

*ORDA decision 138 / 2009*  
*Romanian Office for copyright*

## **Methodology**

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Regarding remunerations that represents copyright patrimonial rights for reproduction on video carriers of musical works, use inside audiovisual works, others than musical clips, concerts and audiovisual recordings of composers / bands biographies.

**Art. 1** – Reproduction and / or distribution on Romanian territory, inside audio-visual works, on phonograms, others than musical clips, concerts and audio-visual recordings containing biographies of some artists or bands, no matter what the support type is, of the musical works from the UCMR-ADA`s repertoire, may be made in base of a non-exclusive license-authorization, signed with UCMR-ADA.

**Art. 2** – Terms and expressions used below have the following signification:  
**a).** By user we understand any juridical or physical person, authorized by National Center for Cinematography, who makes and organizes copies of an audiovisual work on video carriers (CD, DVD, VHS, Blue-Ray ...), for sell, and so he/she reproduced one or several musical works that are part of the audiovisual work.

**b). UCMR-ADA – Romanian Copyright Society**

**c).** By repertoire we understand the totality of musical works for which UCMR-ADA was granted a mandate directly by its members, according to law and its status, or indirectly, by reciprocal representation representation signed between UCMR-ADA and other copyright societies, to operate mechanical rights, used in audiovisual works.

**d).** By video carriers we understand any copy of an audiovisual work or of some sequences that presents moving images, along with musical works, on supports like CD, DVD, Blue-Ray, no matter the method used to manufacture a copy. In this section does not apply to trailers were musical works were used to promote the audiovisual work.

**e).** By products we understand:

- Standard product – a video carrier that is release for the first time in Romania, and it is designed to be sell by piece to the final consumer
- Product catalogue A – a video carrier released for retail commercialization to the final consumer, with a at least 35% cut rate compared with the first price
- Product catalogue B - a video carrier released for retail commercialization to the final consumer, with a at least 60% cut rate compared with the first price
- Sold product – a video carrier released for retail commercialization to the final consumer, with a at least 75% cut rate compared with the first price

**Art. 3 – (1)** A non-exclusive license-authorization is signed between UCMR-ADA and the user for 24 months, only for Romanian territory. The agreement could be extended for another 24 months, at request of the user. The non-exclusive license-authorization is signed for every musical work or group of musical works from the UCMR-ADA repertoire. The agreement must be signed the use of the musical works.

**(2)** The present methodology, does not apply to the reproduction or distribution of musical works that are part of audiovisual works, where the payment of patrimonial copyright for that reproduction or distribution is made, integrally, directly to those assigned, based on a direct contract.

**(3)** The user will submit to UCMR-ADA, at least 30 days before the reproduction and distribution of video carriers, a request that contains the follow:

- a). Name of the user / its identification data
- b). Title and the country of origin of the audiovisual
- c). Producer, director and the year of the production
- d). Type of support
- e). Estimated number of copies
- f). Name of the distributor
- g). Name and the position of the legal representative and the seal of the user

**(4)** The request will have attached a cue-sheet, containing the musical works used in the audiovisual work, in the form that was transmitted by the producer.

**(5)** The non-exclusive license-authorization will be signed in maximum 30 days since the request is submitted to UCMR-ADA, along with all the legal documentation. The non-exclusive license-authorization will mention that UCMR-ADA certifies according to the mandate and the signed reciprocal representation contracts, that musical works are part of the repertoire defined at art 2, lit. c

**Art. 4.** The users will elaborate a catalogue containing an evidence of the reproduced video carriers, for commercialization on the Romanian territory. This catalogue will contain the following:

- a). Title of the audiovisual work and secondary titles, year of production and country of origin
- b). Producer and director of the audiovisual work
- c). cue-sheets
- e). music duration of all the musical opera and the authors, when there is no cue-sheet
- f). type of the support (CD, DVD, VHS, Blue-Ray)
- g). number of copies

**Art. 5 – (1)** The remuneration will be calculated on basis of the following formula: the basis of calculation x percentage resulted from the duration of music represented by UCMR-ADA, reported to the movie duration x percentage of remuneration

**(2)** – The percentage of remuneration is the following:

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	4% per year		5% per year		7% per year	
	2010		2011		2012	
+-----+-----+-----+						

**(3)** The basis of calculation of the remuneration is the revenue made by users for every audiovisual work, from the selling of video carriers to retailers in the referred quarter.

