

# Quick Guide to Private-Copy Levy Systems

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## About the World Law Group

The World Law Group is a network of 53 leading independent law firms with more than 325 offices in major commercial centres worldwide. WLG member firms comprise more than 16,000 lawyers working in a comprehensive range of practice and industry specialties. Clients can access local knowledge, and seamless multinational service via a single call to any World Law Group member firm.

A full list of all member firms of the World Law Group and their respective contact partners is available at [www.theworldlawgroup.com](http://www.theworldlawgroup.com). If jurisdictions relevant to your organization are not included in this guide, WLG members can usually provide contacts to assist.

For more information, visit [www.theworldlawgroup.com](http://www.theworldlawgroup.com).

Please note that this guide provides general information only. Its purpose is to provide a brief overview of legislation and some of the issues concerning private-copy levy systems in each jurisdiction covered. This information is not comprehensive and is not intended as professional or legal advice, generally or in a given situation. Local legal counsel and advice should routinely be obtained. For additional information or advice in a particular jurisdiction, you may contact the members of the World Law Group's Intellectual Property and Information Technology Practice Group as listed in the List of Contributors.

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## Introduction

Copyright levies are the 21st century response to the advent of technological methods that facilitate the making of private copies of copyright-protected works. With these new technologies gradually enabling easier and increasingly exact copying of almost every form of creative work – the printed word, paintings, music, video, etc. – the authors have become unable to prevent or control private copying behaviour and thus enforce their ownership rights. Obtaining compensation for private copying directly from users also has become almost impossible.

Beginning with the invention of audio cassettes, national legislators faced two questions: first, whether to comprehensively protect the author's rights or to limit them by allowing private copying and second (in the latter case), how to compensate the rightholder for private copying.

Given the practical difficulties in identifying private users and charging them in order to compensate the rightholder, several countries established a private-copying levy to be paid by companies that manufacture reproduction equipment, devices and media and/or those who make them available to the final user, with funds raised via this levy distributed back to the rightholder.

In the absence of international legal requirements, these national copyright levy systems vary considerably in many aspects, including:

- the equipment/devices to which the levies apply;
- the methods used to calculate the levy;
- the entities responsible for paying the levy (manufacturer, importer/retailer); and
- the ways in which the levies are set, collected and distributed.

In the age of digitalization, these compensation systems have had to develop further to address new challenges. Today, digital recording devices and media mean copyright-protected works can now be reproduced without limit and without any sacrifice in quality. In addition, the Internet allows users to make digital copies accessible to others all over the world.

### About the WLG IP & IT Group

The Intellectual Property & Information Technology Practice Group is made up of IP and IT specialists of all member firms of the World Law Group. The group's 100+ members regularly exchange news and information on local and international developments in these fields. All IP/IT lawyers from WLG member firms are invited to participate in the Practice Group's regular meetings, which take place twice a year during the spring and the fall conferences of the World Law Group and during major international events such as the International Trademark Association (INTA) annual conference.

The goals of the IP/IT Group are to establish strong working relationships among group members and to help them keep abreast of different IP/IT regulations and developments in all World Law Group jurisdictions for the benefit of members and their clients.

For example, topics at recent Group meetings include:

- "The Anti-Counterfeiting Trade Agreement (ACTA): A Multinational Perspective";
- "Legal, Business & Privacy Risks of Social Media";
- "Litigating IP Disputes" (a joint meeting with the WLG Litigation, Arbitration & Dispute Resolution Group).

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At the same time, Digital Rights Management (DRM) systems and other technological protection measures now give authors the opportunity to control the extent of private copying and to claim compensation for reproduction directly from the end user. Furthermore, the Internet provides new services like cloud computing or content streaming, which allow the use of copyright-protected works without those works being copied.

Still, the development and convergence of new means of copying make it almost impossible to establish practical criteria to define the types of devices that should be subject to copyright levies. Even inexpensive and ubiquitous mobile phones and TVs provide the option of recording video and/or audio works.

The above-mentioned challenges have led to a large number of long and cost-intensive legal proceedings between the collection authorities and the media industry, and will provoke more litigation in the future. Therefore, it is not surprising that there is ongoing debate about the compensation systems for private copying in many countries.

To assist World Law Group (WLG) member firm clients that manufacture and/or sell devices used for private copying in different countries, the WLG's Intellectual Property & Information Technology Practice Group prepared this "WLG Quick Guide to Private-Copy Levy Systems". It provides an overview of the legal situation concerning private copying in 31 jurisdictions around the world, including:

- Information on the compensation systems for private copying;
- The way copyright levies are imposed and administered; and
- Whether the systems are challenged by ongoing litigation or political discussion.

This guide is also designed to help quickly identify similarities and differences among these systems and to provide a broader view on copyright levy-related questions. If you have additional questions on any of the 31 jurisdictions covered in this second edition, please see the list of contributors on Page 33.

We plan to update this summary and add more jurisdictions as they become available. If you have suggestions for improving this summary, please feel free to contact us. We hope it will be of value.

