

CHAPTER IV COMMON PROVISIONS

Article 15

Right to Remuneration for Broadcasting and Communication to the Public

- (1) Performers and producers of phonograms shall enjoy the right to a single equitable remuneration for the direct or indirect use of phonograms published for commercial purposes for broadcasting or for any communication to the public.
- (2) Contracting Parties may establish in their national legislation that the single equitable remuneration shall be claimed from the user by the performer or by the producer of a phonogram or by both. Contracting Parties may enact national legislation that, in the absence of an agreement between the performer and the producer of a phonogram, sets the terms according to which performers and producers of phonograms shall share the single equitable remuneration.
- (3) Any Contracting Party may, in a notification deposited with the Director General of WIPO, declare that it will apply the provisions of paragraph (1) only in respect of certain uses, or that it will limit their application in some other way, or that it will not apply these provisions at all.
- (4) For the purposes of this Article, phonograms made available to the public by wire or wireless means in such a way that members of the public may access them from a place and at a time individually chosen by them shall be considered as if they had been published for commercial purposes.^{12, 13}

Article 16

Limitations and Exceptions

- (1) Contracting Parties may, in their national legislation, provide for the same kinds of limitations or exceptions with regard to the protection of performers and producers of phonograms as they provide for, in their national legislation, in connection with the protection of copyright in literary and artistic works.

¹² *Agreed statement concerning Article 15:* It is understood that Article 15 does not represent a complete resolution of the level of rights of broadcasting and communication to the public that should be enjoyed by performers and phonogram producers in the digital age. Delegations were unable to achieve consensus on differing proposals for aspects of exclusivity to be provided in certain circumstances or for rights to be provided without the possibility of reservations, and have therefore left the issue to future resolution.

¹³ *Agreed statement concerning Article 15:* It is understood that Article 15 does not prevent the granting of the right conferred by this Article to performers of folklore and producers of phonograms recording folklore where such phonograms have not been published for commercial gain.