



**ANICA REGULATION FOR THE DISTRIBUTION OF VIDEO PRIVATE COPY  
COMPENSATION**

**(ANICA REGULATION VIDEO CCP)**

Rome, May 6, 2024

## FOREWORD

The Private Copy Compensation (hereinafter “**the CCP**”) is regulated by Articles 71-*septies* et seq. of Law No. 633 of April 22, 1941 (hereinafter “**LdA**”). In particular, the distribution of the CCP relating to the **audiovisual** sector is contained in the third paragraph of Article 71-*octies* of the LoA, which provides that: *“The remuneration referred to in Article 71-*septies* for video recording equipment and media shall be paid to the Italian Society of Authors and Publishers (S.I.A.E.), which shall distribute it net of expenses, also through their most representative trade associations, thirty percent to authors, and the remaining seventy percent in equal parts among the original producers of audiovisual works, producers of videograms and performing artists [...].”*

SIAE distributes the CCP in favor of the category of original producers of audiovisual works through the most representative associations, in accordance with the provisions of the regulation and the criteria contained in the *“Regulations for the distribution of the Private Copy Compensation for original producers of audiovisual works”* and/or according to the regulations as and when issued by SIAE (hereinafter “**the SIAE Regulations**”) and/or by subjects delegated by it (hereinafter “**SIAE**”), according to what is also provided by paragraph 3-*quater* of art. 71-*opties* LdA.

Therefore ANICA - Italian Association of Film, Audiovisual and Digital Industries, as the most representative association of the original audiovisual producers, carries out the distribution activity in question on behalf of SIAE, by virtue of an *ex lege* mandate and according to the criteria established by the SIAE Regulations.

This Regulation for the Distribution of the Video Private Copy Compensation (hereinafter “**the Regulation**”) governs the range of activities carried out by Anica Servizi S.r.l., with sole shareholder, on behalf of ANICA, for the distribution to the rightful claimants of the Video CCP.

ANICA Servizi S.r.l. with sole shareholder is a company entirely owned and subject to the direction and coordination of ANICA (hereinafter ANICA and Anica Servizi S.r.l. also jointly referred to as “**the Company**” or “**ANICA**”).

## **SUBJECT**

The purpose of this Regulation is to define and regulate the process of distribution - to the entitled original producers of cinematographic and audiovisual works (hereinafter “**audiovisual works?**”) associated and not associated with ANICA - of the video CCP to the extent of ANICA’s competence pursuant to and in accordance with Art. 71-*octies*, paragraph 3 and based on the criteria established by the SIAE Regulations.

## **REFERENCES TO THE ORGANIZATION, MANAGEMENT AND CONTROL MODEL ADOPTED BY THE COMPANY**

This Regulation is an integral part of the Organization, Management and Control Model (hereinafter “**the Model**”) adopted by the Company to prevent the perpetration of the crimes prosecuted under Legislative Decree 231/2001 and subsequent amendments and additions. Moreover, all Company activities are in any case conducted in compliance with the provisions of the Code of Ethics adopted by the Company and available for consultation, together with the Model, on ANICA’s website.

## **APPLICATION AND EFFECTIVENESS**

This Regulation shall apply as of the distributions for the year 2022 .

Any substantial amendment will be published on ANICA’s website and will be subject to public consultation, under the terms and in the manner communicated by the Company on ANICA’s website.

## **PHASES OF CCP DISTRIBUTION**

The distribution of the CCP provided for in this Regulation consists of several processing phases and provides for different responsibilities and costs for each phase. The phases provided for are outlined below.

## **PHASE 1: CCP COLLECTION**

### **1.1 Notification of payment**

SIAE sends a communication to the Company with the quantification of the amount and the accrual of the revenues due to the assignees, net of expenses and deductions applied by SIAE.

### **1.2 Issuance of invoice**

The Company, having acknowledged the accounting made by SIAE in the notice referred to in the preceding paragraph, shall issue the relevant invoice.

### **1.3 Invoice settlement**

SIAE, having received the invoice, will subsequently settle it by means of a transfer made to the bank account specifically indicated and dedicated to the management of compensations derived from CCP (oppure Private Copy compensation).

## **PHASE 2: CCP ALLOCATION**

### **2.1 Identification of assignees**

The CCP is settled, in accordance with the current regulation, in favor of the original producers of audiovisual works or in favor of their successors in interest.

