

Law No. 28131

THE PRESIDENT OF THE REPUBLIC

HEREBY DECLARES THAT:

The Congress of the Republic has issued the following Law:

THE CONGRESS OF THE REPUBLIC;

Has issued the following Law:

THE LAW ON PERFORMERS

TITLE I

GENERAL PROVISIONS

Article 1 – Scope of the Law

1.1 This Law shall establish the labor rules, rights, obligations and benefits of performers, including the promotion and broadcast of their performances abroad, as well as their moral and economic rights in accordance with the provisions of this Law and the International Treaties in force to which Peru is party.

1.2 Technical workers linked to the artistic sector, covered by this Law, shall solely exercise the labor rights that are compatible with the nature of their work.

Article 2 – Definition

For the purposes of this Law, a performing artist, hereinafter “performer”, shall be deemed to be any natural person who plays or performs an artistic work, with or without a text, using his body or skills, with or without instruments, which are presented or shown to an audience resulting in a performance which may be broadcast by any means of communication or fixed on a suitable physical medium, whether existing or yet to be created.

Article 3 – Objectives

The objectives of this Law shall be:

- (a) to regulate the recognition, ownership, exercise and protection of moral, economic, labor and social security rights, *inter alia*, in respect of a performer and his performances;

- (b) To promote the continuous professional and academic development of the performer;
- (c) To encourage the creation and development of work sources through the participation of all workers in the field, including creators and impresarios.

Article 4 – Performers and technical workers covered by this Law

4.1 This Law shall be applicable to the performers listed below, including but not limited to:

Actor; *banderillero*; singer; choreographer; dancer of any dance form and type; director of stage, theatre, cinematographic, television or similar works; conductor of an orchestra or musical ensemble; stunt person; voice double; impersonator and similar performer of artistic works; performer of artistic works performed in circus acts and similar shows; performer of works of folklore of any form or type; magician; *matador*; seer; mime artist; artist's model for three-dimensional arts, advertisements and the catwalk in stage, theatre, cinematographic and television shows; musician; *novillero*; parodist; *picador*; conjurer; reciter or declaimer; *rejoneador* (mounted bullfighter); puppeteer or marionette artist; and ventriloquist.

4.2 This Law shall be applicable to workers listed below, including but not limited to:

Prompter; assistant director; camera operator; cinematographer; sound and picture editor; stage manager; make-up artist; special effects artists and lighting technician in stage, theater, cinematographic, television and similar works; technician for variety, circus and similar performances; and stagehand.

Article 5 – Employer

5.1 For the purposes of this Law, the employer shall be any natural or legal person, regardless of his nationality or domicile, that contracts a performer under the labor rules to perform, including the possible broadcast or fixation on a suitable medium.

5.2 In the event of non-compliance with obligations arising from the employment contract on the part of the employer, the performer may demand compliance subsidiarily and in the following order from the organizer, producer and presenter in accordance with the provisions in the Regulations.

5.3 The employer shall be jointly liable with the performer in respect of the obligations directly related to the artistic activity in the employment contract by which they are bound and the obligations arising therefrom before trade unions and guilds related to artistic activity.

5.4 In the event that the employer is an irregular legal person, the shareholders, directors and administrators shall be personally liable in respect of the performer's rights and obligations.

Article 6 – Nature of performances

6.1 Performance (*interpretación*) shall be understood to mean the representation of a theatre, cinematographic, musical or any other type of work involving the performer's personality and creativity.

6.2 Performance (*ejecución*) shall be understood to mean the interpretation of an artistic work with an instrument that is not part of the body, involving the performer's personality and creativity.

Article 7 – The performer's work

7.1 The performer's work shall be considered of an employment-related nature when the characteristics of an employment contract are present and regulated under this Law.

7.2 The performer and other workers covered by this Law shall be entitled to the social benefits established in this Law as well as the existing benefits established in the general labor law.

