

## THE APPORTIONMENTS OF REMUNERATION AMONG PRODUCERS OF PHONOGRAMS AND/ OR MUSIC VIDEOS

SPPF apportions among its members the sums it receives on their behalf under the Legal License, the Private Audio and Audiovisual Copy and the voluntary collective management of the exclusive right. It endeavors to apportion the sums collected as closely as possible to the uses made of the phonograms and music videos recorded in its corporate register.

SPPF has entered into agreements with the following foreign collective management organization: PPL (United Kingdom), VPL (United Kingdom), GVL (Germany), SIMIM (Belgium), IMAGIA (Belgium) and SENA (The Netherlands). Other agreements are being negotiated with other foreign companies.

SPPF apportions the remuneration collected from these peer companies to its members for the use of phonograms and/or music videos which are part of its corporate register in the foreign territories covered by these agreements.

All apportionment rules are approved by the General Assembly of SPPF shareholders (including those defined jointly with SPP as part of memorandums of understanding for the apportionment of actual rights).

### APPORTIONMENT OF PHONOGRAMS

#### ➤ *Private Audio Copying*

Private Audio Copying is apportioned by SPPF, for a given year, in proportion to the physical and digital sales, made in France (+Monaco and Andorra), of the protected phonograms (Article L. 211-4, II of the CPI) fixed in the European Union member countries (extended to EFTA countries), multiplied by their duration in seconds.

The apportionment is calculated after deducting management fees and allocating 25% of the sums received for artistic and cultural activities.

- ❖ As of 2021 year of right, sales of a phonogram marketed on any kind of medium, with a total duration of 290 minutes, whose wholesale price excluding tax (PPD) is less than 2 euro cents per minute shall be subject to a deduction of 96 %.

In 2014, the Board of Directors decided that, in the absence of a declaration of the wholesale price excluding VAT and in the event that only the public selling price excluding VAT is declared, an abatement of 20% is automatically applied to the public selling price excluding VAT declared by the producer, in order to reconstitute an estimated DPP for the declarations concerned.

- ❖ As of 2011 year of rights, the single download per phonogram shall be made at a minimum price or equal to €0.20 excluding VAT for the purpose of taking digital sales into account.
- ❖ The provisional apportionment representing 90% of the amounts for the year N is made on year N+1 such as 40% in June and 50% in December of year N+1.
- ❖ The final apportionment takes place in the year N+2, following the audit of sales, on the balance of the amounts to be distributed.

➤ **Equitable Remuneration**

Equitable Remuneration is apportioned by SPPF for a given year of rights to producers whose protected phonograms (Article L. 211-4, II of the French Intellectual Property Code - IPC) are fixed in the Member States of the European Union extended to EFTA or fixed in any of the States party to the Rome Convention, by a producer who is party to that Convention, excluding States that have expressed reservations on the application of the right of Equitable Remuneration.

Non-apportioned amounts are 100 % allocated to artistic and cultural activities.

SPPF mainly apportioned the Equitable Remuneration in proportion to the seconds broadcasted on the main media in relation to the total duration of the relevant broadcast statement provided by the user to SPRE.

- ❖ The provisional apportionment, representing approximately 80% of the amounts for a given year N, takes place in December of the following year (N+1), for all broadcasters according to the results of the phonogram identifications at the time of allocation.
- ❖ The final allocation takes place in June of the sixth following year (N+6).

The amounts received with respect to Equitable Remuneration (direct communication/broadcasting) are apportioned as follows:

