

Copyright and co-ordinated rights

Industrigatan 2A, 10 tr, SE-112 46 Stockholm, Sweden.
Tel +46 (0)8-667 88 99, fax +46 (0)8-667 88 11
copyswede@copyswede.se www.copyswede.se



COPYSWEDE

is an umbrella organization established to co-ordinate negotiations and agreements in certain areas of copyright.

COPYSWEDE is a co-operative economic association. Its members are the organizations that represent authors and performers in Sweden.

COPYSWEDE has partnership agreements with TV and radio companies and with the organizations that represent film and phonogram producers.

COPYSWEDE administers the rights of authors, performers, TV and radio companies and producers via agreements in the following areas:

- Simultaneous, unaltered retransmission of certain TV and radio channels, mainly channels from neighbouring countries, via cable networks
- Simultaneous, unaltered retransmission of the Swedish SVT-Europa channel via satellite

- Simultaneous, unaltered retransmission of TV-Finland via the terrestrial network in the Stockholm region
- Collection of the statutory private copying levy, which compensates right-holders for copying from private use
- Recording of TV and radio programmes for educational purposes etc.

COPYSWEDE also represents rightholders and performers in a number of other areas:

- The publishing of videograms of TV programmes
- Individual distribution of revenue collected to certain categories of authors and performers.

MEMBER ORGANIZATIONS

Bildkonst Upphovsrätt i Sverige (BUS) (Visual Copyright in Sweden)
Nordisk Copyright Bureau (NCB)
Svenska Artisters och Musikers Intresseorganisation (SAMI)
(The Swedish Artists' and Musicians' Interest Organization)
Svenska Tonsättares Internationella Musikbyrå (STIM)
(The Swedish Performing Rights Society)
Svenska Fotografers Förbund (The Association of Swedish Professional Photographers)
Svenska Journalistförbundet (SJF) (The Swedish Union of Journalists)
Svenska Musikerförbundet (The Swedish Musicians' Union)
Svenska Tecknare (The Association of Swedish Illustrators)
Sveriges Dramatikerförbund (The Swedish Playwrights' Union)
Sveriges Författarförbund (The Swedish Writers' Union)
Sveriges Konsthantverkare och Industriformgivare (KIF)
(The Association of Swedish Craftsmen and Designers)
Sveriges Läromedelsförfattares Förbund (SLFF)
(The Swedish Association of Educational Writers)
Sveriges Yrkesmusikerförbund (SYMF) (The Swedish Federation of Professional Musicians)
Teaterförbundet (Swedish Union for Theatre, Artists and Media).

COPYSWEDE'S PARTNERS

UBOS, the Union of Broadcasting Organizations in Sweden, functions as a co-ordinator on behalf of the Nordic public service TV companies and a number of similar radio and TV companies in other countries and language areas.

IFPI, the International Federation of the Phonographic Industry, Swedish Group.

FRF, Filmproducenternas Rättighetsförening (the Swedish Film Producers' Association)

Two collaboration agreements concerning market control have been signed with IMI (Inspelningsmediainstitutet, the Swedish Recording Media Institute) and SRL (Sveriges Radio- och Hemelektronikleverantörer, the Swedish Radio & Consumer Electronics Suppliers).