Article 8 – Foreign performers

Foreign performers, whether or not domiciled in the country, shall receive the same treatment as national performers by being subject to the provisions of this Law and respecting the International Treaties to which Peru is party.

Article 9 – Protection abroad

The State, by means of its diplomatic representations, shall protect and defend the rights of Peruvian performers in accordance with its remit. This remit shall be exercised *ex officio* or at the request of the party.

TITLE II

INTELLECTUAL PROPERTY

Chapter I

Intellectual Property Rights

Article 10 – Intellectual property rights

The performer's intellectual property rights shall include moral and economic rights in accordance with the provisions of this Law.

Chapter II Moral Rights

Article 11 – Nature

11.1 The performer's moral rights shall be inherent in his human condition, consequently, these rights are fundamental, perpetual, inalienable, imprescriptible and irrevocable.

11.2 The heirs shall be entitled to take legal action intended to guarantee these rights.

Article 12 – Attributes

The performer's moral rights shall include:

- (a) Authorship right: the right to claim to be identified by name, stage name and/or pseudonym, and claim the performances as his own;
- (b) Right to integrity: the right to oppose any distortion, mutilation or modification of his performances;
- (c) Right of access: the right to access the single copy of the medium which contains the artistic creation and which is in the possession of a third party for the purposes of exercising his other moral or economic rights. Access shall not cause prejudice to the holder of the medium nor infringe on the author's right.

Chapter III Economic Rights

Article 13 – Nature

A performer shall enjoy the exclusive right to exploit his performances in any form or manner and to receive the benefits thereof except for the exceptions established in Legislative Decree No. 822.

Article 14 – Economic rights of performers for their unfixed performances

Performers shall enjoy the right to authorize with regard to their performances:

- (a) the broadcast and communication to the public of their unfixed performances, except where the performance is in itself a broadcasting performance; and
- (b) the fixation of their unfixed performances.

Article 15 – Right of reproduction

15.1 Performers shall enjoy the exclusive right to authorize, make or prohibit the direct or indirect reproduction of their performances fixed on phonograms or videograms by any means or in any form using existing or future technology.

15.2 Likewise, this right shall include the power to authorize, make or prohibit the synchronization and/or incorporation of their performances in any recorded or reproduced audiovisual work in any form and by means of existing or future technology.

Article 16 – Right of distribution

Performers shall enjoy the exclusive right to authorize that the original and copies of their performances fixed on phonograms or videograms are made available to the public by sale, rental, lending or any other form of distribution to the public.

Article 17 – Right to make fixed performances available

Performers shall enjoy the exclusive right to make available their performances fixed on phonograms and videograms whether by wire or wireless means in such a way that members of the public may access these performances from a place and at a time individually chosen by them.

Article 18 – Right to remuneration

18.1 Performers shall be entitled to receive equitable remuneration for:

- (a) the direct or indirect use for the broadcast or communication to the public of fixed performances or performances incorporated in audiovisual works recorded or reproduced in any form for commercial purposes by means of existing or future technology. Such remuneration shall be payable by any person who broadcasts, communicates or makes available to the public the fixations.
Communication to the public shall include communication by cable, wire or wireless means as well as by any existing or future technology.
- (b) the rental of their audiovisual fixations or phonograms, recorded or reproduced on any medium and by means of existing or future technology, even where the right to rental has been transferred or assigned.
Such payment shall be payable by the person who makes the fixations available to the public.
- (c) the transfer of artistic creation, once only, fixed in a different format for use with a different medium to the original.

18.2 For the cases established in Article 18(1)(a), (b) and (c) and in relation to phonograms and videograms, payment, unless otherwise agreed, shall be shared equally with the producer.

Article 19 – Right to synchronize

A performer shall enjoy the exclusive right to authorize the synchronization of his performances in his own language.

Article 20 – Compensation for private copying

20.1 Reproduction that is carried out exclusively for private use of works or artistic performances in the form of videograms or phonograms, on media or materials capable of embodying them, shall lead to the payment of compensation for private copying, which is to be shared between the performer, the author and the producer of the videogram and/or phonogram, in the form and percentages established by the Regulations.

