

# **APRA** **Distribution** **Rules**



**APRA**  
**AMCOS**

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## 1. Legal Authority and Interpretation

- 1.1 In these Rules, a reference to an Article is a reference to Articles of APRA's Constitution.
- 1.2 The legal power and responsibility for determining the method of entitlement by which APRA's revenue - consisting of licence fees collected in Australasia, distributions received from affiliated societies and interest earned on investments - is allocated and distributed rests with APRA's Board of Directors (Article 93).
- 1.3 Subject to paragraph 1.4, royalty allocations and distributions made by the Board are final and binding except that the Board may consider and, if thought fit, make any adjustment:
- (a) in response to any claim by any interested persons made within three years of the date of the allocation or distribution concerned; or
  - (b) otherwise, within three years of the date of the allocation or distribution concerned (Article 94).
- 1.4 APRA may recover from any member any amounts paid in error by recovering that amount from the member or deducting the amount from any amount distributable to the member.
- 1.5 The Distribution Rules are determined by APRA's Board of Directors from time to time pursuant to the authority conferred by Articles 84 and 93. Such determinations are made with the intent and purpose of achieving a fair and equitable distribution of the income collected by APRA.
- 1.6 Rules are applied and interpreted by APRA's Board in a manner that best achieves this intent and purpose. If, in the Board's opinion, this intent and purpose is being abused or has been abused, appropriate action may be taken in order to prevent or remedy this abuse or potential abuse.
- 1.7 Any member is at any time at liberty to notify APRA of his or her objection to any Distribution Rule. APRA's Board will, as soon practicable after that notice, review the objection provided that it is not vexatious or trivial.
- 1.8 These Distribution Rules should be read in conjunction with the document entitled "APRA's Distribution Practices", which explains how the distribution processes are carried out.

## 2. Exclusions

- 2.1 The following classes of works are excluded from APRA's control:
- (a) Dramatico-musical Works performed or communicated in their entirety;
  - (b) the performance in public in whole or in part of any musical work in a Dramatic Context;
  - (c) the performance or communication to the public of oratorios and large choral works (that is, choral works written to exceed 20 minutes duration) in their entirety; and
  - (d) the performance or communication to the public in whole or in part of any music and associated words composed for a Ballet, if accompanied by a visual representation of that Ballet or part of it, unless performed or communicated by means of a Cinematograph Film.

- 2.2 The categories of the performing right in a member's works which are reserved by that member or re-assigned by APRA under Article 17 are also excluded from APRA's control.
- 2.3 APRA is not bound to collect or distribute monies received in relation to performances of works which are the subject of a license-back or Opt Out under Article 17.
- 2.4 For the purposes of this clause 2:

**Ballet**

means a choreographic work having a story, plot or abstract idea, devised or used for the purpose of interpretation by dancing or miming, but not country or folk dancing, tap dancing or precision dancing sequences;

**Cinematograph film**

has the same meaning as in the Copyright Act 1968;

**Dramatic Context**

means the performance of musical works:

- (a) in conjunction with a presentation on the live stage that has a story and one or more narrators or characters; or
- (b) as a Ballet;

**Dramatico-musical Work**

means words and music written expressly for an opera, operetta, musical play, revue or pantomime.

### **3. CISAC and Contractual Obligations**

- 3.1 In formulating Distribution Rules, the Board is bound by Article 93 to observe and comply with the terms of agreements between APRA and:
- (a) its members; and
  - (b) its affiliated societies.
- 3.2 Although not binding, the Board endeavours as far as possible to comply with resolutions of the International Confederation of Societies of Authors & Composers (CISAC) related to principles governing the fair and equitable distribution of royalties.
- 3.3 Royalties collected and distributed to APRA by affiliated societies are subject to the laws, conditions and practices applicable in the country of collection.

### **4. Royalty Distributions Generally**

- 4.1 Distributable revenue is calculated by subtracting from APRA's gross revenue:
- (a) the expenses of and incidental to the conduct, management and operation of APRA; and

(b) moneys applied by the Board for the purposes of promoting the use and recognition of music written or controlled by APRA's members (Article 95).

4.2 APRA's expenses under 4.1(a) are fixed at 10% of gross revenue in respect of Promoted Concerts and other Distributable Events, Digital Delivery and Streaming services (including You Tube). For all other distribution categories, the expenses under 4.1(a) vary from quarter to quarter, with a 25% cap applied to revenue from the free-to-air and subscription television sectors. The key expense items are:

- wages and salaries
- amortised capital expenditure
- licensing expenses
- information technology expenses
- legal fees and communication costs

4.3 APRA deducts 1.75% Net Distributable Revenue (NDR) from most distribution pools, along with interest income, for the purpose referred to under paragraph 4.1(b) above. The percentage deducted for this purpose from royalties payable to affiliated societies is determined by negotiation with those societies.

