

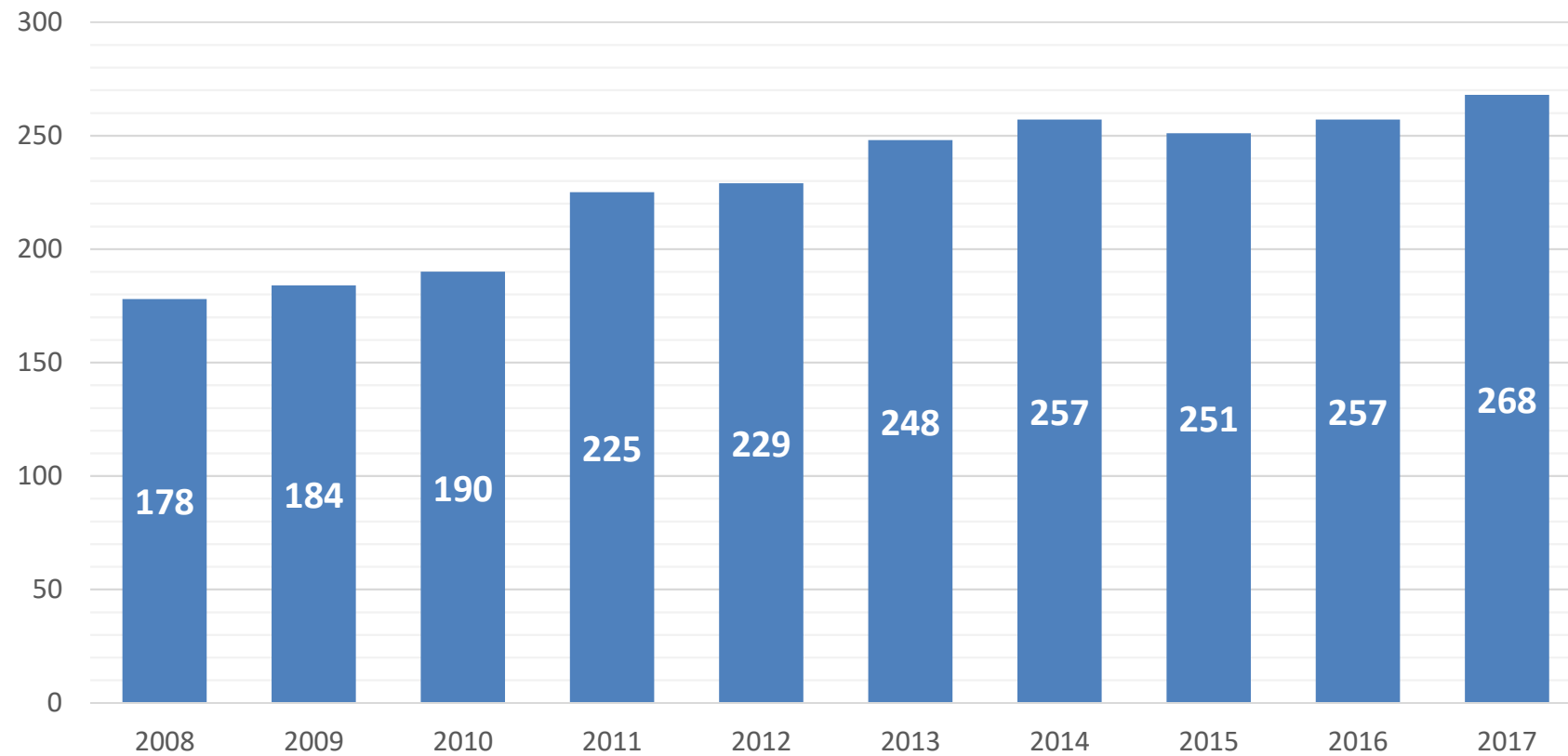
PRIVATE COPYING LEVY IN FRANCE
SITUATION MARCH 2018

BIEM WEBMEETING 2018 03 20

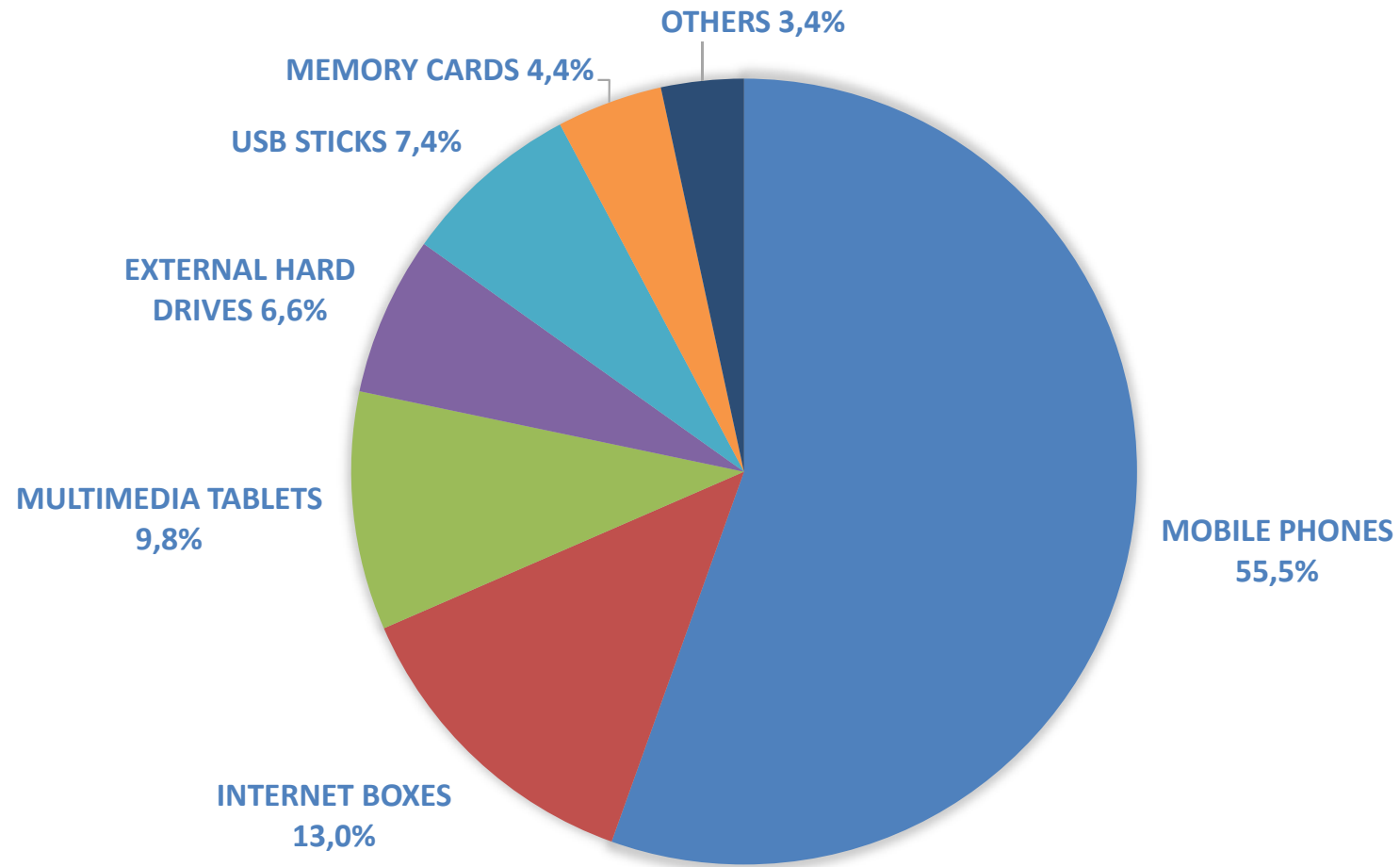
PRIVATE COPYING LEVY IN FRANCE

GLOBAL EVOLUTION OF COLLECTIONS IN M€ (settlements included)

■ Annual collection in M€ (including the global amount 233 M€ of exceptional collections allocated along the entire period between 2013 and 2018)



SOURCE OF COLLECTIONS IN 2017 FOR PRIVATE COPYING LEVY IN FRANCE



SETTING NEW TARRIFF IN FRANCE IN 2018 1/2

- An Ad hoc representative administrative Commission is in charge of setting the private copying tariff scheme according to usage studies. It also decides the scope of relevant devices, as well as the conditions for declaration and collection.
- The administrative Commission is composed of 28 members including 24 voting-members. In 2017, they met for 22 sessions (22 plenary + 8 working group)

SETTING NEW TARRIFF IN FRANCE IN 2018 2/2

- 2016-2018 working program :
 - Revision of the method fixing the tariffs (setting the reference price of each type of work copied)
 - Launch of the usages studies for 4 types of devices (> 85% of collections) in order to set revised tariffs before summer 2018
 - external hard drives,
 - multimedia tablets and PC tablets,
 - internet boxes
 - mobiles phones
 - USB sticks and memory cards usage studies to be conducted later in 2018.

IMPORTANT DECISION OF THE FRENCH SUPREME COURT

- In a decision issued on 17th March 2016 (Sony Mobile Communications AB v. COPIE FRANCE) the French Supreme Court ruled that **the judicial courts are required to assess and award compensation for private copying in situations where a decision of the Commission in charge of setting the tariff has been cancelled/withdrawn.**
