

GENERAL POLICY FOR WITHHOLDINGS
ON ROYALTIES RECEIVED AND ANY
OTHER RETURN ON THEIR INVESTMENT
(2019)

English Version
For Information Only

Spanish Law 2/2019 of 1 March that amends the Spanish Revised Intellectual Property Law Text (hereinafter, the TRLPI), entails considerable changes. The changes include new transparency obligations for collective management organisations (CMOs) to their members.

In this regard, Article 160 of the TRLPI, with the heading “General Meeting”, highlights that, as part of its role, this body is to agree the general policy for withholdings on royalties received and any other return on their investment.

For this reason, pursuant to such Article, the General Assembly Meeting (GAM) of AGEDI, held on 12 June 2019, agreed the following general policy for withholdings on royalties raised and any other return on their investment, mandatory for the CMO thereafter:

Said general policy is based on the fact that the rights management conducted by the CMO is subject to the operating principles of nonprofit organisations. In other words, the income received by the CMO will only be used to cover the expenses incurred by the CMO in the ordinary course of business. Therefore, the fundamental principle that applies is that only the expenses incurred by the CMO in the ordinary course of business and in providing the services that make up its purpose and aims will be withheld from the royalties received or the return on their investment, if any.

The CMO’s expenses will be included in the yearly budget that must be approved by the Board of Directors within the last month of the previous year and the amounts will be subject to the principles of sufficiency and efficiency.

Regarding these two principles, the expenses withheld from the royalties received will be closely linked to:

- The type of commercial exploitation of the different rights managed by the CMO by the different user sectors.
- The service provided by the CMO to its members pursuant to its purpose and aims.

To do so, the CMO must have an analytical or cost accounting that is sufficiently developed and detailed so as to determine the cost of each of the types of rights managed with sufficient rigour and traceability, and to reflect the level of complexity of the management of each of those rights in terms of the licensing and collection activity and in terms of royalty payouts to their holders.

Furthermore, said analytical or cost accounting must identify the cost of each of the services performed by the CMO as part of its purpose and aims.

This will make it possible to determine, for each financial year, the percentage of royalties collected and distributed for each type of rights and services, whilst also allowing each member of the CMO to support the organisation, fairly and in proportion to the revenues received depending on the actual cost incurred to obtain each of these revenues.

The return on investments, if any, and pursuant to Article 175.4 of the TRLPI, may only be allocated to pay the holders of the rights unless it is used to withhold or offset the management fees and the amount allocated to fund the activities and services foreseen in Article 178 of the TRLPI in accordance with the General Assembly Meeting's resolutions.

END

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