

Decision no. 223/2011

Since 13/07/2011

Published in Official Gazette, Part I, no. 526 in 26/07/2011 to be published in Official Gazette of Romania, Part. I, of the arbitral decision of July 11th 2011, for drafting the final form of the Methodology regarding remuneration that represent patrimonial right of the authors for reproduction and distribution of musical works on audiovisual recordings.

Methodology

Regarding remunerations that represents patrimonial right of the authors for reproduction and distribution of musical works part of the video carriers

Art. 1 – Reproduction and/or distribution on the Romanian territory of musical works included in video carriers, fixed on every type of carrier, can be made only on a basis of an authorization non-exclusive license, signed with the copyright society in the music field.

Art. 2 – The terms and expression have the following meaning:

a). product – any complete or partial reproduction, of one or several musical works or of digital representation of those, as a part of a video carriers, no mater the reproduction method

b). Promotional product – a product which is distributed for free by the producer, in order to promote the product or the producer

c). Premium product – a product that is distributed to the public for free, by association with another product, without raising the usual price for that product

d). Budget product – a product which is on the market after more than a year from the moment it was launched, at a price with 35% below initial price

e). Sold – A product distributed in order to sell off a stock than could not be distributed, but not sooner than 18 months since the product was first time launched

f). User – any person who assume the responsibility of doing the first recording of a musical work, as part of a content of a video carriers, or the person who sells, broadcast in any way,

for free or not, the original or the copy of a musical work that is part of a content of a video carriers, if the distribution right has not been used.

Art. 3 (1) The non-exclusive license authorization is issue for every musical work and refers only to musical works that are part of the copyright society's repertoire, in limit established by the authors and by foreign copyright societies. The license gives to the user, in exchange for remuneration, the right to reproduce and/or distribute exclusively on Romanian territory of musical works which belong to the society's repertoire.

(2) If one or several musical works reproduced on a carrier are to be sold in Romania, but the reproduction was made in another EU state, no remuneration is due to be paid. For that, the user must present to the copyright society a license signed by a the foreign copyright society, which confirms that the reproduction of those musical works was authorized and that the copyright was paid.

Art. 4. - (1) Before reproduction and/or distribution of video carriers on which are musical works from the copyright society's repertoire, the user must sign with UCMR-ADA an non-exclusive license.

(2) The user will send a request to UCMR-ADA before the reproduction will take place. The request must contain the following:

- a). Name of the producer / its identification data
- b). Name of the musical video carriers
- c). Producer, the director and the appearance year for every audiovisual work
- d). Name of every musical work from the video carriers
- e). Composers, lyricists, arranger, publisher - for every musical work
- f). duration of every musical work
- g). Type of carrier
- h). Type or the types of the product for which are requested authorization
- i). Estimated number of copies
- j). Person and the country where the reproduction will take place
- k). Declaration of the user that the reproduced video carriers are to be distributed only on the Romanian territory
- l). Stamp and the name of the legal representative of the producer

Art. 5. – The non-exclusive license signed in conformity with the present methodology is limited to a maximum of 12 months and may be granted only for the Romanian territory and for the estimated number of copies. For the realization of new circulation it must be sign an additional act to the non-exclusive license authorization. If this will not happen, the reproduction and the distribution of the new circulation is illegal.

Art. 6. - (1) The user will pay to the Copyright Society for the reproduction and / or distribution of musical works, on video carriers, on the Romanian territory, for every copy, a remuneration represented 7% from the basis of computations.

(2) The remunerations the users must pay, for every copy, will never be lowest than it shows below:

Year/Category Product	Standard	Budget	Premium	Solduri
2011	1,35 lei	0,62 lei	0,6 lei	0,3 lei
2012	1,35 lei	0,62 lei	0,6 lei	0,3 lei
2013	1,35 lei	0,62 lei	0,6 lei	0,3 lei
2014	1,35 lei	0,62 lei	0,6 lei	0,3 lei

(3) In case of phonogram package plus a video carriers or a video carriers plus a video carriers, the remunerations will be as follow:

a). For the package phonogram plus video carriers premium the user must pay a remuneration adequate to phonogram that represents the main product, plus o flat-rate tariff, at the level of minimum remuneration as you can see in the table, for video carriers that represents the premium product.

b). For the package video carriers plus video carriers bonus the user must pay a remuneration adequate for the video carriers as the main product, plus a flat-rate remuneration at the level of minimum remuneration as you can see in the table, for the video carriers that represents the premium product.

c) For a pachakge phonogram plus video carriers or multiple, if none of this product is premium, the user must pay the remuneration adequate for a phonograme, which is consider as the main product, plus a flat-rate remuneration, as you can see in the table.

d) For a package video carriers plus video carriers or multiple, the user must pay the remuneration for a video carriers as the main product, plus a flat-rate remuneration, as you can see the minimum remuneration in the table, for every additional video carriers from the package

(4) In case o musical video carriers contains musical works that are not part of the copyright society`s repertoire, the remuneration will be calculated adequate to its proportion from the whole video carriers.