In this regard, the following procedure is followed to identify the right holders:

#### **a. Italian works: Original producers and successors in title.**

For audiovisual works of Italian nationality, the CCP is settled in favor of the original producer or his/her successors in title as resulting from appropriate contractual agreements. However, the successors in title are identified as the outright assignees of the right to the CCP, based on specific

contractual agreement, or the outright assignees of all the dominical<sup>1</sup> and economic exploitation rights to the audiovisual work.

#### **b. Foreign works: Original producers and successors in title**

The CCP settlement also takes place in favor of foreign original producers, both EU (European Union) and non-EU, subject to reciprocity and/or provided that they have not licensed it by suitable contractual effect in favor of the Italian distributor/assignee or other successor in title. EU means the EU member countries in respect to the years of the relevant works.

Even in this case, the assignees are still identified in the outright assignees of the right to the CCP, based on specific contractual agreement, or in the outright assignees of all the dominical and economic exploitation rights of the audiovisual work.

In the case of foreign audiovisual cinematographic works from non-EU countries and/or with which there is no reciprocity, the compensation is due to the holder of the distribution rights (licensee/transferee) of the work in the Italian territory, for the duration of the rights resulting from the contract.

The Company, also upon request of any foreign entities authorized to manage the CCP, signs reciprocity agreements aimed at sharing the CCP in their respective countries.

The Company verifies the nationality of the audiovisual works eligible for CCP allocation through the information resulting from the Ministry of Culture (MiC) databases, related to the granting of censorship/classification visa.

In the absence of the above or other certain information, titles in co-production with at least one co-producer belonging to an EU country are considered to be of European nationality due to the exploitation of the title in Italy.

## **2.2 CCP distribution criteria**

The distribution of the CCP among the entitled right holders, until the 2007 accrual, was carried out on the basis of the so-called "film broadcast" by the first seven national "Free TV" broadcasters, attributing - on the basis of the total net amount to be apportioned and the total number of minutes of television broadcast dedicated to the programming of films - a unit value for each minute of television broadcast, which constitutes the reference parameter for the calculation of the amount

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<sup>1</sup> *By dominical it is meant full ownership of rights.*

due to each claimant in relation to the total number of minutes in which his or her films were programmed by the television channels taken as reference: RAI 1, RAI 2, RAI 3, Retequattro, Canale 5, Italia 1, and La 7.

From the 2008 accrual, the Company, in order to distribute the CCP pertaining to the cinema segment, acquires from specialized companies, at its own care and expense, the actual average audience figures for each title with reference to the entire calendar year of competence, adopting as a perimeter of users not only the above-listed "Free TV", but also the thematic channels of the major "PAY TV" dedicated to film programming.

In fact, the evolution of the market for the distribution of cine-audiovisual content has imposed and continues to impose a periodic evaluation of the CCP allocation criteria.

In consideration of the evolution of the audiovisual market, therefore, the following elements were identified for the calculation of competencies:

- the multiplication of television broadcasters using cinema audiovisual product, on digital platforms, both terrestrial and satellite;
- the coexistence of free and paid platforms, regardless of the distribution networks used;
- the different utilization, both as exploitation chronology and programming frequency, of film audiovisual product on the different networks mentioned.

In view of these elements, the criterion of average ratings per individual work, quantified as the average number of individuals tuned into a given broadcaster over the time in question, is the most objectively fair and transparent criterion possible, certified by a specially appointed body.

This criterion makes it possible to verify, on the basis of constant monitoring by an external surveying body, which broadcasters have transmitted certain audiovisual cinematographic works, how many times and with what result in terms of absolute ratings and, consequently, this allows to distribute the fees in proportion to the abstract possibility of making a private copy of that content, as established by the current law.

Specifically, channels with predominantly or exclusively cinematographic programming are monitored, as well as channels that recorded, in the reference year (the one preceding the year of the CCP to be settled), an average audience of at least 60,000 individuals and/or broadcast at least 100 passages of cinematographic works, also selected according to the relevance of data on recorded cinematographic programming. Audience data are collected by the third-party body according to three different methodologies:

- Channels with a schedule certified by Auditel. Passages of cinematographic works are certified by Auditel and directly verified by issuing survey companies. The start and end time points are the actual broadcast time points. The ratings provided are the punctual ratings of the individual passage.
- Channels without an Auditel-certified schedule but with schedules available through Auditel data processing software. Passages detected are those declared in advance and provided by the publisher to the software houses depositing the Auditel data, which associate the schedule with the Auditel ratings.
- Channels without an Auditel-certified schedule and with schedules not available through Auditel data processing software. In this case, the steps are those declared in advance and provided by the publisher directly to the specially appointed body, which has a license to process Auditel data, and which associates the declared schedule with the Auditel ratings.