This deduction is not taken from distribution pools derived from the following revenue segments:

- Digital Music Services – Downloads;
- Digital Music Services – Subscription/Ad-funded;
- Video on-demand Services; and
- Websites and UGC

4.4 APRA distributes on a quarterly, semi-annual (i.e. six-monthly) and annual basis depending on the distribution category (please see Distribution Practices document for details). Licence fees collected in any year are payable as soon as practicable, together with any adjustments to previous distributions.

4.5 Foreign and adjustment earnings are distributed monthly when the distributable amount exceeds \$10.

4.6 With the exception of works reported on Performance Reports and Jingle Reporting Forms, performed works that cannot be matched to payable works in APRA's database are researched for inclusion in APRA's distributions only when their distribution value is over a pre-determined threshold; that threshold being \$100 for registered works and \$200 for unregistered works. (N.B. for works receiving Digital Delivery sales only, this threshold is a combined APRA AMCOS value – see Section 21).

4.7 Unidentified works, other than those receiving only digital delivery sales, that do not initially meet the required threshold are retained in APRA's database until such time as their value from subsequent performances increases to \$100 or more for registered works and \$200 or more for unregistered works, at which time ownership research is undertaken.

4.8 Royalty allocations to affiliated societies are calculated in every respect on the same basis as allocations to APRA members.

## 5. Royalties Received from Affiliated Societies

- 5.1 Royalties received from affiliated societies are distributed to members in the quarterly distribution following receipt, **except** where the distributable amount exceeds \$10.00 and the member has an EFT facility with APRA. In which case, the amount concerned is distributed in the month following completion of analysis.
- 5.2 APRA deducts an average of 2% of net royalties received from affiliated societies in respect of the costs associated with the analysis and processing of such royalty payments, with variable percentages ranging from 1% to 5% depending on the territory from which the royalties are received.

## **6. Allocation of Shares**

### 6.1 Definitions

#### **Member Shares**

means those parts of a musical work that:

- (a) consist of music, lyrics, or both, that were created by a writer who is a member of APRA or an affiliated society;
- (b) are published or administered by a publisher who is a member of APRA or an affiliated society.

#### **Non-Member Shares**

means those parts of a musical work that are either not protected by copyright in Australia/New Zealand or do not fall within the definition of Member Shares.

#### **Performance Credits**

means the performance credit points allotted to a musical work based on logged performances or similar data.

#### **Publisher**

means a music publisher to whom a writer has assigned or licensed copyright in a musical work, or an entitlement to receive a share of performing right royalties in respect of a musical work, and includes an associate member admitted under Article 6.1 (a) or (b).

#### **Writer**

means a composer or lyricist living or deceased.

### 6.2 Member and Non-Member Shares

Member Shares are entitled to a royalty allocation in accordance with APRA's Rules. Unless otherwise directed by the society, non-Member writer shares for works originating overseas are paid to the society of the original publisher of the work. Non-Member writer shares for local works are held pending the election of the writers concerned, at which time the relevant fees are credited accordingly. Non-Member writer shares held for writers not subsequently elected are returned to distributable revenue to be allocated on a pro-rata basis among member shares referable to all works sharing in the following distribution.

Non-Member publisher shares are credited proportionately to the writers of the work in accordance with contractual information.

### 6.3 In the absence of specific notification of contractual agreement to the contrary the shares of a

musical work are allocated as follows:

(a) Original Unpublished Works

<b>(i) Composition with lyrics:</b>	
Composer or composers	50%
Lyricist or lyricists	50%
<b>(ii) Composition without lyrics (or with non-copyright lyrics):</b>	
Composer	100%
<b>(iii) Non-copyright composition with copyright lyrics:</b>	
Lyricist	100%

(b) Original Published Works

<b>(i) Composition with lyrics:</b>	
Composer or composers	25%
Lyricist or lyricists	25%
Publisher	50%
<b>(ii) Non-copyright composition with copyright lyrics:</b>	
Lyricist	50%
Publisher	50%
<b>(ii) Composition without lyrics (or with non-copyright lyrics):</b>	
Composer	50%
Publisher	50%
<b>(iii) Composition with lyrics, composer share only published:</b>	
Composer	25%
Lyricist	50%
Publisher	25%
<b>(iv) Composition with lyrics, lyricist share only published:</b>	
Composer	50%
Lyricist	25%
Publisher	25%

6.4 Collective Works:

Where two or more authors contribute distinct parts to a work (as in music and lyrics, or separate verses of a song), the work is a “Collective Work”, being a work comprising two or more separate works. In such cases, the share of the writer who becomes ‘non-copyright’ (ie, 70 years after death for Australia, 50 years after death for New Zealand) is reallocated to the remaining copyright interests, as per the following examples:

<b>(i)</b>	Composer (NC)	0%
	Lyricist	100%
<b>(ii)</b>	Composer	100%



	Lyricist (NC)	0%
(iii)	Composer (1) (NC)	0%
	Lyricist (2)	50%
	Publisher (1)	0%
	Publisher (2)	50%
(iv)	Composer (1)	50%
	Lyricist (2) (NC)	0%
	Publisher (1)	50%
	Publisher (2)	0%

## 6.5 Joint Works:

Copyright in Works of Joint Authorship (ie, works where the contribution of individual writers in the music, the lyrics, or the music and lyrics are indivisible) subsists until 50 years (NZ) or 70 years (Australia) after the death of the last surviving joint author. All writer and publisher shares in the joint work remain intact (subject to contractual changes) until that time – see following examples. (Asterisked writers are deemed to have been deceased for more than 50/70 years).