20.2 Compensation for private copying shall not constitute a tax. The income derived for that purpose shall be governed by the applicable tax regulations.

20.3 This compensation shall be paid by the domestic manufacturer and the importer of suitable media or materials that permit the reproduction referred to in the preceding paragraph.

20.4 Duly authorized producers of videograms or phonograms as well as broadcasting companies shall be exempt from payment in respect of media or materials for the reproduction of phonograms and videograms for purposes of their activities.

20.5 Compensation shall be determined according to the appropriate media, whether existing or yet to be created, for making that reproduction in accordance with the provisions of the Regulations.

20.6 The form of collection and other aspects not provided for in this Law shall be established in the Regulations.

Article 21 – Remit of management societies

The rights established in Articles 14, 15, 16, 17, 18 and 19 shall be enforced by Collective Management Societies for Performers and Producers of Phonograms and Videograms. Likewise, compensation for private copying established in Article 20 shall be collected by the said societies. Unless otherwise stated, the said rights shall be enforced by the relevant collective management societies in accordance with the Regulations under this Law.

Article 22 – Term

Economic rights shall be transferred in the event of death in accordance with the provisions of the Civil Code and the laws in force. The term of rights shall last up to 70 years after the death of the performer from January 1 of the year following his death regardless of the country of origin of the performance.

TITLE III

LABOR RULES

Chapter I

Participation of National and Foreign Performers

Article 23 – Artistic shows

23.1 In any national artistic show performed live to the public, at least 80 per cent of the performers shall be nationals. The remaining 20 per cent may include non-resident foreigners.

23.2 National performers shall receive no less than 60 per cent of the total payroll for performers.

23.3 The same percentages as those established in the preceding paragraphs shall apply to technical workers linked to the artistic sector.

Article 24 – Exceptions to participation

The percentages for participation and remuneration established in the preceding Article shall not apply to: foreign casts organized outside of the country, provided that their performance constitutes the show as a unit and is duly accredited as a cultural show.

Article 25 – Audiovisual productions

25.1 In any national artistic audiovisual production, at least 80 per cent of the performers shall be nationals. The remaining 20 per cent may include non-resident foreigners.

25.2 National performers shall receive no less than 60 per cent of the total payroll for performers.

25.3 The same percentages as those established in the preceding paragraphs shall apply to technical workers linked to the artistic sector.

25.4 Cinematographic productions shall be regulated by the applicable law.

Article 26 – Circus shows

26.1 Any foreign circus show shall enter the country with its original cast for a maximum of 90 days, which may be extended by the same period. In the latter case, at least 30 per cent of the artistic cast shall be national performers and 15 per cent national technicians.

26.2 These same percentages shall be reflected in the payroll.

Article 27 – Commercial advertising

27.1 Commercial advertising shall be carried out by Peruvian or foreign companies and images may be developed in the country or abroad.

27.2 Commercial advertising which is made in the country shall be carried out in accordance with the percentages established in Article 25 of this Law.

27.3 The dissemination of advertising made abroad and disseminated by national communication media shall be subject, where relevant, to the provisions of the Thirteenth Complementary Provision of Legislative Decree No. 757 regarding commercial advertising made abroad.

27.4 The national dissemination of commercial advertising carried out by a person covered by this Law shall be valid for a maximum of one year. Repeating the same campaign after the said term has lapsed shall be subject to payment of compensation.

27.5 The use of images or voices already fixed of persons covered by this Law in a new advertisement creation shall require prior authorization of the performer and the payment of the corresponding remuneration.