The list of channels, monitored by relevant year, is published in the Private Copy “*distribution detail*” section of ANICA’s website, while the audience data of individual works are communicated during CCP settlement directly to the claimant along with the amount of CCP accrued.

Furthermore, considering that Legislative Decree No. 208 of Nov. 8, 2021 (which replaced the Legislative Decree 177/2005) reaffirms the obligation, already in force for all TV broadcasters, to broadcast European works for at least half of the total time, the total of the revenues paid by SIAE to the Company, for each year of competence, will have to be divided into two subsets, the first referring to European works and the second to non-European works, with conventionally different weights: the total of the CCPs due to non-European works can never exceed 49% of the overall total. The value of the two subsets will then be divided, in turn, by the total number of contacts (individuals) that European and non-European audiovisual cinematographic works broadcast got on all TV stations monitored on the different platforms, thus obtaining a **unit value per single contact** for the two different categories of audiovisual cinematographic works.

The value of the contact will then be multiplied by the number of specific contacts obtained by the individual work, allowing an objective valorization of the compensation to be allocated to the rights holders on each specific title within the two categories of works.

The Company reserves the right to modify the aforementioned distribution criteria, also in case of regulatory modifications and/or introduced by the SIAE Regulations and/or ministerial dispositions, providing, in that case, for updating only this section of the Regulations and giving appropriate notice on the ANICA website.

### **2.3 Receiving applications for CCP settlement**

The original producers of audiovisual works and/or their successors in title who wish to receive the CCP to which they are entitled, should send, by PEC to [copiaprivata@pec-anicaservizi.it](mailto:copiaprivata@pec-anicaservizi.it) relevant application accompanied by the following items and documentation:

- a) Chamber of Commerce certificate, if the claimant is a company, attesting the existence of the company itself, issued not more than three months prior;
- b) contracts of purchase by the successors in title of the rights from the original authors of the audiovisual work or concerning all the rights of economic use of the work, or with specific mention of the assignment of the CCP right in accordance the provisions of the previous Art. 2.1;
- c) a self-declaration with a detailed list of the audiovisual works for which CCP payment is claimed;
- d) a disclaimer issued in favor of the Company to guarantee the reimbursement of liquidated CCPs.

The models referred to in points c) and d) are prepared by the Company and made available on ANICA's website in the Private Copy section.

ANICA reserves the right not to act on requests sent with templates that differ from those referred to above and/or that contain substantial changes to the same, and not to act on requests that are contrary to the regulations for the protection of personal data and/or the protection of trade secrets.

If the application refers to audiovisual works for which - in previous years - the above-mentioned documentation has already been sent (in the case, for example, of replicas of the same work), it will not be necessary to send the required documentation again, but simply a self-declaration attesting the validity of the already transmitted data. In case of change of the holder to the right, in the identity or percentage of the right, it will be necessary to produce the appropriate contractual titles supporting the right to the CCP.

### **2.4 Documentation analysis**

The Company shall provide for the examination of the documentation sent by the claimants and shall have the right, where deemed necessary, to request additional information and/or documentary supplements pertaining to the request.



If, at the outcome of the examination of the documentation produced by the requesting party, the request complies with the provisions of this Regulation, the Company will ascertain the amount that will be due based on the calculation criteria according to the provisions of paragraph 2.2 above.

If two or more parties apply for the awarding of CCPs with respect to the same audiovisual work, the Company will disburse the aforementioned revenues only upon the submission by the applicants of formal documentation attesting to the final settlement of the dispute, in or out of court, and the clear and unambiguous indication of the entitled party. To this end, the Company will put the parties involved in contact. Until such disputes are resolved, the Company will withhold the amounts due to the rightful claimant on the audiovisual work for which a dispute has arisen, reserving the right to pay them to whomever will prove to be entitled to receive them in accordance with the provisions of this Regulation. Pending the resolution of the dispute, no interest shall accrue on the said amounts.

