



SERVING AUTHORS WORLDWIDE
AU SERVICE DES AUTEURS DANS LE MONDE
AL SERVICIO DE LOS AUTORES EN EL MUNDO

CISAC's Private Copying Global Study

Adriana Moscoso del Prado (CISAC)
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GLOBAL COLLECTIONS

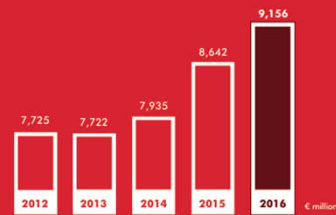
Headline Figures

2016 KEY GLOBAL NUMBERS AT A GLANCE

TOTAL GLOBAL COLLECTIONS IN 2016



GLOBAL COLLECTIONS UP 18.5% SINCE 2012



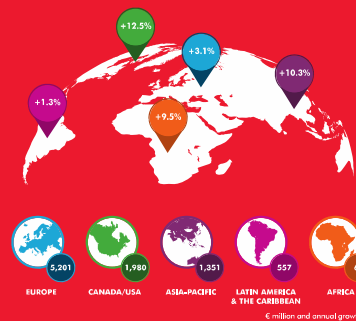
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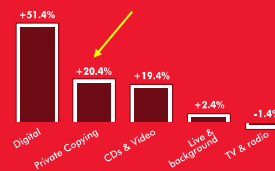
GLOBAL COLLECTIONS Headline Figures

2016 KEY GLOBAL NUMBERS AT A GLANCE

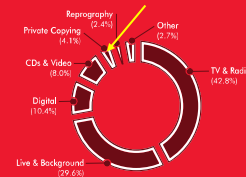
REGIONS: % GROWTH BY REGION



REPERTOIRE USES: DIGITAL HELPS POWER GLOBAL GROWTH



REPERTOIRE USES: TV & RADIO LEADS COLLECTIONS, DIGITAL HITS 10%



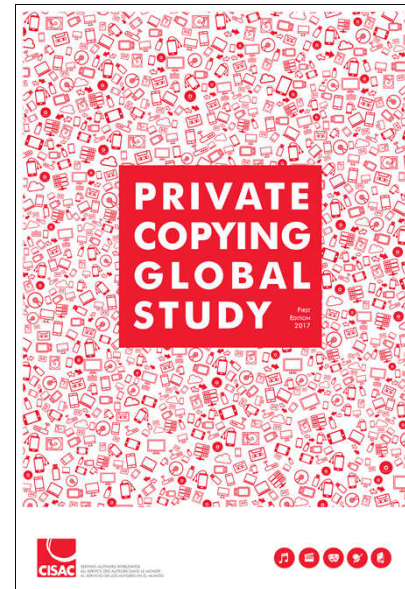
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PC GLOBAL STUDY

Overview

- First global analysis of private copying systems existing all around the world
- Prepared by CISAC



PRIVATE COPY

Why a global study?

310^{€M}

on global collections
of private copying
levies in 2015

50%

of the local
society's income in
Burkina Faso

6%

of total European
royalties'
collections

14%

of total African
royalties

- Provides a **substantial source of revenues** for creators
- **Huge differences** from one region to the other
- **Positive externalities:**
 - Reinforcement of creator's collective management structures
 - Cultural and social activities/boosts the CCI

PC GLOBAL STUDY Goal/purpose

- **Identify:**
 - countries where author's societies should be in a position to collect levies under existing laws
 - countries where legislation could be drafted/amended in order to implement the PC compensation or improve the current systems.
- **Raise awareness on the importance of PC among:**
 - Creators
 - Governments
 - Users and consumers
- **Help**
 - Author's societies in countries where legislation exists, but lack of:
 - technical capacities of CMO's to collect & distribute
 - support from the Government
 - appropriate legal implementation




PC GLOBAL STUDY


Structure (1)

- Examines the copyright laws of **191** countries across 5 continents
- Classifies the countries into **four** categories from the lowest to the highest level of development:
 1. Countries without private copying exception
 2. Countries with private copying exception, without compensation systems
 3. Countries with private copying compensation system, with no collection and distribution mechanisms
 4. Countries with private copying compensation system, and functioning collection and distribution mechanisms

PC GLOBAL STUDY Structure (2)

Each country has an individual profile split in three parts:

-  an overview of the PC system
-  the legal basis
-  comments on developments in the legislation or in the jurisprudence (if any)



AFRICA COUNTRIES WITH A PRIVATE COPYING LEVY AND COLLECTION AND DISTRIBUTION MECHANISM

ALGERIA


39.856 millions GDP: 7.041,22 billion €

OVERVIEW


EXCEPTION	Yes
LEVY	Equipment: Yes Media: Yes
BENEFICIARIES	Authors (music, audiovisual), performers, phonogram and audiovisual producers.
LIABLE	Manufacturers, importers
EXEMPTION	Professional use, Public institutions for use of handicapped people and their associations.
RATE SETTING	Decision of the Minister of Culture.
COLLECTION AND DISTRIBUTION SYSTEM	OHDA was appointed by the Minister of Culture.
SOCIAL AND CULTURAL DEDUCTIONS	30 % for the activity of promoting intellectual works creation and protecting traditional cultural heritage.
REVENUE DECLARED TO CISAC IN 2015	7.812.919€

LEGAL BASIS

EXCEPTION	Article 41 of Ordinance No. 03-05 (Copyrights and Neighboring Rights Act), approved by Law No. 03-17 of 2003. <small>"One copy of the work can be reproduced, translated, quoted or converted for personal or family purposes without prejudice the provisions of Article 25 of this law. An exception of the provisions of the first clause herein is the reproduction of architectural works embodied in buildings or similar forms, the written reproduction of a whole book, the reproduction of a musical work in a written form, the reproduction of a database in a digital form and the reproduction of computer software other than the cases stipulated for in Article 32 herein".</small>
LEVY	Articles 126 to 129 of Ordinance No. 03-05 <small>Article 126. The reproduction of a special copy of a work for personal use on a magnetic medium not been used before shall entail a right in a reward received by the author, performer or musician, producer, and producer of audio or audio-visual recordings of the work reproduced as such as per terms specified in Articles 126-129 herein.</small>



CISAC Private Copying Global Study / 84



PC GLOBAL STUDY

Methodology

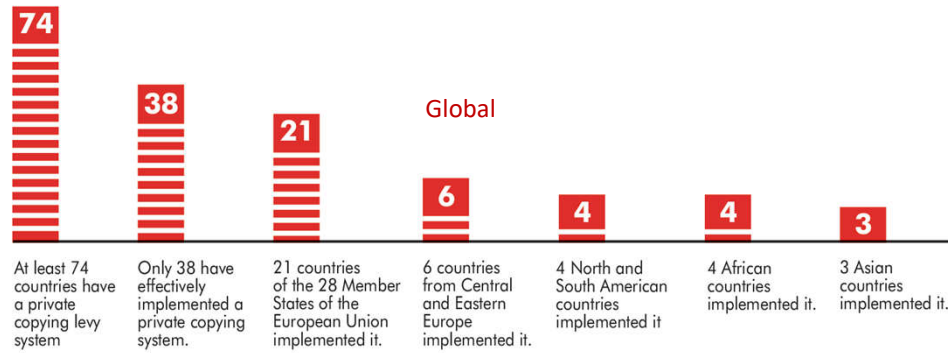
- Analysing the copyright national laws of each country
- Identifying the international/regional treaties ratified
- Most common data sources: WIPO Lex database + webpages of national Copyright offices + international studies/surveys
- Information from CISAC societies
- Figures from declarations of CISAC members (amounts collected for authors' rights only)

PC GLOBAL STUDY

Key figures – Global



KEY FIGURES



PC GLOBAL STUDY

Key figures – Per region

	Total of countries analyzed	No exception	PC exception – No compensation	PC exception + compensation – No C & D mechanisms	PC E+C – C & D mechanisms
AFRICA	54	7	24	19	4
AMERICA	34	11	17	2	4
ASIA	46	15	22	6	3
EUROPE	43	2	4	10	27
OCEANIA	14	7	7	0	0

PC GLOBAL STUDY

Focus on Europe



- Very broad market, covering:
 - EU countries, with high level of protection,
 - Center-Eastern Europe countries, requiring support on legal matters and technical assistance
- Directive 2001/29/CE – Art. 5(2)(b) allows PC only if accompanied by fair compensation
- Of the 28 EU countries, 2 (UK & Ireland) have no PC system in place
- 5 EU countries (Bulgaria, Cyprus, Luxembourg, Malta & Slovenia) have not implemented an effective collective & distribution system

