

PRIVATE COPY LEVIES ON BELGIUM – REPROGRAPHY

WHAT IS A LEVY? Private copy levies (also referred to as ‘copyright levies’) were created in the 1960s as a form of indirect compensation, similar to a tax, to compensate for the harm caused to rightsholders by legally permitted acts of private copying. Levies are increasingly applied on all types of ICT equipment and media, whether or not such copying actually takes place.

WHAT IS REPROGRAPHY? Reprography refers to the process of reproducing, reprinting, or copying graphic material by photographic, electronic or mechanical means.

DID YOU KNOW? All-in-one printers that can print, fax and copy attract a levy of **€ 178.84** in **Belgium**, while only **€ 12** in **Germany** and nothing at all in the **Netherlands**.

Belgian consumers are penalised because their choice is effectively being limited due to some manufacturers not being present on the Belgian market. In addition, Belgian consumers risk paying higher prices than consumers in other EU countries.

BASIC PRINCIPLES

EURIMAG, the European Imaging Association, fully supports the principle that rightsholders need to be fairly compensated for the use of their works.

Fair compensation of rightsholders should however:

- not weaken the competitiveness of the Belgian market
- not penalise Belgian consumers by limiting their choice in available products and technology
- not prevent products from freely circulating within the European Internal Market

PROBLEMS WITH THE CURRENT SYSTEM

The system currently used to determine the amount of copyright levies for reprographic devices in Belgium has fundamental flaws.

INNOVATION IS PENALISED. Today, levies in Belgium are based on the speed of the device. Industry is making significant investments in research and innovation to offer increasingly higher performing products. However, the faster the product, the higher the applicable levy.

COPYRIGHT LEVY TARIFFS VARY SIGNIFICANTLY FROM ONE SPEED CATEGORY TO ANOTHER. A device that can produce up to **19 copies** per minute attracts a levy of **€ 55**, while a device producing **20 copies** per minute already attracts a levy of **€ 178.84**.

CONSUMERS ARE PENALISED because their choice is effectively being limited due to the fact that some manufacturers have no presence on the Belgian market. For this, Belgian consumers risk paying higher prices than consumers in other EU countries.

INTERNAL MARKET DISTORTIONS. The Belgian copyright levy system distorts the European Internal Market by the fact that countries bordering Belgium either apply much lower levies on the same products or no levy at all. This system weakens competition in the Belgian market, which in turn diminishes the amount of compensation available for rightsholders and collecting societies. It is expected that sales in Belgium will decrease rapidly to give way to cross-border (online) sales.

UNCERTAINTY ABOUT HOW MUCH LEVY TO PAY. Every product offers the possibility to copy at different speeds. The lower the copying quality, the higher the amount of copies the device can produce in one minute.

The Royal Decree of 1997 laying down the foundation of Belgium's copyright levy system does not provide any guidance about which speed to use.¹

EURIMAG BELIEVES that consumers copy at the standard pre-defined speed of a device. On **average**, a modern standard device produces around **11 copies per minute at standard speed**.

REPROBEL CLAIMS that the tariff to be paid should be based on the highest speed ('draft' mode). However, in order to enable this function, the consumer needs to make deliberate changes to the settings of the device, at a considerable quality loss. On **average**, a modern standard device produces around **27.5 copies per minute at the highest possible speed**.

Based on REPROBEL's call to apply the highest speed to calculate levies, a standard device (see picture), with an average **retail price of € 100** attracts a **levy of € 178.84, plus** the retail price.



The current system is unsustainable because no one would be willing to pay a levy that is almost 180 percent of the retail price of the device. Should this system continue longer, manufacturers of reprographic equipment might be obliged to cease operating in the Belgian market.

SOLUTIONS

In order to ensure:

- a competitive Belgian market
- that Belgian consumers do not see their choice of products diminished
- free circulation of products within the European Internal Market

EURIMAG PROPOSES

A LEVY THAT IS PROPORTIONAL TO THE FINAL SALES PRICE OF THE DEVICE. This system will guarantee a balanced solution for all stakeholders. On the one hand, rightsholders will receive fair compensation and on the other hand, the system will prevent excessive levy charges, which currently reach levels of 180 percent of the purchase price. This system that EURIMAG is advocating is already effectively applied in other EU Member States (e.g. Austria).

MAKING LEVIES TRANSPARENT. Consumers are currently not even aware that they are paying a levy. EURIMAG believes that consumers have the right to know that they are paying a levy and for what purpose this levy is used. In order to increase transparency, EURIMAG proposes to clearly **display the amount of levies**. This initiative would follow the successful example of the RECUPEL fees.

AN EMPIRICAL STUDY ON THE USE OF DEVICES. EURIMAG proposes that an independent study should be conducted to determine the extent of consumers' use of devices for making private copies. Consumers should **only pay for copies they are making and not based on the fact that the device is capable of making copies**. All key stakeholders including industry, consumer associations and rightsholders should be involved in the development and implementation of this study in order to guarantee its objectivity.

¹ « ... Pour fixer le montant de la rémunération forfaitaire, la vitesse noir et blanc est prise en considération, y compris pour les appareils qui réalisent des copies en couleur ... » (Art. 2 - Arrêté royal relatif à la rémunération des auteurs et des éditeurs pour la copie dans un but privé ou didactique des œuvres fixées sur un support graphique ou analogue)