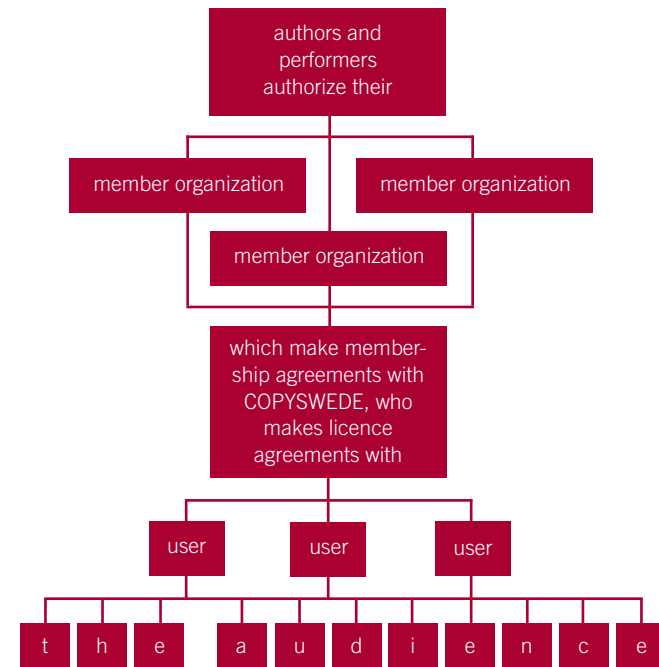
COPYRIGHT AND COLLECTIVE LICENSING

Copyright is an individual right. It is based on the principle that the person who has created a literary or artistic work, or the person who performs a work, must give his or her permission before what he or she has created or performed may be exploited by others.

Agreements on the use of complex works involving many separate rights – for example, films or TV programmes – often demand co-operation between different categories of rightholder. If individual copyright is to be developed and defended in an increasingly complex media situation, it must be possible for the copyright

to be managed by authors and performers via organizations that they themselves control.

Via personal powers of attorney and the like, individual authors and performers assign the task of managing their copyright to the organizations that represent them. In certain categories of re-use, these organizations have, in turn, passed on to COPYSWEDE the task of concluding agreements and distributing revenue. Through reciprocal agreements with sister organizations in other countries, the basis for the assignment of rights is being extended.



THE EXTENDED COLLECTIVE LICENCE IN THE COPYRIGHT ACT – A NORDIC MODEL

The idea of the extended collective licence is to offer a solution to the practical difficulty encountered when a large number of works and performances need to be licensed at the same time in the same agreement, and when it is not possible for the contracting parties to know in advance which rightholders' works will be involved in the planned use.

No organization is likely to succeed in having all rightholders in a particular area as members. There will always be someone who will decide to stay out. Similarly, it cannot be expected either that 100 % affiliation will be achieved in all areas in the foreign organizations that via reciprocal agreements assign to Swedish organizations the right to represent their members.

The extended collective licence mends this lack of coverage, and so any party who enters into an agreement with a representative organization can be sure that the organization will grant indemnity in respect of any claim from non-member authors and performers.

An extended licence is a legal device by which an agreement that a user enters into with an organization that represents a number of authors in the sector, is extended via a legal rule also to include authors who are not members of the organization.

An extended licence may be combined with various provisions, depending on the use it is intended to cover. These variants include:

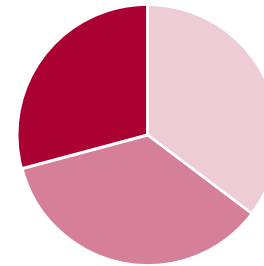
- Right to individual remuneration for everyone, direct from user to individual author
- Right to individual remuneration via a representative organization
- Right for individual author/performer to prohibit use of his work (individual veto)
- No right to individual veto
- Provisions for mediation if agreement cannot be reached

The Swedish Copyright Act includes a number of provisions on the extended collective licence. Two of these apply to COPYSWEDE agreements. Section 13 provides for an extended collective licence for recording of radio and TV programmes within the education system. It includes both an individual veto and rights to individual remuneration and an arbitration process.

Section 42, subsection f provides for an extended collective licence for simultaneous, unaltered retransmission of radio or TV transmissions via cable or terrestrial networks. This does not contain a provision for an individual veto, but it does provide a right to individual remuneration and to an arbitration process. Through this provision, the EU Satellite and Cable TV Directive has been incorporated into Swedish law.

CABLE TV

The TV channels that are licensed via COPYSWEDE are those where the TV company has not purchased the cable TV rights from the various authors, performers and producers who, in some way, have contributed to the channel's content. This is the case for a large number of Nordic and continental European radio and TV channels.



Distribution of Cable TV Revenue

- Copyswede
- TV-companies
- Filmproducers

COPYSWEDE has for more than ten years, operated a standard agreement on retransmission of certain radio and TV channels. The agreement is based on an industry-wide agreement with the Swedish Cable TV Association.