27.6 Adverts as made by a person not covered by this Law shall be regulated by the relevant law.

Article 28 – Bullfighting

28.1 In any *feria taurina* (bull fair) at least one national *matador* shall participate.

28.2 In *novilladas*, *becerradas* and *mixtas* at least one national *novillero* shall participate.

Article 29 – Requirements for performances by foreign performers

29.1 Foreign performers, in order to perform in the country, shall provide proof of the following:

- (a) A contract for artistic work, of which the Ministry of Labor and Promotion of Employment have been notified, signed prior to the performer's entry into the country;
- (b) An Inter-Union Pass issued by the Peruvian union which represents performers of the specialization or genre which the foreign performer practices.
- (c) A visa for the performer in accordance with the Regulations.

29.2 Issuance of the corresponding visa shall require the prior presentation of the contract to the Ministry of Labor and Promotion of Employment and the Inter-Union Pass, among other requirements in accordance with the Regulations.

29.3 The provisions of this Article shall also apply to a foreign performer who, within the scope of this Law, enters the country to promote or publicize his works, productions or image and who performs to this end.

29.4 Payment of the Inter-Union Pass shall be two per cent of the amount of remuneration which the foreign performer receives and its payment shall be an act of solidarity with the impresario.

Article 30 – Fortuitous event or *force majeure*

The percentages reserved for national and foreign performers shall not apply in the event of a fortuitous event or *force majeure*.

Chapter II Working Day and Other Rights

Article 31 – Day

31.1 An ordinary working day for adult men and women shall be eight hours per day or forty-eight hours per week maximum.

31.2 A shorter day than the ordinary maximum day may be established by agreement or unilateral decision of the employer. The working day for minors shall be regulated by the relevant Law. Non-compliance with the maximum working day shall be considered a third degree offense in accordance with work inspection regulations.

31.3 The maximum working day shall include the time allocated for practice, characterization and preparatory activities where these are necessary for delivering the work.

31.4 Aspects related to the payment of overtime, night work, weekly rests and holidays shall be regulated by the relevant legislation.

Article 32 – Remuneration

32.1 A performer and/or technical worker linked to the artistic sector shall be entitled to equitable and sufficient remuneration in return for his work.

32.2 The act of collecting remuneration and social benefits shall be in line with the relevant provisions established in the common labor rules.

Article 33 – Minors

33.1 A minor may perform from birth and shall have the same rights and social benefits as those of an adult.

33.2 The performer's contract of a minor shall ensure and guarantee the optimum psychological, physical and moral conditions in which his performance is to take place, and shall protect his emotional, affective and educational stability and security. The parents or legal guardians shall be responsible for ensuring compliance with this provision.

33.3 The Regulations under this Law shall govern the conditions for a minor's performance-related work.

Article 34 – Compensation for period of services and holidays

34.1 An employer who contracts a performer and/or worker linked to the artistic sector shall make monthly payments to the Performer's Social Rights Fund of a sum equal to two twelfths of the remuneration paid to the performer, one twelfth of which shall correspond to holiday pay and the other twelfth shall be compensation for the period of services.

34.2 The payment shall be made in the currency established in the corresponding employment contract.

Article 35 – Holiday pay

Accumulated holiday pay shall be paid by the Performer's Social Rights Fund to the beneficiary from December 15 of each year.

Article 36 – Payment of compensation for a period of services

36.1 Compensation for service time accumulated in the Performer's Social Rights Fund shall be paid to the beneficiary when the latter decides to withdraw from the artistic sector. However, the worker may withdraw up to 50 per cent of his compensation for the period of services while still working in the artistic sector.

36.2 Any cases not provided for in this Article shall be regulated by the relevant Law.

Article 37 – Gratuities

For the payment of gratuities for national holidays and Christmas, an employer shall make a monthly payment of one sixth of the remuneration received by a performer and/or technical worker linked to the artistic sector to the Performer's Social Rights Fund.

Article 38 – Partnership contract

38.1 Through the partnership contract, a producer and one or more performers and/or technical workers shall be bound for the purposes of producing an artistic show, and the earnings shall be divided in accordance with the percentages of participation established in the contract.

