



DIGITALEUROPE 

**THE 60-YEAR  
COPYRIGHT  
LEVIES SAGA:**

High time  
for reform

**NOVEMBER 2024**



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# Executive summary

Originally introduced on blank media like cassette tapes to compensate artists for private copying, copyright levies have ballooned into a complex and outdated system applied to most electronic devices. They stifle the single market and unfairly tax consumers. Whilst fair compensation for creators and a thriving cultural sector are essential, the current levy system is ineffective and urgently requires profound reform.

The vastly different national systems across the EU discourage cross-border trade, distort prices and availability, and impose a huge administrative burden on businesses. The attempted expansion of levies to cloud services, refurbished products and offline downloads from streaming services only worsens the problem.

With private copying drastically declining, it is crucial to shift to alternative models that can benefit consumers, Europe's digital transformation and rightsholders alike. These models should be technologically neutral, avoid market distortion and reduce administrative burden.

We propose a collaborative exploration of fairer, more efficient solutions. These could include:

-  **State budget model:** Following Finland's example, device-based levies could be replaced with a state fund managed by an advisory board, ensuring fair compensation with reduced administrative costs.
-  **Direct licensing model:** The private copy exemption could be abolished in favour of direct payments per copy, supported by blockchain technology for transparency and reduced unauthorised usage.
-  **Household cultural contribution:** Contributions could be linked to the potential use of devices in households rather than individual ownership, simplifying administration and allowing exemptions for hardship cases.
-  **Fee on cultural works at the point of sale:** Funding could be aligned with the consumption of copyrighted content, ensuring proportional contributions.

DIGITALEUROPE is committed to finding a long-term solution, including transitional funding models during the shift from device-based levies. We welcome discussions with all stakeholders to create a system fit for the digital age.

# What are copyright levies?

Private copying levies, or copyright levies, are fees imposed on certain electronics to compensate copyright holders for potential lost revenue due to private copying. Originally introduced in the 1960s on blank media like cassette tapes, these levies aimed to address the ease of duplicating copyrighted material for personal use.

Private copying differs from illegal copying or piracy, such as downloading unauthorised content from websites or file-sharing platforms. Levies are meant to cover legal copying allowed under the private copy exception, such as transferring a purchased CD to an MP3 player or photocopying a few book pages.<sup>1</sup> Piracy, which causes losses not covered by these levies, is tackled through other legal measures.

Initially, levies targeted devices specifically used for recording or copying. As technology advanced, they expanded to include a wide range of consumer electronics capable of making copies, even if not primarily used for that purpose. Europeans now collectively pay over a billion euros in levies annually.<sup>2</sup> In 22 Member States, purchasing items like smartphones, tablets, laptops, printers or even game consoles may involve paying a copyright levy.<sup>3</sup>

Country	Average Levies per Household
Germany	€147.60
France	€131.60
Greece	€84.50
Italy	€75.40
Austria	€73.60
Spain	€45.36
Netherlands	€32.80
Estonia	€31.00
Finland	€0

\*Average based on a 4-person household (4 smartphones, 2 tablets, 2 PCs, 1 hard drive, 1 smartwatch, 1 printer, 1 games console and 2 TV set-top boxes).<sup>4</sup>



Did you know?

Did you know that you pay up to an €87 levy for a multi-functional printer in Germany, €18 on a games console in Italy, or €14 on a smartphone in France?

<sup>1</sup> Art. 5(2)(b), Directive 2001/29/EC (InfoSoc Directive).

<sup>2</sup> See CISAC, Private Copying Global Study 2020, available at <https://www.cisac.org/services/reports-and-research/private-copying-global-study>.

<sup>3</sup> Austria, Belgium, Bulgaria, Croatia, Czechia, Denmark, Estonia, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden.

<sup>4</sup> In Finland, private copying is compensated for by the state budget rather than device-based copyright levies.