### Dr. Julia Wulf

Chair, WLG Intellectual Property & Information Technology Practice Group

## About this Guide

To compile the information provided in this guide, contributors were asked to briefly respond to the following questions:

1. Does your jurisdiction's Copyright Law allow private copying or reprography (as an exception from the author's right to decide whom to grant the right to make use of his\her protected works)?
2. If an exception as described under Question 1 exists, does your Copyright Law provide a regulation to compensate the rightholder for private copying?
3. If your answer to Question 2 is "Yes":
  - a) What kind of compensation exists in your country (e.g., levies to be paid on devices, levies to be paid on blank media, licensing system by digital rights management, tax-based system, other)?
  - b) Who is obliged to pay the compensation for the rightholder (the manufacturer, the distributor, the household, the private person who makes the copy, etc.)?
  - c) Which entities collect the compensation (state authorities, copyright collecting societies, manufacturers, etc.)?
  - d) Does an exception exist for the obligation to pay compensation in case the harm to the rightholder is minimal?
  - e) What is the basis for the calculation of the compensation?
  - f) If copyright levies have to be paid on devices, please give examples for the amounts to be paid for different devices like Smartphones, tablet PCs, USB sticks, etc.
  - g) If copyright levies have to be paid on blank media, please give examples of the amount to be paid for different media like CD-R, DVD-R, etc.
  - h) Is there ongoing litigation on compensation for private copying in your jurisdiction?
  - i) Does a political discussion exist on the compensation system for private copying in your country? If it does, what kinds of compensation models are being discussed?
  - j) If your answer to number i) is "yes", what major industry groups or trade associations are active in the political discussion?

Using the responses provided by contributors, a brief summary of the answers to each question from all relevant jurisdictions was created. These summaries are presented on the following pages.

Does your jurisdiction's Copyright Law allow private copying or reprography (as an exception from the author's right to decide whom to grant the right to make use of his/her protected works)?

#### Argentina

Yes.

If it can be deemed "fair use" private copying is permitted for the purposes of research and study.

Furthermore the specific case of making private copies of music works in videograms (e.g. DVDs) is permitted.

#### Australia

Yes.

The Copyright Act contains private copying provisions known as the 'format shifting' and 'time-shifting' exceptions.

#### Belgium

Yes.

Copyright Act stipulates that the author may not oppose to the reproduction of his works for solely personal use.

#### Canada

Yes.

Part VIII of Canada's Copyright Act provides a regime for the copying of sound recordings of musical works onto recording media for the private use of the person who makes the copy.

#### China

Not explicitly. But China's Copyright Law provides limitation to the reproduction right for "fair use" – some circumstances of which cover private copying, e.g., use of a published work for the purpose of individual study, research or enjoyment.

#### Denmark

Yes.

Copyright Act permits digital copying, provided that such copies are made for private purposes and not for neither indirect nor direct commercial purposes.

#### EU

Yes.

Directive 2001/29/EC provides exceptions for both:

1. Reproduction on paper or any similar medium, effected by the use of any kind of photographic technique or by some other processes having similar effects.
2. Reproduction on any medium made by a natural person for private use and for ends that are neither directly or indirectly commercial, on condition that the rightholders receive fair compensation which takes account of the application of technological measures to the work.

#### Finland

Yes.

The Copyright Act provides that anyone may make single copies for his/her private use of a work that has been made public. This does not apply to DRM-protected content, software, databases and works of architecture.

#### France

Yes.

Copyright Law provides an exception for private copying, given that the private use does not affect the normal exploitation of the work nor cause unreasonable prejudice for the legitimate interests of the author.

#### Greece

Yes, with the exception of electronic databases.

#### Germany

Yes.

The German Copyright Act provides exceptions for private copying and reprography.

## Ireland

Yes, if it could be deemed “fair dealing”. The fair dealing exemption includes private research or private study, criticism or review, or for the purpose of reporting current events.

Private copying as such is not permitted in Ireland’s Copyright and Related Rights Act 2000.

## Italy

Yes.

Copyright Law provides exceptions for reprography and for private copying of documents, audio and video works for the sole purpose of personal and neither direct nor indirect commercial purpose. The law prohibits making use of the copies in competition with the exploitation rights of the author.

## Japan

Yes.

The Copyright Act permits the user of a copyrighted work to reproduce it for his/her private use within a limited scope. But reproduction is not permissible if the person uses automatic reproduction machines that are installed for use by the public or if the copy was made knowing that the reproduction has become possible by circumvention of technological protection.

## Malaysia

Not explicitly.

But Copyright Law provides limitation to the reproduction right of authors for “fair dealing” for purposes of research, study or reporting of news. Furthermore off-the-air-recording of radio and television broadcasts is permitted, provided that it is not done for commercial purpose.

## Mexico

Yes.

The Copyright Act provides an exception for reproduction of a literary or artistic work once and in a single copy, for the personal and private use of the person doing it and without commercial purpose only.

## Peru

Yes.

## Poland

Yes.

The Copyright Law provides an exception for private copying of works which have been made public without the permission of the author. The private use shall include single copies of works by a circle of people having personal relationships. The private use must not infringe the normal use of the work or violate the rightful interests of the author.

## Portugal

Yes.

Reproduction of a work is allowed for private use only, provided that it does not affect the normal exploitation of the work and does not cause unreasonable prejudice for the legitimate interests of the author; the copy may not be used for any purposes of public communication or marketing.

Additionally, reproduction is permissible for private use on paper or similar media, effected by the use of any kind of photographic or similar techniques.

## Russia

Yes.

## Singapore

Yes.

The Copyright Act provides that a fair dealing with a copyright-protected work for the purpose of research or private study does not constitute an infringement of copyright.

## South Africa

Yes.