Through a mandate from member organizations and partners, and in accordance with the extended collective licence provisions of section 42, subsections a and f, of the Swedish Copyright Act, the

assignment of rights referred to in the agreement comprises all rights used in the channels.

For their use of the rights, the cable operators pay remuneration in the form of a specific amount per channel per household per month. Copyright payments are subject to value added tax at 6 %.

A special printed publication on cable TV is available, and links to the channels licensed will be found on our Website at www.copyswede.se

COPYSWEDE collects cable TV revenue totalling approximately SEK 40 million per year. The TV and radio companies receive 35.5 % of the total via UBOS, while authors and performers (including the phonogram producers) represented by COPYSWEDE similarly receive 35.5 %. The film producers receive 29 %. Distribution of the amounts on a detailed level then takes place within each category.

After having deducted the share accruing to STIM, Copyswede remits the remuneration due to foreign channels to the country of origin of the channel.

COPYSWEDE's share of all cable TV revenue is distributed on an individual basis within all author and performer categories. Part of this distribution process takes place via COPYSWEDE. Further details about the distribution are available on the COPYSWEDE Website.

SVT EUROPA

SVT Europa is a composite channel consisting mainly of Swedish-language programmes from SVT 1 and SVT 2. It is transmitted via satellite to households outside of Sweden. The channel is digital, and is accessed via decoder cards that are sent out. SVT pays COPYSWEDE amounts based on the number of cards sent out per year. The payments relate to the rights of authors, performers and phonogram producers.

SVT-Europa is retransmitted simultaneously via the terrestrial network in southern Finland. This transmission is licensed by COPYSWEDE's Finnish counterpart Kopioisto, and COPYSWEDE receives payment in accordance with a reciprocal agreement with this organization. The share accruing to the composers will then already have been deducted and forwarded to STIM by STIM's Finnish counterpart Teosto.

TV FINLAND

Finland's equivalent to SVT-Europa is transmitted via the terrestrial network in certain parts of Sweden. COPYSWEDE licenses the retransmission rights to the National Association of Finns in Sweden, the holder of the concession for this transmission.

The remuneration, which is financed by the Swedish government, totals SEK 6 mil-

lion annually. It is distributed to Finland's TV companies, which receive 38 %, and to Kopioisto, once STIM's share has been deducted. In turn, STIM redistributes remuneration to its Finnish counterpart, Teosto.

RECORDING OF RADIO AND TV PROGRAMMES FOR EDUCATIONAL PURPOSES

Section 42, subsections a & c of the Copyright Act contains a provision for extended collective licensing. Its purpose is to make it easier for organizations in the education system to obtain permission to record radio and TV programmes.

The provision concerns only the right to record programmes. However, the uses to which the recorded material may be put are limited to education. How the recorded material may then be used is governed by the Copyright Act's general rules on the making public of protected material.

The rightholders have acted in concert to offer, via COPYSWEDE, a standard agreement on recording activities in the area concerned. The agreement is the result of negotiations between COPYSWEDE and the Swedish Association of Local Authorities. This standard agreement, which is valid between rightholders and the local authority education sector, is the norm on which the agreements that COPYSWEDE offers to other public- and private-sector educational providers is based.

The provision contained in Section 42, subsections a & c is, as a principle, applicable to all radio and TV channels. SVT, SR and TV 4 subscribe to this coordinated arrangement by the rightholders. As a result, the agreement is comprehensive with regard to programmes produced by these companies. In the case of programmes from other radio companies, the COPYSWEDE agreement must be supplemented by separate agreements with the producer companies.

It should be noted that the agreement does not cover programmes produced by Utbildningsradion (the Swedish Educational Broadcasting Company), UR. Use of UR's programmes by organizations in the education sector is governed by other regulations. For more information, see the section on Agreement for publishing of SVT/SR programmes.

Uses of the programmes from Utbildningsradion (the Swedish Educational Broadcasting Company), UR, in respect of and within organizations in the educational sector, after the transmission of the programmes are governed by agreements between COPYSWEDE and UR and between UR and COPYSWEDE on one hand and the educational organizations on the other. Also this latter agreement is a result of the negotiations between UR and COPYSWEDE on one hand and the Swedish association of local authorities on the other.