USERS	APPORTIONMENT METHODS
<b>Televisions</b>	<p><u>As of 2013 to 2018:</u></p> <ul style="list-style-type: none"> <li>- 70% on the statements of the main television channels in proportion to the duration of the phonograms' broadcasting</li> <li>- 30% on sales</li> </ul> <p><u>As of 2019:</u></p> <ul style="list-style-type: none"> <li>- 85% on the statements of the main television channels in proportion to the duration of the phonogram's broadcasting</li> <li>- 15% on sales</li> </ul>
<b>Public places playing music</b>	<p>Based on the results of a study commissioned by SPRE, the last having been carried out by BVA in 2017:</p> <ul style="list-style-type: none"> <li>- 12.10% on the statement for phonograms used by business places paying music</li> <li>- 45.28% on radio phonogram broadcast statements</li> <li>- 42.62% on sales and duration of the phonograms.</li> </ul> <p>These rates may vary depending on the studies conducted by the study organization on the sources of the music played.</p>
<b>Network heads and affiliated radios, national private radios (+ RFO + RFI)</b>	<ul style="list-style-type: none"> <li>- 100% in proportion to the duration of the phonograms' broadcast</li> </ul>
<b>National public radio stations</b>	<ul style="list-style-type: none"> <li>- 75% in proportion to the duration of the phonograms' broadcast</li> <li>- 25% in proportion to sales</li> </ul>
<b>National private radio stations</b>	<p><u>As of 2015 to 2018:</u></p> <ul style="list-style-type: none"> <li>- 60% in proportion to the duration of the phonogram's broadcast</li> <li>- 40% in proportion to sales</li> </ul> <p><u>As of 2019:</u></p> <ul style="list-style-type: none"> <li>- 100% in proportion to the duration of the phonogram's broadcast on Europe 1, RTL and RMC</li> </ul>
<b>Private and non-affiliated local radio stations</b>	<ul style="list-style-type: none"> <li>- 85% according to a panel of 21 radio stations representative of the RLP in France, selected by BMAT depending on the duration of the broadcast of the phonograms</li> <li>- 15% in proportion of the phonogram's sales and the duration of the broadcast of phonograms</li> </ul>
<b>Nightclubs</b>	<ul style="list-style-type: none"> <li>- 100% depending on the study carried out by Yacast in a panel of representative nightclubs in France, in proportion to the number of broadcasts of each phonogram</li> </ul>
<b>Linear webradios</b>	<ul style="list-style-type: none"> <li>- On the readings taken from non-affiliated local radio stations at a rate of 85% on phonogram broadcasts</li> <li>- 15% on sales of the phonograms</li> </ul>

➤ **The collectively managed right to authorize**

SPPF has developed the collective management of the phonogram producers' right to authorize for several years now for certain categories of users who use music on a large scale. This covers businesses which producers are unable, at a practical level, to control and for which they cannot exercise their exclusive right individually. The legal criteria of fixation and nationality of the producer do not apply in the context of the distribution of the exclusive right.

The apportionments are calculated in June of the following year (except for the television sector where they are calculated in December of the second following year).

- ❖ On a definitive basis in N+2 the amounts generated by phonograms broadcast on all broadcasters are calculated according to the results of phonogram identifications at the time of the distribution in June of year (N+2).
- ❖ On an additional basis, the amounts generated by phonograms broadcast on all broadcasters are calculated in year (N+5) and distributed in June of the following year.

The amounts collected for the collective management of the right to authorize (reproduction/communication) are apportioned as follows.

USERS	APPORTIONMENT METHODS
<b>Televisions</b>	<p><u>As of 2013 to 2018:</u></p> <ul style="list-style-type: none"> <li>- 70 % on the statements of the main television channels in proportion to the duration of the phonogram broadcasting period</li> <li>- 30 % on sales</li> </ul> <p><u>As of 2019:</u></p> <ul style="list-style-type: none"> <li>- 85 % on the statements of the main television channels in proportion to the duration of the phonogram broadcasting period</li> <li>- 15 % on sales</li> </ul>
<b>Background music</b>	<ul style="list-style-type: none"> <li>- For music on physical media: on the phonograms' reproduction statements.</li> <li>- For satellite/ADSL/automatic broadcast of music: on the phonograms' broadcasting statements</li> </ul>
<b>Telephone music-on-hold</b>	<ul style="list-style-type: none"> <li>- Based on the actual use of phonograms (number of reproductions, number of telephone lines)</li> </ul>
<b>“Traditional” podcasting</b>	<ul style="list-style-type: none"> <li>- On the broadcasting statements of Local Unaffiliated Radios, for associative and commercial radios, of France Inter and France Culture (representing the majority of the downloads made) for National Public Radios</li> </ul>
<b>“Native” podcasting</b>	<ul style="list-style-type: none"> <li>- On the basis of the recognition work, if the records of broadcasts of phonograms provided are subject to individualised identification by the SPPF</li> <li>- In other cases, on the basis of records of broadcasts of phonograms supplied from a panel of the most representative radio stations</li> </ul>
<b>Theatres</b>	<ul style="list-style-type: none"> <li>- Based on the actual use of phonograms (duration of phonogram use, live performance revenues)</li> </ul>
<b>Semi-interactives webradios</b>	<ul style="list-style-type: none"> <li>- On the basis of actual phonogram uses, if the records are usable</li> <li>- On the basis of uses of phonograms by semi-interactive services</li> </ul>
<b>Listening of extracts on Internet</b>	<ul style="list-style-type: none"> <li>- On sales of phonograms</li> <li>- If the amounts collected are too low for one year, they can be accumulated over one or more years of rights</li> </ul>
<b>Interactive terminals</b>	<ul style="list-style-type: none"> <li>- On sales of phonograms</li> <li>- If the amounts collected are too small for one year, they can be cumulated over one or more years of rights</li> </ul>

## APPORTIONMENTS OF MUSIC VIDEOS

### ➤ *Private Audiovisual Copying on Music Videos*

The rights are apportioned to producers whose protected music videos (Article L. 211-4, III of the IPC) are fixed in the Member States of the European Union (extended to the EFTA countries):

- ❖ Based on music video broadcasts made by “eligible” television channels, i.e. those whose national annual audience share estimated by Médiamétrie is at least equal to 1% for the year of apportionment of the rights in question (ARTE, TF1, France 2, France 3, France 4, France 5, M6, Canal +, C 8, C STAR, TMC, W9, GULLI, NT1, NRJ 12, TFX, TMC...).
- ❖ Based on the copying rate of music videos.