(i)	Composer	50%
	Composer*	50%
(ii)	Composer	25%
	Composer*	25%
	Lyricist	50%
(iii)	Composer	50%
	Lyricist *	25%
	Lyricist	25%
(iv)	Composer	50%
	Composer*	50%
	Lyricist* (NC)	0%
	<b>Note 1</b>	
(v)	Composer* (NC)	0%
	Lyricist*	50%
	Lyricist	50%
	<b>Note 2</b>	
(vi)	Composer	25%
	Composer*	25%
	Lyricist	25%
	Lyricist*	25%
	<b>Note 3</b>	
(vii)	Composer* (NC)	0%
	Composer* (NC)	0%
	Lyricist	50%
	Lyricist*	50%
	<b>Note 4</b>	

(viii) Composer	25%
Composer and Lyricist	50%
Lyricist	25%
<b>Note 5</b>	

**Note 1** – as there is no other lyricist (ie, the lyrics are not a ‘joint work’), the share of the NC lyricist is allocated equally to the copyright composers.

**Note 2** - as there is no other composer (ie, the music is not a ‘joint work’), the share of the NC composer is allocated equally to the copyright lyricists.

**Note 3** – both the words and music are ‘joint works’. All shares in the words remain intact until 50/70 years after the death of last lyricist, and all shares in the music remain intact until 50/70 years after the death of the last composer.

**Note 4** – both composers have been dead for more than 50/70 years. The NC composer shares are allocated to the copyright lyricists. Equally, NC lyricist shares would be allocated to the copyright composers.

**Note 5** – this is a ‘joint work’. All shares remain intact until 50/70 years after the death of the last writer.

6.6 APRA will rely on members’ registrations and, where appropriate, international files and registrations (fiches internationale) to determine whether a work is a ‘Joint Work’ or a ‘Collective Work’. Members’ registrations should clearly indicate the contribution of each writer of the work (C = Composer, A = Author or Lyricist and CA = Composer and Author). Where doubt exists as to the status of a work, APRA will presume the work to be a Joint Work.

6.7 Non-copyright shares allocated to copyright composers and lyricists in Collective or Joint Works, as the case may be, are payable to those copyright composers’ and lyricists’ publishing interests in accordance with their contractual arrangements.

6.8 Contractual variations to the above rules, including but not limited to the examples given in sections 6.3, 6.4 and 6.5, are subject to the overriding rule that the share allocable to the writer or writers of a work cannot be less than 50%.

## 7. Adjustments

7.1 APRA may from time to time be notified by a member or by an affiliate society of an erroneous distribution payment or may itself discover an incorrect payment. If APRA is notified of or discovers an incorrect payment to a member or to an affiliate society within 3 years of the date of the distribution, APRA will correct the erroneous payment by means of adjustment;

(a) In respect of APRA writer members,

- i) The adjustment will be processed if the amount to be adjusted is \$10 or more,
- ii) When debit adjustments greater than \$200 are to be applied, the member is contacted and advised of the adjustment prior to it taking effect.

(b) In respect of APRA publisher members,

- i) The adjustment will be processed if the amount to be adjusted is \$20 or more.

- ii) The party who received the overpayment is the party to whom the debit is applied, subject to the “Exceptional Cases” clause below.
  - iii) When debit adjustments greater than \$500 are to be applied, the member is contacted and advised of the adjustment prior to it taking effect.
  - iv) Exceptional Cases: where a significant debit is due to be applied and there has been a change in control of the related work(s), the previous and current right holder(s) will be consulted and the debit will ultimately be apportioned at the discretion of the APRA Board.
  - iii) When credit adjustments are to be applied, the party who is the current right holder is the party to whom a credit is applied, unless the agreement with the previous right holder has terminated and a current collection period is in place.
- (c) In respect of affiliate Societies,
- i) The adjustment will be processed if the amount to be adjusted is \$20 or more.
  - ii) Debits less than \$500 per work can be made without prior communication between societies.
  - iii) Debits over \$500 per work must be agreed between the two societies in advance. The debiting society must explain the reason for the proposed debit. The society to be debited must respond within 30 days, indicating the reason for any objection and steps being taken to resolve it. If no response is received within 30 days, the debit may proceed.
  - iv) Debits may not be made against distribution statements received by APRA from the remitting society more than 3 years earlier, except by prior bilateral agreement

7.2 Royalties paid to members in respect of credit adjustments are distributed to members in APRA’s quarterly distributions, except where the distributable amount exceeds \$10.00 and the member has an EFT facility with APRA, in which case the amount concerned is distributed approximately one month from APRA processing the adjustment.

