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**Registration No. 2884 of 02/27/2024**

## **GENERAL DISTRIBUTION POLICY**

2024

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## 1. GENERAL RULES FOR DECLARING PHONOGRAMS/VIDEOGRAMS FOR DISTRIBUTION PURPOSES

### 1.1. Preamble

1.1.1. The Romanian Phonogram Producers' Union – Association for Related Rights (*Uniunea Producătorilor de Fonograme din România – Asociația pentru Drepturi Conexe*), hereinafter referred to as **UPFR**.

1.1.2. Declaring a producer's repertoire and registering it in UPFR's database enables the accurate identification of the phonograms owned by that producer both in the playlists submitted to UPFR by users and in the monitoring reports received from the monitoring company.

1.1.3. The calculation of producers' related rights is based on the processing of the playlists declared and submitted by users to UPFR and/or on the reports obtained from the monitoring of stations by a specialized firm, taking into account each producer's declared and registered repertoire at UPFR.

1.1.4. The procedure for declaring and registering the repertoire with UPFR is available on the UPFR website and applies to both UPFR members and non-members, similar Romanian collective management organizations (CMOs), and foreign CMOs.

1.1.5. Declaring a producer's repertoire with UPFR, whether the producer is a UPFR member or non-member, is a mandatory condition for benefiting from the distribution of related rights collected by UPFR.

1.1.6. Phonogram fingerprinting by a phonogram producer, whether the producer is a UPFR member or non-member, is a mandatory condition for benefiting from the distribution of related rights collected by UPFR.

1.1.7. A producer can request distribution of the related rights due to him solely based on the declared repertoire and the conclusion of a related rights management contract (for non-members), in accordance with current legislation, except in cases where the producer is an associate member of a similar organization in Romania or abroad with which UPFR has a cooperation protocol for collective management. In that case, the repertoire is provided by that organization.

### 1.2. How to Declare Repertoire to UPFR

1.2.1. The complete procedure for repertoire declaration and the documents required for declaring the repertoire are made available to all producers—whether UPFR members or non-members—in the format accepted by UPFR through the union's website in the **Repertoire** section.

1.2.2. The general format for declaring a repertoire of phonograms/videograms complies with the rules established by ORDA Decision no. 52/2014, correlated with international norms recommended by IFPI – representing the recording industry worldwide. If legislative amendments occur, the format shall be updated accordingly.



1.2.3. The producer is required to deliver the repertoire for which he has a mandate, having filled in all mandatory fields so it can be entered in the UPFR repertoire database (BDR-UPFR).

1.2.4. Repertoire declaration may be done on optical media, in person at UPFR's headquarters, or electronically through the union's website under **Producers > Repertoire Declaration**, or via email as an alternative to declaring repertoire on physical media at the union's headquarters.

1.2.5. If, upon verifying the repertoire declared by a producer, mandatory fields are found to be missing or inconsistent, the UPFR representative shall notify the producer in writing. If no written response is received from the producer and the repertoire declaration is not corrected, the declared phonograms/videograms cannot be considered in the distribution process.

1.2.6. When registering the repertoire, the producer must submit to UPFR, at the same time, a statement on his own responsibility, confirming that the declared repertoire contains the phonograms/videograms he owns, along with any supporting documents, as well as specifying the time period for which he requests rights distribution.

1.2.7. The producer is required to fingerprint the phonograms in the repertoire for which he holds a mandate, in accordance with the fingerprinting procedures provided by UPFR.

1.2.8. The complete fingerprinting procedure is communicated to all producers, whether UPFR members or non-members, through the UPFR website in the **Fingerprinting** section.

1.2.9. Fingerprinting the repertoire may be done either via an FTP service or a direct upload service. The differences between these two services are described in the repertoire fingerprinting procedure, which can be accessed on the union's website in the **Fingerprinting** section.

### 1.3. Registration of Repertoire in UPFR's Database

1.3.1. UPFR registers the phonograms/videograms of phonogram/videogram producers that are subject to related rights.

1.3.2. For phonograms/videograms declared at UPFR, the producer must be able at any time to prove the documents that attest to his status as a producer, licensee, or exclusive representative authorized on Romanian territory for the related rights over the phonograms/videograms declared in the registered repertoire, and must sign the rights management contract (for non-members). Accordingly, UPFR does not register the phonograms/videograms of producers who do not fall within one of the above categories. UPFR reserves the right to request additional information from the producer to confirm his producer status.

