

APRA AMCOS INTERNATIONAL DISTRIBUTION PRACTICES



BACKGROUND/INTRODUCTION

The Australasian Performing Right Association (APRA) has reciprocal representation agreements with over 70 performing right collecting societies around the world, covering over 200 territories. AMCOS also has reciprocal representation agreements with mechanical right societies overseas.

apraamcos.com.au/music-creators/collecting-royalties-earned-overseas/our-international-affiliates/

Under these agreements, societies are obliged to license, collect and distribute for performances and broadcasts of APRA works or certain types of reproduction of AMCOS works in their respective territories. These reciprocal representation agreements are supplemented by standard rules and formats relating to documentation of works and distribution practices which are contained in the CISAC Professional Rules and Binding Resolutions. CISAC is the International Confederation of Societies of Authors & Composers, the global not for profit organisation representing authors rights collecting societies. www.cisac.org/Who-We-Are

Note that in the USA, unlike nearly all other territories, there are a number of Performing Right Organisations and we have agreements with three of them – ASCAP, BMI and SESAC.

See further apraamcos.com.au/music-creators/collecting-royalties-earned-overseas/earning-royalties-in-the-usa/

CISAC AND CONTRACTUAL OBLIGATIONS

In formulating APRA AMCOS Distribution Rules, the Board is bound by our Constitutions to observe and comply with the terms of agreements between APRA and:

(a) its members; and (b) its affiliated societies.

The Board endeavours as far as possible to comply with resolutions of CISAC related to principles governing the fair and equitable distribution of royalties. As members of CISAC, APRA AMCOS is bound by its Code of Conduct, setting out quantifiable criteria for governance, transparency, financial disclosure, member service, administration, fairness in licensing and collections as well as the Binding Resolutions and Recommendations covering documentation and distribution. www.cisac.org/What-We-Do/Governance

Royalties collected and distributed to APRA AMCOS by affiliated societies are subject to the laws, conditions and practices applicable in the country of collection, subject to the agreed standards and rules of CISAC, including the principle of “national treatment” which ensures societies cannot apply distribution rules or practices which discriminate against members of affiliated societies. See here a diagram showing the flow of rights and royalties through collecting societies. apraamcos.com.au/music-creators/collecting-royalties-earned-overseas/

Note that where writers are published, the publisher will license and collect all international mechanical (reproduction) rights – they don’t go through AMCOS and the society network, unlike performing rights. Writers who are not published and are AMCOS members need to opt in for international administration for AMCOS to collect mechanical royalties overseas for them.

WORKS OWNERSHIP (DOCUMENTATION)

How do societies know to pay APRA AMCOS for the use of your works?

Societies obtain work usage information from music users (licensees) and match this to information on works that are registered on their databases, either by sub-publishers, by APRA AMCOS claims or through one of CISAC’s international documentation tools, such as CISNet. CISNet is the network of work databases of CISAC societies that is accessed from a web-based search engine. APRA AMCOS is a node on CISNet, making our works information available to all our affiliated societies to identify and use in their distributions.

See www.cisac.org/What-We-Do/Information-Services/CIS-Net

CISAC has also developed agreed international standards and metadata (identifiers) for the international exchange of information on society membership, musical works, cue sheets and agreement information, as well as distribution statement data, unidentified works and performances and society financial information. APRA AMCOS obtains Interested Party Information (IPI) numbers for our members www.cisac.org/What-We-Do/Information-Services/IPI as well as allocating International Standard Work Codes to our members’ song www.cisac.org/What-We-Do/Information-Services/International-Identifiers

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In most cases, societies will research foreign works and works ownership when the works are “active” in the territory, that is, that the society has received usage information on the work, such as in radio or TV logs, or from a notification from APRA AMCOS of a performance or release in their territory. APRA AMCOS members can notify us of the use of their repertoire for us to claim here http://www.apra.com.au/site/member/OS_broadcast.stm or here <http://apraamcos.com.au/music-creators/forms/report-music-use/> In following up claims for members, APRA AMCOS will notify the relevant societies of the work and ownership information for the territory for performing and mechanical rights.

CUE SHEETS

Musical works in film and television are contained in cue sheets and societies obtain these cue sheets from publishers, from APRA, from the producer/distributor/ broadcaster or by request to the relevant society through the Audio-visual Index (AVI) in CISNet. APRA AMCOS provides information on audio-visual works containing APRA AMCOS repertoire, for which we manage the cue sheets, to the AVI so that affiliated societies can make an electronic request of the cue sheet from us.

DISTRIBUTIONS FROM OVERSEAS

Affiliated societies are mostly required to account to APRA AMCOS within 30 days of payment to their own members. Societies are obliged to use CISAC standard data formats for the electronic exchange of detailed distribution information. The distribution timetable of foreign incoming revenue is available on the APRA AMCOS website, here. Note that this timetable does change from time to time and there are sometimes delays caused by the remitting society in processing or delivering the distribution or problems with the data or reconciling the distributions.

In reconciling the overseas payment, we also monitor the withholding taxes deducted from overseas remittances. We keep up to date with changes to these rates under Double Taxation Agreements (DTT) entered into by our government, as well as how they are interpreted. We show the amount in AUD/NZD of the withholding taxes deducted at source on member statements and remittance advices for members’ tax purposes. In most cases, the foreign society deducts the reduced withholding tax amount under the relevant DTT, as APRA is the legal owner of the rights. However, there are a few territories where we are required to provide the tax residency information of the member who may be treated as the ultimate beneficiary of the royalties.