In terms of section 12 (1)(a) of the Copyright Act 98 of 1978, copyright shall not be infringed by any fair dealing with a literary or musical work for the purposes of research or private study and/or personal or private use. The general view is that the American approach should be followed. The factors to be considered are: purpose and character of the use; nature of the copyrighted work; amount and substantiality of the portion used and the effect upon the plaintiff's potential market.

Section 13 of the Act also contains a general exception in that reproduction of a work is permitted in such a manner that does not conflict with normal exploitation of the work and is not unreasonably prejudicial to the legitimate interests of the owner of the copyright.

## South Korea

Yes.

The Copyright Act permits reproduction of works for private use.

## Spain

Yes.

The Copyright Act provides that the author's consent is not required for the reproduction, if it is carried out by an individual for his/her private use on the basis of works to which the individual has lawfully acceded and provided that the obtained copy is not the object of a collective or profit-making use.

This does not apply to databases or software.

## Sweden

Yes.

The Copyright Act allows private copying. This does not apply to software and databases.

## Switzerland

Yes.

## Taiwan

Yes, if it could be deemed "fair use".

## Thailand

Yes.

The Copyright Act provides a limitation to the copyright of authors for "fair use", which covers private copying.

## Turkey

Yes.

The Copyright Act permits private copying, provided that such copies are not made for commercial purposes.

## UK

No, as related to private copying; yes concerning reprography.

Private reproducing of a work in any material form will be regarded as copyright infringement.

In relation to reprography, it is allowed to make a temporary copy of the work that is transient or incidental and that is an integral part of a technological process and has no independent economic significance.

A consumer is allowed to make single copies for scientific research, which does not generate commercial value. This is known as "fair dealing".

## USA

Yes.

The Audio Home Recording Act of 1992 (17 U.S.C. § 1008) provides that a consumer's non-commercial use of a "digital audio recording device, a digital audio recording medium, an analog recording device, or an analog recording medium" shall not constitute copyright infringement.

If an exception as described under Question 1 exists, does your Copyright Law provide a regulation to compensate the rightholder for private copying?

**Argentina**

Only in case of private copying of music works in videograms.

**Australia**

No.

**Belgium**

Yes.

**Canada**

Yes.

**China**

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**Denmark**

Yes.

**EU**

Yes, so called “fair compensation”.

**Finland**

Yes.

**France**

Yes.

**Greece**

Yes, a so called “reasonable fee”.

**Germany**

Yes.

**Ireland**

No, neither on foot of the “fair dealing” exemption, nor for (illegal) private copying.

**Italy**

Yes.

**Japan**

Yes, for digital reproduction.

**Malaysia**

No.

**Mexico**

No.

**Peru**

Yes.

**Poland**

Yes.



**Portugal**

Yes, the private copying exception has to be accompanied by an “equitable remuneration” on the behalf of rightholders. There is no reference that the compensation must take into account the application of technological measures to the work.

**Russia**

Yes.

**Singapore**

No.

**South Africa**

No.

**South Korea**

No.

**Spain**

Yes.

**Sweden**

Yes.

**Switzerland**

Yes.

**Taiwan**

No.

**Thailand**

No.

**Turkey**

Yes.

**UK**

No.

**USA**

Yes.

What kind of compensation exists in your country (e.g., levies to be paid on devices/levies to be paid on blank media/licensing system by digital rights management/tax-based system, other)?

**Argentina**

Fee to be paid to collecting society.

**Australia**

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**Belgium**

Levies to be paid on devices and blank media.

**Canada**

A levy is imposed on blank audio recording media.

**China**

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**Denmark**

Levies to be paid on devices and blank media, but not on IT equipment.

**EU**

It is open to the member states to establish their own system.

**Finland**

Levies to be paid on devices and blank media.

**France**

Levies to be paid on devices and blank media.

**Greece**

Levies to be paid on devices and blank media.

**Germany**

Levies to be paid on devices and blank media.

**Ireland**

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**Italy**

Levies to be paid on devices and blank media.

**Japan**

Levies to be paid on digital recording device or media.

**Malaysia**

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**Mexico**

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**Peru**

Levies to be paid on blank media.

Collecting society has attempted to levy devices. This has been challenged and is under review by the Copyright Authority.

**Poland**

Levies to be paid on devices and blank media.

### Portugal

Levies to be paid on blank media and analogical reproduction devices.

### Russia

Levies to be paid on recording devices and blank media.

### Singapore

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### South Africa

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### South Korea

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### Spain

Before January 2012, manufacturers and importers of analogical and digital devices had the duty to pay levies to the copyright holders through collecting societies.

However, Royal Decree-Law no. 20/2011 has eliminated the Spanish copyright levy system. Now the equitable remuneration for private copies is paid from the State General Budget. The State General Budget for 2012, for example, assigned a budget line of EUR 5 million.

### Sweden

Levies to be paid on devices and blank media.

### Switzerland

Levies to be paid on devices and blank media, but not on internal hard disks.

### Taiwan

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### Thailand

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### Turkey

Levies to be paid on devices and blank media.

### UK

—

### USA

Levies to be paid on digital audio recording devices and blank media.

Who is obliged to pay the compensation for the rightholder (the manufacturer, the distributor, the household, the private person who makes the copy, etc.)?

#### Argentina

The private person who makes the copy.

#### Australia

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#### Belgium

Manufacturers, importers or intra-EU purchasers.

#### Canada

Manufacturers and importers.

#### China

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#### Denmark

Manufacturers and importers of storage media.