1.3.3. A producer who registers advertising spots, signals, interludes, jingles, etc. must hold documents showing that he has not assigned related rights to the advertising agency / the spot beneficiary / the broadcaster (hereinafter, "beneficiaries"), etc. UPFR reserves the right to request from the producer any justification regarding his related rights over the declared phonograms/videograms, depending on the specific circumstances.

1.3.4. Phonograms/videograms declared at UPFR and phonograms described in point 1.3.3 shall be part of the same database, each type of fixation being classified separately.

1.3.5. Producers with repertoire registered at UPFR are obliged to update that repertoire quarterly, in accordance with the provisions of the UPFR Statute.

1.3.6. Repertoire updates shall follow a similar procedure to that set forth in section 1.2, indicating which phonograms/videograms were removed from or added to the producer's repertoire, complying with the same Excel format used for the initial repertoire, no later than the 15th of the month following the end of the quarter.

### 1.4. General Rules for Resolving Discrepancies

1.4.1. The repertoire declaration procedure must be followed in order to compare the newly submitted repertoire with the existing database.

1.4.2. Any newly declared phonograms/videograms that do not generate discrepancies with those already in



UPFR's database will be uploaded to the UPFR database in accordance with the repertoire declaration procedure.

1.4.3. If, after the repertoire is uploaded, it generates discrepancies, the UPFR representative will inform by email the UPFR members / independent producers who submitted that repertoire, about the identified discrepancies for confirmation/ correction of the repertoire declaration within 15 working days.

1.4.4. If no written response is received within 15 working days from the date the affected producer(s) are notified about the repertoire discrepancies, the UPFR representative will formally notify the inactivation of the disputed phonograms submitted by that producer.

1.4.5. If the producer reaffirms ownership of the disputed phonograms/videograms, UPFR will simultaneously inform by email (attaching the disputed phonograms/videograms) the producer who had previously filed the same phonograms/videograms identical to others with which a discrepancy has arisen, to confirm again those phonograms.

1.4.6. If, following the email sent to both producers, neither party withdraws the disputed phonograms/videograms, UPFR will request that both producers submit additional documentation proving they own the rights.

1.4.7. For local repertoire phonograms/videograms involved in a discrepancy, the phonogram producer must prove ownership of related rights in the phonograms/videograms by submitting any documents requested by UPFR.

1.4.8. After receiving the documents proving that the phonograms/videograms belong to the rights holder, they will be reviewed and approved by UPFR's legal counsel.

1.4.9. The maximum period for which UPFR will wait for a response in the event of discrepancies is 30 calendar days from the first notification; failure to respond means that the non-responding producer's disputed phonograms will remain inactive.

1.4.10. For international repertoire phonograms/videograms, in case of a discrepancy, the producer claiming rights must submit an officially notarized translation of the related rights representation contracts for Romanian territory, explicitly mentioning the representation of related rights. A copy of the original license, signed and stamped "true copy," must also be submitted.

1.4.11. Failure to submit the supporting documents to resolve discrepancies by the stipulated deadline implies that the repertoire declaration is being abandoned.

1.4.12. Mandate contracts (for members) or collective management contracts (for non-member producers) are signed only if at least one of the phonograms/videograms declared in the repertoire is not disputed.

1.4.13. Where both the first phonogram producer and the second phonogram producer provide the requested proof, UPFR can only express its opinion regarding the documentation submitted by both parties. If discrepancies cannot be resolved amicably, producers shall address the competent courts. In such a case, UPFR shall block any sums generated by the unresolved discrepancies until a final decision is issued or an amicable resolution is reached.

1.4.14. If a phonogram/videogram has been recorded by multiple producers and the documentation from radio and TV organizations does not establish the exact version broadcast, the sum allocated per phonogram is distributed as follows:

- The producer of the original recording receives 2/3 of the allocated sum, and the producer who made the re-recording receives 1/3 of the allocated sum;
- In the case of multiple re-recordings, the producer of the original recording receives 1/2 of the allocated sum, while the other 1/2 is equally divided among the producers who made declared re-recordings.

1.4.15. **Co-productions** are works involving multiple owners in the same rights category, among whom there is an **administrator** who notifies UPFR of his status and who will receive the sums for those co-



productions (phonograms or videograms). UPFR is released from any claims by the other co-producers. The entire UPFR-co-producer relationship regarding distribution documentation is handled by the co-production's administrator or by UPFR, in which case the administrator's consent is necessary.