38.2 If, on the basis of the said partnership contract, performers and technical workers covered by this Law are contracted, the producer or equivalent of the show produced under the said contract shall, from the show's gross income, deduct the corresponding amount of compensation for the period of services, holidays, gratuities, pensions or any other employment benefit of the said workers, calculated on the basis of the agreed compensation for work, whether of fixed or variable amounts, in order to make the payment in accordance with the provisions established for each employment benefit.

Article 39 – Rules for foreign performers

A foreign performer, performing in the country in accordance with this Law, shall be a member of the Performer's Social Rights Fund and a public or private national health care provider; such procedures shall be paid for by the employer.

Foreign performers who perform single shows shall be exempt, provided that their stay in the country does not exceed 20 calendar days; where this is the case, the costs for any medical care required by the foreign performer shall be defrayed by the employer.

Chapter III Contract Conditions

Article 40 – Content

In order to carry out performance-related work under an employment contract, the contract shall first be signed, regardless of the period of service. In the contract, *inter alia*, the following information shall be included:

- (a) Real and stage names, identification document and performer's address in the country;
- (b) Name of the legal representative, employer's address and registration number for the Performer's Social Rights Fund;
- (c) Performer's job description, specifying the number and place of performances;
- (d) Remuneration, place and date of payment;
- (e) Start and end dates of the contract;
- (f) Signatures of the contracting parties.

Article 41 – Exclusivity clause

41.1 Through an exclusivity clause, a performer shall agree to limit his performance-related activities, restricting them to specific media or specialties, in exchange for adequate compensatory remuneration for a period no longer than one year, renewable.

41.2 The Regulations shall establish the minimum number of performances, fixations or periodic performances of a performer.

Chapter IV
Pensions and Health Coverage

Article 42 – Pensions and health care services

A performer or technical worker linked to the artistic sector shall as a matter of obligation, be subject to the pension and health care systems regulated by the corresponding rules and this Law.

TITLE IV

ARTISTIC PROMOTION

Chapter I
Professionalization and Teaching

Article 43 – Art professional

A professional teaching degree in an art may be obtained by a performer who can provide proof of at least ten years of consecutive or accumulated experience in performance-related activities and who, prior to taking an additional teaching course presented adequate proof as determined by the competent higher education institutions, in accordance with the Regulations under this Law.

Article 44 – Access to teaching

The courses for performance-related training established in the curricula at all levels and forms of education shall be given by professionals with performance-related specializations.

Chapter II
Broadcasting

Article 45 – Broadcasting of national programs

Open signal broadcasting companies shall apportion at least 10 per cent of their daily programs to broadcasting folklore, national music and series or programs related to Peruvian history, literature, culture or current affairs, made with performers contracted in accordance with this Law.

Chapter III
Commission for the Promotion of Performing Arts

Article 46 – Creation

46.1 The Commission for the Promotion of Performing Arts (FOMARTES) is hereby created for the purposes of supporting, encouraging and promoting the production of national artistic stage shows.

46.2 The Regulations under this Law shall establish its composition, objectives and functions.

Chapter IV
Performer of the Year Award

Article 47 – Creation of the Award

47.1 The “Performer of the Year Award” is hereby created to distinguish a performer for his outstanding creations or career in artistic and cultural activities.

47.2 FORMARTES shall be responsible for organizing the Performer of the Year Award.

Chapter V
Official Artistic Delegations

Article 48 – Trips abroad

Official artistic or private casts which participate in international festivals, events or competitions as representatives of the country shall receive support and facilities from the Ministry of Education and the Ministry of the Interior within their remit.

TITLE V

TRADE UNION ACTIVITY

Article 49 – Performers’ unions

Performers’ unions shall be organizations representing various activities of performers which promote the defense of its members’ institutional interests. They shall represent affiliated performers in accordance with the labor standards in force and their statutes.

TITLE VI

OFFENSES AND SANCTIONS

Article 50 – Offenses

50.1 An infringement, whether by action or omission, of any of the provisions of this Law as well as of the relevant treaties or conventions to which Peru is party shall constitute an offense.