#### EU

ECJ stated that it is legitimate that manufacturers, distributors and importers are obliged to pay the compensation, inasmuch as they are able to pass on the actual burden to finance it to the private user.

#### Finland

Manufacturers and/or importers.

#### France

Manufacturers, importers or the person performing the transactions within the EU boundaries, but since 2011, operators purchasing devices in a B-to-B relationship do not have to pay the levy.

Additionally consumers, when purchasing devices or media from E-stores outside France.

#### Greece

Manufacturers and/or importers.

#### Germany

Manufacturers, importers and distributors. Obligation on the part of the distributor ceases to apply if the dealer informs the collecting society of the quantity of devices procured and his/her supply sources.

#### Ireland

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#### Italy

Manufacturers, importers and sellers, if recording devices or blank media are sold by persons residing abroad directly to Italian consumers. Where the manufacturer or the importer does not pay such compensation the distributor shall be jointly liable.

#### Japan

Purchasers of the device or media. Manufacturers and importers will collect the amount of compensation together with the purchase price of the device or media.

#### Malaysia

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#### Mexico

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#### Peru

Manufacturers, importers and distributors.

#### Poland

Manufacturers and importers.

**Portugal**

The original purchaser.

The responsibility for collecting and delivering to the collecting society the amounts perceived as compensation lies with the manufacturers and importers.

Note: this provision was revoked in 2012 but continues to apply until the entry into force of a decree-law that sets the determination of the system of collection and allocation of the amount of the compensation. Until today, such a law has not been enacted.

**Russia**

Manufacturers and importers of the products for private copying.

**Singapore**

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**South Africa**

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**South Korea**

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**Spain**

Remuneration is paid from the State General Budget.

**Sweden**

Manufacturers and importers.

**Switzerland**

Manufacturers and importers.

**Taiwan**

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**Thailand**

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**Turkey**

Manufacturers and importers.

**UK**

—

**USA**

First distributors.

Which entities collect the compensation (state authorities, copyright collecting societies, manufacturers, etc.)?

**Argentina**

Collecting society.

**Australia**

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**Belgium**

Collecting societies.

**Canada**

Collecting societies.

**China**

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**Denmark**

Collecting societies.

**EU**

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**Finland**

Collecting societies.

**France**

Collecting societies.

**Greece**

Collecting societies.

**Germany**

Collecting societies.

**Ireland**

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**Italy**

Collecting societies.

**Japan**

Collecting societies.

**Malaysia**

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**Mexico**

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**Peru**

Collecting society, elected as the compensation collector by artists, authors and producers collectives.

**Poland**

Collecting societies.

**Portugal**

Collecting society.

**Russia**

Collecting societies.

**Singapore**

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**South Africa**

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**South Korea**

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**Spain**

The amounts foreseen in the State General Budget are given to collecting societies.

**Sweden**

Collecting societies.

**Switzerland**

Collecting societies.

**Taiwan**

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**Thailand**

—

**Turkey**

Ministry of Culture and Tourism.

**UK**

—

**USA**

Royalties are paid to the Register of Copyrights and deposited in the Treasury of the United States. During the first two months of each calendar year, interested copyright parties seeking to receive royalty payments can file with the Copyright Royalty Judges a claim for payments collected during the preceding year.

Does an exception exist for the obligation to pay compensation in case the harm to the rightholder is minimal?

#### Argentina

No.

#### Australia

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#### Belgium

No.

But reimbursement is provided for exported devices or media.

#### Canada

No.

#### China

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#### Denmark

No.

But there is no remuneration with respect to exported storage media and storage media used for professional purposes.

#### EU

According to recital 35 in the preamble to Directive 2001/29, no obligation to pay remuneration may arise in certain situations, where the prejudice to the rightholder would be minimal.

#### Finland

Not explicitly. Instead a refund system exists for devices and/or media that are

1. exported;
2. used for professional reproduction or for educational or scientific research purposes;
3. used for the production of works intended for persons with disability;
4. used as storage devices in professional activity.

#### France

No.

#### Greece

No.

#### Germany

No. The fact that the harm to the rightholder may be minimal is solely relevant for the amount of remuneration.

#### Ireland

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#### Italy

No.

#### Japan

No.

#### Malaysia

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#### Mexico

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#### Peru

No.

#### Poland

No.



**Portugal**

No.

An exception exists for the production of works intended for persons with disability.

**Russia**

No.

**Singapore**

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**South Africa**

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**South Korea**

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**Spain**

No.

**Sweden**

No.

But there is no remuneration with respect to exported storage media and storage media used for professional purposes.

**Switzerland**

No.

**Taiwan**

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**Thailand**

—

**Turkey**

No.

**UK**

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**USA**

No.

## What is the basis for the calculation of the compensation?

### Argentina

The fee is a fixed percentage of a number estimated through a formula which takes into account the length of the music work, the total length of the videogram, the number of copies the individual makes and the sales price given by the producer.

### Australia

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### Belgium

The amounts of levies to be paid are set by the Federal Government Royal Decree. The government sets the amounts on the Private Copy Commission regrouping all stakeholders. Levies are based on market analysis and sales' reports.

### Canada

A tariff is set by the Copyright Board of Canada.

### China

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### Denmark

Copyright Act provides the basis for compensation.

### EU

According to the ECJ, fair compensation must be calculated on the basis of the criterion of the (possible) harm caused to rightholders.

### Finland

The basis is set forth in a governmental decree.

