

It never rains, but it pours: Spanish Private Copying Levy passes its cost to all taxpayers

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Breaking news. More than a year after Congress repealed the private copying levy, the Spanish Government agreed yesterday to begin paying taxes on blank media such as DVDs, CDs, pen drives and camera phones through a budget allotment.

The Ministry of Culture would be in charged of determining each year how much should be allotted to cover the excise tax, which would be introduced to compensate artists who saw their royalties shrink due to the ease of online file sharing and downloads.

In 2011, Congress repealed the law, which had been severely criticized by the European Union Court of Justice, who said it was not in line with EU legislation.

By paying the tax through budget allotments, the costs would be shared by everyone. Each quarter the ministry would gather sales information on media material that fell under the old digital canon law. The money from this year will be paid during the first quarter of 2013.

It is estimated that the amount will be more than five million Euros, which had already been included in the 2013 budget presented in September.

The decree establishes some technical guidelines to determine who will benefit, how much will be compensated, and what percentages will be placed on audio-visual material, books and discs.

In other words, no longer those buying electronic devices that allow copying contents protected by copyright would have to bear the burden, but we will all do. We would pay less than with the old and controversial levy, and so right holders would receive lower amounts for this concept, but the question is: are we ending like that with the trait of 'indiscriminate' that negatively noted the ECJ in the case *Padawan v SGAE* ? It seems that clearly not. On the contrary, the levy would now be more 'indiscriminate' than ever.

It may be time, in line with a more than likely upcoming new Spanish Copyright Law, to consider how to solve the problem of the limits and exceptions to the rights contained therein.

Who signs herby thinks it seems increasingly more consistent to try and make an effort on studying how would we live with the system of fair use, obviously easier to implement in the current times.

To be continued.