

ORDINANCE OF THE MINISTER OF CULTURE¹
dated 2 June 2003

on the specification of the category of equipment and carriers used for the fixation of works and fees paid in respect of the sale of such equipment and carriers by producers and importers

(Journal of Laws dated 17 June 2003)

Pursuant to Article 20 Section 5 of the Act on Copyright and Related Rights dated 4 February 1994 (Journal of Laws of 2000, No. 80, Item 904, of 2001, No. 128, Item 1402 and of 2002, No. 126, Item 1068 and No. 197, Item 1662) the following is hereby decreed:

§ 1. The Ordinance specifies:

- 1) categories of equipment and blank carriers used for the fixation of works within the scope of the private use;
- 2) the amount, manner of collection and distribution of fees paid in respect of the equipment and carriers referred to in Section 1;
- 3) the organizations of collective management of copyright or related rights authorized to collect the fees for the equipment and carriers referred to in Section 1.

§ 2. 1. The categories of equipment and blank carriers and the amount of fees for the following equipment are hereby determined:

- 1) tape recorders and other similar equipment and related blank carriers whose list is attached hereto as Appendix No. 1;
- 2) video recorders and other similar equipment and related blank carriers whose list is attached hereto as Appendix No. 2;
- 3) photocopying machines, scanners and other similar reprographic equipment and related blank carriers whose list is attached hereto as Appendix No. 3;

2. If the equipment referred to in Section 1 is a component of another equipment that contains elements which are not subject to a fee, the fee shall only be charged for that part of the equipment which is used for the fixation of works.

§ 3. 1. The following organizations of collective management of copyright or related rights shall be authorized to collect the fees for the equipment and carriers referred to in Appendices No. 1 and 2 to the Ordinance:

- 1) Authors' Society (ZAiKS) – for the benefit of the authors
- 2) Polish Musical Performing Artists' Society (SAWP) - for the benefit of the performers;
- 3) Polish Society of Phonographic Industry (ZPAV) - for the benefit of the producers of phonograms and videograms.

2. Distribution of fees collected by the organizations referred to in Section 1 shall be made by:

- 1) in respect of the equipment and carriers mentioned in Appendix No. 1 to the Ordinance:
 - a) Authors' Society (ZAiKS) - for the benefit of the authors,
 - b) Polish Musical Performing Artists' Society (SAWP) - for the benefit of the performers,

¹The Minister of Culture is in charge of the governmental administration department responsible for the culture and protection of national heritage pursuant to [§ 1](#) Section 2 of the Ordinance of the President of the Council of Ministers dated 29 March 2002 on the detailed scope of actions of the Minister of Culture (Journal of Laws No. 32, Item 303).

- c) Polish Society of Phonographic Industry (ZPAV) - for the benefit of the producers of phonograms;
- 2) in respect of the equipment and carriers mentioned in Appendix No. 2 to the Ordinance:
 - a) Association of Polish Cinematographers - for the benefit of the authors,
 - b) Association of Polish Stage Artists (ZASP) - for the benefit of the performers,
 - c) Polish Society of Phonographic Industry (ZPAV) - for the benefit of the producers of videograms.

§ 4. The following organizations of collective management of copyright or related rights shall be authorized to collect the fees paid in respect of the equipment and carriers referred to in Appendix No. 3 to the Ordinance:

- 1) Society for Collective Copyright Administration for Authors of Scientific and Technical Works (KOPIPOL) - for the benefit of the authors;
- 2) Association of the Authors and Publishers "Polska Książka" - for the benefit of the publishers.

§ 5. Organizations referred to in § 3 Section 1 and § 4 may act jointly for the purpose of collecting the fees.

§ 6. 1. Organizations mentioned in § 3 Section 1 and § 4 shall collect the fee for the given quarter within 14 days of the end of that quarter. Information forming the basis for the specification of the amount of that fee shall be passed together with the fee.

2. Within 60 days after the end of the given quarter, organizations mentioned in § 3 Section 2 and § 4 shall remit to the organizations of collective management of copyright or related rights, which represent the authors, performers, producers of phonograms and videograms, hereinafter called the "organizations representing the rightholders", the amounts owed to the entities represented by these organizations together with the information on the settlement of the collected fees.

§ 7. 1. Organizations mentioned in § 3 Section 2 and § 4 shall remit to the organizations representing the rightholders the fees in the amount proportionate to the scope of fixation for a private use of the works, performances, phonograms and videograms created by these entities represented by these organizations.

2. Organizations mentioned in § 3 Section 2 and § 4 shall distribute the fees on the basis of an agreement made by all the organizations representing the rightholders, after having decided what portion of the fees is owed to particular categories of rightholders, taking into account the results of tests covering the use of works, performances, phonograms and videograms, which reflect the structure and the scale of the fixation of the works, performances, phonograms and videograms for the private use.

3. In the event that the organizations representing the rightholders cannot reach the agreement, the organizations mentioned in § 3 Section 2 and § 4 shall distribute the fees after having decided, taking into account the results of tests mentioned in Section 2, what portion of the fees is owed to particular categories of rightholders. The organization representing the rightholders may notify the organization mentioned in § 3 of its objections concerning the amount of the fee and submit relevant documents.

4. In the event that other organizations do not accept such objections, the organizations mentioned in § 3 Section 2 and § 4 shall set aside, until the dispute is settled, the amount equal to the value of the evidenced claim lodged by the organizations representing the rightholders.

5. All the organizations representing a given category of rightholders shall mutually agree on the selection of an entity for carrying out the tests mentioned in Sections 2 and 3 and

agree on the scope and frequency of such tests. The organizations mentioned in § 3 Section 2 and § 4 shall make the results of tests available to the other organizations.

