

**GOVERNMENT OF THE REPUBLIC OF LITHUANIA**

**RESOLUTION No 1106**

**ON THE APPROVAL OF THE PROCEDURE FOR THE DISTRIBUTION  
AND PAYMENT OF REMUNERATION FOR THE REPRODUCTION OF  
AUDIOVISUAL WORKS OR WORKS FIXED IN A PHONOGRAM FOR  
PERSONAL USE**

29 August 2003

Vilnius

The Government of the Republic of Lithuania, acting pursuant to Article 20 of the Republic of Lithuania Law on Copyright and Related Rights (*Official Gazette* No 50-1598, 1999; No 28-1125, 2003) and in implementing of Article 5 (2) (b) of Directive 2001/29/EC of the European Parliament and of the Council on the harmonisation of certain aspects of copyright and related rights in the information society, h e r e b y r e s o l v e s:

1. To approve the Procedure for the Distribution and Payment of Remuneration for the Reproduction of Audiovisual Works or Works Fixed in a Phonogram for Personal Use (attached hereto);
2. To authorise the Ministry of Culture of the Republic of Lithuania to designate, in accordance with the applications submitted by the associations of collective administration of copyright and related rights:
  - 2.1. the collective administration association responsible for the collection of remuneration referred to in point 1 above and for the distribution thereof to collective administration associations, and to notify the public thereof in the Annex *Information Notices* to the publication *Official Gazette*;
  - 2.2. collective administration associations responsible for the distribution and payment of remuneration referred to in point 1 above to the subjects of rights they represent, and to notify the public thereof the in Annex *Information Notices* to the publication *Official Gazette*.
3. To establish that collective administration associations (hereafter referred to as "associations"), designated by the Ministry of Culture and responsible for the collection, distribution and payment of remuneration referred to in point 1 above shall meet the following conditions:
  - 3.1. their articles of association shall be in compliance with the provisions of the Republic of Lithuania Law on Copyright and Related Rights, regulating collective administration of rights, and of other laws, regulations and administrative provisions;
  - 3.2. the associations shall act in compliance with the laws, regulations and administrative provisions, as well as international obligations in this field;
  - 3.3. the associations shall have sufficient administrative capacity for the proper collection, distribution and payment of remuneration to the subjects of rights;
  - 3.4. the associations shall have satisfactory technical-organisational capacity for the collection, distribution and payment of remuneration.

4. When submitting applications to the Ministry of Culture, the associations shall present the documents (information) to the effect that they meet the conditions laid down in point 3 of this Resolution. The Ministry of Culture shall have the right to request additional information which is necessary to establish whether the associations would properly observe the Procedure for the Distribution and Payment of Remuneration for the Reproduction of Audiovisual Works or Works Fixed in a Phonogram for Personal Use.

5. The Procedure for the Distribution and Payment of Remuneration for the Reproduction of Audiovisual Works or Works Fixed in a Phonogram for Personal Use, as approved by this Resolution, shall take effect from 1 January 2004.

Prime Minister

Algirdas Brazauskas

Minister of Culture

Roma Žakaitienė

APPROVED  
by Resolution No 1106 of  
29 August 2003  
of the Government of the Republic of Lithuania

**PROCEDURE FOR THE DISTRIBUTION AND PAYMENT OF  
REMUNERATION FOR THE REPRODUCTION OF AUDIOVISUAL  
WORKS OR WORKS FIXED IN A PHONOGRAM FOR PERSONAL USE**

**I. GENERAL PROVISIONS**

1. The Procedure for the Distribution and Payment of Remuneration for the Reproduction of Audiovisual Works or Works Fixed in a Phonogram for Personal Use (hereafter referred to as the “Procedure”) shall regulate the amount, collection, distribution and payment of remuneration payable to authors or their successors in title, performers, producers of audiovisual works and phonograms, broadcasting organisations or their successors in title (hereafter referred to as the “subjects of rights”) for the reproduction of audiovisual works or works fixed in a phonogram for personal use.

2. For the purposes of this Resolution, the following terms shall apply:

**Associations of collective administration of copyright and related rights** (hereafter referred to as „collective administration associations“) in this Procedure shall have the meaning assigned to them in paragraph 1 of Article 66 of the Republic of Lithuania Law on Copyright and Related Rights (*Official Gazette* No 50-1598, 1999; No 28-1125, 2003).

