

**APRA's**

**DISTRIBUTION**

**RULES**

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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 in their entirety;
- (b) the performance in public in whole or in part of any musical work in a Dramatic Context;
- (c) choral works of more than 20 minutes duration, and oratorios when performed in their entirety; and
- (d) the performance in whole or in part of any music and associated words composed or used for a Ballet, if accompanied by a visual representation of that Ballet,

unless performed 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 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:

- (a) in conjunction with:
  - i. acting;
  - ii. costumes;
  - iii. scenic accessories; and
  - iv. scripted dialogue or other dramatic effects, or
- (b) as a ballet; and

### **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 administrative expenses vary from year to year, but have historically amounted to between 10% and 15% of gross revenue. The key expense items are: wages and salaries, amortised capital expenditure, licensing expenses, information technology expenses, legal fees and communication costs.
- 4.3 From 1<sup>st</sup> July 2009, APRA deducts 1.5% of the distributable revenue (increased from 1.25%) payable to members 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.
- 4.4 APRA distributes on a semi-annual, i.e. six-monthly, basis (with the exception of a small number of self-reporting systems, which are distributed annually). Licence fees collected, and interest earned, during the six months period to 30 June and 31 December in any year are payable as soon as practicable after those dates, together with any adjustments to previous distributions.
- 4.5 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 semi-annual 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 approximately one month from receipt and analysis of the accompanying documentation.
- 5.2 APRA deducts 1.5% of net royalties received from affiliated societies in respect of the costs associated with analysis and processing of such royalty payments.

## 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(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.

## 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

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

### (b) Original Published Works

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

(i)	Composer (NC)	0%
	Lyricist	100%
(ii)	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%

*Note 1*



(v) Composer* (NC)	0%
Lyricist*	50%
Lyricist	50%
<i>Note 2</i>	
(vi) Composer	25%
Composer*	25%
Lyricist	25%
Lyricist*	25%
<i>Note 3</i>	
(vii) Composer* (NC)	0%
Composer* (NC)	0%
Lyricist	50%
Lyricist*	50%
<i>Note 4</i>	
(viii) Composer	25%
Composer and Lyricist	50%
Lyricist	25%
<i>Note 5</i>	

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. If APRA is notified of an incorrect payment by a member or by an affiliate society within 3 years of the date of the distribution, APRA will correct the erroneous payment by means of adjustment, provided that;
- (a) In respect of APRA writer members, the amount to be adjusted is \$10 or more, or
  - (b) In respect of APRA publisher members, the amount to be adjusted is \$20 or more, or
  - (c) In respect of affiliate societies, the amount to be adjusted is US\$20 or more. Debits over US\$500 per work must be agreed upon between the two societies prior to the debit. However, if any objection raised cannot be resolved within 6 months of the date of the first written notification, the debit will proceed unless a counterclaims and disputes procedure has been invoked for the work in question which indicates dispute over division of fees or rightful ownership.
- 7.2 Royalties paid to members in respect of credit adjustments are distributed to members in APRA's semi-annual distributions **except** where:
- (a) the distributable amount exceeds \$10.00 and the member has an EFT facility with APRA;
  - (b) otherwise, the distributable amount exceeds \$200
- 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 Live Performance Returns, Jingle Reporting Forms and Ambient music claims will be limited to one year. It may be extended to up to three years where appropriate extrinsic evidence (ie, 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 'A' or 'B' distribution, depending on the self-reporting system concerned. 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 6.3, 6.4 and 20.8, 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.

## 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 paid to 'non copyright element' and returned to distributable revenue.

- 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 computer tapes or disks.
- 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:

- Ø APRA Licensees  
Director of General Licensing
  
- Ø APRA/ AMCOS Members  
Director of Member Services
  
- Ø AMCOS Licensees  
Director of Media Licensing

at 6- 12 Atchison Street, St. Leonards. NSW. 2065

Or via email to the address below

Ø 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.

## 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; or
- (b) resolved by a Court or alternative dispute resolution ("ADR").

13.1A. 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.

13.1B 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, by way of binding referral to an independent expert, 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. Credits in Suspense

- 14.1 APRA uses its best efforts to identify all works appearing in its distribution analysis. Distribution credits not payable owing to lack of documentation are 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.

## 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 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) are provided to APRA. The principal distribution categories, some of which include a number of discrete pools, are:
- (a) free to air television;
  - (b) subscription television;
  - (c) radio;
  - (d) cinema;
  - (e) concerts and 'live' performances;
  - (f) dance clubs;
  - (g) ringtones and digital download; and
  - (h) online.
- 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 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 – see 16.5 below, receive one credit for each second of duration as indicated on all 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. Music used in television commercials receives a proportionate share of the relevant pool, depending on whether usage details have been received by means of APRA's self-reporting system or from other sources.