50.2 The Regulations under this Law shall establish the types of sanctions and the scale of fines.

TITLE VII

STATE ACTIONS PROMOTING PERFORMANCE-RELATED ACTIVITIES

Article 51 – Cultural educational promotion

In order to disseminate culture in Peru, the Ministry of Education, in coordination and cooperation with the various State and non-State organizations, shall promote the attendance at and participation in artistic events held in Peru by learners and teachers.

Article 52 – Promotion abroad

The Ministry of External Trade and Tourism and the Ministry of External Affairs, in coordination with the relevant institutions, shall promote artistic and cultural events abroad with national participation and/or content produced by national performers.

Article 53 – International cooperation and training

53.1 The Peruvian Agency for International Cooperation (APCI) and the National Institute for Grants (INABEC) shall promote support programs for training performers abroad, as well as channeling financing sources towards the production of cultural projects by performers.

53.2 APCI, in accordance with its work related to the promotion of international cooperation, shall provide support to performers' organizations which wish to benefit from international cooperation in respect of the dissemination of culture.

53.3 INABEC, when selecting candidates who will benefit from the grants, shall consider, from its shortlist, the applications of Peruvian performers with recognized careers.

TITLE VIII

DEFENSE OF PERFORMERS' RIGHTS

Article 54 – The work of the Ministry of Labor and Promotion of Employment

The Ministry of Labor and Promotion of Employment, considering the Special Labor Rules for Performers, shall decide on the necessary actions in order to guarantee their labor and social security rights.

Article 55 – The work of the National Institute for the Defense of Competition and Intellectual Property – INDECOPI

The National Institute for the Defense of Competition and Intellectual Property (INDECOPI), through the good offices of the Copyright Office, shall be the competent authority responsible for defending and protecting the intellectual property rights of performers, and shall have the power to impose the appropriate sanctions.

COMPLEMENTARY, TRANSITIONAL AND FINAL PROVISIONS

First – Other contractual arrangements

This Law shall be applicable to labor relations. Any other form of contracting shall be governed by its respective legislation.

Second – Complementary and additional standards

The provisions of the international treaties to which Peru is party shall be applicable, in accordance with the international obligations assumed, as well as its own Constitution.

For cases not provided for under this Law, the legal standards regarding labor relations in effect shall be applicable.

Performance-related employment or work carried out by children and adolescents shall be governed by the relevant rules of the Code on Children and Adolescents, and this Law shall apply complementarily and where beneficial to them. Where there is a discrepancy between the two laws, that which is most favorable to the minor shall apply on the principle of a child's best interest.

Legislative Decree No. 822 shall be additionally applicable in those areas not provided for by this Law, in accordance with international treaties and supranational provisions established by the Andean Community of Nations.

The tax liabilities which result from the implementation of this Law shall be regulated by the relevant legislation.

Third – Performer's Day

Performer's Day shall be introduced on the day this Law is promulgated.

Fourth – Glossary

The attached GLOSSARY shall be incorporated as an integral part of this Law.

Fifth – Regulation

The Regulations under this Law shall be developed by the Executive Authority within 90 days of the entry into force of this Law.

Sixth – Derogation of provisions

Decree Law No. 19479, except for Articles 19, 20, 21, 22, 23 and 24, Decree Law No. 822, where in contradiction with this Law, and any other provisions contrary to this Law shall be derogated.

To be submitted to the President of the Republic for its promulgation.

In Lima on December 10, 2003.

HENRY PEASE GARCÍA
President of the Congress of the Republic

MARCIANO RENGIFO RUIZ
First Vice-President of the Congress of the Republic

CONSTITUTIONAL PRESIDENT OF THE REPUBLIC

Therefore:

Publication and compliance are hereby ordered.

Done at the House of Government, Lima, December 18, 2003.