**Wholesale price** means the actual value of a blank sound-recording or audiovisual medium, as indicated in the customs of the Republic of Lithuania, which shall not be lower than the value specified in the customs information in respect of sound-recording and audiovisual media imported into the Republic of Lithuania, and the ex-works price of a blank sound or audiovisual medium in respect of sound-recording and audiovisual media produced in the Republic of Lithuania.

**Producer** means the person which produces blank sound-recording or audiovisual media in the Republic of Lithuania, with the exception of persons which only complete blank sound-recording or audiovisual media.

**Sound-recording and audiovisual medium** means any material object (audio cassette, video tape, compact disk, mini disk, CD-R, CD-RW, etc.), which is usually used for making an analogous or digital audio and(or) visual fixation by means of any sound and(or) video recording equipment.

**Professional needs** means the needs of broadcasting organisations and persons publishing copies of audiovisual works or works fixed in a phonogram, or any object of related rights to producers of audiovisual works and phonograms (hereafter referred to as “persons making use of the medium for professional needs”), which are related to the recording of works or object of related rights.

**Measures of technical protection** in this Procedure shall have the meaning assigned to them in paragraph 1 of Article 74 of the Republic of Lithuania Law on Copyright and Related Rights.

**Successors in title** means any person who derives the right to remuneration for the reproduction of audiovisual works or works fixed in a phonogram for personal use by virtue of inheritance.

3. The remuneration for the reproduction of audiovisual works or works fixed in a phonogram for personal use (hereinafter referred to as the “remuneration”) shall be determined by applying a 6 per cent rate from the wholesale price of a blank digital and analogous sound-recording and audiovisual medium (with the exception of media intended for exports, professional needs and needs of the persons with hearing or visual disability) intended for personal use.

4. The remuneration shall be paid by producers and importers of blank analogous and digital sound-recording and audiovisual media intended for the reproduction for one’s individual use (hereinafter referred to as “sound-recording and audiovisual media”), except where the sound-recording and audiovisual media are brought exclusively for personal use (in the luggage of the passenger).

5. The remuneration shall be collected by the collective administration association designated by the Ministry of Culture (hereinafter referred to as the “responsible association”). The responsible association shall distribute the collected remuneration among the collective administration associations designated by the Ministry of Culture, which represent the subjects of rights referred to in point 1 of this Procedure, having regard to the percentage of the remuneration established to the subjects of rights they represent in accordance with point 21 of this Procedure. Collective administration associations shall distribute and pay the remuneration in accordance with the procedure laid down in points 22 and 23 of this Procedure.

## **II. PAYMENT OF REMUNERATION FOR SOUND-RECORDING AND AUDIOVISUAL MEDIA**

6. Importers of sound-recording and audiovisual media shall submit to the responsible association a copy of the document evidencing the acquisition of imported sound-recording and audiovisual media, which shall contain the number of sound-recording and audiovisual media, their price, item codes and descriptions, as provided for in Annex 1 to this Procedure, and producers shall present a report on the sound-recording and audiovisual media produced in the Republic of Lithuania (in accordance with Annex 2).

7. On receipt of a copy of the document referred to in point 6 above, the responsible association shall draw up an appropriate document under which the importer must pay remuneration to the account of the responsible association at the time when the customs clearance procedure is being applied to goods before they are released into free circulation.

8. If the sound-recording and audiovisual media have been produced in the Republic of Lithuania, the responsible association, on receipt of the report referred to in point 6 above, shall draw up an appropriate document under which the producer must pay remuneration to the account of the responsible association before the goods are

dispatched from the manufacturing premises until their first marketing or other transfer to ownership to other persons.

9. The responsible association shall issue to the producer or importer, who have paid the remuneration, a certificate (in accordance with Annex 3) attesting thereto within 2 working days from the presentation of the document certifying that the remuneration has been paid. The certificate covers a specific number of goods and is valid for one month from its registration.

10. The importer or producer may conclude a contract on the payment of remuneration (hereafter referred to as the “contract”) with the responsible association. The contract may stipulate other conditions for the payment of remuneration than those referred to in points 7 and 8 of this Procedure.

