

The final form of the methodology regarding phonograms

The arbitrary decision from December 15 2008, regarding the final form of the Methodology regarding the remuneration that represents the patrimonial right of the authors for the reproduction of their music on audio record, published on the strength of the ORDA Decision no. 232 / 22.12.2008, in Official Monitory part I, no. 17, from 09. 01.2009, as it was modify by the decision of the Civil Court, no. 161 A / 23.06.2010, pronounced by the Appellate Court , Section IX, and for the causes regarding intellectual property, in File no. 1008/2009, published by ORDA decision no. 311 / 12.11.2010 in Official Monitory 803 / 02.12.2010.

Methodology regarding remuneration that represents the patrimonial right of the authors for the reproduction of the musical work on audio recording.

Article 1. The exploitation of the musical work by reproduction and distribution of the phonograms on the Romanian territory may be made on the basis of an authorization, non-exclusively license, signed between UCMR-ADA and the user.

Article 2. The terms and the expression below have the meaning:

- a). UCMR-ADA – The Romanian Copyright Society
- b). By repertory we understand the totality of the musical works for which UCMR-ADA has been mandated by its members, or indirectly, by the written contracts signed with the similar organization outside our country, to operate collective the patrimonial rights of reproduction and distribution of musical works.
- c). By producer we understand any juridical or physical person, who make duplicates of one or many musical works, and puts them into circulation for the public
- d). By product we understand any reproduction of one or many musical works or a digital representation, no matter what the support type is
- e). By premium product we understand the recorded support which is offered as a bonus, for the advance of another product
- f). By promotional product we understand the recorded body , offered for free, in order to promote that product or in order to promote the recorded label.
- g). Expelled from the Methodology by the Civil Court decision no. 161A/23.06.2010 and published in the Official Monitory. Part I no. 803/02.12.2010 by ORDA decision no. 311/12.11.2010, initial text “by selling at

offer price we understand the selling of supports on which are reproduced musical works, at a price at least 20% cheaper compared with PPD”

h). By budget sell we understand selling of supports on which are reproduced musical works at a price at least 35% compared with the first cost of the product

i). By sold sale we understand the selling that has the purpose to eliminate a stock of supports on which are reproduce musical works.

Article 3. The non-exclusive authorization , granted by UCMR-ADA offers the producer, in exchange of remuneration, non-exclusive rights that are operated collectively, to reproduce and allocate on the Romanian territory musical works from their repertoire, on every support.

Article 4 - (1) Before reproducing in order to distribute the musical works from the UCMR-ADA repertoire, the producer has the obligation to obtain from UCMR-ADA the non-exclusive license.

(2) For that, the producer will address to UCMR-ADA before the proposed data for the reproduction and distribution. For the new musical works, which are to be recorded for the first time, the request will carry:

- a). Name of the producer and its identification data
- b). Album title
- c). The title of every musical work
- d). The length of every musical work
- e). Composer / Lyricist / Editor
- f). The vocalist
- g). The seal, the name and the signature of the legal agent of the

producer

For the musical works already authorized by UCMR-ADA or by a similar body with which UCMR-ADA has a reciprocity contract, the request will carry:

- a). Name of the producer and its identification data
- b). The license number given by UCMR-ADA, for the album that was edited

before

- c). Catalogue number
- d). The seal, the name and the signature of the legal agent of the producer

3). Expelled from the Methodology by the Civil Court decision no. 161 A / 23.06. 2010 published in Official Monitory. Part I no. 803/02.12.2010 by ORDA decision no. 311/12.11.2010. Initial text. The modular form for the authorization request are the annex no. 1.

Art. 5 – The authorization for non exclusive-license is given for a 12 month period for the Romanian territory and for the requested circulation, with the possibility of extension.

Art. 6 – (1) The producer will pay to UCMR-ADA for the reproduction and the distribution of musical works on the Romanian territory, for every product, a remuneration that represent 9.009% of the basis of computation.

(2) The remuneration that are owe by the user, for every copy, can't be less than the minimal remuneration, as you can see in the next list.

Year /Category Product	Standard	Budget	Premium	Sold
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 an album contains musical works that does not belong to the repertoire of UCMR-ADA, the remuneration that is owed to UCMR-ADA will be calculated according with the rate between all the minutes reproduced from the repertoire and the total duration of the musical works that are in the album.

4). To the remuneration we also add VAT.

Art. 7 (1) The basis of computation of the remuneration represents the highest price published by the producer in the day the body leaves the deposit of the producer, as it shows in the price list published by him, price that allow any seller to buy a minimal quantity of a relevant body, without any stimulus, sale offer, bonuses or any other relevant decrease of the price, that we will continue to call PPD.