1.4.16. The **administrator** of the co-production is the individual or legal entity who exploits the phonogram or videogram, and is the person who provides UPFR with all the information on which the co-produced phonogram's remuneration is calculated.

1.4.17. If technically possible within the distribution software, UPFR will distribute directly to co-producers the rights owed them in the shares declared by the administrator under his own responsibility to UPFR. The co-production administrator is obligated to declare to UPFR the shares agreed with the other co-producers, and those beneficiary co-producers, providing proof of the agreed shares.

1.4.18. If the co-producers are not in UPFR's database, the co-production administrator will provide the information necessary for payment.

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## 2. COLLECTION OF PLAYLIST-TYPE DOCUMENTS USED AS THE BASIS FOR DISTRIBUTIONS

2.1. To perform distributions, UPFR uses the radio and TV station monitoring reports from the Vericast BMAT platform, or, failing such monitoring reports, the playlists sent by radio and TV stations.

2.2. The radio and TV station monitoring reports in the Vericast BMAT platform, together with the playlists sent by radio and TV stations, form the basis for distributing the remuneration that UPFR collects from all users.

2.3. The format in which the playlist must be submitted is prescribed by the methodologies in force. For playlists to be uploaded into the distribution software, they must be in electronic format, accompanied by a cover letter bearing the legal representative's name, their signature, and the user's stamp, whereby the accuracy of the information is confirmed under the user's own responsibility.

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## 3. METHOD OF CALCULATING DISTRIBUTIONS

### 3.1. General Considerations

3.1.1. The distribution of remuneration is carried out by UPFR according to the rules set out in the UPFR Statute, and the method for calculating and determining the sums to be distributed is approved by UPFR members via the present document, in accordance with the following general principles:

a) The remuneration collected by UPFR is distributed to rightsholders in proportion to the actual use of phonograms/videograms, except in cases where proportional distribution by actual use of phonograms/videograms is not feasible;

b) Remuneration is generally distributed separately by category of collection and type of usage, unless otherwise stated in this regulation.

3.1.2. The collected remunerations benefit producers and other related rightsholders managed by UPFR, who may or may not be UPFR members, but who hold related rights as phonogram and videogram producers.

3.1.3. A rightsholder is entitled to the remuneration collected by UPFR, provided the UPFR Statute and this general distribution policy are complied with.

3.1.4. The distribution and individual payment of remuneration is made periodically, quarterly, to all rightsholders, whether or not they are UPFR members.



3.1.5. The UPFR General Assembly or Board of Directors may schedule early distribution deadlines (in justified cases), or longer or shorter deadlines, without exceeding the maximum term stipulated by Law 8/1996 as republished.

3.1.6. For distribution of remuneration proportionate to the duration of phonograms/videograms, UPFR will consider the information indicated in the reports submitted by users to UPFR and/or the respective station monitoring reports insofar as such stations have been monitored.

### **3.2. Analysis of Collected Remunerations**

3.2.1. The remunerations collected by UPFR during a financial year are recorded by collection sources, grouped as follows:

- Equitable remuneration for public communication
- Remuneration for reproduction for broadcasting, public communication, and making available to the public
- Compensatory remuneration for private copying of phonograms
- Equitable remuneration for radio broadcasting
- Equitable remuneration for TV broadcasting
- Remuneration for the cable retransmission of phonograms
- Remuneration for public communication via the Internet
- Compensatory remuneration for private copying of videograms
- Remuneration for the cable retransmission of videograms
- Damages
- Bank interest

3.2.2. The remuneration received by UPFR from users is allocated to a certain period established in line with UPFR's internal working procedures with users, the non-exclusive license agreements, the fiscal invoices issued by UPFR, and any other documents arising in the relationship with the user. Depending on these timeframes, the rules under which these remunerations are distributed are set. Whenever a single lump-sum remuneration is collected, but the exact period covered by that remuneration cannot be established, it is distributed according to the rules in effect at the time that remuneration was collected.

3.2.3. The remuneration received for any period preceding the date on which it is paid or recovered, which is not documented by the user under the above conditions, is distributed among rightsholders proportionally to the sums allocated to them for the same collection source during the period for which such remuneration was paid or recovered.

3.2.4. Regarding remuneration for broadcasting, amounts received for past periods are distributed according to the documentation submitted for the period in which payment or recovery occurred. If UPFR does not have the user's playlists for those amounts, because of the user's fault, the amounts are allocated proportionally to the sums previously distributed for that same collection source for the period in which the payment or recovery occurred.