## **8. Retrospective Claims and Self-Reporting Systems**

8.1 The retrospective claim period for self-reporting systems for Performance Reports and Jingle Reporting Forms claims will be limited to one year. It may be extended to up to three years where appropriate extrinsic evidence (i.e. going beyond a mere claim supported by a statutory declaration) is provided in support of the claim.

8.2 Where a retrospective claim is to be credited by APRA, payment will occur in APRA’s next annual distribution. It will be credited at the rate applicable to the distribution in which it is paid.

8.3 The three year retrospective claim period is not, however, open to new members. Members joining by 30th June can only claim retrospective performances for the previous year back to 1st July.

## **9. Arrangements of Musical Works**

- 9.1 Where an arrangement of a copyright musical work is made, no share is allocated to the arranger.
- 9.2 Where an arrangement of a public domain work is made, shares are allocated, subject to the rules set out in paragraphs 6.4, 6.5 and 20.11, as follows:
- (a) Unpublished arrangement without lyrics (or with public domain lyrics):
- |   |     |
|---|-----|
| Arranger  | 50% |
| Non-copyright element (returned to distributable revenue) | 50% |
- (b) Published arrangement without lyrics (or with public domain lyrics):
- |   |     |
|---|-----|
| Arranger  | 25% |
| Publisher   | 25% |
| Non-copyright element (returned to distributable revenue) | 50% |
- (c) Unpublished arrangement with unpublished copyright lyrics:
- |   |     |
|---|-----|
| Arranger  | 25% |
| Lyricist  | 50% |
| Non-copyright element (returned to distributable revenue) | 25% |
- (d) Unpublished arrangement with published copyright lyrics:
- |   |     |
|---|-----|
| Arranger  | 25% |
| Lyricist  | 25% |
| Publisher   | 25% |
| Non-copyright element (returned to distributable revenue) | 25% |
- (e) Published arrangement with unpublished copyright lyrics:
- |   |       |
|---|-------|
| Arranger  | 12.5% |
| Lyricist  | 50%   |
| Publisher   | 12.5% |
| Non-copyright element (returned to distributable revenue) | 25%   |
- (f) Published arrangement with published copyright lyrics:
- |   |       |
|---|-------|
| Arranger  | 12.5% |
| Lyricist  | 25%   |
| Publisher   | 37.5% |
| Non-copyright element (returned to distributable revenue) | 25%   |
- 9.3 Works that are not merely arrangements of public domain works but are new compositions based on non-copyright themes are allocated credits at the full 100% rate rather than the arranger's 50% rate. Such claims, when registered with APRA, must be accompanied by a manuscript or published copy of the work, which will then be referred to APRA's Membership & Distribution Committee for assessment and determination of the claim.

## 10. Translations of Lyrics and Addition of Amended or Substituted Lyrics

- 10.1 Where an authorised translation of copyright lyrics is made, or lyrics are changed or substituted

with the authority of the copyright owner, shares are allocated as follows:

(a) Unpublished:		
Composer		50%
Original lyricist		41.67%
Translator/Sub-Lyricist		8.33%
Composer		50%
Original Lyricist		33.33%
Translator/Sub-Lyricist 1		8.33%
Translator/Sub-Lyricist 2		8.34%

Note that 16.67% is the **maximum** share that can be deducted from the original lyricist's share for allocation to Translators or Sub-Lyricists, where the original lyrics remain in copyright.

(b) Published:		
Composer		25%
Original lyricist		16.67%
Translator/Sub-Lyricist		8.33%
Publisher		50%
Composer		25%
Original lyricist		8.34%
Translator/Sub-Lyricist 1		8.33%
Translator/Sub-Lyricist 2		8.33%
Publisher		50%

10.2 Where a translation of non-copyright lyrics is made, or non-copyright lyrics are changed or substituted, shares are allocated as follows:

(a) Unpublished:		
Composer*		75%
Original lyricist		0%
Translator/Sub-Lyricist		25%
(b) Published:		
Composer*		37.5%
Original lyricist		0%
Translator/Sub-Lyricist		12.5%
Publisher		50%

\*If the music is also non copyright, the original lyricist's share and the composer's share (including associated publisher shares) are transferred to APRA's contingency account.

10.3 Where a musical work is licensed for use in an advertisement and new or substantial lyrics are used in the advertisement, the parties may agree that the new lyricist's or sub-lyricist's share of performing right income be waived in favour of the original copyright owner(s). APRA will in such circumstances recognise and abide by such agreement notified to it.

## 11. Notification of Shares and Re-allocation of Copyright Shares

- 11.1 Each member must notify APRA of the allocation of shares (or, 'division of fees') and the full names of all sharers, in sufficient detail, of each musical work to be administered by APRA. With

the prior agreement of APRA, members may register works in which they have a share by means of on-line data entry or electronic registration files.