11. The importer shall present to the customs office the originals and copies of the certificate and document attesting the payment of remuneration or a copy of the contract stipulating other payment conditions, certified by a notary, by declaring the imported sound-recording and audiovisual media before their release into free circulation. The customs office shall put special marks on the certificate and return it to the importer. The customs office shall retain the copies of the certificate and the document attesting the payment of remuneration.

12. Where there are doubts or disagreements during the customs inspection of goods presented to the customs office as to the number and title of goods indicated in the acquisition documents or the certificate, or as to their conformity to the Combined Nomenclature, the goods shall be suspended from release into free circulation until an amended certificate has been received. The responsible association shall issue to the importer an amended certificate without delay, however within no more than two days since the day of receipt of the request for an amended certificate.

### **III. REPAYMENT OF REMUNERATION**

13. Where the sound-recording and audiovisual media, which have been produced in the Republic of Lithuania or which have been imported and released into free circulation in the Republic of Lithuania, are exported or acquired for professional needs and needs of the persons with hearing or visual disability, exporters or persons making use of the media for professional needs, undertakings or organisations established by the persons with hearing or visual disability, or associations representing the said persons (hereinafter referred to as “persons making use of the media for the needs of the persons with disability”) may file a request with the responsible association for the repayment of remuneration in accordance with the procedure laid down in point 14 and 15 below.

14. The remuneration to be repaid to the persons referred to in point 13 of this Procedure shall be calculated as follows: the number of media subject to exports or those acquired for professional needs or needs of the persons with disability shall be multiplied by the remuneration calculated by applying the rate referred to in point 3 of this Procedure from the wholesale price of the sound-recording and audiovisual medium, which is indicated by the importer or producer of the said medium.

15. The responsible association, acting in pursuance with the procedure approved by the association in agreement with the Ministry of Culture, shall repay the

remuneration to the persons referred to in point 13 above on the basis of their requests submitted within a period of 3 months from the date of exports or acquisition of the sound-recording and audiovisual media for the needs of the persons with disability or professional needs provided that the said persons have registered with the responsible association as exporters, persons making use of the media for the needs of the persons with disability or persons making use of the sound-recording or audiovisual media for professional needs. The appropriate documents shall be attached to the request to prove that:

15.1. the importers of the acquired sound-recording and audiovisual media or their producers have paid the remuneration;

15.2. the acquired sound-recording and audiovisual media have been used for the purposes indicated in point 13 of this Procedure;

15.3. payment has been made for the acquired sound-recording and audiovisual media.

16. Whenever the responsible association has reasonable doubts as to the accuracy of the information contained in the documents, it may request additional data to be submitted.

17. Importers, producers and wholesale traders from which the persons referred to in point 13 above have bought sound-recording and audiovisual media shall submit to them the documents required for the repayment of the remuneration or shall issue a certificate evidencing the acquisition of sound-recording or audiovisual media (in accordance with Annex 4).

18. The responsible association must repay the remuneration within one month at the latest from the date of receipt of the request to repay the remuneration and within two months at the latest from the date of submission of additional documents for reasons indicated in point 16 above, provided that the request filed with the association meets the conditions laid down in point 15 of this Procedure.

#### **IV. DISTRIBUTION OF REMUNERATION AND WITHOLDING OF ADMINISTRATIVE EXPENSES**

19. The responsible association shall withhold from the remuneration paid by importers and producers of sound-recording and audiovisual media an amount intended to cover the costs involved in the collection and distribution of remuneration of collective administration associations representing the subjects of rights referred to in point 1 of this Procedure, including the costs incurred in repayment of the remuneration and costs relating to the survey referred to in point 22 below (hereinafter referred to as administrative expenses). The amount of administrative expenses shall be approved by a collegial management body of the responsible association in agreement with collective administration associations representing the subjects of rights referred to in point 1 of this Procedure. If no agreement has been reached on the amount of administrative expenses with collective administration associations representing the subjects of rights referred to in point 1 of this Procedure, the said amount, at the request by the responsible association, shall be fixed by the Ministry of Culture in agreement with the Lithuanian Council of Copyright and Related Rights.

20. A 25 per cent amount shall be withheld from the remuneration which has been collected on imported and produced audiovisual media and which has been reduced by the sums laid down in point 19 above for the National Cinema Promotion Programme, as provided for in Article 8 of the Law on Cinema of the Republic of Lithuania (*Official Gazette* No 31-1107, 2002).