### France

Levies are determined by an administrative commission. The commission assesses the “global harm” resulting from private copying on the basis of surveys performed by professional polling companies. Such “global harm” is the allocated per unit to be sold, in consideration of the type of device/medium and the recording capacity.

### Greece

Levies are 6% or 4% of the value of devices and/or blank media according to certain specifications (storage capacity).

### Germany

The decisive factor for the amount of remuneration is the extent to which the type of device and media are actually used for making private copies.

### Ireland

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### Italy

The criteria used for calculation vary according to the type of device or media and are set by ministerial decree:

- for devices solely meant for reproduction, the basis for determining the compensation is the price indicated by the manufacturer or the importer,
- for multi-functional devices, the basis is the market price of such devices,
- for blank media, the basis is the storage capacity ,
- for devices with fixed memories or hard disks, the basis is the storage capacity of the memory or of the hard disk,
- for devices with communication function, with reproduction capacity, the compensation is a fixed amount.

### Japan

The amount of compensation must be approved by the government.

### Malaysia

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### Mexico

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### Peru

Compensation has to be equitable and reasonable. It is calculated on the basis of the purchase price.

### Poland

Levies are determined by secondary legislation on the basis of the capacity of the device and media to reproduce works and the designed use thereof for functions other than reproduction of works.

### Portugal

For devices, the compensation is equivalent to 3% of sales price before the application of VAT. For blank media, levies are determined by law.

### Russia

Price of the products sold or custom value of the imported products.

### Singapore

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### South Africa

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### South Korea

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### Spain

The compensation has to be equitable. This is understood to mean that the remuneration must compensate the effective damage suffered by rightholders.

Note: The Spanish Order, which regulated the lists of devices subject to the payment of copyright levies and the corresponding amounts, estimated that the annual damages caused to the authors was between 110.200.000 ₧ and 117.800.000 ₧.

### Sweden

The Copyright Act provides the basis for compensation. The amount of levies is set after negotiations between collecting societies and industry organisations.

### Switzerland

The tariff to be paid depends on the memory capacity. Before defining a new tariff, there normally is a research study in order to define to what extent the memory of a certain device is used for the copying of copyrighted works and to what extent it is used for other purposes.

### Taiwan

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### Thailand

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### Turkey

The amount over the manufacturing or import value is to be determined by the decision of the Board of Ministers, and is not to exceed three per cent.

### UK

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### USA

The law provides the basis for compensation.

If copyright levies have to be paid on devices, please give examples for the amounts to be paid for different devices like smart phones, tablet PCs, USB sticks, etc.

#### Argentina

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#### Australia

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#### Belgium

- Memory cards and USB sticks:
  - EUR 0,15 (storage capacity up to 2 GB)
  - EUR 0,50 (storage capacity > 2 GB < 16 GB)
  - EUR 1,35 (storage capacity > 16 GB)
- MP3-, MP4-player, smart phones
  - EUR 1,00 (storage capacity up to 2 GB)
  - EUR 2,50 (storage capacity > 2 GB < 16 GB)
  - EUR 3,00 (storage capacity > 16 GB)
- External hard disks
  - EUR 1,30 (storage capacity up to 256 GB)
  - EUR 6,75 (storage capacity > 256 GB < 1 TB)
  - EUR 9,00 (storage capacity > 1 TB)
- Devices with integrated hard disk
  - EUR 3,30 (storage capacity up to 256 GB)
  - EUR 10,75 (storage capacity > 256 GB < 1TB)
  - EUR 13,00 (storage capacity > 1 TB)

#### Canada

Smart phones and tablet PCs are not considered to be included in the definition of blank audio recording media, and accordingly there is no compensation in respect of these technologies.

#### China

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#### Denmark

- USB sticks: EUR 0,69
- Memory cards: EUR 0,69

#### EU

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#### Finland

- Currently no levies have to be paid for mobile phones or game consoles
- Digital recorders with integrated storage capacity (MP3-Player, set-top boxes): EUR 4,00 (512 MB) to EUR 36,00 (over 750 GB)
- External hard drives: EUR 9,00 (50 to 250 GB), EUR 12,00 (250 GB to 1 TB), EUR 18,00 (1 to 3 TB)

#### France

- Tablet PCs: EUR 6,40 (storage capacity up to 8 GB) and EUR 12,60 (storage capacity up to 64 GB)
- Smart phones: EUR 5,60 (storage capacity up to 8 GB) and EUR 15,10 (storage capacity up to 64 GB)
- USB sticks: EUR 0,40 (storage capacity up to 2 GB) and max. EUR 0,80 (storage capacity over 8 GB)
- Standard external hard disk (storage capacity between 500 GB and 1.000 GB): EUR 20,00
- Multimedia external hard disk: EUR 6,30 (storage capacity up to 8 GB) and EUR 32,00 (storage capacity up to 2 TB)

### Greece

- No levies have to be paid for PCs, laptops and tablet PCs.
- Devices levied with 6%:  
Recording equipment for sound and/or image;  
Devices not incorporated in a main computer unit and used for digital reproduction (e.g. DVD-writer);  
Devices not incorporated in a main computer unit and used for the reproduction of sound and/or image (e.g. Smart phones, MP3 player)
- Devices levied with 4%:  
e.g. photocopy machines, scanners (summarized: devices used for reprography)