If requested by all parties involved, the Company may render, at no cost to the requesting parties and for the sole purpose of helping to resolve conflicts, a non-binding opinion on the matter under dispute and the possible entitlement to the CCP. To this end, the Company may request information and any additional documentation from the parties involved. The Company will issue the opinion within a maximum period of 60 (sixty) days from the request.

## **2.5 Database update**

The Company regularly updates, to complete the inquiry, its database of CCP right holders, also considering right holders other than the original producers, on a derivative basis, based on the appropriate contractual titles received by them.

## **2.6 Publicity for communication to any unidentifiable claimants**

Upon conclusion of the distribution procedure and at least once a year, the Company shall publish the list of titles that did not benefit from the CCP. Said list, together with that relating to all the titles considered in the allocation procedure, shall be published on ANICA's website and notice of said publication may also be given through advertising in one or more newspapers with national circulation.

## **2.7 Prescription of right**

The right to receive CCP is prescribed in the ordinary ten-year term of prescription. The limitation period runs from the time at which the following conditions are concurring:

- a) SIAE shall make available in favor of the Company, according to its own procedure, the share of Private Copy revenues allocated to it for subsequent distribution to the rightsholders in the audiovisual sector;
- b) of such availability, the Company shall give formal notice, including by simple publication on ANICA's website or through the press, with an invitation to eligible companies to initiate the liquidation request.

## **PHASE 3: CCP SETTLEMENT**

### **3.1 Determination of the accrual CCP to be settled**

The Company annually identifies the amount of the CCP to be allocated to provisions deemed necessary and appropriate with respect to the risk assessment related to the distribution activity. Therefore, the amounts received from SIAE as CCP shall be allocated, for the amount referred to in the preceding period, to a fund to cover the risks associated with the CCP allocation activity (also resulting from SIAE's exercise of the indemnity granted to it by ANICA under the applicable regulations and pending disputes and claims) and for the remaining amount shall constitute the amount of the CCP to be paid to the rightful claimants. The Company annually monitors the specific risks, also on the basis of the information made available by the SIAE at the time of the release of the indemnity and verifies the reasons for the provision and the relevant share, also providing for the distribution to the entitled beneficiaries of any excess amounts.

### **3.2 Settlement of the advance payment**

Within the maximum term of 15 (fifteen) days from the collection of the advance payment of the CCP fees settled by SIAE, the Company will publish on ANICA's website, in the special section dedicated to Private Copy, the list of beneficiary works related to the years of the CCPs settled and the calculation of the fees related to the advance payment.

The start of the procedure for the liquidation of the advance payment will take place within a maximum period of 90 (ninety) days from the date of receipt of the application complete with all the documentation referred to in Article 2.3.

Payment applications submitted with requests for clarifications and/or documental additions pursuant to Article 2.4 will be taken in charge and processed after those found to be complete.

In all cases in which the applications are complete and in compliance with the Regulation, the Company will initiate the advance payment settlement procedure in a congruously reduced timeframe compared to the maximum timeframe indicated above.

In response to the instances deemed complete, the Company will send via PEC the statement regarding the CCP accrued per single work together with the relevant television passages detected. Within 30 (thirty) days from the receipt of the invoices issued in accordance with this Regulation, the Company will settle the relevant CCP by bank transfer.

### **3.3 Settlement of the balance**

Within a maximum of 15 (fifteen) days from the collection of the balance of the CCP fees settled by SIAE, the Company will publish on ANICA's website, in the special section dedicated to Private Copy, the calculation of the fees related to the balance. The start of the balance settlement procedure will take place within a maximum period of 60 (sixty) days from the date of receipt of the complete application with all the documentation referred to in Article 2.3 of this Regulation. Subjects who have already received the advance payment for the same competencies, in the absence of changes on the ownership of the relevant beneficiary works, are exempted from producing the documents referred to in points a) and b) of art. 2.3 and will also benefit from a reduction in the deadline for initiating the settlement procedure. For these subjects, therefore, the start of the settlement procedure for the balance will take place within the maximum period of 30 (thirty) days from the date of receipt of the complete documents referred to in points c) and d) of Article 2.3 above.

In all cases in which the applications are complete and in compliance with the Regulation, The Company will initiate the balance settlement procedure in a congruously reduced timeframe compared to the maximum timeframe indicated above.