PC GLOBAL STUDY. Key figures- EU

Countries	No exception	Exception No compensation	Exception Compensation No mechanisms	Exception Compensation Mechanisms
UK	X			
Ireland		X		
Bulgaria Cyprus Luxembourg Malta Slovenia			X	
Austria Belgium Croatia Czech Rep Denmark Estonia Finland France Germany Greece Hungary				X
Italy Latvia Lithuania Poland Portugal Romania Slovakia Spain Sweden The Netherlands				

PC GLOBAL STUDY

Focus on Bulgaria



EUROPEAN COUNTRIES WITH A PRIVATE COPYING LEVY BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS

BULGARIA

7.168 million GDP: 79.582 million € 1/4

OVERVIEW

EXCEPTION Yes, reproduction of works for personal use without commercial purpose is authorized.

LEVY Equipment No
Media Yes (audio and video carrier)

BENEFICIARIES Authors of works, performers, producers of phonograms and producers of initial recordings of movies or other audiovisual works.

LIABLE Manufacturers and importers.

EXEMPTION Many exemptions and possibility of refund.

RATE SETTING Levies are negotiated between rightsholders, industry and consumers, if the negotiations failed, the ministry of culture may appoint an expert commission and have to approve the proposed tariffs.
Specific fixed price related to the capacity of the carriers.

COLLECTION AND DISTRIBUTION SYSTEM No body appointed and thus, no effective mechanism in place.

SOCIAL AND CULTURAL DEDUCTIONS 30%

LEGAL BASIS

EXCEPTION Art. 25 of the Law on Copyright and Neighboring Rights of 1993 (as amended in 2011).
Without consent of the owner of the copyright but upon payment of fair compensation shall be admissible:
1. ...
2. reproduction of works, regardless of the carrier, by a natural person for personal use unless done with commercial purposes.
The provision of para. 1, item 2 shall not refer to computer software and architectural works.

LEVY Art. 26 of the Law on Copyright and Neighboring Rights of 1993 (as amended in 2011).
(1) Authors of works, performers, producers of phonograms and producers of initial recordings of movies or other audiovisual works shall be entitled to a compensatory remuneration, where the recordings are reproduced for personal use as set out in Art. 25, Para 1, item 2. A right to compensatory remuneration shall also have the authors and publishers of any kind of print works, when such works are reproduced in reprographic manner for personal use under the conditions of Art. 25, Para 1, item 1.



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EUROPEAN COUNTRIES WITH A PRIVATE COPYING LEVY BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS

BULGARIA

2/4



- (2) Any value of the right to compensatory remuneration by the rightsholders referred to in Para 1 shall be invalid.
- (3) The remuneration referred to in Para 1 shall be due by the persons who:
1. manufacture blank information carriers;
 2. import from third countries blank information carriers.
- (4) The remuneration referred to in Para 1 shall be due by the persons referred to in Para 3 for sales of information carriers on the territory of the Republic of Bulgaria, primarily intended for reproduction of works for personal use by natural persons under Art. 25, Para 1, item 2.
- (5) The types of information carriers, which primary use is reproduction in the sense of Art. 25, Para 1, for which remuneration under Para 1 is due, and the amount of the remuneration shall be determined annually by the organizations referred to in Para 3, agreed upon with representative organizations of the persons under Para 3 and 4, or with its sole interested persons. In negotiating the types of carriers and the amount of remunerations shall be taken into account the recording country of the carriers and the nature of their use for reproduction in the sense of Art. 25, Para 1.
- The amount of remuneration shall not be lower than 1.2 percent or exceed 1.5 percent of the market value according to the accounting standard for processing the blank reserves of the respective blank information carriers.
- For the persons referred to in Para 3 may be negotiated discounts, which amounts and conditions of use shall be determined in the negotiation procedure set for determining the amount of the basic remuneration.
- (6) Where the negotiations referred to in Para 5 result in agreement between the parties, the provisions referred to in Art. 40E, Para 6, 7 and 8 shall apply respectively.
- (7) Where no agreement between the parties have been achieved, the provisions of Art. 40E, Para 14 shall apply respectively.
- 1.-1
- (10) Compensatory remunerations for blank information carriers shall not be due, or, if collected, returned, when:
1. delivered from the territory of another Member State of the European Union;
 2. delivered from the territory of a third country and already taxed, without possibility for repatriation, with a compensatory remuneration for reproducers, equivalent to the remuneration referred to in Art. 25, Para 1 according to the legislation of the said Member State of the European Union or the third country;
 3. they are subject to transaction for export to third countries or delivery to another Member State of the European Union;
 4. purchased in the country by a person that has legally obtained the right to make such recordings and has arranged the authors rights and related rights questions related to the recording;
 5. purchased by a provider of audio-visual media services/radio services, legally carrying out his activity;
 6. purchased in the country by manufacturers of resins or other audio-visual works;
 7. purchased by medical establishments, specialized rehabilitation hospitals, social establishments and penitentiary establishments.