3.2.5. Where remuneration paid by a radio or TV organization is not broken down by station, the remuneration is split among those stations based on each station's audience. Within the playlist for each station, phonograms/videograms are weighted by the audience level determined by a company specialized in measuring audience. If certain stations have no measured audience, the minimum measured audience for the period in question is used.

3.2.6. If remuneration is paid by a radio organization that does not provide a separate playlist corresponding to the remuneration payable under the radio methodology, the declared repertoire information is used.

3.2.7. For remuneration collected from public communication, private copying of phonograms, private copying of videograms, and cable retransmission of phonograms and videograms, the amounts collected are distributed based on available information at the time of distribution. In light of the delay between the playlist reporting period and its processing, and the time of collection, amounts collected will be allocated to uses that occurred during the previous collection period.

3.2.8. Sums collected as penalties for late payment of remuneration are distributed proportionally based on the remuneration previously allocated for the user category from which the sums were collected.

3.2.9. Payment of remuneration due to phonogram producers is made into the bank account specified by the producers in the mandate contract concluded with UPFR, if the following conditions are met:

- a) The phonogram producer has submitted to UPFR a bank-issued confirmation of his current account, verifying the accuracy of his banking information.
- b) The phonogram producer has submitted to UPFR a declaration on his own responsibility regarding phonograms whose rightsholder could not be determined, and which he claims, if applicable.
- c) For the phonogram producer claiming rights from the list of unidentified phonograms, in addition to the declaration on his own responsibility, he has submitted a request to effect distribution based on the claimed phonograms, as described in point 3.3.6.
- d) For the phonogram producer claiming rights from the list of unidentified phonograms used as advertising spots, signals, interludes, jingles, etc., he has submitted to UPFR documents showing he holds the related rights to the claimed phonograms and has obtained a favorable opinion from UPFR's legal department.

### 3.3. Analysis of Playlists

3.3.1. Only those playlists relevant to each collection source and transmitted in Excel format, in accordance with the applicable methodology, i.e. point 10(a) of the Methodology published under ORDA Decision No. 216/2011 in Official Gazette no. 470/07.05.2011 for radio stations, and point 9(a) of the Methodology published under ORDA Decision No. 133/2012 in Official Gazette no. 520/07.26.2012 for TV stations, will be analyzed.

3.3.2. If the playlist submitted by broadcasters is incomplete or fails to comply with the methodology in force, UPFR may use monitoring reports—if available—to carry out the distribution.

3.3.3. If users submit playlists in accordance with section 2.3, but the ratio of (the amount subject to distribution) to (the total number of seconds broadcast) is lower than RON 0.0005/second, that playlist cannot be included in the distribution analysis. In such cases, remuneration is allocated under the same usage category, in line with the calculation method and rules set as criteria by the General Assembly.

3.3.4. Following the playlist review, any phonograms/videograms whose rightsholder could not be determined are posted on UPFR's website as well as on UPFR's Facebook page, so that rightsholders can inform UPFR if they identify any of their own phonograms/videograms.

3.3.5. If producers claim phonograms such as advertising spots, signals, interludes, jingles, etc., in addition to the documents mentioned under point 3.2.9, the producer must also submit a request for distribution, based on the claimed phonograms.



3.3.6. Related rights derived from the adaptation of phonograms into audiovisual works shall be compensated according to the contractual relationship between the phonogram producer and the producer of the audiovisual work.

### 3.4. Monitoring of Radio and TV Stations

3.4.1. Via monitoring reports, UPFR can verify whether the playlists submitted by users are incomplete.

3.4.2. If playlists do not comply with the methodology in force and cannot be processed, and users fail to rectify and supplement them, UPFR may use available monitoring reports, if any, for the distribution.

3.4.3. To improve the accuracy of information in the monitoring reports, UPFR collaborates with phonogram producers, facilitating the fingerprinting of audio content and the updating of any information already in the monitoring platform's databases.

### 3.5. Digital Environment Indicators

3.5.1. For remuneration collected from public communication, private copying of phonograms, and private copying of videograms, UPFR also uses digital environment information in making its distributions.

3.5.2. Digital sources fall into two categories: **YouTube** and other digital sources (Spotify, Apple Music, Deezer, etc.).

3.5.3. The indicators used from digital sources to distribute remuneration consist of a score assigned according to revenue and views (for YouTube) and the number of plays (for other digital sources).