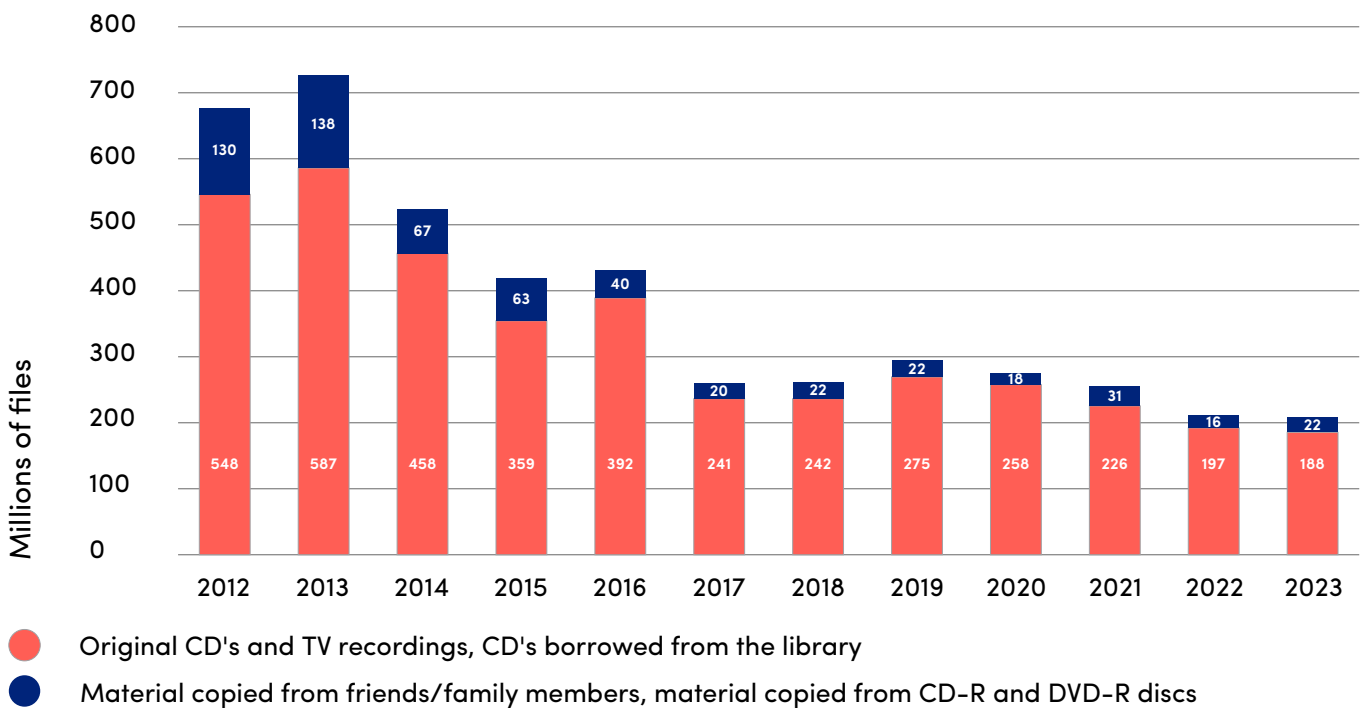
# Why the levies system no longer makes sense

## Radically changed consumer behaviour

The way people enjoy copyrighted content has dramatically shifted, rendering the levy system outdated. Originally designed for an analogue era, the system no longer aligns with current consumer habits. Streaming services now dominate how users consume copyrighted material, making private copying increasingly irrelevant. The global record music market continues to grow year on year largely due to the rise in paid subscription streaming, in 2023, for instance, the market grew by 10.2 per cent.<sup>5</sup>

### Private copying in 2012 – 2023

Figure 1. Total volume of private copying, 2012–2023. Taloustutkimus 2023



Finnish Ministry of Education and Culture, 2023, 'Survey: private copying continues to decline' available at <https://okm.fi/en/-/survey-private-copying-continues-to-decline>

## Unjust tax on consumers

Despite the dramatic decline in private copying, European consumers are paying increasingly higher copyright levies on more devices. This results in double-charging as consumers pay for both content subscriptions and levies on an ever-expanding list of devices.

<sup>5</sup> See IFPI, Global Music Report 2024: State of the Industry, available at [https://www.ifpi.org/wp-content/uploads/2024/04/GMR\\_2024\\_State\\_of\\_the\\_Industry.pdf](https://www.ifpi.org/wp-content/uploads/2024/04/GMR_2024_State_of_the_Industry.pdf).