§ 8. The organizations mentioned in § 3 Section 2 and § 4 shall distribute the fees after deducting justified and evidenced costs incurred for the purpose of asserting such fees and their distribution.

§ 9. The organizations mentioned in § 3 Section 2 and § 4 shall accumulate in separate bank accounts:

1. the fees collected from the producers and importers;
2. a portion of the fees allocated to the entities which are not represented by any organization – for the purpose of its distribution among these entities.

§ 10. The organizations representing the rightholders shall distribute the fees received from the organizations mentioned in § 3 Section 2 and § 4 among the entities represented by these organizations.

§ 11. The fees for the first and the second quarter of 2003 shall be collected by 31 July 2003.

§ 12. The Ordinance shall come into force after 14 days following the date of its promulgation.²

² This Ordinance was preceded by the Ordinance of the Minister of Culture and Art dated 5 December 1995 on the amount, detailed rules of collecting and remitting the fees for blank carriers and equipment used for the fixation of works for the private use and indication of collective management organizations competent to collect such fees (Journal of Laws of 1996, No. 1, Item 5).

APPENDICES

APPENDIX No. 1

LIST OF TAPE RECORDERS, OTHER SIMILAR EQUIPMENT AND RELATED BLANK CARRIERS AND THE AMOUNT OF FEES COLLECTED IN RESPECT OF SUCH EQUIPMENT AND CARRIERS

No	Type of the equipment or carrier	Amount of the charges in % counted from the sales prices of the equipment or carrier
1	MP3 Single Function	3.00%
2	CD-R Disc (12 cm)	1.72
3	CD-RW Disc (12 cm)	2.89
4	DAT cassette	3.00
5	MD disc (MiniDisc)	3.00
6	Compact Cassette	3.00
7	Memory card (including USB flash drive and other semiconductor removable memory)	0.47
8	Shelf system with CD and cassette player	0.76
9	Shelf system with DVD and cassette player	0.76
10	Shelf system with CD and cassette player with recording function	0.70
11	Shelf system with DVD/CD player with flash disc recording function	0.17
12	Shelf system with DVD and cassette player with recording function	1.04
13	Shelf system with hard/flash disc	0.19
14	Radio tuner with cassette and CD player	0.74
15	Radio tuner with cassette and CD player with recording function	0.69
16	Radio tuner with cassette player	0.96
17	Radio tuner with MD disc player with recording function	0.98
18	Radio tuner with CD player with recording function	0.54
19	Radio tuner with CD player with flash disc recording function	0.05
20	CD player with recording function	0.94
21	MD disc player with recording function	1.71
22	STANDARD computer hard disc drive	1.00
23	Non-computer HDD in other devices which enable to record works and subject-matter of related rights protection, including audio and audiovisual	1.00
24	CD optical disc drive	1.54

25	DVD optical disc drive	2.28
26	Cassette player	2.03
27	Multimedia multifunctional MP3 player	1.14
28	Car system with CD player with recording function	1.08
29	Car system with CD player with different media recording function	0.30

APPENDIX NO. 2

LIST OF VIDEO RECORDERS, OTHER SIMILAR EQUIPMENT AND RELATED BLANK CARRIERS AND THE AMOUNT OF FEES COLLECTED IN RESPECT OF SUCH EQUIPMENT AND CARRIERS

No	Type of the equipment or carrier	Amount of the charges in % counted from the sales prices of the equipment or carrier
1	DVD-R Disc (12 cm)	2.53
2	DVD-RW Disc (12 cm)	2.95
3	DVD RAM Disc (12 cm)	3.00
4	Blu-Ray Disc-R (12 cm)	2.10
5	Blu-Ray Disc-RE (12 cm)	2.10
6	HD DVD-R Disc (12 cm)	2.10
7	HD DVD-RW Disc (12 cm)	2.44
8	VHS Cassette	3.00
9	VHS-D Cassette	3.00
10	HD DVD or Blu-Ray optical disc drive	1.89
11	Video Cassette Player	2.14
12	Video Cassette Player with recording function	2.35
13	DVD player with recording function	1.46
14	DVD player with USB recording function	0.27
15	DVD player with recording function and HDD	2.23
16	DVD and VHS player with recording function	2.23
17	Professional DVD and VHS player with recording function and HDD	1.86
18	High Definition system player with recording function	1.21
19	High Definition system player with recording function and HDD	1.85
20	Disk memory recording AV streaming (including digital TV decoder with HDD)	0.87
21	TV and video set	0.51

22	TV set with HDD	0.51
23	TV set with DVD optical disc drive	0.35
24	TV set with DVD optical disc drive and HDD	0.87

APPENDIX NO. 3

LIST OF PHOTOCOPYING MACHINES, SCANNERS AND OTHER SIMILAR REPROGRAPHIC EQUIPMENT AND RELATED BLANK CARRIERS AND THE AMOUNT OF FEES COLLECTED IN RESPECT OF SUCH EQUIPMENT AND CARRIERS

No	Type of the equipment or carrier	Amount of the charges in % counted from the sales prices of the equipment or carrier
1	Ink, laser, analog and thermal copy machine	3.00
2	Desktop scanner	3.00
3	Other types of scanner, including manual and sheet-feed scanners	2.00
4	Termotransfer Fax	1.00
5	Plain-paper fax with sheet-feed scanners	1.50
6	Plain-paper Fax with desktop scanner	2.00
7	Inkjet printer and laser printer	1.50
8	A3 and A4 paper	1.25
9	Multifunctional device including scanner and copier, without other functions	3.00
10	Multifunctional device including scanner and copier and other functions	2.80
11	Multifunctional device including scanner and copier, without other functions locked - accessible on demand	2.90
12	Copier, printer or multifunctional device capable to make copies of works on the papers bigger than A3 (large format devices)	1.00, but no more than PLN 100