### Germany

- Smart phones:  
EUR 16,00 (storage capacity < 8 GB)  
EUR 36,00 (storage capacity ≥ 8 GB)
- MP3-Player: EUR 5,00
- PC's incl. burner: EUR 17,01
- USB-Sticks:  
EUR 0,91 (storage capacity ≤ 4 GB)  
EUR 1,56 (storage capacity > 4 GB)

### Ireland

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### Italy

- Memory or hard disk integrated in devices with communication function, with recording and reproduction capacity: EUR 0,90
- Memory or hard disk integrated in a MP3 player or in other Hi-Fi device:  
EUR 0,64 (storage capacity < 128 MB)  
EUR 2,21 (storage capacity > 128 MB < 512 MB)  
EUR 3,22 (storage capacity > 512 MB < 1 GB)  
EUR 5,15 (storage capacity > 1 GB < 5 GB)  
EUR 6,44 (storage capacity > 5 GB < 10 GB)  
EUR 7,73 (storage capacity > 10 GB < 15 GB)  
EUR 9,66 (storage capacity > 15 GB < 20 GB)  
EUR 12,88 (storage capacity > 20 GB < 30 GB)  
EUR 12,88 + EUR 2,76 per additional 10 GB (storage capacity > 30 GB)
- USB sticks:  
EUR 0,10 (storage capacity > 256 MB < 4 GB)  
EUR 0,90 (storage capacity > 4 GB)
- PC incl. burner: EUR 2,40
- PC without burner: EUR 1,90

### Japan

Sound recording: lower amount of

- 2% of the benchmark price (65% of catalogue price) or
- JPY 1.000 (device with a single recording function) / JPY 1.500 (device with multiple recording functions).

Visual recording: lower amount of

- 1% of the benchmark price (65% of catalogue price) or
- JPY 1.000 (device with a single recording function).

### Malaysia

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### Mexico

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### Peru

- MP3-Player: 10% of the price
- MP4-Player: 10% of the price
- Mobile phones: 3% of the price
- Internal hard drive: 3% of the price
- External hard drive: 3% of the price
- USB devices: 3% of the price
- Expandable memory for mobile devices: 3% of the price

Note: levies being challenged as unlawful!

### Poland

- Smart phones and tablet PCs are not expressly included in the regulation.
- Hard disks: 1% of the sales price
- Memory cards (including USB sticks): 0,47% of the sales price

### Portugal

The remuneration equals 3% of the selling price of the device established by manufacturers and importers before the application of VAT.

Note that Portuguese law provides an exception for digital devices.

### Russia

The levy is 1% of the sales price.

### Singapore

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### South Africa

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### South Korea

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### Spain

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### Sweden

- Smart phones and tablet PCs are not subject to levies yet, but with regard to smart phones Swedish law is not clear.
- Devices with internal hard disks:
  - SEK 1,0 per GB (0 – 320 GB)
  - SEK 320,0 per storage capacity > 320 GB
- USB sticks: SEK 1,0 (> 2 GB – 80 GB)
- External hard disks: SEK 80,0 / device

### Switzerland

- Smart phones: CHF 0,219 per GB
- Tablet PCs: CHF 0,115 to CHF 0,175 per GB, maximum 8% of the price

### Taiwan

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### Thailand

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### Turkey

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### UK

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### USA

The levy is 2% of the sales price (excluding sales or excise taxes) of such digital audio recording devices. The law provides that the royalty on each digital audio recording device shall not be less than USD 1.00 or more than USD 8.00, except that in the case of a physically integrated unit containing more than one digital audio recording device, the royalty maximum for such unit shall be USD 12.00.

The law does not require compensation to be paid on Smart phones and tablet PCs because their recording functions are not "*designed or marketed for the primary purpose of...making a digital audio copied recording for private use.*"

If copyright levies have to be paid on blank media, please give examples of the amount to be paid for different media such as CD-R, DVD-R, etc.

#### Argentina

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#### Australia

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#### Belgium

- CD-R data: EUR 0,12
- CD-R Audio: EUR 0,12
- DVD: EUR 0,40
- Audio cassette: EUR 0,12
- Video cassette: EUR 0,40

#### Canada

The current levy rate is 29 cents for each CD-R, CD-RW, CD-R Audio or CD-RW Audio.

#### China

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#### Denmark

- CD: EUR 0,30
- DVD: EUR 0,48
- Blu-Ray: EUR 0,48
- HD DVD: EUR 0,48
- Analogue sound media: EUR 0,01 per minute

#### EU

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#### Finland

CDs, DVDs, Blu-Rays, HD-DVD and minidiscs:

- EUR 0,20 for capacity < 1 GB
- EUR 0,60 for capacity 1 to 10 GB
- EUR 1,20 for capacity 10 to 25 GB
- EUR 1,80 for capacity > 25 GB

#### France

- CD-R: EUR 50,00 (capacity of 100 GB)
- DVD-R: EUR 19,15 (capacity of 100 GB)
- Audio-CD-R: EUR 45,73 (capacity of 100 hours)

#### Greece

Blank media levied with 6%:

- Media suitable for the reproduction of sound and/or image and overall storage media (disks) with a capacity equal or greater than 100 MB (e.g. DVD-RW, DVD-R, flash drivers, USB's)

Blank media levied with 4%:

- Photocopy paper, overall storage media with capacity < 100 MB

#### Germany

- CD-RW: EUR 0,197
- DVD-RW (4,7 GB): EUR 0,271
- Blu-Ray (25 GB): EUR 3,473

#### Ireland

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### Italy

- CD-R, CD-RW data: EUR 0,15
- CD-R- Audio, CD-RW- Audio: EUR 0,22
- DVD-R, DVD-RW, DVD RAM, DVD Dual Layer: EUR 0,41
- DVHS: EUR 0,29
- HD-DVD, HD-DVD-RW: EUR 0,25
- Blu-Ray, Blu-Ray-RW: EUR 0,41

### Japan

Sound recording:

- 3% of the bench mark price (50% of catalogue price)

Visual recording:

- 1% of the bench mark price (50% of catalogue price)

### Malaysia

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### Mexico

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### Peru

- CD, CD-RW and minidisc: USD 0.04
- DVD: USD 0.08
- Audiotapes: USD 0.04
- Videotapes: USD 0.08

### Poland

- CD-R: 1,72% of the sales price
- DVD-R: 2,53% of the sales price
- DVD-RW: 2,95% of the sales price
- HD DVD-R: 2,10% of the sales price
- Blu-Ray: 2,10% of the sales price

### Portugal

- Audiotapes: EUR 0,14
- Videotapes: EUR 0,26
- CD-R data: EUR 0,05
- CD-R audio: EUR 0,13
- Minidisc: EUR 0,19
- CD-RW audio: EUR 0,19
- CD-RW data: EUR 0,14
- DVD-R: EUR 0,14
- DVD-RW: EUR 0,30
- DVD-RAM: EUR 1,00

### Russia

The levy is 1% of the sales price.

### Singapore

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### South Africa

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### South Korea

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## Spain

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## Sweden

- CD-R: SEK 0,60 (< 900 MB)
- CD-RW: SEK 0,95 (< 900 MB)
- DVD-R: SEK 2,65 (4,7 GB)
- DVD-RW, DVD-RAM: SEK 4,25 (4,7 GB)

## Switzerland

- CD-R: CHF 0,05 per 525 MB (or 1 hour play-in time)
- DVD-R: CHF 0,31 (4,7 GB)
- DVD-RW: CHF 0,88 (4,7 GB)

## Taiwan

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## Thailand

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## Turkey

Disks, tapes, internal hard disks, etc.: 3% of the price

## UK

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## USA

The levy is 3% of the sales price (excluding sales or excise taxes) of digital audio recording media.

Is there ongoing litigation on compensation for private copying in your jurisdiction?

#### Argentina

No.

#### Australia

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#### Belgium

Yes.

Mostly regarding obligation to pay remuneration.

#### Canada

The tariffing process before the Copyright Board results in periodic reviews by the Board of tariff proposals filed by the Collective. Aside from this tariffing process, there is no ongoing litigation between collecting bodies and debtors of compensation.

#### China

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#### Denmark

No.

#### EU

Yes.

#### Finland

No.

#### France

Yes.

Between COPIE FRANCE (collecting society) and Apple et. al. on tablet PCs. In June 2013 the court decided that Apple shall pay approx. EUR 30 million to COPIE FRANCE for the past years.

#### Greece

Yes.

#### Germany

Yes, on PC's and burners, reprographic devices, recording devices (e.g. smartphones) and storage media.

#### Ireland

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#### Italy

Yes.

#### Japan

Yes, SARVH vs. Toshiba.

Toshiba refused to collect and pay compensation with respect to certain DVD recording devices. Tokyo District Court denied the claims by SARVH and so did IP High Court, holding that the devices at issue were not designated devices as defined in the regulations. SARVH has filed a petition to accept final appeal to the Supreme Court.

#### Malaysia

No.

### Mexico

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### Peru

Yes.

Levies on devices are being challenged before the Peruvian Copyright Authority.

Additionally, private copy tariff schedule was opposed by several telecommunications and computer manufacturers. At present, the Peruvian Copyright Authority has not registered the tariff schedule.

### Poland

No.

In one of the last judgements of the appellate court it was stated that, if levies were already collected from one importer in another EU member state, they shall not be collected from another importer in Poland.

### Portugal

No.

### Russia

Yes.

### Singapore

No.

### South Africa

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### South Korea

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### Spain

Under the old system, some cases have been filed before the Spanish courts, in particular, in relation to the application of levies to entities and professionals.

In relation to the new system, collecting societies have filed a complaint before the General Secretary of the European Union, as they consider that the new system does not compensate the effective damage suffered by rightholders.

### Sweden

Yes.

There is ongoing litigation on smart phones (Copyswede / Sony Mobile).

### Switzerland

No.

### Taiwan

No.

### Thailand

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### Turkey

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### UK

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### USA

No.

Does a political discussion exist on the compensation system for private copying in your country? If it does, what kind of compensation models are being discussed?

#### Argentina

Yes.

The Congress discussed a bill regarding levy systems in 2011 which provides levies to be paid on blank media and devices. Due to criticisms received the draft bill was sent to the General Legislation Commission to be reviewed.

#### Australia

A reform commission is currently undertaking an inquiry into whether the exceptions in the Copyright Act are adequate in the digital environment. Among others, the following question is being discussed: Should the copying of legally acquired copyright material for private and domestic use be more freely permitted?

#### Belgium

Not currently.

#### Canada

Not currently. Canada just undertook significant amendments to its copyright laws, which did not include a change to the compensation system for private copying.

#### China

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#### Denmark

No.

#### EU

Yes, there is an ongoing mediation process under the authority of appointed mediator António Vitorino at the EU level.