- The Supreme Court stated that the European Court of Justice has ruled that a Member State which has introduced an exception for private copying has the obligation to ensure that the rightholders actually receive fair remuneration intended to compensate them for that harm, and that this is an obligation to achieve such a result (Case C-462/09 (2011), *Opus supplies vs Stichting de ThuisKopie*, para. 34 and Case C-521/11 (2013), *Amazon.com International Sales e.a.*, para. 57).
- The Supreme Court found that the Court of Appeal rightly ruled that the annulment of the decisions of the Commission for the remuneration for private copying **must not deprive the rightholders of fair compensation** due in respect of copies made from the cards and phones distributed by Sony. Indeed, in such a situation the judicial judge has to assess and award fair compensation (calculated on the basis of the criterion of the loss suffered by such rightholders by the introduction of the private copying exception).

PCR on NPVR SERVICES

2016: New IP law extends the scope of PC exception to radio and audiovisual content broadcasted, copied and stored in the cloud using NPVRs. Such exception covers only linear broadcasts.

2017: A tariff scheme for Cloud NPVRs is voted on 19th June 2016 by the ad hoc commission for private copying, stating that :

- This is a provisional decision applicable for one year; a new decision must be voted prior to July 31st 2018 to set a definitive tariff
- The remuneration is collected monthly according to the number of active subscribers during the month
- The amount of the remuneration has been based in consideration of an average duration of 5 years of use.

capacity		Hours		Monthly Levy
from	to	from	to	€
8 Gb	20 Gb	8h	20h	0.105
20 Gb	40Gb	20h	40h	0.150
40 Gb	80 Gb	40h	80h	0.200
80 Gb	160 Gb	80 h	160h	0.300
160 Gb	250 Gb	160h	250h	0.417
250 Gb	320 Gb	250h	320h	0.500
320 Gb	500 Gb	320h	500h	0.625
				0.750