For example, Austria recently introduced levies on virtual reality glasses and toys with built-in memory despite a lack of evidence that these are used for private copying.<sup>6</sup> This practice contradicts the InfoSoc Directive, which states that fair compensation through levies should reflect the actual harm caused by private copies. Since private copying now causes minimal harm, there is no justification for these levies.<sup>7</sup>

Most European consumers are unaware that they are paying copyright levies, why they are paying them or what benefits they receive. This lack of awareness has allowed the system to persist, unfairly charging consumers for something they no longer do.

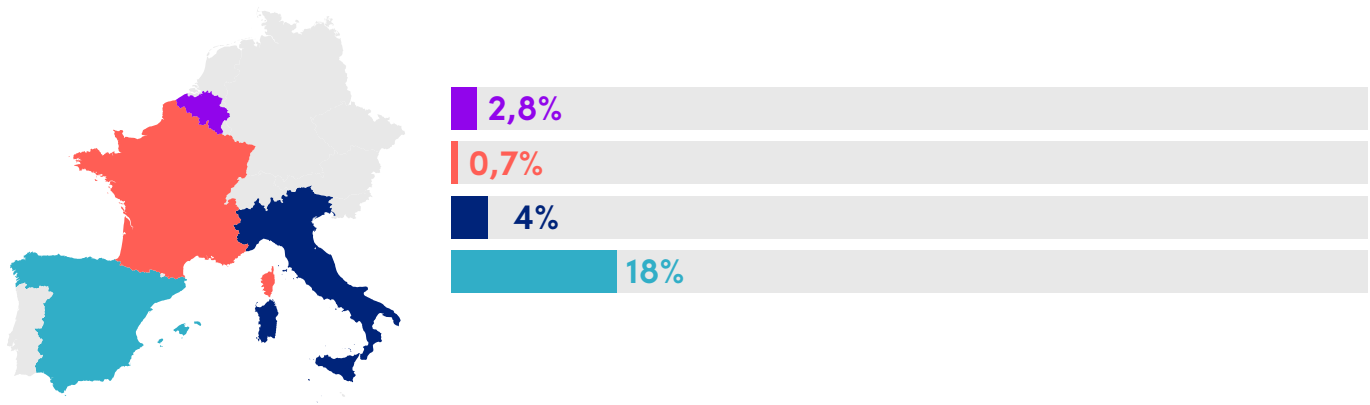
## Unfair impact on businesses, especially SMEs

Businesses, particularly SMEs, suffer significantly from the levy system. Levies are often unlawfully collected from professional customers, even though, based on EU law, only private individuals should be charged levies for private copies. This is because the private copy exception only applies to natural persons.

Country	Average Levies per SME
Germany	€5,083.95
Greece	€4,852.00
France	€3,816.00
Italy	€3,537.90
Spain	€2,440.92
Austria	€2,206.00
Netherlands	€2,105.10
Estonia	€1,948.00
Finland	€0

\* Average based on SME with 249 employees (249 smartphones, 50 tablets, 249 PCs, 10 hard drives, 14 printers/copy-machines, 6 TV set-top boxes).<sup>10</sup>

## Reimbursement rates for professional use in 2020



As shown in a report by the French Parliament, reimbursements for 2020 corresponding to professional users represented only 0.7% of the total sum which should have been reimbursed, resulting in a staggering overpayment to Copie France.