See also apraamcos.com.au/news/2019/january/earning-overseas-lets-talk-about-tax/ and apraamcos.com.au/music-creators/living-earning-or-touring-overseas/international-banking-and-tax/

DEDUCTIONS FROM OVERSEAS INCOMING PAYMENTS

Before societies process and remit distributions to APRA AMCOS they deduct their administration costs or commissions and in some cases, limited amounts for cultural purposes from performing rights distributions. These are permitted under our reciprocal agreements and CISAC resolutions. You can see how APRA compares to other societies for its domestic performing rights administration costs here apraamcos.com.au/about-us/cost-to-revenue-ratio/

APRA also deducts our administration costs and cultural deductions from royalties we collect here and send overseas. AMCOS has set commission rates that it deducts from its distributions to cover expenses. The costs and cultural deductions from overseas societies are not shown in overseas distribution statements of account nor on our member statements for overseas royalties.

APRA deducts an average of 1.5% of net royalties received from affiliated societies in respect of the costs associated with analysis and processing of incoming overseas royalty payments. The percentages differ according to the society that has paid, for example international administrative expenses deductions from PRS (US), ASCAP or BMI (USA), SACEM, etc are 1% while international administration for other smaller societies may be larger.

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REMITTANCES AND CURRENCY CONVERSION

Societies make payments to APRA in one of the major currencies in which we maintain bank accounts. (I.e. AUD, GBP, Euros and USD) When affiliated societies remit the distribution money, we receive notification of the payment. This is then converted to Australian dollars as soon as possible – usually the next working day. We also strike the exchange rate between AUD and NZD for each incoming distribution when the money is received. This means that even if there is some delay in processing the distribution data to distribute to members, any intervening changes to the value of the dollar will not impact the value of payments – the currency conversion is done at the value when the money was originally received and converted to AUD or NZD and the distribution is processed and reported in these currencies.

PAYMENTS TO MEMBERS

Overseas royalties are distributed to all members (writers and publishers) in APRA AMCOS quarterly distributions, each year. Additionally, APRA distributes international performing rights royalties to writer members every month.

DIGITAL USE – MULTI-TERRITORY LICENSING AND DISTRIBUTION

APRA AMCOS, like all collecting societies, have witnessed a dramatic increase in the volume of works that are being performed and paid through the ever evolving digital services over the last two decades. This requires significant investment in our data wrangling capabilities – systems, metadata and personnel.

In Europe, under the single market, major publishers and performing right societies have cooperated to establish multi-territory digital licensing (MTL) hubs. These hubs licence certain large multi-national digital services for digital mechanicals across Europe and beyond, with performing right societies “matching” the licensing of communication rights for the relevant publisher repertoire. Examples of these hubs are “Solar” for Sony EMI repertoire, with matching performing rights through PRS www.prsformusic.com/royalties/online-royalties/multi-territory-licensing; “Deal” for Universal repertoire, with matching performing rights through SACEM and “Aresa” for BMG repertoire, with matching performing rights through GEMA (Germany). These are just some examples of MTL arrangements – but published writers should be aware that they may be receiving digital royalty payments for multiple territories through one society, while co-writers who have a different publisher may receive their payments through another.

MTL arrangements are now being rolled out in other regions, such as in Latin America, Africa and Asia Pacific. Indeed, APRA AMCOS has in place MTL arrangements for certain Asia Pacific territories and catalogues.

If you are unsure of how your digital rights are being administered, you can contact your publisher or writer services writer@apra.com.au

ADJUSTMENTS

In some cases the payments from overseas are an adjustment from a previous incorrect payment from a society, often following a claim or query from APRA AMCOS. Some need to be matched against the original payment from the society to ensure the accuracy of the debit or credit. There are limitations on how far back adjustments between societies can be claimed or made – CISAC rules specify 3 years from the date of payment. Debit adjustments over a certain amount require the society to agree to the reasons for the debit before it can be made.

UNIDENTIFIED PERFORMANCES AND WORKS

Societies are required under CISAC rules to circulate electronic lists of performances and works that cannot be identified in their domestic distributions. APRA AMCOS' International Relations Department obtains these lists and coordinates their research and claiming of the performances and works in APRA repertoire for payment.

MANUFACTURING PHYSICAL RELEASES OVERSEAS AND OPT-OUTS

If you are an AMCOS writer member, not published and have opted in for overseas administration by AMCOS then AMCOS will collect reproduction rights through its network of mechanical right societies. If you are aware of recordings of your song included in releases overseas, you should notify writer services so we can claim the mechanical royalties on your behalf. apraamcos.com.au/music-creators/forms/mechanical-royalty-enquiry-form/

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If you are manufacturing one of your releases overseas, you must advise APRA AMCOS of the detail in advance. If you are manufacturing any physical format (CD, vinyl, DVD, cassette et al) that is only your own works and you do not want the foreign society to license mechanicals in the territory of manufacture, you may need to opt out of these rights in advance, as some societies don't allow the waiver of phonomechanical licensing in that situation. Read this article, [Manufacturing Products](#), and contact writer services for advice, writer@apra.com.au.

MONITORING THE USE OF APRA REPERTOIRE OVERSEAS

The International Relations Department broadly monitors the use of APRA AMCOS repertoire in our major markets and ensures documentation, claims and queries are made to the relevant societies to chase up payments. We monitor some airplay and sales charts, digital charts and use a variety of websites and other resources to track festivals, cinema, jingles etc. We also research and store foreign language titles of APRA works and film and TV programs that are used overseas, where known.

It is really important that if you know of any use of your repertoire overseas to let us know so we can ensure the correct documentation exists and that we can claim. Forms and guidelines are available on the APRA AMCOS website: www.apra.com.au/site/member/OS_broadcast.stm or here apraamcos.com.au/music-creators/forms/report-music-use/

We are also able to supply information on monitored performances to interested members on request.