

Carrying out the activity of paying the compensation in respect of private copying

Two articles published in Cinema d'Oggi on May 5, 2000 and on June 21, 2004 illustrated Anica's activity to implement the management of private copying, initially aimed at delivering this service for 1992 – 1997, but also continuing for the period 1998 – 2004.

Today, preparatory stages for the period 2005 have also been completed.

The standard reference base remains the law of February 5, 1992 no. 93 entitled “Standards for phonogram companies and remuneration for private non-profit copying”.

Art. 3 of that law states:

Paragraph 1

the right of the original producers of audiovisual works and producers of videograms and their successors, to require, as compensation for private copying for personal and non-profit use, a share of the sale price by the retailer of tapes or other media for audio and video recording.

Paragraph 2

The compensation under the above Article is fixed at 5% of the sale price of the retailer of tapes or other media for audio and video recording (videocassettes and others).

Paragraph 6

It is established that the fees under paragraph 1 and 2 for tapes or comparable video recording which is paid to the SIAE shall be shared among their associations most representative net of expenses, as 30% to the authors, the remaining 70% in equal parts to the original producers of audiovisual works, to videograms producers, and to the interpreting or performing artists...

(as modified by Legislative Decree no.68 of April 9, 2003)

It will be remembered that on April 9, 2003 was approved the Legislative Decree n° 68 entitled “Implementation of Directive 2001/29/EC on the harmonisation of certain aspects of authors' copyright and rights within the information society” which has introduced some changes to the rules governing private copying remuneration.

This decree was followed, on November 27, 2003 by an agreement between the SIAE and the ASMI (Italian Magnetic Storage Devices Association), ANIE (National Association of Electrotechnical and Electronic Companies), and ANDEC (National Association of Civil Electronic Distributors) association, which established new criteria and application procedures for the calculation and payment of private copying remuneration.

Finally, the Law no. 128 of May 21, 2004 introduced the provision of administrative sanctions against those who have to pay this fee and who don't comply with statutory requirements.

The main innovations are:

- The extension of such compensation to all equipment and blank recording media for professional analogue and digital use (audio, video and audio/video) and non-dedicated (CD and DVD recorders for personal computers), however able to record phonograms and videograms;
- the identification of private copying remuneration in relation to the media, instead of a percentage amount of the sale price, an amount that varies depending on its category and effective recording capacity;
- the identification of private copying remuneration in relation to the recording equipment for an amount equal to 3% of the list price to retailers of the equipment themselves.

The relationship with the SIAE continues to be governed by the Agreement of November 2, 1998 entered into between Anica, with respect to cinematographic works, and APT, regarding fictional works, both considered the most representative associations considering the original producers of audiovisual works and the same SIAE with which it was determined that such associations were responsible for managing the activities of the redistribution of the amounts of money to the persons concerned.

The amounts transferred by SIAE to ANICA for 2005 in line with that previously established, 51% will be allocated to European Union products and the remaining 49% to the non-European Union products. Such payments relative to the year 2005, net of expenses for services provided by Anica (aggregated to 10% of amounts received) are the following:

Year	Total fee paid up	Quota 10% Anica	Net split	51% EU Films	49% non-EU Films
2005	€ 4,008,435	€ 400,844	€ 3,607,592	€ 1,839,872	€ 1,767,720

The films broadcast on television on the major broadcasters considered (RAIUNO 100%, RAIDUE 100%, RAITRE 100%, RETE 4 100%, CANALE 5 100%, ITALIAUNO 100%, LASETTE 60%) resulting from the surveys developed by Anica's bodies were as follow:

Year	Total transmission minutes of European Union films	Total transmission minutes of non-European Union films	Total minutes of films broadcast
2005	166,893	252,360	419,253

According to the results (amounts available and total hours of transmission) due to the original producers of audiovisual works (in this case producers of feature films), the following minute quotas:

EUROPEAN UNION COUNTRIES			
Year	EU film quota (51% of total)	transmission minutes of EU films	Quota for every transmission minute
2005	€ 1,839,872	166,893	€ 11,02

NON- EUROPEAN UNION COUNTRIES			
Year	non-EU film quota (49% of the total)	transmission minutes of non-EU films	Quota for every transmission minute
2005	€ 1,767,720	252,360	€ 7,00

The identification of the original producer and distributor for both European Union movies and non-European Union movies has been determined by using official existing sources (Department of Entertainment and SIAE).

Any claim must be presented to the appropriate Anica office with a valid contract showing the entitlement to the right in question.

Anica will provide the following information:

1. movie title
2. name of original producer
3. name of distributor
4. duration of the film
5. year/month/day/ time of TV transmission
6. television broadcaster.