Each broadcast is valued in proportion to the amount paid by the television channel concerned for the year in question.

The apportionment is calculated after deducting management fees and allocating 25% of the sums received for artistic and cultural activities.

The apportionments take place in June of each year.

### ➤ *Private Audiovisual Copying for videograms other than music videos*

The rights are apportioned to producers whose protected videograms (Article L. 211-4, III of the IPC), more particularly for concerts and entertainment programs, are fixed in the Member States of the European Union (extended to the EFTA countries):

- ❖ based on the duration of the broadcast of the work in question on the “eligible” television channels (see above).
- ❖ based on the copying rate estimated by Médiamétrie.

The apportionment is calculated after deducting management fees and allocating 25% of the sums received for artistic and cultural activities.

Final apportionments take place in June or December of each year.

➤ ***The collectively managed right to authorize***

Since the beginning, SPPF has implemented the collective management of the music video producers' right to authorize mainly with regard to television channels (musical or not) excluding broadcasts on sharing sites such as Youtube and Dailymotion and on community sites such as Facebook, Instagram, Twitter.

The legal criteria of fixation and nationality of the producer do not apply in the context of the distribution of the exclusive right of music videos.

- **Music video broadcasting rights**

The rights are distributed to producers of protected music videos (Article L. 211-4, III of the IPC) on the basis of the broadcasting statements provided by the television channels.

The distributions take place according to the classification of the television channels:

- ❖ For music television channels: provisionally in year N according to the results of the music video identifications at the time of the distribution. Definitive in year N+5.
- ❖ For non-musical television channels: definitively every 3 months.

- **Cable rights for simultaneous and full broadcasting**

The rights are apportioned:

- ❖ in proportion to the number of full music video broadcasts made by the "eligible" television channels, covered by AGIGOA and ANGOA, that are broadcast simultaneously and in full, in France and abroad, for the N year.
- ❖ in proportion to the rights generated by the broadcasting, in France and abroad, of music videos initially broadcast by "eligible" channels.

Apportions take place in June and December of each year.

SECTORS OF RIGHTS	Y = YEAR OF RIGHT	DISTRIBUTIONS			
		February 1st	June 1st	September 1st	December 1st
<b>PRIVATE COPY</b>					
Sound Private Copy on sales	Y+1		Provisional 1		Provisional 2
	Y+2				Final
Audiovisual for Music Video	Y+3		Final		
Audiovisual for Videograms other than Music Videos	Y		Final		Final
Audiovisual (International) for Videograms other than Music Videos	*		Final		
<b>EQUITABLE REMUNERATION</b>					
Discothèques	Y+1				Provisional
	Y+6		Final		
Public Places Performances ( Shops)	Y+1				Provisional
	Y+6		Final		
Public Places Performances Radios (Without Radio France)	Y+1				Provisional
	Y+6		Final		
Public Places Performances (Radio France)	Y+2				Provisional
	Y+6		Final		
Locate Private radios	Y+1				Provisional
	Y+6		Final		
National Private radios	Y+1				Provisional
	Y+6		Final		
National Public Radios (Radio France, RFI, RFO)	Y+2				Provisional
	Y+6		Final		
Televisions	Y+2				Provisional
	Y+6		Final		
Equitable Remuneration On Sales	Y+2				Final
GVL/PPL/SIMIM/SENA Sounds Records	*		Final		
<b>EXCLUSIVE RIGHTS</b>					
Televisions X % on Broadcast	Y+2		Final		
	Y+6		Final		
Televisions Y % on Sales	Y+2		Final		
Phone Background Music	Y+1				Provisional
	Y+3		Final		
Background Music	Y+2		Provisional		
	Y+3		Final		
Excerpt : Phono and Video preview	Y+2		Final		
Interactive kiosks	Y+2		Final		
Straight Cable Videomusic	*		Final		Final
Right Cable "other than Videomusic"	*		Final		Final
GVL Video	Y+2		Final		
IMAGIA	Y+2		Final		
Podcasts	Y+3		Final		
Webradios	Y+2		Provisional		
	Y+3		Final		
Music Video (general televisions channels)	Y	Final	Final	Final	Final
Music Video (music televisions channels)	Y		Provisional		Provisional
	Y+5		Final		
* distribution depends on regulations made by foreign collective management organisation					