- 11.2 Where notification of sharers is provided to APRA by a publisher, APRA verifies the allocation of shares by contacting the writer(s) concerned.
- 11.3 APRA verifies the allocation of shares appearing on writers' on-line registrations by contacting, where relevant, all other writers concerned. In the case of writers' registrations by index card, all writers who are allocated shares must, other than in exceptional circumstances, sign the relevant registration.
- 11.4 Where sharers in a given title seek a re-allocation of shares for the title, all such sharers must sign a consent to the re-allocation and a statement confirming that the re-allocation of shares correctly reflects the authorship of the work.

## 12. Complaints Procedure

### 12.1 How to make a complaint

If you have a complaint about any aspect of the APRA AMCOS business or operations, you should make your complaint **in writing**. Because each area of our business and the interests of our clients are specialized, you should address the complaint as follows:

- APRA Licensees  
Head of Revenue
  
- APRA/ AMCOS Members  
Head of Member Services
  
- AMCOS Licensees  
Head of Revenue  
at 16 Mountain Street, Ultimo, NSW 2007  
Or via email to the address below
  
- Complaints Officer at APRA AMCOS,  
[complaints@apra.com.au](mailto:complaints@apra.com.au)

If you do not know who to address the complaint to, or if the complaint is of a general nature, address it to the Complaints Officer, at the above address.

Your name and relevant contact details must be provided.

APRA/ AMCOS will not investigate anonymous complaints.

#### **Who Can Make A Complaint?**

Any person or organization that has dealings with APRA AMCOS can make a complaint, including members, licensees, and people wishing or eligible to be members or licensees.

#### **Assistance in Formulating a Complaint**

If you require some assistance in either formulating your complaint or identifying who the complaint should be addressed to, please email or write to the Complaints Officer at APRA AMCOS.

Your complaint must include:

- your name and contact details, and/or the name and contact details of your organisation
- the nature of the practice complained of. Areas of possible complaint may include, for example: eligibility for membership to APRA AMCOS, our distribution policies, the terms of our licences, the amount of the fees payable under any of our licences, the standard of services we provide, the conduct of any of our employees, or the transparency of our operations
- the reason for your complaint
- the outcome you hope to achieve
- any material that supports your complaint

#### **Dealing with Complaints**

- We will acknowledge receiving the complaint within 7 days of receiving it
- If the complaint involves another person, we will forward the complaint and any supporting material to that person for comment
- We will respond to the complaint in writing within 14 days of acknowledging receipt. However, if the complaint involves another person, we will respond as soon as practicable after receiving that person’s comment on the complaint.
- We will maintain a register of all complaints received and the response we have made, and the Complaints Officer will have a copy of that register.
- All responses will provide you with the opportunity to take the matter further.
- You will have a further 21 days to make any comments on or respond to our response.
- If you are not satisfied with the explanation that has been provided, you will have a further 14 days to request that the matter be referred to alternative dispute resolution. The dispute resolution procedure will be Expert Determination.
- All complaints received by APRA AMCOS are submitted annually to the independent code reviewer as part of our compliance with the Code of Conduct for Collecting Societies.

### **13. Dispute Resolution Procedure**

13.1 If APRA is notified of a dispute among members, or involving members of an affiliated society, as to the allocation of shares in a work administered by it, APRA may, at its discretion, if it is satisfied that it is appropriate to do so in all the circumstances, place all or any of the performance credits relating to the work in suspense until the dispute is:

- (a) settled by agreement between the parties;
- (b) resolved through alternative dispute resolution (“ADR”); or
- (c) resolved by a Court.

13.1 A In determining whether to exercise its discretion under rule 13.1, APRA must take into account:

- (a) the nature and significance of the dispute between the parties;
- (b) the material provided by the parties to APRA relating to the dispute;
- (c) any undertakings relating to the payment or repayment of royalties given by the parties;



- (d) the apparent strength of each member's claim to a share of the work;
- (e) any other matters relating to the dispute that APRA considers to be relevant.

13.1 B APRA may at any time reconsider a decision whether or not to place performance credits in suspense and may revoke or vary that decision or make a new decision in substitution for it.

13.2 APRA offers ADR in the following circumstances, subject to all parties agreeing to submit to the procedure;

- (i) Where writer members are in dispute as to the proportions in which royalty allocations are to be shared;
- (ii) Where writer and publisher members are in dispute as to their respective entitlements from APRA;
- (iii) Where publisher members are in dispute as to their respective entitlements from APRA.

## 14. Unidentified Works and Credits in Suspense

14.1 Unidentified Works - APRA uses its best efforts to identify all works appearing in its distribution analysis. Distribution credits not payable owing to lack of documentation are retained for three years, and paid in the first distribution following identification of the interested parties and share details. Payment is at the dollar amount that is attributable to a performance credit in effect at the time the payment is made. No interest accrues or is paid to the interested parties.

14.2 At the end of the three-year retention period, unidentified performances are deleted, and unidentified account balances, both domestic and international, that have been held for more than three years are returned to the distribution. 10% of unidentified account balances is set aside as a provision for extraordinary claims.

14.3 Credits In Suspense – Monies held in APRA's suspense account pending resolution of an ownership dispute are released for payment on proper notification of the dispute's resolution. No interest accrues or is paid to the interested parties.