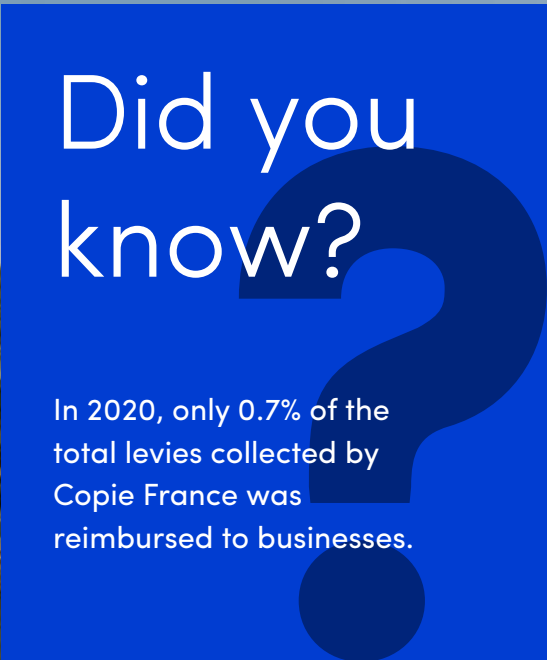
<sup>6</sup> See Wirtschaftskammer Österreich (WKO), 'Copyright levy: New tariffs as of 1 February 2024,' available (in German) at <https://www.wko.at/oe/handel/maschinen-technologie/urheberrechtsabgabe-neue-tarife-per-1.2.2024>.

<sup>7</sup> Recital 35 InfoSoc Directive mentions that '[i]n cases where rightholders have already received payment in some other form, for instance as part of a licence fee, no specific or separate payment may be due,' and that '[i]n certain situations where the prejudice to the rightholder would be minimal, no obligation for payment may arise.'



No levies should be charged when businesses or professionals purchase devices for professional use. Or, at the very least, where this is unavoidable, an efficient and easily accessible system needs to be in place for businesses to claim reimbursement. However, many EU countries fail to provide any reimbursement, while others have schemes that are so cumbersome they have little practical value.<sup>8</sup>

This leads to significant overpayments, with SMEs bearing substantial costs. For instance, in France, reimbursements for professional users in 2020 represented only 0.7 per cent of the total sum that should have been reimbursed, resulting in massive overpayments.<sup>9</sup>



Did you know?

In 2020, only 0.7% of the total levies collected by Copie France was reimbursed to businesses.

0.7%



<sup>8</sup> If unavoidable, EU law requires a system whereby businesses can claim reimbursements. Some Member States, like Poland and Greece, fail to provide exemptions or reimbursements, whilst others, like France, have cumbersome schemes. Other countries, like Germany, have a reduced levy for business sales, which combines the problems of lack of full refund and cumbersome process to benefit from reduced levy. Member States have consistently failed to implement a fully compliant exemption regime, despite numerous judgments by the Court of Justice of the EU (CJEU). The Court has clarified that legal persons (and natural persons not acting as private users) should not be liable for the private copying levy. They must be exempt from such payment or, where identifying final users presents practical difficulties, be refunded. This has been affirmed in various rulings, including in C-521/11, C-463/12, C-470/14 and C-110/15.

<sup>9</sup> See Government report to Parliament on private copying compensation, available at <https://www.culture.gouv.fr/en/documentation-area/Reports/Government-Report-to-Parliament-on-Private-Copying-Compensation-October-2022>. In the same year, reimbursement rates for professional use were 18 per cent in Spain, 4 per cent in Italy and 2.8 per cent in Belgium.. In Spain, professional customers can obtain an exemption from levies, but they must apply and receive a certification from the collecting societies. Despite this system being in place since 2018, only 740 businesses have successfully obtained the exemption. In contrast, the public sector is directly exempted without needing to go through this process.



## Lack of transparency and accountability

Collecting societies often lack transparency in managing and redistributing levy revenues, causing a lack of accountability in the whole system. Despite collecting over €1 billion annually, detailed reports on the use of these funds are scarce.<sup>10</sup> Information about reimbursements for professional use and the redistribution of funds to rightsholders is limited. There is a lack of data on how collecting societies redistribute funds collected from levies to their members, allocate resources for cultural activities and justify any retained funds. Additionally, the harm assessment studies used by Member States to set levies are frequently not made public.



**Despite collecting over 1 billion euros in levies in Europe each year, detailed reports on the remuneration received from copyright levies are scarce, with limited insight into the amounts collected from European consumers when they purchase various devices.**

## Raw deal for rightsholders

The current levy system is inefficient and burdensome to compensate rightsholders. The extensive administrative efforts required to negotiate tariffs, resolve lawsuits and comply with reporting divert significant funds away from creators. As a result, a significant portion of the collected funds fails to reach their intended recipients.



