producers in Europe and promote as well the conclusion of bilateral reciprocal agreements, in order to ensure, at a lower cost, the recovery of private copy revenues generated by the distribution of members' repertoires outside their national territory.

www.eurocopya.org

EuroFIA – is the European group of the International Federation of Actors, a global union federation representing performers' trade unions, guilds and professional associations in more than 60 countries. In a connected world of content and entertainment, it stands for fair social, economic and moral rights for audiovisual performers working in all recorded media and live theatre.

www.fia-actors.com

EVA (European Visual Artists) represents the interests of authors' collective management societies for the visual arts. 32 societies are gathered under its roof as members or observers. They manage collectively authors' rights of close to 170 000 creators of works of fine art, illustration, photography, design, architecture and other visual works. www.evartists.org

EWC (European Writers' Council) is the world's largest federation representing authors from the book sector only and constituted by 50 national professional writers' and literary translators' associations from 32 countries. EWC members comprise over 220.000 professional authors, writing and publishing in 35 languages.

www.europeanwriterscouncil.eu

FEP-FEE is an independent, non-commercial umbrella association of book publishers' associations in Europe. FEP represents 30 national associations of publishers of books, learned journals and educational materials, in all formats, in Europe. FEP is the voice of the great majority of publishers in Europe.

www.fep-fee.eu

FERA (Federation of European Screen Directors) represents film and TV directors at European level, with 46 member organisations from 31 countries. Founded in 1980, FERA speaks for more than 20,000 European screen directors, representing their cultural, creative and economic interests.

www.screendirectors.eu

FIAD (International Federation of Film Distributors' and Publishers' Associations) represents and promotes the interests of national associations of film distributors and publishers at the European Union level. Member companies of the associations invest in and release films of all styles and genres. FIAD's members operate in 15 countries where they cover 90 to 100 percent of the theatrical market.

www.fiad.eu

FIM (The International Federation of Musicians), founded in 1948, is the only body representing professional music performers and their trade unions globally, with members in about 65 countries covering all regions of the world. FIM is recognised as an NGO by diverse international authorities such as the ILO, WIPO, UNESCO, the European Commission and the European Parliament.

www.fim-musicians.org

FSE (Federation of Screenwriters in Europe) is a network of national and regional associations, guilds and unions of writers for the screen in Europe, created in June 2001. It comprises 29 organisations from 26 countries, representing more than 10,000 screenwriters in Europe.

www.federationscreenwriters.eu

GESAC – Founded in 1990, the European Grouping of Societies of Authors and Composers represents 32 of the main copyright management societies (authors 'societies) in the European Union, Iceland, Norway and Switzerland, administering the rights and remuneration of more than 1.2 million authors, composers and writers in a variety of sectors (music, audiovisual, literary and visual and graphic arts) and music publishers.

www.authorsocieties.eu

IAO (International Artist Organisation) is the umbrella association for national organisations representing the rights and interests of featured artists in the music industry.

www.iaomusic.org

IFRRO (International Federation of Reproduction Rights Organisations), is an international, independent, not-for-profit organisation representing collective management organisations for text and image materials (known as Reproduction Rights Organisations, or RROs), authors' and publishers' associations in the field of text and image-based works. RROs administer reproduction and other relevant rights, including certain digital rights, on behalf of both publishers and authors, including visual artists. With 158 members across nearly 90 countries, IFRRO plays a key role in the global copyright ecosystem.

www.ifrro.org

IMPALA is the European association of independent music companies, representing over 6,000 music SMEs. Its mission is to grow the independent music sector sustainably, return more value to artists, promote diversity and entrepreneurship, improve political access, inspire change and increase access to finance.

www.impala.org

IMPF (Independent Music Publishers Forum) is the global trade and advocacy body for independent music publishers, helping to stimulate a more favourable business environment in different territories and jurisdictions for artistic, cultural, and commercial diversity for songwriters, composers, and music publishers everywhere.

www.impforum.org

SAA (the Society of Audiovisual Authors) is the umbrella association of European collective management organisations representing audiovisual authors. Its 33 members in 25 countries manage rights for over 167,000 film, television and multimedia European screenwriters and directors. The SAA supports audiovisual authors and promotes cultural diversity through policies that enable the dissemination of audiovisual authors' works to the audience. CMOs' role is to give easy, legal access to those works and ensure authors are fairly paid to encourage further creativity for the benefit of society.

www.saa-authors.eu

STM - The International Association of Scientific, Technical & Medical Publishers (STM) is the global trade association that represents the world's leading scholarly publishers, as well as organisations that provide services and support within the scholarly publishing ecosystem. Our 150 members are from 17 countries.

www.stm-assoc.org

UNI MEI - UNI - Media, Entertainment and Arts unites over 140 unions and guilds to raise standards and enforce rights for more than 500.000 creatives, technicians and auxiliary workers. Together, our members work for a fair, inclusive, equal, and sustainable global entertainment industry and a just transformation.

www.uniglobalunion.org