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PC GLOBAL STUDY

Focus on Bulgaria



- Lack of appropriate implementation of PC legislation
- No effective legal mechanism to allow collection and distribution
- Very few media covered. Equipment not covered
- Too broad exceptions (reprography)
- Need to adjust the law to the EUCJ case law on PC
- Need to guarantee « fair » compensation to rightholders
- Urgent action from the Government is needed to redress the situation

PC GLOBAL STUDY

CANADA

Sans lecteurs numériques, point de salut
Une étude internationale fait valoir que le modèle canadien est voué à l'obsolescence

23 octobre 2017 | [Océane Theriault](#), CMA - [Industrie culturelle](#)



Photo: [Shutterstock](#)
La Canada fait partie des pays qui n'imposent aucune redevance sur les ventes de lecteurs numériques.

Tout régime de copie privée qui laisse de côté les téléphones intelligents ou les tablettes est voué à l'obsolescence, estime la Commission internationale des sociétés d'auteurs et compositeurs (CISAC). Celle-ci publie sa première analyse comparative des différents régimes existants dans le monde.

« C'est incontournable : si vous laissez de côté les supports numériques, vous pouvez amoindrir votre régime [et le mettre au mal], car il ne servira plus à grand-chose », indique en entrevue avec [Le Devoir](#) Adriane Massimo, directrice des affaires juridiques de la CISAC et responsable du projet. « Tout régime de ce type doit évoluer et s'adapter au marché et aux habitudes des usagers, ajoute Mme Massimo. Et aujourd'hui, ça veut dire le téléphone. »

Le Canada fait partie des pays qui n'imposent aucune redevance sur les ventes de lecteurs numériques. La Loi sur le droit d'auteur a été modifiée en 1998 pour permettre aux créateurs de copier, pour usage personnel, des chansons obtenues légalement. Or, en près de 20 ans, le système de perception des redevances devient quasiment un moyen d'arnaque sans être changé.

C'est encore et toujours par un tarif imposé sur la vente de CD entières que la Société canadienne de perception de la copie privée (SCPP) perçoit des sommes qui sont reversées aux artistes représentant artistes, éditeurs et maisons de disques. Les lecteurs de musique numérique – iPod et iPhone, notamment – ne sont pas assujettis à cette redevance. Résultat ? Le transfert des bénéfices du CD vers les MP3 a fait chuter les revenus de la SCPP de 37,4 millions en 2006 à 2,4 millions en 2014, révèle [Le Devoir](#) il y a deux semaines.

Redevances en Russie

La CISAC a étudié les législations de 191 pays pour établir que 74 d'entre eux ont un régime de copie privée, mais que seulement 38 l'accompagnent d'un système adéquat de perception et de redistribution des redevances.

« Les législations sont très diverses à travers le monde, dit Adriane Massimo. Mais quand il y a une bonne législation et un bon système de collecte, ça génère des revenus importants pour les [auteurs et artistes]. »

En citant l'exemple des pays de l'Union européenne qui ont intégré les lecteurs MP3 dans leur régime, Mme Massimo indique qu'il est possible que des régimes de copie privée ont presque disparu entre 2012 et 2016 dans le monde.

La SCPP valide pour sa part qu'une redevance de 5,50 € imposée sur les ventes de téléphones intelligents et de tablettes au Canada aurait généré 294 millions en six ans. L'organisme termine ses profils de ce nouveau mouvement de la Loi sur le droit d'auteur pour demander au gouvernement d'élargir le régime actuel.



PC GLOBAL STUDY

What is next?

- Use the study as a tool to guide the actions to improve PC legislation
- Keep updating and improving it

THANK YOU !

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