<sup>10</sup> In Finland, private copying is compensated for by the state budget rather than device-based copyright levies.

<sup>11</sup> CISAC, Private Copying Global Study 2020, available at

<https://www.cisac.org/services/reports-and-research/private-copying-global-study>.

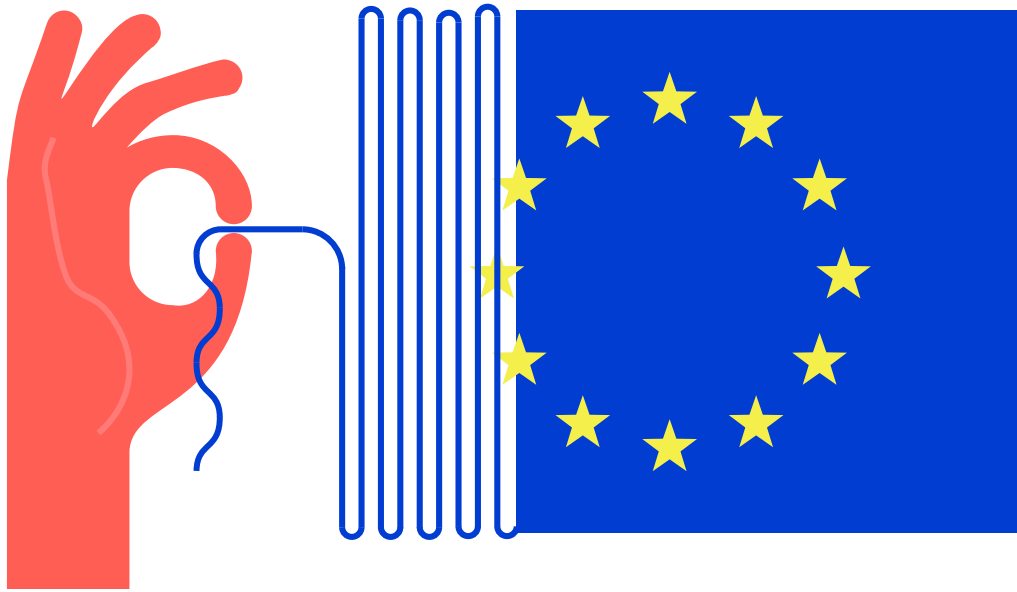
# 22 EU countries currently have device-based copyright levies:

## Countries:

Austria, Belgium, Bulgaria, Croatia, Czechia, Denmark, Estonia, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden.
















# Impact on the single market



Copyright levies significantly challenge the single market by hindering the free movement of goods and services across Europe. The diversity among the 22 Member States' copyright levy systems is striking in terms of covered devices, tariff levels, administrative procedures and collection methods, making the system burdensome and undermining competitiveness.

## Differences in copyright levies in the 5 biggest EU countries

								
	TV Set-Top Box	Smartphone	Laptop	Printer	Tablet	Games Console	Smartwatch	Hard Drive
	✓	✓	✓	✓	✓	✗	✓	✓
	✓	✓	✗	✗	✓	✗	✗	✓
	✗	✓	✓	✗	✓	✓	✓	✓
	✗	✓	✓	✓	✓	✗	✓	✓
	✓	✗	✓	✓	✗	✗	✗	✓

## A fragmented levies system

Levy schemes differ widely in:



The media or devices subject to levies, e.g. hard disks, MP3 players, printers, PCs and smartphones;



The value of levies for the same media or devices, e.g. a 128 GB smartphone levy is €3.25 in Spain but €15.50 in neighbouring Portugal;



The basis for levy calculations (fixed fees, storage capacity, a percentage of sales price);



The entities responsible for paying levies (manufacturers, importers, distributors or consumers);



The beneficiaries of levies (music, audiovisual, reprographic rightsholders, cultural or social purposes); and



Regulatory structures (tariff setting processes, contestability of tariffs, governance and supervision).