21. By withholding the sums referred to in point 19 and 20 of this Procedure, the collected remuneration shall be distributed among the subjects of rights as follows (in percentage):

21.1. the amount collected on sound-recording media:

21.1.1. authors – 40 per cent;

21.1.2. performers – 30 per cent;

21.1.3. producers of phonograms (including broadcasting organisations for the making of phonograms) – 30 per cent.

21.2. the amount collected on audiovisual media:

21.2.1. authors – 40 per cent;

21.2.2. performers – 30 per cent;

21.2.3. producers of audiovisual works (including broadcasting organisations for the making of audiovisual works) – 30 per cent.

22. The remuneration to the subjects of rights shall be calculated on the basis of the survey conducted by the responsible association in respect of audiovisual works and the reproduction of works fixed in a phonogram for personal use. The responsible association shall distribute to each collective administration association representing the subjects of rights referred to in point 1 of this Procedure the remuneration calculated to the latter by July 1 of the year following that in respect of which the remuneration has to be paid.

23. On the basis of the said survey, each collective administration association shall fix the amount of remuneration payable to the subjects of rights concerned. Collective administration association may allocate 25 per cent of the remuneration received from the responsible association for the imported or produced sound-recording and audiovisual media for creative activity programmes in accordance with the procedure laid down in paragraphs 1 and 3 of Article 68 of the Republic of Lithuania Law on Copyright and Related Rights.

24. In cases where the subjects of rights apply measures of technical protection which limit the reproduction of objects protected by the Republic of Lithuania Law on Copyright and Related Rights for personal use, the remuneration payable to the said subjects shall be reduced twofold. The remaining part of this remuneration shall be accumulated in a separate fund and used for creative activity programmes. If, as a result of measures of technical protection, the reproduction of objects protected by the Republic of Lithuania Law on Copyright and Related Rights for personal use becomes impossible, the remuneration to the subjects of rights referred to in point 1 of this Procedure, which apply the said measures, shall not be paid.

## V. ACCOUNTING CONTROL

25. Importers and producers must keep the accounts on the production, importation and distribution of sound-recording and audiovisual media so as to enable to infer from them the number of sound-recording and audiovisual media, which have been produced, imported and distributed, and the remuneration which has been paid.

26. The responsible association shall be entitled to obtain from the Department of Statistics under the Government of the Republic of Lithuania, customs offices, producers, importers and wholesale traders information which is necessary for the calculation and collection of remuneration. The association shall be entitled to use the information provided only for the purposes of collection and distribution of remuneration.

## **VI. MEDIATION PROCEDURES AND DEFENCE OF RIGHTS**

27. If the responsible association and importers or producers do not succeed in reaching an agreement on the payment of remuneration and concluding a contract by way of negotiations, any of them may apply to the Lithuanian Council of Copyright and Related Rights or any other mediator with a request to mediate in the conclusion of the contract.

28. If no contract is concluded with the help of the mediator, importers and producers shall pay the remuneration to the account of the responsible association in accordance with the procedure laid down in points 7 and 8 above.

29. The responsible association has to inform the Customs Department under the Ministry of Finance on the conclusion, amendment and termination of contracts with importers within 3 working days from the conclusion, amendment and termination of the contract.

30. The rights of the subjects of rights shall be defended in accordance with the procedure laid down in Article 78 of the Republic of Lithuania Law on Copyright and Related Rights. The recovered sums of the remuneration and the sums recovered in case of violation of the contract shall be distributed among the subjects of rights in accordance with points 19-23 of this Procedure.

## **VII. COLLECTIVE ADMINISTRATION MONITORING OF RIGHTS TO REMUNERATION**

31. The responsible association shall once every quarter until the 20<sup>th</sup> day of the following month submit to the Ministry of Culture the lists of producers and importers of sound-recording and audiovisual media, which pay remuneration, copies of contracts and lists of registered persons referred to in point 13 of this Procedure, which are entitled to repayment.

32. The responsible association shall submit to the Ministry of Culture by October 1 of the year in which remuneration has been distributed a report on the remuneration that has been collected and distributed and on the collective administration expenses in relation thereto. Collective administration associations representing the subjects of rights indicated in point 1 of this Procedure shall submit to the Ministry of Culture by

March 1 of the year following that in which remuneration has been paid a report on the remuneration distributed and paid to the subjects of rights they represent. If the activities of the responsible association and other collective administration associations do not comply with laws, the Ministry of Culture may revoke their power to collect, distribute and pay remuneration.