3.5.4. The score assigned based on revenue and views is an indicator used for YouTube, and it is calculated as follows:

- The total number of views per phonogram is divided by 1,000,000. The result is multiplied by 10, yielding the view score.
- The revenue per phonogram (in RON) is divided by the RON equivalent of €1,500 (using the average NBR [National Bank of Romania] exchange rate for the reporting period). The result is multiplied by 10, yielding the revenue score.
- A weighted average is then taken between the view score and the revenue score, each weighted at 50%.
- To reduce rounding errors, the final score is multiplied by 100, and decimals are dropped.

3.5.5. The number of plays is an indicator used for digital sources other than YouTube, representing the total number of plays for each phonogram.

3.5.6. Each producer will submit quarterly, in spreadsheet format, the net revenue and views from YouTube, as well as reports on the number of plays from digital sources other than YouTube (e.g., Spotify, Apple Music, Deezer, etc.).

3.5.7. The revenues reported under point 3.5.6 are the net sums generated by using phonograms in Romania, excluding any advances or minimum guarantees the producer may have in relation to the digital platforms.

3.5.8. In reports from the YouTube digital source, they must contain at least the following information:

| Title | Performer/Artist Name | ISRC Code | Net Revenue (RON) | Number of Views |

3.5.9. The phonograms whose net revenues are reported in accordance with section 3.5.8 must not exceed 90% of the net revenue the producer earns from YouTube in Romania (see 3.5.7), and the report must contain at most 1,000 entries.





3.5.10. If a producer holds a representation license on Romanian territory from a major (Sony, Warner, Universal Music), the condition under section 3.5.9 applies separately to the catalog held under that license.

3.5.11. In YouTube digital source reports, no data should appear for content such as shorts, vlogs, interviews, podcasts, advertisements, contests, tour or concert recordings, or any content that does not pertain to phonograms.

3.5.12. In the YouTube digital source reports, producers will endeavor to remove any non-alphanumeric characters (such as @, !, \$, #, ©, ∞, etc.) and any characters or symbols that might hinder identification.

3.5.13. In reports from other digital sources, they must include information on the title, artist, ISRC code, and number of plays for each phonogram/videogram, for the top 1,000 phonograms or no more than 90% of the total number of plays in Romania for each producer (in descending order of the number of plays), as shown below:

| Title | Performer/Artist Name | ISRC Code | Number of Plays |

3.5.14. In the reports from other digital sources, no data should appear for content such as interviews, podcasts, advertisements, contests, tour or concert recordings, or any other content that does not pertain to phonograms.

3.5.15. In reports from other digital sources, producers will seek to remove any non-alphanumeric characters (such as @, !, \$, #, ©, ∞, etc.) and any characters or symbols that might hinder identification.

3.5.16. The above-mentioned reports will be uploaded into the distribution system as playlists, then cross-checked against the repertoire database.

3.5.17. The deadline for submitting these reports is 45 days after the end of the quarter.

3.5.18. These reports must be accompanied by a statement on one's own responsibility affirming the accuracy of the information transmitted.

3.5.19. The reports are subject to audit.

### **3.6. Unclaimed Sums**

3.6.1. Unclaimed sums resulting from the distribution will be held for up to 3 years from the notification date in distinct UPFR analytical accounts, to be allocated as they are claimed or, after that period, pursuant to the UPFR Statute.

3.6.2. Notification of any undistributed or unclaimed sums under the Distribution Rules is made in writing and electronically, including on the collective management organization's website, within 9 months of the close of the financial year in which they were collected, and will contain any information that may help identify the rightsholder.

### **3.7. Interest and Damages**

Any remuneration collected as damages, compensation, or indemnities for the infringement of producers' rights, along with remuneration from bank interest, is distributed proportionally to the sums allocated in each distribution period.

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## **4. COLLECTION SOURCES AND DISTRIBUTION RULES FOR PHONOGRAM/VIDEOGRAM PRODUCERS**

### **4.1. Amounts Collected from Phonogram Sources**

#### **4.1.1. Compensatory Remuneration for Private Copying**



Remuneration collected from the private copying source is distributed under the statutory provisions based on the information available at the time of distribution, as follows:

- a) **20.04%** is allocated proportionally to the duration of identified phonograms from radio playlists listed under point 5.2.2, weighted by measured audience.
- b) **22.83%** is allocated proportionally to the duration of identified phonograms from TV playlists listed under point 5.2.3, weighted by measured audience.
- c) **40.20%** is allocated according to the influence of phonogram plays from the YouTube source.
  - Accordingly, each producer shall submit the revenue and view reports from YouTube in accordance with point 3.5.
  - d) **16.93%** is allocated according to the influence of phonogram plays from digital sources other than YouTube (Spotify, iTunes, Apple Music, Deezer, etc.).
  - Accordingly, each producer shall submit reports on the number of plays from digital sources other than YouTube, in line with point 3.5.

