



**THE RIGHTS OF FRENCH AND FOREIGN  
PRODUCERS OF PHONOGRAMS AND VIDEOGRAMS  
IN FRANCE**

**SOCIETE CIVILE DES PRODUCTEURS  
DE PHONOGRAMMES EN FRANCE**

**SPPF**

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## LEGAL AND REGULATORY FRAMEWORK IN FRANCE

Since July 1, 1992, the Intellectual Property Code has regrouped:

- The provisions of the **Law of July 3, 1985**, relating to "the rights of authors and the rights of performers, producers of phonograms and videograms and of audiovisual communication companies", which confers rights in France to producers of phonograms and videograms as well as to performers.
- The provisions of the **Law of March 11, 1957**, on literary and artistic property, which confers rights in France to authors.

The intellectual Property Code confers specific **economic rights** to performers and to **producers of phonograms and videograms**. The latter are defined as the **natural or legal person who takes the initiative and the responsibility for the initial fixation of a sequence of sounds and of a sequence of images, whether accompanied by sounds or not**.

Moreover, regulatory provisions specify the conditions for application of the articles setting for the principle of **Equitable Remuneration** and of the **right to remuneration for Private Copy** (Articles L. 214-1 and L. 311-1 of the Intellectual Property Code).

## LEGAL PROVISIONS

### RIGHTS CONFERRED ON PRODUCERS OF PHONOGRAMS AND VIDEOGRAMS

#### I / THE EXCLUSIVE RIGHT TO AUTHORIZE OR TO FORBID (Articles L. 213-1 and L. 215-1 of the Intellectual Property Code)

1. **The total or partial reproduction** of their phonograms and/or videograms, whatever the intended use of such reproduction, with the exception of private copies (see below) and reproductions strictly reserved for private or for use by critics or short extracts (Article L. 211-3 of the Intellectual Property Code).

2. **The mode of exploitation by which copies are made available to the public for private use, i.e.:**

- |            |   |                                   |
|------------|---|-----------------------------------|
| - sale     | ) | The producer may forbid some      |
| - exchange | ) | of these modes of exploitation of |
| - rental   | ) | his phonograms and/or videograms  |

3. **Communication to the public:**

- of phonograms

- either directly in a public place, in the particular case when such communication occurs as part of a performance (Article L. 214-1 - 1° of the Intellectual Property Code).
- or indirectly, i.e. transmission by wire, cable or satellite, either of the original phonogram or of its lawful reproduction, with the exception of radio broadcasting and a simultaneous cable television broadcasting of such a radio broadcast in its entirety (Article L. 214-1 - 2° of the Intellectual Property Code) or its dissemination under the cases provided in Article L. 211-3 - 3° of the Intellectual Property Code.

- of videograms:

- The producer may forbid any communication, whether direct or indirect, to the public of his videograms.

## II / THE RIGHT TO REMUNERATION (Articles L. 214-1 and L. 311-1 and following of the Intellectual Property Code)

These rights, whose administration must obligatorily be made through the intermediary of collectif societies for the purpose of collecting and distributing such remuneration include, pursuant to the terms of Articles L. 214-5 and L. 311-6 of the Intellectual Property Code :

### 1. The right to Equitable Remuneration (equivalent to a compulsory license)

- For the direct communication of phonograms published for commercial purposes in a public place (other than usage as part of a performance)
- For the radio broadcasting of phonograms published for commercial purposes and the simultaneous cable television broadcasting of such a radio broadcast in its entirety.

### 2. The right to remuneration for Private Copy of phonograms and videograms, provided that they reproduce a work of art (within the meaning of the Intellectual Property Code).

### 3. Articles L. 214-1 and L. 311-1 and following of the Intellectual Property Code provide that such remuneration shall be paid for some use of phonograms (see above page 4) and reproduction for strictly private use of phonograms and/or videograms, no matter where the works were originally recorded. However, Articles L. 214-2 and L. 311-2 of the Intellectual Property Code expressly state that, **subject to the provisions of International Conventions, such rights to remuneration are only shared by producers whose phonograms and/or videograms were originally fixed in a State member of the European Union.**

## SOME USEFUL SPECIFICS

The 1985 Law is now codified, and it took effect on January 1, 1986.

Articles L. 214-1 (last paragraph) and L. 311-7 of the Intellectual Property Code establish payment formulas for the distribution of remuneration between the different categories of beneficiaries.

. For Equitable Remuneration	50,00% )	Performers
	50,00% )	Producers
. For Private Copy of Phonograms	50,00% )	Authors
	25,00% )	Performers
	25,00% )	Producers
. For Private Copy of Videograms	33,33% )	Authors
	33,33% )	Performers
	33,33% )	Producers

It is considered that public policy is concerned in these payment formulas.

Article L. 211-4 of the Intellectual Property Code limits the producer's **economic rights to a duration of fifty years**, as from January 1 of the calendar year following that of the first fixation of a sequence of sounds for phonogram producers, and of a sequence of images with or without sound for videogram producers. However, where a fixation of the performance, a phonogram or a videogram is included in a communication to the public during the term defined above, the economic rights of the performer or phonogram or videogram producer shall not expire until 50 years after January 1 of the calendar year following that of the said communication to the public.

Finally, in application of the provisions of Article L. 321-9 of the Intellectual Property Code, **non-trading companies must use for activities involving assistance with creation, the extension of live performances and performer-training activities 25 % of sums received from Private Copies.**

Furthermore, SPPF goes on to affect 100 % of non-distributable sums received under the terms of Equitable Remuneration.