THE PRIVATE COPYING LEVY LEGISLATION, AGREEMENTS AND PRACTICE

Every year, private individuals make recordings of huge amounts of music, films and TV programmes on recordable CDs, DVDs, MP3 players, hard disk video recorders and on blank video and audio cassettes. This extensive copying is a way of using other people's work without directly paying for it. The major scale of this copying also means big losses on the part of those who make a living from creating music, films, radio and TV programmes.

Against that background, the Swedish Copyright Act contains in section 26, subsections k-m, provisions on private copying. The aim is to compensate authors, performers and producers to a certain extent for the growing copying of copyright material, such as music, films and TV programmes for personal use.

Under the law, importers and manufacturers are required to pay a private copying levy. The amount of levy on analogue devices is fixed at SEK 0.025 per recordable minute. In the case of digital devices capable of being recorded on over and over again, for example CD-RWs, DVD-RWs, MP3 players and hard disk video recorders, the levy is SEK 0.004 per megabyte of storage space. In the case of digital devices capable of being recorded on only once, for example CD-Rs and DVD-Rs, the levy is SEK 0.0025 per megabyte of storage space. The law also con-

tains provision for businesses to request a reduction in the levy in certain specifically stated circumstances. Under section 26, subsection m, the levy is to be collected through representative organizations on a collective basis. Under a partnership agreement with FRF and IFPI, the levy is collected by Copyswede.

The levy comprises both analogue and digital devices capable of recording sound and/or moving images and which are especially suitable for copying for private use.

In practice, the levy is collected in respect of the following products:

MP3 players, audio and video cassettes with 15 minutes or more of recording time.

In the case of recordable CDs, DVDs and hard disk video recorders, a reduced tariff established via an agreement with industry representatives applies.

The law requires importers and manufacturers of blank audio and video media to register and to provide accounts for devices sold.

No levy is payable in respect of blank audio and video media that are used by the functionally disabled, or that are used for professional purposes.

COPYSWEDE has agreements with IMI and SRL on the administrative rules that are to govern payment of the private copying levy. The agreements, implemented across the whole market, ensure a simple, efficient system of collection and accounting.

A system of registration of professional

users and organizations for the functionally disabled has been introduced. By a simple registration procedure, professional users and organizations for the functionally disabled are issued with a registration number at COPYSWEDE, and they then quote the number to suppliers when purchasing devices on which the levy is charged. The supplier can sell devices of this type to any customer with a COPYSWEDE registration number without having to pay the private copying levy.

In addition, certain resellers who mainly supply professional users have via agreements been enabled to register for exemption from the levy when selling to professional users and organizations for the functionally disabled. The practical effect of registration in this case is that the reseller assumes the importer's or the manufacturer's responsibilities for accounting and payment vis-à-vis COPYSWEDE.

WHO IS ELIGIBLE FOR REMUNERATION?

The private copying levy is compensation for the production of copies that takes place on the basis of the provision in the Copyright Act on the right to make copies for private use. Payments are based on the proportion of copying that consists of sound and moving images. In the law, the definition has been based on the requirement that the content must have been obtained from radio or TV transmissions,

or from video or audio recordings that are available in the market.

The legislator has emphasized the correlation between the amount of copying and the amount of remuneration to be paid, by expressly stating in the section on distribution issues that the distribution should to the maximum extent possible correspond to the amount of copying that actually takes place.

Authors in all categories of work, with the exception of computer programs, are eligible to receive a share of the levy, as are all types of performer. Phonogram producers and film producers are also entitled to a share. The signal rights of radio and TV companies do not confer any right to a share of the levy.

On an international level, the provisions of the law indicate that remuneration is payable to rightholders who for the purposes of copyright are resident in the EU and the EEA. Rightholders from other countries are only entitled to a share in the private copying levy if in their country a private copying levy system has been introduced that offers a corresponding entitlement to remuneration on the part of Swedish rightholders.

FURTHER INFORMATION AND CONTACT DETAILS

www.copyswede.se

Further up-to-date information on our activities and various areas of agreement are available on our Website. The site also has links to Swedish and international organizations in the area of copyright.