ALEJANDRO TOLEDO
Constitutional President of the Republic

CARLOS FERRERO COSTA
President of the Council of Ministers

ANNEX

GLOSSARY

1. PERFORMER (*artista intérprete*) – means a person who by means of his voice, gestures and/or body movements interprets any form of literary or artistic works or expressions of folklore (such as actors, dancers, singers, mime artists and impersonators).
2. PERFORMER (*artista ejecutante*) – means a person who uses an instrument that is not a body part to perform in any form literary or artistic works or expressions of folklore (such as guitarists, circus artists and bullfighters).
3. NATIONAL PERFORMER – means a person born in Peru, a naturalized person, or a foreigner with a Peruvian spouse and/or child living in the country or with at least five years continuous residence.
4. SINGER – means a performer who performs music, whether or not accompanied by an instrument that is not part of the body.
5. COMMUNICATION TO THE PUBLIC – means any act whereby one or more persons, whether or not gathered in the same place, are afforded access to the work and/or performances without prior distribution of copies to each of them, by any analog or digital means or process, whether known or may yet become known and which serves to disseminate signs, words, sounds or images. Any process necessary or conducive to making the work accessible to the public shall constitute communication.
6. PRIVATE COPYING – means the reproduction carried out exclusively for private use in accordance with the authorization provided for in the Law by means of technical non-reprographic devices or instruments of performances recorded on phonograms, videocassettes or any other medium, provided that the copy is not used for profit-making purposes. Compensation shall arise for private copying which neither constitutes a tax nor is related to labor.
7. CREDITS – means the explicit mention of the performer's name, which is compulsory as a moral right, in a public show or fixation, in a manner appropriate to its nature.
8. DISTRIBUTION TO THE PUBLIC – means the making available to the public of the original or copies of the work by sale, rental, lending or any other existing or future form of transferring ownership on possession of the said original or copy.
9. DUBBING OR BODY DOUBLING – means the participation of a performer in a production or fixation, replacing another performer with his voice or body movement.
10. ARTISTIC STAGE SHOWS – means shows in which the performers perform live to an audience.
11. FIXATION – means the incorporation of signs, sounds or images on a material support which allows their perception, reproduction or communication.
12. PHONOGRAM – means the sounds of a performance or other sounds, or digital representations thereof, fixed for the first time exclusively in an audio format. Gramophone, video and digital recordings shall be copies of phonograms.

13. INCORPORATION – means the inclusion in an audiovisual fixation of a phonogram or parts of another audiovisual fixation.
14. CONDITION – means each and every site where the performer carries out his performance-related activities. This shall also be referred to as a specialization.
15. MUSICIAN – means a performer who performs a musical work with an instrument that is not part of the body, with or without sheet music.
16. COMMERCIAL ADVERTISING – means that which promotes the sale of or interest in goods or services.
17. BROADCASTING – means the transmission of radio, television and cable transmitters.
18. REMUNERATION – means the compensation in return for work.
19. REPRODUCTION – means the fixation of the work or intellectual production on a medium or means which enables its communication, including electronic storing, and obtaining copies of the whole or part of the work.
20. RETRANSMISSION – means the simultaneous broadcasting of an artistic work, production or service by a source that is different to that which broadcast the original unaltered.
21. MEDIUM – means the material element able to contain an artistic work, production or service fixed or printed (audio or video cassettes, CDs, DVDs, cinematographic film, etc.)
22. TRANSFER – means the act of transferring an artistic work, production or service fixed on a material element to another different element for use in a medium different to the original medium.
23. USER – means a natural or legal person who commercially usufructs the fixed artistic performance, transferring, communicating or making it available to the public by broadcasting, cable or any existing or future technology.
24. VIDEOGRAM OR AUDIOVISUAL – means the sequence of images or images and sound and the fixation of such sequence on a video disc, video cassette or other material support equally suited to this end.

This also means an audiovisual fixation incorporated in videocassettes, video discs or any other material or analogous format.

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