

## **AUVIBEL's NEW TARIFFS - FAQs**

### **1) Why remuneration for private copying?**

By copyright law the author is allowed subject to certain conditions to copy films or music within the family circle in consideration for which the author of the works has the right to be paid financial compensation. This is remuneration for private copying.

### **2) Is this remuneration a "tax"?**

No. Remuneration for private copying is not a tax. Remuneration received under this system is in no case intended for the public treasury. It is remuneration intended for payment to those in the creative sector.

### **3) Why new tariffs?**

The remuneration is raised from the prices paid for devices and appliances used in private copying. Copying techniques have evolved to an astonishing extent. It has been necessary to review the list of copying appliances made subject to remuneration. The MP3 Walkman and DVD burners equipped with hard discs are examples of copying appliances. The last review of the list was in April 2004. In view of the startling developments in this technology, review is overdue.

### **4) Why then pay fees to the authors? Is not a copy tantamount to free advertising for the author?**

Why is it so unusual to be paid for the work one does? Whether it is a baker selling bread or the producer of a film, both want to be paid for the products they produce. Every copy privately taken means one DVD or one CD less sold and therefore a reduction in the income of the author, artist or producer, who need resources to produce new films or music of quality. Musicians, writers, painters, film directors and producers and artists, these are the creators of artistic works, but they have to live by their writing, their paintings or their creative imaginations. Yes, a copy of their work may in certain cases be considered as free publicity but it puts nothing on the plate. A package of bread displaying advertising may well be free, but the bread itself has to be paid for.

### **5) I have already paid Sabam (and/or fair remuneration.....). Why this further payment?**

Copyright is a vast domain taking in several types of remuneration for many varied uses. One way of describing it is that the author's remuneration is "sliced up" like a sausage according to the use made of his work. Remuneration for private copying is just one of these slices. There are various types of remuneration for authors in the public domain (dances, exhibitions, broadcasts....), but remuneration for private copying is limited solely to the copying of works within the family circle.

### **6) I have already paid for downloading the song, why pay this further charge for my MP3 Walkman?**

In the recent past you purchased a disc in the shop (= acquisition) and later you had the opportunity to copy the disc onto a blank cassette (= copying). Remuneration for the private copy was also charged for the recorder (apparatus) and on the blank cassette (medium), in compensation for the loss caused by a copy of the disc not sold. This situation has not fundamentally changed today.

Downloading a song can be compared to buying a disc. Remuneration for a private copy on the MP3 Walkman can be compared to that on the recorder, remuneration for the private copy on the memory board can be compared to that on the blank cassette.

**7) I only copy my own photos or my documents. Must I still pay?**

Yes. Remuneration for private copying is payable on a fixed basis. In other words everyone pays when he purchases a product which is subject to remuneration. As it is impossible to control who copies what onto what supports or apparatus using various media, it is impossible to collect private copying remuneration on a case by case basis.

A decision dated 6 November 2008 by the Constitutional Court of Belgium confirms the requirement to maintain a system of remuneration on a fixed price basis on the grounds that this is the most reasonable system available without adversely affecting the privacy of the consumer.

On determining the tariffs, account was taken of the fact that a certain quantity of blank CDs and DVDs would be destined for personal use.

**8) Why not collect the remuneration from those who make large numbers of copies and sell them?**

The multiple copying and selling of sound and audiovisual works without the consent of the author are illegal. This practice, known as piracy, is prohibited by law and any one in breach is liable to prosecution. As the collection of remuneration for private copying is organised on a fixed price basis this element has already been taken into account in principle.

**9) Has anyone the right to be exempt from payment?**

Any person bringing into circulation products intended for remuneration for private copying within the national territory must declare and pay the remuneration for private copying but a reimbursement procedure is available for:

- \* producers of sound and audiovisual works
- \* broadcasting organisations
- \* institutions officially recognised and subsidised by government to preserve sound and audiovisual records.
- \* The blind, those with poor sight, the deaf and hard of hearing, and the institutions recognised or established with these groups in mind.
- \* Recognised information establishments, who use sound and audiovisual records for teaching or scientific purposes.
- \* Hospitals, prisons and recognised youth offender institutions

**10) I have paid the Auvibel charge. Can I copy / download as often as I like?**

Provided that the consumer remains within the law of copyright, he has the space within his family circle allowing him freely and legally, in return for a small consideration (private copying

remuneration), to copy films and music. One is outside the scope of the law (of copyright) when one simply downloads. Downloading is an act of acquisition not of copying. It can be tempting to some to profit from the possibility of copying within the family circle in order to create parallel networks of copies designed for use outside the family circle. This practice, called piracy, is prohibited by law and the persons in breach are liable to prosecution.

**11) Is Auvibel Sabam?**

No. Auvibel is a parent company consisting of 10 different copyright management companies which represent authors, artistic performers and producers of sound and audiovisual works. Sabam is one of these 10 companies.

**12) Does the money in fact reach the hands of the authors, artists and producers?**

Yes. Auvibel does not pay the amounts collected directly to those entitled, namely the authors, artists and producers of music and films, but in fact pays the amounts to the copyright management companies. In their turn the companies perform this service directly for their member authors, artists or producers.

**13) How is the money divided?**

Every year Auvibel allocates the amounts received between the copyright management companies: 1/3<sup>rd</sup> of all remuneration goes to authors, 1/3<sup>rd</sup> to artists and 1/3<sup>rd</sup> to producers. Moreover, within each group the distinction is made between sound and audiovisual works. The member companies of Auvibel proceed in their turn to make the individual allocations to those entitled.

**14) I myself make films and write music. Do I have a right to any of this remuneration?**

Yes, if your work is categorised as “works protected by copyright”. Note carefully however that songs sung at family gatherings or films taken on holiday probably do not fall within this category. Any person entitled to copyright protection may contact one of the 10 Auvibel member copyright management companies (see the list of Auvibel members).

**15) What amount is deducted before remuneration reaches the authors, performers and producers?**

Auvibel ensures that the percentage rate for fees for the operation of the system remains very low: the figure alternates between an annual percentage of between 5 and 7% of global amounts collected.

**16) Abroad private copying remuneration does not exist!!!**

Not true! There is a system for private copying remuneration in 22 of the 27 member states of the European Union. Each member state applies its own tariffs on identical or other products. The European Union sets out to harmonise these functions.

**17) Sometimes certain products are less costly abroad. Why is that?**

If certain products are less expensive abroad than in Belgium, this is not necessarily connected with whether or not there is private copying remuneration in these countries. A different VAT rate,

differences in sales policies or different market sizes, or different legislation can be the reasons for different prices in member states of the European Union.

**18) Does not this “tax” simply encourage the emergence of an illegal network or a black market?**

It is not considered that private copying remuneration encourages illegal networks.

In conjunction with consumer associations and industry we have ensured that the amount of remuneration for private copying is reasonable compared to the average price of the sale of a product. The spread of private copying remuneration over a wide range of products is a precise way of ensuring that remuneration remains reasonable per product and gives no cause for there to be an illegal market.