



Copyright\_Levies\_Reform  
Alliance

## COPYRIGHT LEVIES BACKGROUNDER

### What are copyright levies?

- Copyright levies are fees intended to compensate rights holders for the economic harm done by legal private copying, similar to a tax, but their amounts are not statutorily decided.
- They are not intended to compensate for illegal copying, and should not be perceived as a “piracy tax” on European consumers.
- They are NOT royalties designed to compensate artists for sale of their works.
- Copyright levies are NOT designed to compensate artists for piracy.

### What’s the history of copyright levies?

- With the decline of many European monarchies 150 years ago, composers founded “collecting societies” to make sure they got paid when their work was performed. These payments continue to be known as royalties.
- These collecting societies are an integral part of the copyright levies collection and disbursement system.
- Copyright levies – as distinct from royalties – were first collected on cassette recorders and blank cassettes in 1961. They were applied to video cassette recorders and blank video cassettes in the early 1980s.
- Today, they are applied to various types of digital devices as well as reprographic equipment such as copiers and multifunctional printers; and proposals are underway in several countries to extend copyright levies to new devices such as mobile phones, PCs and digital cameras.
- The only European countries which do not apply copyright levies to devices and recordable media are Cyprus, Ireland, Malta, Luxembourg and the UK.

### How are levies distributed?








- Precise figures for amounts disbursed to artists and retained by the collecting societies are not generally available.
- In France, for example, the collecting society pays 25 per cent of the levy to the Ministry of Culture, while 75 per cent is intended for the artists. However, there are no precise figures available to indicate how much of the 75 per cent is actually received by artists.

- One study suggests that collection and administration fees of the collecting societies can be as high as 20 per cent of the total amount collected. This is claimed by the collecting society as a management fee to cover operating expenses.
- This cut – taken directly from the artists’ pockets – is rarely declared by the collecting societies in their annual statements of income making an assessment of whether the fee is set at an appropriate level all but impossible.
- This leads to suspicion that collecting societies themselves are profiting from the current system at the expense of the artists whom they claim to represent.

**Why does the system need to be reformed?**

- The intention of the EU Copyright Directive is that as technical protection measures (TPM) become more prevalent, levies are adjusted to maintain “fair compensation” to rights holders while ensuring fair treatment for consumers.
- Instead, consumers are forced to pay multiple times to compensate for private copies.
- For example, a household that owns a mobile phone with MP3 player, printer, DVD burner, CD burner, video recorder and MP3 player will pay a levy on each item, plus further levies on blank CDs and DVDs.
- That excludes fees paid on pre-recorded CDs and DVDs and on downloads of digital content designed to compensate artists for legal private copies.
- **Copyright levies are unpredictable and unevenly applied throughout Europe**, as the chart below demonstrates. The amounts detailed are in € unless otherwise indicated.

**MP3 Copyright Levy rates**

	 Austria	 Finland	 France	 Germany	 Italy	 Spain	 Sweden
4 GB	4	15	8	2	n/a	12	2
30 GB	6	15	10	2	3%	90	13
80 GB	8	15	15	2	3%	288	35

remark: In the chart the 30 and 80 GB MP3 player is a Hard Disk based multifunctional device

- Collecting societies continue to demand levies on more and more products. Levies collected in 2005 are estimated at €950 million and are expected to rise to €1.53 billion in 2006, to €1.76 billion in 2007, and to €2.07 billion in 2008.
- However, these direct costs take no account of the indirect cost to the European economy from lost sales and competitiveness of €2 for every €1 raised via copyright levies (*Economic Impact Study: Private Copying Levies on Digital Equipment and Media*, Nathan Associates, May 2006).
- The system is out of control, as some levies are actually higher than the purchase price of the device.
- ***Levies fundamentally spoil the climate to invest in European digital economy.***

#### **How come so little levy money has such an impact?**

- The actual costs are much higher than what is collected. Levies systems come with a significant amount of red tape and outdated administrative burdens, making new, innovative products with higher storage capacity more expensive and uncompetitive.
- Monies are selectively collected more often from the larger manufacturers, while evasion by smaller, unknown manufacturers in the EU goes relatively unnoticed.
- There is also a great deal of uncertainty when planning new products as levy claims are entirely unpredictable and often significantly exceed expected margins.

#### **Why are levies such a barrier for digital innovation?**

- The combination of the latest technologies and maximum capacity result in higher claims, creating uncertainty if such new products will produce losses (if levy claims exceed profit margins).
- The risk that non-brand “copy-cats” that escape levy charges will leave little time for the innovating brands to earn back their investments, make Europe unattractive to launch new digital consumer products and services.

#### **Is this a clash between Industry and European culture?**

- It is wrong to assume that national culture is best helped by charging a levy on technology. Apart from the findings that very little of those funds actually arrive into the hands of creators and artists, it results in keeping such local artists and creators unnecessarily in the analogue age. In fact through levies, local artists’ and creators’ accessibility to global distribution is denied, or at least delayed.
- There are many new channels for the creative community to disseminate their works well beyond their national borders. It is a lost opportunity if such channels at large are defined in Asia and the United States.

### What do you expect President Barroso to do?

- He and his services have clearly analyzed and concluded that reform of the levy system is required. Even some Member States have asked the Commission to act. We appreciate his attempt to increase the support from Member States, and believe that a Recommendation is the ideal method to achieve this. We expect President Barroso to continue working on a Recommendation as he suggested previously.

### What is CLRA's position on reform of European private copy levies?

- CLRA calls for:
  - **Urgent legislative action to freeze EU private copying levies** and move toward their eventual phasing out.
  - **A system of fair compensation for artists** for legitimate private copying that is fair and transparent and that **protects European cultural industries**, together with Europe's unique culturally identity.
  - **A fairer deal for consumers** who are currently paying copyright levies up to eight times on commonly purchased ICT devices, as well as on blank recordable media.
  - **A fairer deal for companies** in the European single market. Facing public attacks by collecting societies, larger companies risk having their market position undermined and forced to pay while others do not.
  - **An end to the system of "rough justice"** which is reinforced and expanded by legislative actions on the part of collecting societies at national level.
  - **Protection of intellectual property** which is the cornerstone of the market economy, protects and stimulates the development and marketing of new products and services and the creation and dissemination of creative content.
  - **Improved legal and business certainty**, without which investment in new technologies and formats may be jeopardised in the absence of the ability of innovators to set and stick to a price.

Note: Differences between the CLRA figures for 2005 and those of *Culture First!* are explained by contested levies which represent funds set-aside by the industry that remain "fallow" until the dispute is resolved. The CLRA took into account 100% of the levies imposed on producers in Europe, whereas *Culture First!* does not include "non-payers" in their calculations.

#### ***About the Copyright Levies Reform Alliance***

The Copyright Levies Reform Alliance is comprised of the Business Software Alliance (BSA), European American Business Council (EABC), European Digital Media Association (EDiMA),

European Information and Communications Technology and Consumer Electronics Association (EICTA), European Semiconductor Industry Association (ESIA), and Recording-media Industry Association of Europe (RIAE).

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For more research into the impact of copyright levies, please visit: [www.bsa.org](http://www.bsa.org).