#### **Common Provisions:**

- i) If producers refuse to submit reports from digital sources, no sums are allocated to them under that criterion, and UPFR is absolved of any responsibility for how remuneration is distributed based on that information.
- ii) Reports from digital sources, both YouTube and others, must be accompanied by a statement on one's own responsibility attesting to the accuracy of the submitted information.
- iii) Reports from digital sources, either YouTube or others, that omit data on the artist, title, ISRC code, revenue, and views (for YouTube) or number of plays (for other digital sources), as stated in point 3.5, shall not be considered in making the distribution.
- iv) The annual reconciliation involves the allocation of all sums collected in the previous year according to the distribution criteria for remuneration and penalties in the private copying source.
- v) It is assumed that only phonograms made available to the public through sale or via wired or wireless means, allowing anyone to access them at an individually chosen place and time, can become private copies and shall be considered for distribution of private copying rights. These phonograms must be associated with a performance or performer/artist and consist of performances, executions, or other sounds, excluding those produced for the identification and self-promotion of a broadcasting station or its program, or phonograms whose producer is either the same broadcasting station or another phonogram producer commissioned by that station, or created for advertisement of a product or service belonging to a third party relative to the broadcaster as a form of product/service advertising.

#### **4.1.2. Equitable Remuneration for Broadcasting**

**4.1.2.1.** Remuneration collected from the **radio** source is distributed under UPFR Statute provisions, as follows:

- a) Proportionally to the duration of phonograms, weighted by the measured audience from playlists generated by the monitoring platform and/or playlists submitted by broadcasting users, separately for each radio station, for the period during which the remuneration was collected.
- b) Proportionally to the duration of phonograms from the radio playlists specified under point 5.2.2, weighted by measured audience in the following cases:



- i. stations that do not submit a playlist
- ii. stations whose playlist does not comply with the methodology in force
- iii. stations for which the ratio of (the amount subject to distribution) to (the total broadcast seconds) is lower than RON 0.0005/second.

**4.1.2.2.** Remuneration collected from the **TV** source is distributed under UPFR Statute provisions, as follows:

- a) Proportionally to the duration of phonograms, weighted by measured audience, from playlists generated by the monitoring platform and/or playlists submitted by broadcasting users, separately for each TV station, for the period during which the remuneration was collected.
- b) Proportionally to the duration of phonograms from the radio and TV playlists specified under point 5.2.1, weighted by measured audience, in the following cases:

- i. stations that do not submit a playlist
- ii. stations whose playlist does not comply with the methodology in force
- iii. stations for which the ratio of (the amount subject to distribution) to (the total broadcast seconds) is lower than RON 0.0005/second.

#### **4.1.3. Equitable Remuneration for Public Communication**

Remuneration collected from the **public communication** source is allocated under the statutory provisions, based on the information available at the time of distribution, as follows:

- a) **62.90%** is allocated proportionally to the duration of identified phonograms from the radio stations listed in point 5.2.2, weighted by the measured audience.
- b) **17.38%** is allocated proportionally to the duration of identified phonograms from the TV stations listed in point 5.2.3, weighted by measured audience.
- c) **15.96%** is allocated according to the influence of phonogram plays from YouTube.
  - Each producer must submit YouTube revenue and view reports, as per point 3.5.
  - d) **3.76%** is allocated according to the influence of identified phonogram plays from digital sources other than YouTube (Spotify, iTunes, Apple Music, Deezer, etc.).
- Each producer must submit the number of plays (streams) from digital sources other than YouTube, as per point 3.5.

#### **Common Provisions:**

(I) Remuneration collected from users of phonograms through public communication for which the methodologies do not require a user to provide a playlist report, including usage in ambient settings, may be distributed proportionally to the duration of identified phonogram use only if, cumulatively:

- The user provides the playlist before the distribution is made;
- The ratio of (the amount subject to distribution) to (the total broadcast seconds) is less than RON 0.0005/second;
- Direct playlist distribution will take place in the first quarter of the year after the close of the financial year.



(II) If producers refuse to submit reports from digital sources, they will receive no sums for that criterion, and UPFR is released from any liability concerning how the remuneration is distributed based on that data.