**(4)** For video carriers that are not sold by user directly to the retailer, but trough to one or several intermediaries, the basis of calculation is represented by the highest price published by the user to the retailer for each video carrier.

**(5)** If the video carriers are sold by the user exclusively to the distributors, the basis of calculation of the remuneration is represented by the highest price of the retailer.

**(6)** The selling through distributor / intermediary of video carriers by the user to the sellers of other products that are sold along with other products is not being considered as selling. The basis of calculation in this situation is the one stated at art. 5, line. 3.

In this case the minimum remuneration does not apply.

**(7)** The remuneration due by the user will not be less that the remunerations mentioned in the table below:

Minimum remuneration			
Category product	Year 2010	Year 2011	Year 2012
Standard product	1 leu	1,3 lei	1,5 lei
Product catalogue A	0,50 lei	0,60 lei	0,75 lei
Product catalogue B	0,25 lei	0,30 lei	0,38 lei

Produs tip sold	0,10 lei	0,12 lei	0,15 lei	

The remunerations mentioned in the above table are applicable for the situation in which the duration of the music used in audiovisual work represents 100% from the duration of the audiovisual work and the music works are all part of the UCMR-ADA` repertoire.

If the music from the UCMR-ADA repertoire represents less than 100% from the duration of the audiovisual work, the minimum remuneration will be reduced and will be calculated using the following formula: the minimum remuneration from the table time x the percent of music that is part of UCMR-ADA`'s repertoire from the total duration of the audiovisual work.

**(8)** At this remuneration, we apply VAT.

**Art. 6 (1)** – The payment of the remunerations due by users to UCMR-ADA is made quarterly, until the 30<sup>th</sup> of the next month of the quarter, for all video carriers sold by the retailer. For video carriers sold by the user without return rights, the payment of remunerations will be made until the 30<sup>th</sup> of the next month of the ended quarter, for all video carriers sold in the mentioned quarter.

**(2)** For late payments of royalties due to UCMR-ADA, the penalties are 0.1% per day. The value of penalties cannot exceed the value of remuneration.

**Art. 7. - (1)** The user have the obligation to provide to UCMR-ADA, for each quarter, until the 20<sup>th</sup> of the next month, a report regarding the reproduction and distribution for the last quarter, that will contain the following:

- a) Name of the user and its identification data
- b) Title of the audiovisual work, including the alternative title and the number of the non-exclusive license granted by UCMR-ADA.

- c) Number of sold units. The mention of type or types of support
- d) The basis of calculation of remuneration for that quarter, as you can see in art. 5, line 3, art 6, line 1, and art. 7, line 2.
- e) Country where the product was made and the name of the producer
- f) Name, function and the signature of the legal representative of the user, as well the stamp of the user.

(2) The user must write and communicate to UCMR-ADA a report in which they will fill the situation of sells of video carriers, and the music work from UCMR-ADA repertoire, when the contracts signed by user contains retour clauses. This report signed and stamped will be communicated along with the report mentioned at line number 1

**Art. 8.** – UCMR-ADA or the designated auditors may request, with a notice of 15 days, at every 18<sup>th</sup> of the month, the examination of the accountant situation and extra-accountant from article 7, line 2 – report of the selling and the bills of the users regarding audiovisual works for which the non-exclusive authorization was granted.

The examination will be made on the expense of UCMR-ADA and can't take more than 5 days. In case of irregularities, meaning than the report's date will not reflect the real volume of sells or the basis of calculation of the remuneration, at the UCMR-ADA request, the user will pay the reasonable amount of money, adequate to honorarium of audit on Romanian market.

Documents presented by users for the audit are confidential and UCMR-ADA commit to assure the confidentiality.

**Art. 9.** – This methodology will be modify only after three months since the publishing in the Official Gazette.