## 15. Sources of Revenue - Distribution Pools

15.1 **Distributable revenue** means gross licence fees collected plus investment income earned on such fees, less APRA's administrative expenses and Article 95 deductions (refer to paragraphs 4.1, 4.2 and 4.3 of these Rules).

15.2 A separate distribution pool applies to each of the major identifiable sources of distributable revenue for which programme returns (or similar documentation or third-party analysis) are provided to APRA. The principal distribution categories, some of which include several discrete pools, are:

- (a) free to air television;
- (b) subscription television;
- (c) radio;
- (d) cinema;
- (e) concerts and 'live' performances;
- (f) airlines;

- (g) nightclubs;
- (h) ringtones, digital downloads, streaming services, video on demand; and
- (i) other online sites.

15.3 Distributable revenue received in respect of public performances or communications to the public (including broadcasts) for which no programme returns or similar documentation/analysis are available is apportioned to those pools which, in the Board's view, most accurately reflect the music performed.

## 16. Distribution - Free to Air Television Performances

16.1 Those performances analysed within the free to air television distribution, with the exception of music used in advertisements reported by means of APRA's Jingle Reporting Forms – see 16.5 below, receive one credit for each second of duration as indicated on all station reports and music cue sheets (or their equivalent) that are analysed by APRA, subject to the following rules. Where APRA's monitoring of performances discloses inaccuracy in a cue sheet, the inaccuracy is rectified by APRA.

16.2 Definitions -

### **Background Music**

means music included in a television programme or film which is neither featured music nor theme music. Includes music used in Presentation Items, as per 16.8 below.

### **Featured Music**

means music which falls into one or more of the following categories:

- (a) music which is performed by, or represented on the television screen as being audible to, one or more of the characters in the scene portrayed;
- (b) music performed in music video clips;
- (c) music performed in association with choreographed dance sequences;
- (d) music performed "on camera".

### **Theme Music**

Means music which is regularly or solely associated with a television series, individual programme or film such that it identifies that series, individual programme or film, when used as the opening and/or closing music of the series, individual programme or film. Theme excludes music used in conjunction with programme previews (teasers) or recaps, which are credited as Background music.

16.3 Performance credits are allocated to music performed in television broadcasts according to the use made of the music, as follows:

- (a) Featured Music receives a full credit for each second of duration.
- (b) Theme Music receives 75% of a full credit for each second of duration.
- (c) Background Music receives 50% of a full credit for each second of duration.

- (d) Music contained in station IDs and programme promotions receives 15% of a full credit for each second of duration.
  - (e) Music contained in advertisements (including 'infomercials') and public service announcements receives 7.5% of a full credit for each second of duration.
- 16.4 For free-to-air broadcasts the performance credits are further varied by reference to the time of day at which the performance occurs, as follows:
- (a) Performances in programmes commencing between 6pm and 10.30pm receive a full performance credit;
  - (b) Performances in programmes commencing between 6am and 6pm, or 10.30pm and midnight, receive 30% of a full performance credit;
  - (c) Performances in programmes commencing between midnight and 6am receive 10% of a full performance credit; and
  - (d) In instances where the time at which a performance occurs is not known, the work concerned receives a performance credit based on an average of the time zones referred to above.
- 16.5 The APRA Board determines from time to time, based on the information and procedures outlined in the APRA Distribution Practices document, the value of the distribution pools for the payment of music used in television commercials and community service announcements (CSAs). Music used in television commercials and CSAs receive a proportionate share of the relevant pool, depending on whether usage details have been received by means of APRA's self-reporting system (for broadcasts in non-MRT areas) or from APRA's analysis of free-to-air TV broadcasts using Music Recognition Technology (MRT).
- 16.6 Music 'tags' included in Jingle Reporting Forms for broadcasts of television commercials and community service announcements in non-MRT areas will be paid at their reported duration as a percentage of 30 seconds.
- 16.7 Test pattern music is not analysed for distribution purposes.
- 16.8 Music used in 'Presentation Items', including News Updates, Weather Updates, Sports Updates, Hostings, Lotto, Powerball is paid as Background Music.

## **17. Distribution – Subscription Television Performances**

Performance credit points in respect of subscription television are calculated on a similar basis as free to air television, except that subscription television performance credits are not varied according to the time of day at which the performance occurs.

## **18. Distribution - Broadcast Radio Performances**

- 18.1 Those performances analysed within the broadcast distribution receive one credit for each 15 seconds (or part thereof) for durations up to and including 1 minute. With the exception of music used in advertisements – see 18.6 below – broadcast durations between 1 minute 1 second and

5 minutes 59 seconds receive 12 credits. Broadcast durations in excess of 5 minutes 59 seconds receive credits in accordance with APRA's **Long Works** rule.