- 16.6 Music 'tags' included in television advertisements will, in the absence of a stated duration, be paid at 5% of the total value of the commercial or, if the duration of the 'tag' is provided, that 'tag' will be paid at the relevant 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

Royalty allocations in respect of subscription television are calculated on the same 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, with the exception of music used in advertisements – see 18.6 below, receive one credit for each 15 seconds (or part thereof) for durations up to and including 1 minute. 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 which have 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 for each 15 seconds (or part thereof) duration.
- 18.5 Music 'tags' included in radio advertisements will, in the absence of a stated duration, be paid at 5% of the total value of the commercial or, if the duration of the 'tag' is provided, that 'tag' will be paid at the relevant 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. Music used in radio commercials receives a proportionate share of the relevant pool, depending on whether usage details have been received by means of APRA's self-reporting system or from the radio stations.

## 19. Distribution - Cinema Performances

- 19.1 Performances analysed within the cinema distribution receive one credit for 15 seconds (or part thereof) 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.
- 19.2 Cinema commercials and trailers are not analysed for distribution purposes.

## 20. Distribution – Concerts, Dance Clubs and Other Performances

- 20.1 ABC concerts, Australian and New Zealand symphonic concerts, dance clubs and discotheques, airlines, music on hold, ambient music, schools, churches, aerobic and fitness classes, and background music suppliers:
- 20.2 Works performed in these distribution categories 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 which 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 Live performances reported by means of 'Live Performance Returns (LPRs)':
- (a) A 'standard duration' (equal to 12 credit points) is applied to all works included on LPRs analysed for distribution purposes, with the exception of contemporary classical, jazz and dance music, which are credited at their reported durations. Credit points for contemporary classical, jazz and dance music are calculated as per 20.2 above; and
  - (b) Distribution payments for performances reported as 'residencies' may not exceed the total applicable licence fee received from each such venue.
  - (c) The monetary value of each credit is determined annually by the APRA Board.
- 20.4 Promoted concerts (that is, live performances where the licensed party is the promoter of the performance):

- 20.5 For works performed at classical music concerts and at concerts where APRA's licence fees are \$1,000 or over, the reported durations are converted at the rate of one credit point for each 15 seconds (or part thereof). For works performed at non-classical music concerts where APRA's licence fees are less than a \$1,000 or 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).
- 20.6 Equal performance credits are given to works performed by the headline act and the supporting act(s) appearing on stage after the concert's advertised starting time.
- 20.7 Only live music shares in a concert distribution, except where the recorded music accompanies the vocal or other live performance of the performer (including music performed by DJs) or is used as 'play on' music for the performer, immediately before and/or during the performer's entrance on stage.
- 20.8 Arrangements of non-copyright works performed at promoted concerts are paid at the full 100% rate.

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

- 21.1 Digital delivery providers (ringtones, music download services) report to APRA the title and performer details, and the quarterly sales value for each work and production that has been downloaded from their service.
- 21.2 The sales value of each work and production is used to calculate its APRA distribution payment. All works and productions reported to APRA by providers of digital delivery services that match automatically with works and productions contained in APRA's database are included in APRA's distributions irrespective of the dollar amount to be distributed.
- 21.3 Works and productions that do not match automatically with works and productions in APRA's database are included in APRA's distributions only when the per work distribution value reaches a pre-determined threshold; the threshold being \$5 (this is a combined APRA|AMCOS amount)\*.
- 21.4 Works that do not reach the required threshold in their first reporting quarter are added to APRA's database. Their APRA distribution value, calculated from the value of subsequent sales, accumulates for each work until the threshold is reached.
- 21.5 Works with a value below the digital delivery payment threshold are included in APRA's distributions immediately upon receiving a performance from any other source (including a non-digital delivery mechanical reproduction, as reported to AMCOS).

## 22. Distribution – Online (including Podcasts & 3G Mobile Services)

(for the purpose of these Rules, the term 'Online' covers all Internet uses with the exception of Ringtone and Digital Download)

22.1 Those transmissions 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.

22.2 A direct allocation of online licences is used, in accordance with the following:

1) In cases where the licence fee **exceeds** \$200;

if the automatic title match rate is 90% or above

or,

if the title match rate is less than 90%, if the per work value is \$5.00 or more.

1a) If the licence fee exceeds \$200, but

(i) the automatic title match rate is less than 90% and

(ii) the per work value is less than \$5.00,

the automatically matched titles will be paid the proportion of the total licence fee attributable to these works.

If the remaining portion of the licence fee attributable to the unmatched titles is over \$200, the remaining sum will be added, where possible, to an existing distribution pool where the music content is most similar.

2) In cases where the licence fee **is less than** \$200;

if,

(i) the automatic title match rate is 90% or above **and**

(ii) the per work value is \$1.00 or more,

or

(iii) if the match rate is less than 90%, the per work value is \$5.00 or more.

22.3 Where indicated on licensees' performance logs, the 'number of accesses' is used for the calculation of royalty payments.

22.4 Licence fees received in respect of 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

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 To be eligible for payment from this distribution pool the performance of the particular work must be licensed by APRA and 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.
- 23.3 Applications for Music on Hold performances will not be accepted because there is an existing system of allocation in place for Music on Hold.
- 23.4 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.
- 23.5 Unlogged performance claims will be considered by APRA's Membership and Distribution Committee twice a year, following each of APRA's semi-annual distributions.

## 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 22. 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.