(2) For the reprography that are distributed by the producer at a promotion, or free, the basis of computation of the remuneration represents the total value of the cost of production of the phonograms, as a final

product. The producers may offer as a promotion, without paying copyright not more than 150 copies, from every phonogram and only from its first circulation.

3). If the phonograms are sold to sold out, the basis of computation is represented by the value of all sales, as it resulted from the bills

4). The remunerations are determined by the formula:

(9.009% time PPD) time the number of the units reproduced and distributed in the reference period.

5). For the situations that are listed at points no. 2 and 3, the remunerations will be determined by the formula:

(9.009 time the the basis of the computation stipulated at the respective points) time the number of the units reproduced and distributed in the reference period.

Art. 8 - Expelled from the Methodology by the Civil Court decision no. 161A/23.06.2010. Initial text: "The basis of computation for the products that are at bid, it is represented by the value of sell of all units already sold, as it shows in the bill of sale.

Art. 9 - (1) The basis of computation for the sold products are represented by the sell value of all units already sold, as it shows in the bill of sale

(2) We don't consider sold sale the sell of some supports from an album that was made special for sold sale.

Art. 10 - (1) The basis of computation for premium products it is represented by the sell value of all units already sold, as it shows in the bill of sale

(2) Premium products will be stamped with the announcement: "It can be distributed only with ..."

Art. 11 (1) The basis of computation for the budget products it is represented by the sell value of al units, as it shows in the bill of sale

(2) We don't consider budget sell the sell of some supports from an album that contains new musical works that were made special to be sell at a reduced price compare with PPD

Art. 12 – (1) The payment of all remunerations owed by the producers to UCMR-ADA it is made every three months, until the 25th of the first month after the trimester ends.

(2) In case of payment delay, the penalties will be 0.1% per day

Art. 13 (1) On the cover of every support on which are reproduced musical works from the repertoire, will be mentioned visible, the following information:

- a). The name of the producer
- b). The album's title
- c). The name of the musical works
- d). The name of the composers
- e). Catalogue number
- f). The announcement "The rights of the producer and authors are reserved. Unauthorised use is strictly forbidden and we'll be punished according to law".
- g). The P symbol, with the name of the producer, the year and the country where the album was first published

(2) The labeling from lined (1), lit. a), b), c), e) and g) will also appear on the support of the musical works

Art. 14 (1) The producers must elaborate catalogues that will contain at least the next elements:

- a). The album's title
- b). Catalogue number
- c). The title of the musical works
- d). The composers
- e). The type of the support (CD, VHS, audio CD, DVD, CD-ROM, etc.)

(2) The producers will communicate to UCMR-ADA the price list that will contain the PPD

(3) The users must communicate to UCMR-ADA one copy of every catalogue edited or re-edited

(4) If the users will not communicate one copy that gives UCMR-ADA the right to deny, in the future, any request of authorization from that producer, until the situation is readjust.

Art. 15 – (1) Until the 20th of every month, that comes after the end of the trimester, users must communicate UCMR-ADA an memoir that contains the following information:

- a). The name of the product and its identification data

- b). The album`s title reproduced and distributed
- c). Catalogue number of every album
- d). Number of copies sold for every album
- e). the PPD for every album and support type
- f). Authorization number from UCMR-ADA
- g). The seal, the name and the signature of the user`s legal agent.

(2) Expelled from the Methodology by the Civil Court decision no. 161 A / 23.06.2010. Part I no. 803 / 02.12.2010 by ORDA decision no. 311 / 12.11.2010. Initial text *Memoire memo contains addendum no. 2 at present methodology and it is an integrated part of the Methodology.*

Art. 16 (1) The remuneration will not be pay if the products are returned and they appear that way in their evidence

(2) If the return are reintroduced on the market, the remuneration is the same.

Art. 17 – In case of in bulk sells, the user will mention on every bill or in an annex of the bill the specification of the phonograms, in details, the number of copies for every position from the catalogue and the price of sell for every support.

Art. 18 - The producers will give UCMR-ADA access to all information about their activities that make the object of authorization of UCMR-ADA, according to trimestrial reference, and will give, in case we`ll make an written appeal any information about the rights governed by this methodology.

Art. 19 – If UCMR-ADA and the producers became members of an international organization of authors, or of producers, between already exist an agreement, those prevision could be stipulated in the conventions signed between UCMR-ADA and the producers.

Art. 20 – The modification of the remuneration determined, can take place periodically, by updating with the inflation rate, to assort with the disposition of the 131st article of the Law 8 / 1996, regarding copyright, with the modification and adjunction made thenceforth.

This methodology comes into law when it is publish in the Official Monitory of Romania.

Annexes I and II were expelled from this Methodology by Civil Court decision no. 161 A/ 23.06.2010, published in Official Monitory. Part I no. 803 / 02.12.2010 bu ORDA decision no. 311/12.11.2010.