(III) Reports from digital sources, both YouTube and others, must be accompanied by a statement on one's own responsibility attesting to the accuracy of the submitted data.

(IV) Reports from digital sources, both YouTube and others, that do not include information per point 3.5 will not be considered for distribution.

(V) Annual reconciliation involves allocating all sums collected in the previous year according to the distribution criteria for remuneration and penalties from the public communication source.

(VI) The phonograms included in the playlists specified in point 5.2.2, as mentioned in Art. 1 of the in-force radio methodologies, will be used proportionally to the sums collected under Art. 4 of those in-force radio methodologies during the quarter for which distribution is made.

#### **4.1.4. Remuneration for Public Communication via the Internet**

Remuneration collected from the **public communication via the internet** source for phonograms is allocated in accordance with the provisions of the UPFR Statute, following point 4.1.3.

#### **4.1.5. Remuneration for Cable Retransmission**

Remuneration collected from the **cable retransmission** source for phonograms is allocated in accordance with the UPFR Statute, based on the information available at the time of distribution, as follows:

- a) The remuneration allocated to each channel is proportional to the total broadcast seconds on each channel for broadcasters retransmitted via cable, reported in the channel lineups by cable operators. The radio/TV stations retransmitted by such cable operators must originate from Romanian territory.
- b) The collected remuneration is distributed proportionally to the duration of identified phonograms, weighted by the hourly average audience from the monitoring reports for all monitored radio/TV stations included in the cable operators' channel lineups.
- c) Phonograms from radio playlists, as described in Art. 1 of the in-force radio methodologies, will be used proportionally to the sums collected under Art. 4 of the in-force radio methodologies, in the quarter for which distribution is made.
- d) Phonograms from TV playlists, as described in Art. 1 of the in-force TV methodologies, will be used as described in point 4.1.2.2.

#### **4.1.6. Remuneration for Reproduction for Broadcasting, Public Communication, and Making Available to the Public**

Remuneration collected for the reproduction of public communication is allocated in accordance with the UPFR Statute, as set out in point 4.1.3.

### **4.2. Amounts Collected from Videogram Sources**

#### **4.2.1. Compensatory Remuneration for Private Copying of Videograms**

Remuneration collected for **private copying of videograms** is distributed in accordance with the UPFR Statute, following point 4.1.1.

#### **4.2.2. Remuneration for the Cable Retransmission of Videograms**



Remuneration collected from the **cable retransmission of videograms** source is allocated in accordance with the UPFR Statute, based on the information available at the time of distribution, as follows:

a) It is allocated proportionally to the duration of videograms broadcast on the TV stations listed in point 5.2.4, retransmitted by cable operators and reported in their channel lineups, weighted by measured audience.

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## 5. METHOD OF CALCULATING AND USING AUDIENCE FIGURES AND DEFINING MEASURED-AUDIENCES STATIONS

### 5.1. How Audience Figures Are Calculated

5.1.1. For the radio stations listed under point 5.2.2, audience figures are provided by ARA, and the indicator used is the average quarter-hour weekday audience.

5.1.2. For the TV stations listed under point 5.2.3, audience figures are provided by ARMADATA, and the indicator used is the average quarter-hour weekday audience.

5.1.3. For the TV stations listed under point 5.2.4, audience figures are provided by ARMADATA, and the indicator used is the average quarter-hour weekday audience.

5.1.4. For radio and TV stations without measured audience data, the minimum average audience is used.

### 5.2. Stations with Measured Audience

#### 5.2.1. Radio and TV stations with measured audience:

SRR ACTUALITATI, SRR ANTENA SATELOR, SRR CRAIOVA, SRR CULTURAL, SRR IASI FM, SRR MUZICAL, SRR RADIO BUCURESTI, KISS FM, EUROPA FM, PRO FM, RADIO ZU, MAGIC FM, VIRGIN RADIO, NATIONAL FM, ROCK FM, ROMANTIC FM, ONE WORLD RADIO, RADIO TANANANA, DIGI FM, DANCE FM, RADIO GUERRILA, KISS TV, U TV, MUSIC CHANNEL, MOOZ RO, ZU TV, RADIO TRANSILVANIA LBM, ROCK TV, MAGIC TV, ATOMIC TV, IMPULS BUCURESTI, ACCENT FM, HIT MUSIC CHANNEL, FAVORIT TV, HORA TV, ETNO TV, TRADIȚIONAL TV.