Arbitrary variations in copyright levies across Member States distort the single market. Products subject to levies in one Member State may be exempt in another, leading to disparities in pricing and consumer choice. Businesses in Member States with lower or no levies gain a competitive edge, creating an uneven playing field and promoting a grey market where direct sales from third countries bypass levies, resulting in unfair competition and reduced income for rightsholders.



## An administrative tangle deterring free circulation

Compliance with copyright levy systems across Europe is an administrative nightmare for manufacturers, distributors and retailers, deterring cross-border trade and investment within the EU.

Businesses must navigate varying tariff levels, coverage criteria and administrative procedures for reporting, payment and documentation for exports and professional use. This complexity requires systems to maintain detailed data and perform calculations across millions of shipments. For example, just in Greece, a company selling several devices may receive up to 72 invoices every quarter from 18 collecting societies, each with different invoicing processes.

Levies paid in one country can be reclaimed upon export, but the reimbursement process is highly burdensome, requiring proof of export on a case-by-case basis. Businesses must report imports in one country, declare exports to another, and then report imports again.

With millions of cross-border transactions each year, this makes reimbursement practically unmanageable. The situation is further complicated because most transactions are handled indirectly through distributors and partners, often resulting in levies being paid twice<sup>1</sup>



## Inefficient compensation

This cumbersome system has led to hundreds of long-running court proceedings on copyright levies across Europe, some lasting over 20 years. The decisions vary by country, and many cases are referred to the Court of Justice of the European Union (CJEU).

Collecting societies often publish very high and unlawful tariffs, resulting in legal challenges. For example, initial demands for smartphone levies in Germany and Sweden were over €35 and €70, respectively, before agreements were reached.

These legal battles create insecurity, high costs and market distortion, as businesses must set aside funds for potential retroactive claims.

Legal uncertainty also undermines the primary goal of compensating rightsholders. The costs of lawsuits are deducted from their revenues, diverting significant funds away from creators and making the system inefficient.



## Did you know?

A recent study by the Austrian Chamber of Commerce showed that the administrative costs of collection, distribution and control of the copyright levies system are significantly higher than the amount collected.

For example, implementing a €2.50 levy for a smartphone costs companies an average of €11 and 13 minutes of work per incident.<sup>12</sup>



# More levies

Despite being fundamentally outdated and unsuitable for the digital age, collecting societies continue to push for expanding copyright levies. These new proposals would only exacerbate existing problems by further hindering digital adoption, distorting the single market and undermining efforts towards a circular economy.

## Cloud levies

Proposals to impose levies on cloud services highlight the system's absurdity in the digital era. Collecting societies across Europe are demanding levies on cloud services. In Switzerland, for example, in 2021, collecting societies proposed CHF10.80 (about €11) per user per year.<sup>13</sup> In Germany, there have been several recent court cases rejecting levies on "imported cloud services" leading to demands for a change in German copyright law.<sup>14</sup>



There is no basis for extending the obsolete levies system to cloud. Minimal private copying occurs on cloud platforms. Individual users typically use cloud services for personal backups, not third-party content.<sup>15</sup> Any private copies stored are already covered by levies on devices used to access cloud services, such as smartphones or PCs.

Imposing cloud levies would increase costs for consumers and businesses, deter cloud adoption and disadvantage the European cloud industry.<sup>16</sup> Furthermore, it would lead to market fragmentation and double payments across Member States.

## Refurbished products

Adding copyright levies to refurbished products is growing in frequency. In countries like France and the Netherlands, refurbished items face additional levies, resulting in double payments if the original purchase was already levied. This practice discourages the sale of refurbished goods, undermining efforts to reduce electronic waste and promote a circular economy.

<sup>12</sup> See WKO, The storage media levy in Austria: Foundations for future viability and reform of the storage media levy, available (in German) at <https://www.wko.at/oe/handel/maschinen-technologie/speichermedienverguetung-studie.pdf>

<sup>13</sup> Data from our Swiss national trade association member Swico.

<sup>14</sup> Higher Regional Court Munich, verdict from 02.02.2024, Case No. 38 Sch 60/22 WG e.