- 18.2 For the purposes of this paragraph 18, **Long Works** means works with a duration, as broadcast, in excess of 5 minutes 59 seconds.
- 18.3 Performance credits for Long Works receive 200% of a full performance credit, that is, 8 credits per minute, plus 2 credits for each additional 15 seconds (or part thereof).
- 18.4 Music contained in advertisements, station IDs, programme promos, community service announcements, stings, bridges, news and weather themes receive 50% of one credit
- 18.5 Music 'tags' included in Jingle Reporting Forms for broadcasts of radio commercials and community service announcements in non-MRT areas will be paid at their reported duration as a percentage of 30 seconds.
- 18.6 The APRA Board determines from time to time, based on the information and procedures outlined in the APRA Distribution Practices document, the value of the distribution pools for the payment of music used in radio commercials and community service announcements (CSAs). Music used in radio commercials and CSAs receive a proportionate share of the relevant pool, depending on whether usage details have been received by means of APRA's self-reporting system (for broadcasts in non-MRT areas) or from APRA's analysis of radio broadcasts using Music Recognition Technology.
- 18.7 Advertisements and CSAs reported by means of Music Recognition Technology receive one credit point for each second of duration. Advertisements reported by members by means of Jingle Reporting Forms are paid at a standard 30" duration, and the value is determined by the length of the campaign and the area in which the advertisement was broadcast.
- 18.8 Licence fees received in respect of radio stations' website usage are pooled with the licence fees received for broadcasts by the relevant station, and reported usage is distributed at the rate of 1.35% of the value of music broadcast by the radio station.

## 19. Distribution - Cinema Performances

- 19.1 Performances analysed within the cinema distribution receive one credit for each second of duration, as indicated on all music cue sheets that are analysed by APRA, subject to application of the same rules and definitions that apply in the case of television performances of featured music, opening and closing music and background music referred to at 16.2 and 16.3 (a), (b) and (c).
- 19.2 Cinema commercials and trailers are not analysed for distribution purposes.

## 20. Distribution – Concerts, Dance Clubs, Airlines, Sporting Codes & Events and Other Performances

- 20.1 ABC concerts, Australian and New Zealand symphonic concerts, Promoted concerts, other live performances, dance clubs and discotheques, dance parties, airlines, music on hold, schools, churches, aerobic and fitness classes, sporting codes and background music suppliers:
- 20.2 Works performed in these distribution categories other than Airline Video, Promoted Concerts and Performance Reports (see below) analysed for distribution purposes receive credits on the same basis as radio (refer 18.1) excepting that no **Long Work** increases apply to durations in

excess of 5 minutes 59 seconds. Works that have a reported performance duration over 5 minutes 59 seconds receive four credit points per minute for the full duration of the work as performed, plus one credit for each additional 15 seconds (or part thereof).

20.3 Airline Video

20.4 Airline Video performances receive one credit for each second of duration as indicated on all music cue sheets that are analysed by APRA, subject to application of the same rules and definitions that apply in the case of television performances of featured music, opening and closing music and background music referred to at 16.2 and 16.3 (a), (b) and (c).

20.5 Live performances reported by means of 'Performance Reports (PRs)':

- (a) A 'standard duration' (equal to 3'00" or 12 credit points) is applied to all works reported on PRs except for contemporary classical and jazz music, which are credited at their reported durations. Credit points for contemporary classical and jazz music are calculated as per 20.2 above; and
- (b) All performances in childcare centres and preschools are paid providing they are:  
Performances in public,  
Performances not given by an employee of the child care centre.
- (c) All church performances outside of the standard worship service are paid.
- (d) All performances in venues for hire (where the licence fee is less than \$2,500) are paid.
- (e) The monetary value of each credit is determined annually by the APRA Board.

20.6 Promoted Concerts (that is, live (including DJ) performances where the licensed party is the promoter of the performance):

20.7 Exact durations are used for royalty calculation purposes wherever possible and credit points are calculated at the rate of 1 point for each 15 seconds or part thereof. However, for works performed at concerts where durations are not shown on the setlist, a 'standard duration' (equal to 12 credit points) is applied to all works, except where a duration of 1 minute or less is shown (these are converted at one credit point for each 15 seconds -or part thereof - up to a maximum of 4 points).

20.8 Equal performance credits are given to works of the same duration performed by the headline act and the supporting act(s) appearing on stage after the concert's advertised starting time.

20.9 Only live music, and recorded music performed by DJs, shares in a promoter concert distribution, except where the recorded music accompanies the vocal or other live performance of the performer or is used as 'play on' music for the performer, immediately before and/or during the performer's entrance on stage.

20.10 The licence fees paid by the concert, dance party or event promoter are allocated directly to the works performed by both the headline acts and the supporting artists. Where setlists are valued at less than \$15 (\$1 or less per work based on an average length setlist) that cannot be obtained at the time of distribution or higher value setlists that cannot be obtained after 3 years, 100% of the money is added to APRA's Performance Report (PR) pool

20.11 Arrangements of non-copyright works performed at promoted concerts or under APRA's Sporting Code & Events licences, are paid at the full 100% rate.