(5) At the remuneration stipulated in the present methodology, must also be add vat rate.

Art. 7. - (1) The basis of computation of remuneration is represented by the highest price published by the producer or those who distribute the product, price for which every retail seller might buy, without any abatement, named PPD (published price for dealers).

(2) If the producer or the distributor does not make a catalogue with the prices specified at article (1) or the catalogue is not disposable for the public, the basis of computation will be represented by the highest price used by a retail seller, for every unit of that video carriers.

(3) For the video carriers sold by the user directly to the private consumer, the basis of computation of the remuneration is represented by revenues by the retail sell of the units that ar part of the video carriers.

(4) For video carriers distributed for free to the public, the basis of computation of the remuneration is the total amount of cost production. The producers may offer as a promotion, without paying the copyright, maximum 150 copies for each video carriers and only from the first circulation.

(5) The basis of computation for the budget products or for the premium products is represented by the sell value of all units.

(6) In case the video carriers are sell at solds, the basis of computation is represented by the revenues obtain by the user from the retail sales of all units.

(7) The remunerations are determined by the next formula:

7% basis of computation time the number of copies reproduced and distributed in the reference period.

Art. 8. - (1) We do not consider as sold sale the sell of carriers from a video carriers that was made specially to be sold sale.

(2) In case a video carriers is sell at sold before the period established in the present methodology, the procentual remuneration will be the adequate one.

- to a budget product, which correspond a 3.5% reduction compared with the first day of sell of the standard product, if the sell is made after the date a budget product may be launched, as you can see in art. 2, letter d).

Art. 9. – A musical video carriers might be distributed for free or to promote something only if it has an inscription that says “It could be distributed only for free” or “It could be distributed only with ...”.

Art. 10. – In case a video carriers is sell as a budget product before the legal term as you can see in this methodology, the percentage remuneration will be adequate to the standard product.

Art. 11. – (1) The user must pay the copyright remunerations to UCMR-ADA, until the 25th of the next month of the last trimester

(2) For delays, the user owes to UCMR-ADA penalties of 0.1% a day

Art. 12. - (1) On the cover of every carrier on which are reproduced musical works from the repertoire will be mention the following:

- a). The name and the title of the producer
- b). The title of the musical video carriers
- c). The names of the musical works
- d). The names of the composers
- e). Catalogue number
- f). The musical copyright society and the licence number exempted that must contain the musical works for which the authorization was exempted.
- g). The announcement: “All the rights of the producer and of authors are reserved. The unauthorized use of this recordings are strictly prohibited and are penalize according to law”
- h). The P symbol, the name of the producer, the year and the country where it was published first time

(2) The label provided at line (1), letter a), b), f) and h will be inscription also on the physical carrier on which there is recorded the music.

Art. 13. - (1) The users must elaborate every trimester catalogues that will contain the following:

- a). The titles of the musical video carriers
- b). The authors of the musical works
- c). The titles of musical works
- d). The catalogue number
- e). The type of carrier (CD, DVD, etc)
- f). The PPD for every video carriers and type of carrier

(2)The user must inform UCMR-ADA, in no more than 15 days since the elaboration or modification, a copy of every catalogue that was edited or re-edited.

(3) If the user will not give the catalogue in legal term, the musical copyright society might, after a notification, denounce the authorization and to ban the reproduction and / or distribution of musical works by that user, and the remunerations will be determined as you can see in article 7, line (2).

Art. 14. - (1) Until the 20th of every month that follows a trimester, the user must send to UCMR-ADA a report that contains:

- a) The name of the user and its identification data
- b) The titles of musical video carriers reproduced or distributed
- c) The catalogue number for every video carriers
- d) The number of copies sold

- e) PPD for every musical video carriers
- f) The name of every musical work reproduced and / or distributed for every musical video carriers
- g) The maker
- h) Details about the territory where the video carriers was distributed
- i) The stamp, the name and the signature of the legal representant of the user

(2) The musical copyright society may give to the user a report form.

Art. 15. – In case of en gross sells, the user will mention on every bill or in an annex the detailed specification of the video carriers, the number of copies for every position from the catalogue and the delivery price for every unit

Art. 16. - (1) The users will give to UCMR-ADA all the information and documentations that are relevant in order to apply this methodology

(2) In case of misunderstandings in giving the information, there will be an audit. Such an audit can't be sooner than six months and the costs will be pay egally.

Art. 17. – If the musical copyright society becomes a member of a foreign organization of authors or of producers / distributors, and between theme there is an accord signed, those regulations could be stipulated in the agreement between UCMR-ADA and those users.

Art. 18. – Hence we do not cover the reproduction of musical works on musical video carriers that were made to be distributed on another terriortory.

Art. 19 – The modification of remunerations could be made periodically by updating with the inflation course.