Payment applications submitted with requests for clarifications and/or documental additions pursuant to Article 2.4 will be taken in charge and processed after those found to be complete.

In response to the applications duly instructed and deemed complete, the Company will send via PEC the statement relating to the CCP accrued per single work together with the relevant television passages detected.

The Company, within 30 (thirty) days from the receipt of the invoices issued in accordance with this Regulation, will settle the relevant CCP by bank transfer.

### **3.4 Charging costs of the CCP distribution procedure to rights holders**

From the total amount of the CCP collected by SIAE, the Company is entitled to charge the rightsholders, for each year of the CCP collected, an amount equal to the costs incurred in carrying out the activities of managing and distributing the CCP to the rightsholders.

The data required to measure the costs incurred are extrapolated from the Company's cost accounting for the year preceding the one in which the fees are settled by SIAE. The cost items that make up the total annual cost to be charged to the rightful claimants - divided into 3 (three) clusters - are only those that are strictly necessary and inherent to the management and allocation of the CCP together with a share of indirect costs, in any case with the application of all the reductions in applicable charges to cases in which the Intermediaries directly bear some cost items. In identifying the cost items to be charged, the indications provided by SIAE pursuant to art. 71 - *octies* LdA, and/or any regulations issued by it, will be considered. Evidence of these costs will be provided in the appropriate Private Copy section of the ANICA website.

### **3.5 Charging costs of CCP distribution procedure to Intermediaries**

In particular, in the case of Intermediaries, the cost items, as regulated in art. 3.3 above, to be re-credited to the Intermediary are only those referable to activities directly and effectively carried out by the Intermediary, without making use of the support and services of ANICA/Anica Servizi S.r.l. and which, therefore, the Intermediary undertakes to carry out directly and at its own care, charge and responsibility, including: verification activities on the catalogs represented by the Intermediaries with respect to the list of titles published by ANICA on the website and identification of the beneficiaries among the principals of the Intermediary; verification, in compliance with the criteria established by this Regulation, of the chain of rights of its principals; management of claims and conflicts, on the same titles, among several principals of the Intermediary as well as with respect to third parties entitled to them; preparation of the statement of the tallies of the resulting amounts due to its principals for verification by the Company.

This provision refers to activities and cost items different from those belonging to cluster 1 (one), which remain under the exclusive responsibility of ANICA -as the subject identified by the SIAE to exercise the distribution function- because they are preparatory activities for formulating a

distribution plan that includes the entire category of eligible parties operating in the represented sector.

The portion of the cost not allocated to the Intermediary will remain the responsibility of ANICA and will be a cost of ANICA.

In order to reach an agreement and define the exact perimeter of the activities to be borne by the Intermediary and the relative valuation that, in the event of actual performance of the activities by the Intermediary, will determine the possible reduction of the cost items, the Intermediary concerned may submit by PEC a specific request for cost reduction using the form prepared by the Company and published on the ANICA's website. If there is a need for further study, upon specific request of the Intermediary, the Company will initiate a bona fide discussion.

If, within the period of 30 (thirty) working days from the written submission of the application by the Intermediary, the parties fail to reach an agreement or, at any time after the agreement is reached, disputes arise regarding the Intermediary's performance of the activities, either party may take the matter to the ordinary courts.

## **PHASE 4: FINANCIAL MANAGEMENT OF CCP**

### **4.1 Accounting for the undistributed portion of the CCP**

Any amounts not distributed due to the inability to settle the rights holders or, in any case, due to the occurrence of prescription referred to in paragraph 2.7 above, shall constitute contingent assets of ANICA Servizi and shall be used\invested in covering costs related to activities having the purpose of supporting and promoting the cinematographic and audiovisual sector, even if they are distributed to the sole shareholder ANICA.

### **4.2 Selection of investments**

The Company, by resolution of the Executive Committee, shall make financial investments with respect to the undistributed portion of Private Copy, provided that the financial profile of the investments is inspired by the objective of protecting the assets and that the same is available within

a short period of time to fulfill the claims of the right holders, with the exclusion of equity investments and/or in unregulated markets.

### **4.3 Administrative management**

Administrative management of investments approved by the Executive Committee is entrusted to the Administration Area, which is also in charge of organizing reports for the top management and of management control.