<sup>15</sup> Eurostat data shows that among those who used internet storage space, 82 per cent saved or shared photos, whilst 54 per cent reported saving or sharing text documents, spreadsheets or electronic presentations. See Eurostat, 'Internet and cloud services – statistics on the use by individuals,' available at [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Archive:Internet\\_and\\_cloud\\_services\\_-\\_statistics\\_on\\_the\\_use\\_by\\_individuals](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Archive:Internet_and_cloud_services_-_statistics_on_the_use_by_individuals).

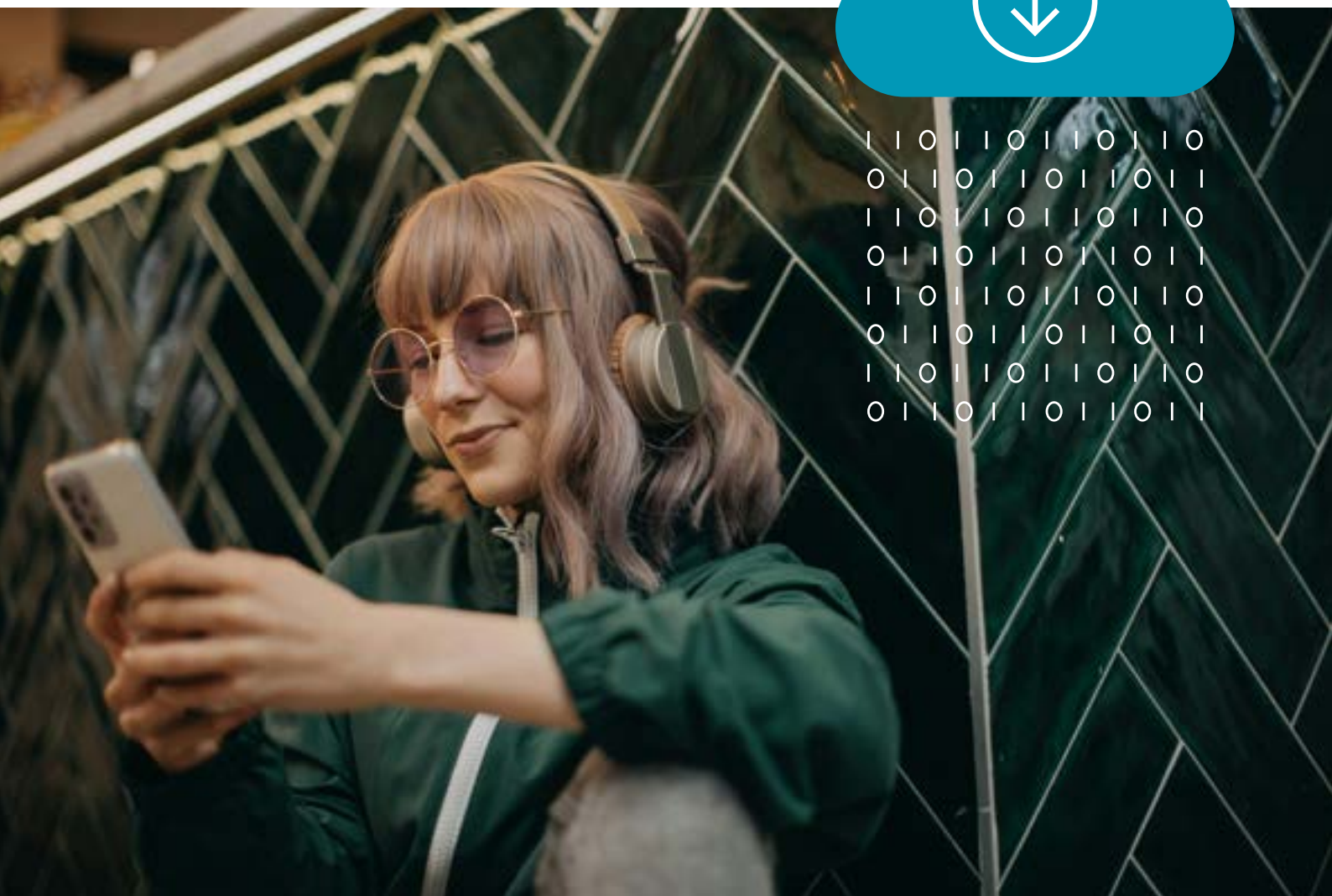
<sup>16</sup> For instance, a European cloud startup would face: reporting requirements to hundreds of collecting societies across 22 Member States; different levies calculated on varying criteria and administrative procedures; and potential legal challenges and retroactive demands<sup>3</sup>

## Offline downloads from streaming services

Collecting societies across Europe are pushing to include offline downloads from services like Netflix and Spotify in the levies system. However, these downloads are not private copies.