- 20.12 Music performed live at events covered by APRA's Sporting Code & Events licences, receives a 2x payment weighting compared to the recorded music played by means of a PA system, big screen or similar device.

## **21. Distribution – Digital Delivery**

- 21.1 Digital delivery providers (ringtones, music download services) report to APRA each downloaded work's title and performer details, and either the total sales value of the downloaded works in the reporting period (blanket licence) or the sales value of each individual work and production that has been downloaded from their service (transactional licence).
- 21.2 In the case of blanket licences, the reported works share in the blanket licence fees, from which the value of each work is calculated using a combination of download activity and duration. In the case of transactional licences, the sales value of each work is used to calculate its APRA distribution payment.
- 21.3 Works paid as part of the blanket licence distribution receive one credit for each 15 seconds (or part thereof) for durations up to and including 1 minute. Uses between 1 minute 1 second and 5 minutes 59 seconds inclusive receive 12 credits. Durations in excess of 5 minutes 59 seconds receive 4 points per minute for the full duration as used.
- 21.4 All works and productions reported to APRA by providers of digital delivery services that match automatically with payable works and productions contained in APRA's database, are included in APRA's distributions irrespective of the dollar amount to be distributed.
- 21.5 Works and productions that do not match automatically with works and productions in APRA's database are researched for inclusion in APRA's distributions only when the distribution value is over a pre-determined threshold; that threshold being \$100 (this is a combined APRA AMCOS amount).
- 21.6 Where a match occurs with a work in APRA's database, but the work's sharers have not been identified and the value of the reported usage is over the APRA AMCOS distribution threshold, the reported work's download statistics and/or sales value are retained in APRA's database and distributed in the first distribution following identification of the writers, publishers and percentage splits.
- 21.7 The distribution values of unmatched or unpayable works that are below the threshold are distributed pro rata across the payable works reported by the same client.

## **22. Distribution – General Online, ABC Online, Streaming Services, YouTube, Video on Demand & Podcasts)**

*(for the purpose of these Rules, the term 'Online' covers all Internet uses with the exception of Digital Delivery – see previous section)*

- 22.1 With the exception of Video on Demand and Streaming Services, performances analysed within the Online distribution receive one credit for each 15 seconds (or part thereof) for durations up to and including 1 minute. Uses between 1 minute 1 second and 5 minutes 59 seconds inclusive receive 12 credits. Durations in excess of 5 minutes 59 seconds receive 4 points per minute for the full duration as used. Reporting of performances on Streaming Services is exclusive of durations, and therefore each work included in a Streaming Services distribution is allocated a value based on the number of streams, rather than the duration.

22.2 In most cases, a direct allocation of online licence fees is made where accompanying music usage data is received – please see APRA’s ‘Distribution Practices’ document for further details.

### **22.3 General Online**

22.4 Licence fees received with no accompanying music usage data are distributed across the radio revenue pools on a follow-the-dollar basis. However, where the online licence fee exceeds \$5,000, fees may be allocated to an alternative distribution source if one exists that more closely reflects the type of music used.

### **22.5 Video on Demand**

22.6 Video on Demand performances receive one credit for each second of duration, as indicated on all music cue sheets that are analysed by APRA, subject to application of the same rules and definitions that apply in the case of television performances of featured music, opening and closing music and background music referred to at 16.2 and 16.3 (a), (b) and (c).

### **22.7 Online Radio Simulcasts**

22.8 Licence fees received in respect of online simulcasts of radio transmissions are pooled with the licence fees received for broadcasts by the relevant station and are distributed accordingly.

## **23. Unlogged Performance Pool (Includes ‘Ambient Music’ claims from 1<sup>st</sup> July 2016)**

23.1 The APRA Board has established an Unlogged Performance claim procedure. In accordance with Article 94 and paragraph 1.3 of these rules, claims must be made by any interested persons within three years of the date of the allocation or distribution in which the unlogged performance occurred.

23.2 Unlogged performance claims will be considered by APRA’s Membership and Distribution Committee.

23.3 To be eligible for payment from this distribution pool the performance of the specified work(s) must be;

- either a public performance of a work which falls outside of any logging or self-reporting system
- or a recurrent broadcast of a work in a non-rostered period where a sample survey is carried out.

23.4 Applications for Music on Hold performances will not be accepted because there is an existing system of allocation in place for Music on Hold.

23.5 If APRA’s Membership and Distribution Committee determines that the value of an unlogged performance claim is less than \$10.00, no payment will be made.

## **24. GST**

24.1 If a member is liable to pay goods and services tax (GST), APRA must, in addition to any amount payable under these rules, pay the member an amount equal to:

- (a) the GST; less
- (b) any input tax credit to which the Member is entitled in respect of any supply to the Member under this agreement (**Input Tax Credit**),

within 28 days after receiving the member's tax invoice and notice under paragraph 24.2

24.2 The member must:

- (a) provide APRA with a tax invoice in accordance with GST law, unless APRA is entitled to issue a recipient created tax invoice; and
- (b) notify APRA whether it is entitled to any Input Tax Credit.