Annex 1  
to the Procedure for the Distribution  
and Payment of Remuneration for  
the Reproduction of Audiovisual Works  
or Works Fixed in a Phonogram for Personal Use

CN code*	Description
8471.70.53.0	Hard disk drives
8523.11.00.0	Magnetic tapes of a width not exceeding 4 mm
8523.12.11.0	Magnetic tapes of a width exceeding 4 mm but not exceeding 6,5 mm
8523.13.00.0	Magnetic tapes of a width exceeding 6,5 mm
8523.20.10.0	Rigid magnetic discs
8523.20.90.0	Other magnetic disks
8523.90.00.0	Other prepared unrecorded media for sound recording or similar recording of other phenomena

\*CN codes are indicated in accordance with the 2003 edition of the Combined Nomenclature.

Annex 2  
to the Procedure for the Distribution  
and Payment of Remuneration for  
the Reproduction of Audiovisual Works  
or Works Fixed in a Phonogram for Personal Use

**(Report form)**

\_\_\_\_\_ (name of the producer)

\_\_\_\_\_ (code, VAT payer's code, register containing data on the legal person,

\_\_\_\_\_ address (registered office), telephone, fax numbers, e-mail address)

\_\_\_\_\_ (addressee)

**REPORT ON THE PRODUCED SOUND-RECORDING AND AUDIOVISUAL  
MEDIA**

\_\_\_\_\_ No \_\_\_\_\_  
(date)

Produced sound-recording and audiovisual media:

\_\_\_\_\_ ;  
(name, quantity, wholesale price per unit)

\_\_\_\_\_ ;  
(name, quantity, wholesale price per unit)

\_\_\_\_\_ ;  
(name, quantity, wholesale price per unit)

\_\_\_\_\_ ;  
(name, quantity, wholesale price per unit)

(Title)

A.V.

(Signature)

(Full name)

\_\_\_\_\_

Annex 3  
to the Procedure for the Distribution  
and Payment of Remuneration for  
the Reproduction of Audiovisual Works  
or Works Fixed in a Phonogram for Personal Use

**(Certificate form)**

\_\_\_\_\_  
(name of the responsible association)

\_\_\_\_\_  
(code, address (registered office), register containing data on the legal person)

**CERTIFICATE ON THE SOUND-RECORDING AND AUDIOVISUAL  
MEDIA**

\_\_\_\_\_ No \_\_\_\_\_  
(date)

\_\_\_\_\_ certifies that  
(name of the responsible association)

\_\_\_\_\_  
(name of the producer and importer, VAT code, address (registered office), code, register in which the data on the legal person

\_\_\_\_\_  
is being accumulated and stored, registration No (for legal persons) and personal number,  
\_\_\_\_\_  
identity card number (for legal persons).

acting in pursuance with the following documents:

\_\_\_\_\_  
(title, number and date of the document)

\_\_\_\_\_  
and point 7 of the Procedure for the Distribution and Payment of Remuneration for  
the Reproduction of Audiovisual Works or Works Fixed in a Phonogram for Personal  
Use, approved by Resolution No ... of ..... 2003 of the Government of the Republic  
of Lithuania, imports or has produced

\_\_\_\_\_  
(title and quantity of sound-recording or audiovisual media, wholesale price per unit, code of goods

\_\_\_\_\_  
in accordance with Annex 1 to the Procedure for the Distribution and Payment of Remuneration for the  
\_\_\_\_\_  
Reproduction of Audiovisual Works or Works Fixed in a Phonogram for Personal Use)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

and has paid the remuneration for the reproduction of audiovisual works or works fixed in a phonogram for personal use

\_\_\_\_\_ (amount in words, payment date, document number)

\_\_\_\_\_ The certificate shall expire on \_\_\_\_\_.

(Title) (Signature) (Full name)  
A.V.

Customs mark

Place and date of the clearance of goods \_\_\_\_\_

\_\_\_\_\_ Customs declaration number \_\_\_\_\_

Other marks \_\_\_\_\_

(Title of the customs official) (Signature) (Full name)  
A.V.

\_\_\_\_\_

