

Self-regulation of the restitution of equitable remuneration/fair compensation procedure pursuant to Article 18 of Law 2121/1993

A. Article 18 par. 11 of Law 2121/1993, as amended, with Art. 37 (1) of Law 4540/2018, stipulates that Collective Management Organizations provide for an effective restitution procedure to the enterprise and/or professional of the equitable remuneration/fair compensation paid to them for the technical mediums provided for in Art. 18 para 3 of this law.

B. The procedure followed by the CMO and the conditions for restitution are as follows:

- 1.** Where, for the mean, within the meaning of Article 18, par. 3 of Law 2121/1993, the equitable remuneration/fair compensation has been proven paid, the final recipient and holder of the mean, enterprise and/or professional, shall submit a written request, as specified below. The applicant must be the ultimate recipient and holder of the individualized mean, both at the time of filing the application and at the time of restitution the remuneration.
- 2.** The subject of the application is only a specific mean which: **[a.]** either by its technical specifications is clearly intended solely for reproduction which is not wholly or partly private, **[b.]** or its installation and/or operating specifications preclude its use for private reproduction.
- 3.** Remuneration shall be reimbursed within thirty (30) working days of the submission of the application, provided that the following conditions are met cumulatively:
 - [a]** The applicant bears the burden of proving fully that the intended use of the individualized mean for which the reimbursement is claimed is not reproduction for private use, nor was it in the past reproduction for private use, in the case the applicant was not the primary recipient of the mean.
 - [b]** In proof of this purpose, the individualized mean must either: **[i.]** be unavailable for private use or, if available, **[ii.]** the by any way access to it for use for private reproduction is fully and wholly blocked by the applicant. The above conditions must be fulfilled in both [i.] and [ii] cases from the date, as the case may be, of import or manufacture of the mean concerned up to the date of its destruction.
 - [c.]** In the application, under penalty of inadmissibility, the mean, its type, its factory code, its time of supply and, where appropriate, the importer or the domestic producer of the mean, shall be mentioned in detail. The application shall be accompanied, under penalty of inadmissibility, by: **[i.]** confirmation, where appropriate, of the importer or the domestic producer indicating the amount of the equitable remuneration/fair compensation paid for the specific technical mean, supplied by the applicant. The confirmation shall also mention the time of payment of equitable remuneration/fair compensation with reference to the relevant invoice

of the CMO, on the basis of which that payment took place and [iii.] a declaration of honour on the truth and accuracy of all evidence of the claimant's claims. [iii.] the documents, by which the fulfillment of the terms B.3.bi. and B.3.bii. of this document is verified. In the case of B.3.bii, a document is required, indicating the technical/technological inability of access and/or reproduction for private use, along with the list of protection measures taken by the applicant for such exclusion towards its partners or third parties. Any contract and/or regulation on the use of the mean prohibiting reproduction for private use is not considered sufficient.

C. For the quicker and more efficient restitution of the amount paid for the mean concerned, the relevant application shall be validly submitted:

- 1. To the CMO "ATHENA":** In case the amount of equitable remuneration/fair compensation regards audio or video or audio and video recorders, magnetic tapes or other material carriers suitable for the reproduction of audio or video or audio and video.
- 2.** Alternatively, at the option of the applicant, to one of the "ATHENA" or "GRAMMO" CMOs: in case the amount of equitable remuneration/fair compensation regards computers, portable electronic devices - tablets, smartphones, digital replication material carriers and other storage media with a capacity exceeding 4GB, devices or accessories used for digital replication, transcription or otherwise reproduction, regardless if they function in conjunction with a computer or not.
- 3. To the CMO "OSDEL":** In case the amount of equitable remuneration/fair compensation regards photocopying devices, scanners and printers.

D. Note: An enterprise or a professional that reproduces works/protected objects for non-private use (eg for professional use), must obtain written permission from the beneficiary of the work/protected object, in accordance with the provisions of Law 2121 / 1993.