

European creators' organisations and unions urge the EU decision-makers to support European interests and take a firm stand against aggressive lobbying by device manufacturers to weaken EU legislation providing for private copying compensation.

The system that compensates creators for the private copying exception existing in most European countries has contributed to their remuneration and the funding of European creation for decades.

Today, manufacturers of electronic devices through their trade organisation in Europe (Digital Europe) are aggressively attacking this long-standing practice and formulating unacceptable proposals to deprive creators from their rightful compensation.

Apple, Huawei, LG, Samsung and Xiaomi are the biggest selling brands of mobile devices in Europe in 2018. None of them are European companies.<sup>1</sup>

Market research has shown time and again, that prices of devices are not impacted by the application of private copy compensation schemes. A smartphone might be more expensive in the UK where there is no private copy remuneration (because UK law does not have a private copying exception) than in France, where there is long-established and well-functioning compensation scheme.

Non-European companies from China, South Korea and the US, under the name of Digital Europe, are asking to change EU law so that they should not have to contribute, as is currently the case, to the remuneration of creators and creativity in Europe, with no perspective of benefitting EU consumers and with a single purpose: **maximising their profits by not paying for private copy compensation and by keeping their prices the same, if not higher!**

Organisations and unions representing creators in Europe urge the European Commission and the Members of the European Parliament to reject these outrageous demands with determination and to defend European interests in this high economic value sector.

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<sup>1</sup> When looking at the worldwide market, top ten vendors of devices are again completely non-European companies. Only Nokia is considered as being in the 10th place according to some statistics and even for that the manufacturing take place in Taipei through a Taiwanese company who bought the right of manufacturing the Nokia devices from Microsoft for the sale and distribution of such devices by HMD Global a Finnish company that is exclusive licensee of the Nokia brand for mobile phones.



## Background information:

### What is the private copying compensation?

This system is based on European copyright legislation which provides an exception to copyright to allow consumers to make private copies of music or movies they lawfully acquire (Article 5.2(b) of Directive 2001/29/EC). The law requires that when this optional exception is introduced at national level it should be accompanied by a compensation scheme for the creators and other rightholders. Most EU countries implemented a private copying exception via a remuneration included in the price of the consumer devices on which such copies are made. Thanks to those systems, creators and other rightholders are compensated when their works are reproduced for private purposes (copies on smartphone, tablets, computers, USB sticks, etc.).

Despite the changes in consumption, private copying still remains one of the methods through which creative works (musical, artistic, literary, journalistic, audiovisual, visual arts, etc.) are enjoyed. Whereas this compensation system was initially limited to the copying of content onto blank tapes, it evolved in time to embrace technological developments and was extended to CDs, USBs, PCs, mobile music players, smartphones, tablets and even certain online services, through the rulings of CJEU.

### Who pays?

The principle is that the user, i.e. the consumer, is liable for the private copying remuneration, as it is the beneficiary of the exception. In practice, and as approved by the case law of the CJEU, such remuneration is paid by manufacturers and/or by distributors of electronic copy-enabling devices. Many studies have proven that the private copying remuneration does not have any tangible influence on the price of consumer products (neutral or null effect, non-elasticity of consumer prices). The price of smartphones or tablets is not higher in countries where the private copying remuneration applies than in those where it does not. In other terms, private copying remuneration does not affect the price of the product to which it applies.

Currently, consumer electronics are manufactured outside Europe by a limited number of very large North American or South-East Asian companies such as Apple, Samsung, Huawei, Xiaomi, LG, Lenovo, OPPO, ONEPlus. These goods are then distributed directly by them or by online retailers like Amazon. These companies are responsible for the payment of private copying remuneration to European creators.

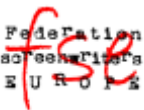
### An economic challenge for Europe

The European cultural and creative industries (CCIs) are one of the major assets of the European economy. They account for 12 million jobs, which is 4 times more than the automotive industry, and 6 times more than the telecommunications industry. The CCIs are among the spearheads of the European digital economy, as creative content is an undeniable driving force in the digital market. The CCIs export and contribute to the vitality of the European digital market.

Creators are at the core of the CCIs' value chain. Without them, there is no creation of value. Authors and performers, as individuals, are vulnerable and depend on their rights to be remunerated for their creative work. The private copying remuneration is an integral part of this fragile ecosystem.