Users do not own or control them; they have limited access and cannot copy or forward them. When subscriptions end or content is removed, access is revoked. Rightsholders already receive remuneration through streaming service licence fees, so there is no harm. Streaming providers, in fact, pay rightsholders extra for the ability to offer this offline functionality to their customers.

Including offline downloads in levy calculations is unjustified and results in double payments by consumers. The Dutch courts recently ruled against this, leading to a reduction in levies in the Netherlands because offline copies had incorrectly been used to calculate the tariffs.<sup>17</sup> Without clear EU guidance, these disputes will continue across Member States.



<sup>17</sup> See <https://www.onderhandelinguiskopie.nl/About-the-SONT> and CJEU C-496/24 (Stichting de ThuisKopie).

# Alternatives are possible

A vibrant cultural sector is crucial for European identity and the success of the European digital ecosystem. Although copyright levies are a significant revenue source for some rightsholders, a more equitable and efficient mechanism to remunerate creators that benefits all players in the innovation value chain, including consumers, is needed.

As private copying becomes less significant in the digital world, we need a collective effort to explore fairer, more effective models for compensating rightsholders. Our industry is ready to engage in finding a long-term, fair solution, including transitional funding models that could be used in the interim while Europe moves away from device-based levies.

We propose several alternative schemes and welcome discussions with all stakeholders. Four guiding principles should drive the new approach: technology neutrality; fairness and consistency; no market distortion; and reduced burdens.

## State budget model



Some Member States use alternative methods to support a thriving cultural environment. Finland's state budget contribution model is an effective example. After reviewing the inefficiency and unfairness of the device-based levy system, Finland replaced it with a state fund managed by an advisory board. This board, guided by usage studies conducted annually by an independent research organisation, determines the fund's scope and ensures fair compensation for rightsholders. The transparent process, with results published online, builds accountability and trust.<sup>18</sup>

This model offers stable payments to rightsholders and significantly reduces administrative costs.



<sup>18</sup> Finnish Ministry of Education and Culture, 'Survey: private copying continues to decline.'

## Direct licensing model

### Pay Per Click



A substantial legislative change could replace the private copy exemption with a direct licensing model.

Rightsholders would receive direct payments for private copying on a pay-per-click/copy basis. Blockchain technology could support this model, using smart contracts to automate royalty payments directly to creators based on usage data.

This transparent system would reduce unauthorised usage and build trust amongst stakeholders.

## Household cultural contribution

A household cultural contribution would be linked to the potential use of devices in private households rather than individual device ownership.



This approach ensures that end-users, responsible for private copying, pay for it, aligning with CJEU case law.<sup>19</sup> This model simplifies administration, allows exemptions for hardship situations, which isn't possible with device-based levies, and uses existing infrastructures for efficient collection and distribution.

An annual study could determine the total sum based on private copying volume. As an example, a total financing volume of €1 billion would mean €0.42 per EU household per month.<sup>20</sup>

## Fee on cultural works at the point of sale



A fee on cultural works at the point of sale for works legally subject to private copying would align funding with the consumption of copyrighted content. This model ensures that those benefiting from private copying contribute proportionally.

The types of works and tariff levels could be determined by an annual consumer behaviour study. Existing VAT infrastructure could facilitate efficient collection.

<sup>19</sup> See, for example, C-467/08.

<sup>20</sup> Based on 198 million households in the EU.

# DIGITALEUROPE

DIGITALEUROPE represents the voice of digitally transforming industries in Europe. We stand for a regulatory environment that enables businesses to grow and citizens to prosper from the use of digital technologies.

We wish Europe to develop, attract and sustain the world's best digital talents and technology companies.

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