The playlists from these radio and TV stations are those cited and used in the distributions under point 4.1.2.2(b) as far as they can be monitored.

#### 5.2.2. Radio stations with measured audience:

SRR ACTUALITATI, SRR ANTENA SATELOR, SRR CRAIOVA, SRR CULTURAL, SRR IASI FM, SRR MUZICAL, SRR RADIO BUCURESTI, KISS FM, EUROPA FM, PRO FM, RADIO ZU, MAGIC FM, VIRGIN RADIO, NATIONAL FM, ROCK FM, ROMANTIC FM, ONE WORLD RADIO, RADIO TANANANA, DIGI FM, DANCE FM, RADIO GUERRILA, RADIO TRANSILVANIA LBM, IMPULS BUCURESTI, ACCENT FM.

The playlists from these radio stations are those cited and used in distributions under point 4.1.1(a), point 4.1.2.1(b), point 4.1.3(a), point 4.2.1(a), insofar as they can be monitored.

#### 5.2.3. TV stations with measured audience:

KISS TV, U TV, MUSIC CHANNEL, MOOZ RO, ZU TV, ROCK TV, MAGIC TV, ATOMIC TV, HIT MUSIC CHANNEL, FAVORIT TV, HORA TV, ETNO TV, TRADIȚIONAL TV.

- The playlists from these TV stations are those cited and used in distributions under point 4.1.1(b), point 4.1.3(b), point 4.2.1(b), insofar as they can be monitored.

#### 5.2.4. Videogram TV stations with measured audience:

KISS TV, U TV, MUSIC CHANNEL, MOOZ RO, ZU TV, ROCK TV, MAGIC TV, ATOMIC TV, HIT MUSIC CHANNEL, FAVORIT TV, HORA TV, ETNO TV, TRADIȚIONAL TV.



- The playlists from these TV stations are those cited and used in distributions under point 4.2.2(a), insofar as they can be monitored.

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## 6. VIOLATIONS AND PENALTIES

### 6.1. Disciplinary Violations

Disciplinary violations may be **serious** or **very serious**.

- a) **Serious disciplinary violations** include:
- Declaring a repertoire at UPFR that does not belong to the producer;
  - Declaring erroneous reports by rightsholders that underlie the distribution (e.g., reports from digital sources) with figures higher than those actually generated in Romania;
  - Making a false statement at odds with reality regarding one or more declared phonograms/videograms in order to unjustly obtain the related remuneration, including those on the list of phonograms pending identification posted on the UPFR site;
  - Submitting a statement without the prior written authorization of the copyright owners of musical works who are entitled to grant such authorization, in cases where such a right is still within its legal term of protection;
  - Intentionally reproducing, adapting, or altering an existing phonogram/videogram and then wrongly claiming remuneration;
  - Failing to notify UPFR that related rights have been assigned to a third party.

b) Committing multiple acts classified as serious violations, whether or not previously sanctioned, constitutes **very serious** disciplinary violations.

### 6.2. Applicable Sanctions

a) For **serious** violations, one or more of the following disciplinary sanctions may be applied:

- A monetary disciplinary penalty payable to UPFR in an amount between €500 and €1,000 equivalent in RON at the NBR exchange rate on the date the decision to apply the sanction is adopted;
- Freezing payment of allocated sums until the rightsholder's error is resolved and corrected, in cases where the violation causes sums to be distributed about which the rightsholder has been notified of a serious violation.

b) For **very serious** violations, one or more of the following disciplinary sanctions may be applied:

- Freezing payment of sums distributed from licensing the repertoire until the violation is remedied;
- A monetary disciplinary penalty between €1,000 and €20,000, plus the amount paid by UPFR for any audit by an external firm, equivalent in RON at the NBR exchange rate on the day the sanction decision is issued;
- Suspension of the right to vote and to stand for election within the governing bodies.

c) The investigation of disciplinary violations and the imposition of disciplinary sanctions are done by a decision issued by the UPFR Board of Directors.

d) Enforcing the aforementioned sanctions does not preclude UPFR or other injured parties from seeking full reparations for losses caused by the acts constituting disciplinary violations.

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Uniunea  
Producătorilor de  
Fonograme din  
România  
Asociația pentru drepturi conexe

Pipera Business Tower, Bd. Dimitrie Pompeiu nr. 6E, Et. 11,  
Sect. 2, București

Telefon: 021 222 20 45/46 Fax: 021 222 20 43, CP 020337

CIF: RO 9670110 / HJ: 136/1996



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