Fédération Française des Artistes de l'Audiovisuel  
Federation of European TV - Directors





Yours sincerely,



**AEPO-ARTIS** – AEPO-ARTIS represents 36 European performers’ collective management organisations from 26 countries, 23 of which are established in the Member States of the European Union. The other countries represented are Norway, Serbia and Switzerland. The number of performers represented by the 36 member organisations can be estimated between 400,000 and 500,000. For more information: [www.aepo-artis.org](http://www.aepo-artis.org)



**ECSA** – The European Composer and Songwriter Alliance (ECSA) represents over 30,000 professional composers and songwriters in 27 European countries. With 59 Member organisations across Europe, the Alliance speaks for the interests of music creators of art and classical music (contemporary), film and audiovisual music, as well as popular music. It advocates for equitable commercial conditions for composers and songwriters and strives to improve social and economic development of music creation in Europe. For more information: [www.composeralliance.org/](http://www.composeralliance.org/)



**EFJ** – The European Federation of Journalists (EFJ) is the largest organisation of journalists in Europe, representing over 320,000 journalists in 72 journalists’ organisations across 45 countries. The EFJ supports its affiliates to foster trade unions and to maintain or create environments in which quality, journalistic independence, pluralism, public service values and decent work in the media exist.



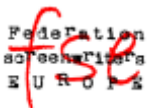
**EVA** – EVA represents 28 European collective management organisations for fine arts, photography, illustration, design, street-art and other visual works for close to 100,000 authors. They manage for authors primary uses, the resale right and they collect and distribute remuneration rights reaching out to approximately 500.000 visual authors. For more information: [www.evartists.org](http://www.evartists.org)



**EWC** – The European Writers’ Council is the non-profit federation representing 44 national writers' and literary translators' associations and unions in 28 European countries, including EU MS as well as Belarus, Iceland, Norway, Switzerland, Turkey and Montenegro. EWC’s members comprise over 150.000 professional authors in the text/book sector, working altogether in 31 languages.



**FERA** – Founded in 1980, the Federation of European Film and TV Directors gathers 44 organizations as members from 34 countries. It speaks for more than 20,000 European film and TV directors, representing their cultural, creative and economic interests at national and EU level. EU Transparency Register Id No. 29280842236-21. [www.filmdirectors.eu](http://www.filmdirectors.eu)



**EuroFIA** – The European group of the International Federation of Actors represents performers’ trade unions, guilds and associations in most of the EU and the EEA. It voices the professional concerns and interests of actors (in film, television, radio, theatre and





live performance), broadcast professionals, dancers, singers, variety and circus artists and others, with the exception of musicians and visual artists. For more information: <http://fia-actors.com>



**FIM** – The International Federation of Musicians (FIM) is the international NGO representing musicians’ trade unions, guilds and associations globally, with members in about 70 countries covering all regions of the world. In the European Union, FIM counts 26 member unions in 21 EU Member States.



**FSE** – The Federation of Screenwriters in Europe (FSE) is the voice in Europe for more than 6,000 professional screenwriters working mainly in the film and television industry. It is a federation of currently 25 associations, guilds and unions of screenwriters in 20 countries.



**GESAC** – Founded in 1990, the European Grouping of Societies of Authors and Composers (GESAC) represents 32 of the main copyright management societies (authors’ societies) in the European Union, Iceland, Norway and Switzerland, administering the rights and remuneration of more than 1 million authors, composers and writers in a variety of sectors (music, audiovisual, literary and visual and graphic arts) and music publishers. More information [www.authorsocieties.eu](http://www.authorsocieties.eu)



**SAA** – The Society of Audiovisual Authors (SAA) is the grouping of European collective management organisations representing audiovisual authors. Its members (33 societies in 25 countries) manage authors’ rights for over 140,000 film, television and multimedia screenwriters and directors. More information [www.saa-authors.eu](http://www.saa-authors.eu) Follow us on Twitter @saabrussels



**UNI Global Union** – Media Entertainment & Arts (UNI MEI) – represents 170 national unions & guilds affiliating more than 375,000 creators, technicians and other workers in the media, entertainment and arts worldwide. More information at [www.uniglobalunion.org/mei](http://www.uniglobalunion.org/mei)