#### Finland

Yes. The following models are being discussed:

- updating the current system by broadening its scope to certain types of services (e.g. cloud-based storage) and to services whereby content is provided to consumers for a fee without effective DRM; and
- public financing, e.g. in the form of a tax or another public fee.

The alternatives resting upon public finance appear to be favorable for a majority of players in the field.

#### France

Yes.

The tariffs for private copying levies are periodically challenged by manufacturers and sellers. The calculation method and the commission's legitimacy are questioned. It also exists a discussion on the application of levies to web hosting companies.

#### Greece

No.

#### Germany

Yes. Two models are being discussed:

- individual licensing using DRM-systems;
- a household fee.

## Ireland

Yes, there is a major review of the present Irish copyright legislation to identify any barriers to innovation and solutions for removing those barriers. The Irish Copyright Review Committee published a consultation paper in December 2011 which was prepared in conjunction with public debate and submissions. The paper refers specifically to the question of whether there ought to be a system of levies upon devices or storage media that facilitate copying in Ireland. However it seems unlikely that the Copyright Review Committee will recommend the introduction of copyright levies as it has explicitly reported in its consultation paper that it is not minded to do so.

## Italy

Yes.

The discussion focuses on the amount of levies as well as on the limitation of the levies only to those devices and media effectively used for private reproduction and not solely for business purposes.

## Japan

Yes.

Current discussion revolves around the possibility of partially abolishing the compensation system in light of the development of DRM technology.

## Malaysia

No.

## Mexico

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## Peru

No.

## Poland

Yes.

The discussions concern the unification of the collecting management system in the EU as well as the levy system in general.

## Portugal

Yes. It is generally agreed that the regulation of private copying has become outdated, since it is not suited to the digital world.

In early 2012, the Portuguese Socialist Party (main opposition party) presented a draft law, which provided for:

- the extension of levies on all types of media and devices;
- increasing the levy amount in proportion to the device's storage capacity.

This drew massive criticism, which culminated in the Socialist Party withdrawing the draft.

## Russia

No.

## Singapore

No.

## South Africa

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## South Korea

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## Spain

The former system in place has been subject of a very strong debate. The new system has softened the debate but it has caused collecting societies to bring a claim to the EU.

## Sweden

Yes.

The levy system is criticized for being old-fashioned. There are many different opinions on new compensation models.

### Switzerland

Yes.

There are discussions about the introduction of a flat rate for private copying to be paid by internet providers. However, it is unlikely that the system is actually going to change in the next five years.

### Taiwan

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### Thailand

No.

### Turkey

No.

### UK

Yes, a lively discussion exists. In 2011, an independent review of IP was carried out (the “Hargreaves review”). To follow up its recommendations, the government issued a consultation on modernizing the copyright system. The consultation proposed the introduction of a private copying exception subject to the payment of copyright levies. It also recommended introducing an exemption to cover the issue of format shifting for private and immediate family use. This could be priced into the purchase of the relevant devices. While a majority of responses have been supportive of these changes, most rightholders have expressed concerns about the potential harm such an exemption could cause to their revenues.

### USA

No.

## What major industry groups or trade associations are active in the political discussion?

### Argentina

Fundación Via Libre, which promotes the private use of intellectual property free of any charges.

### Australia

Not known yet.

### Belgium

Major industry groups and companies (e.g. Nokia and Sony-Ericsson).

### Canada

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### China

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### Denmark

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### EU

Digital Europe

### Finland

Sanoma Corporation (major press and media group), Nokia, Teosto and IFPI (associations for content producers).

### France

SFIB (Syndicate of the Information Technologies Industry), SIMAVELEC (Syndicate of Electronic and Audio Visual Equipment Industries), SNSII (National Syndicate of Image and Information Service), FEVAD (Federation of E-commerce and Distance Selling), UFC que choisir (consumers' association).

### Greece

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### Germany

BITKOM (Association for Information Technology, Telecommunications and New Media), ZVEI (Association for electrical engineering and electrical industry), ZITCO (Association for information technology and computer industry).

### Ireland

There have been 180 submissions from a wide range of stake holders including technology companies, universities and software manufacturers.

### Italy

ASMI (Associazione Supporti e Sistemi Multimediali Italiana), Altroconsumo, ANART (Associazione Nazionale Autori Radiotelevisivi e Teatrali), ANICA (Associazione Nazionale Industrie Cinematografiche Audiovisive e Multimediali).

### Japan

Broadcasting, motion pictures, music industry, electronics, information technology, performance rights association.

### Malaysia

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### Mexico

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### Peru

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**Poland**

PIIT (Polish Chamber of Information Technology and Telecommunications), ZIPSEE (association of importers and producers of electronic and electric RTV and IT devices).

**Portugal**

ANSOL (National Association for Free Software), AEL (Free Education Association), Creative Commons Portugal, SPA (Portuguese Society of Authors), GDA (Management of Rights of Artists, Interpreters and Producers), and AGECOP (Portuguese Association of Publishers and Booksellers).

**Russia**

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**Singapore**

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**South Africa**

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**South Korea**

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**Spain**

Manufacturers and seller of devices.

**Sweden**

Electronics Industry Association.

**Switzerland**

Consumer protection organisations, organisations from the ICT industry and trade associations.

**Taiwan**

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**Thailand**

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**Turkey**

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**UK**

British Recorded Music Industry (BPI), UK Music, British Video Association, Alliance Against IP Theft, Pearson Publishing, film and video industry (various players).

**USA**

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