

ERA DISTRIBUTION POLICY

APPROVED 16 JULY 2015

1. Sources of revenue

ERA applies its Mandates to support operation of a copyright licensing scheme known as the ERA Licence.

Educational Establishments within the United Kingdom of Great Britain and Northern Ireland are able to take out ERA Licences.

By agreement with ERA Members and the authorities responsible for educational establishments within the Isle of Man and the Channel Islands, ERA Licences are also granted for the benefit of educational establishments within the Isle of Man, Jersey and Guernsey.

This policy sets out the basis upon which ERA distributes licensing revenue from issue of ERA Licences.

2. Deductions

In each year the Board of Directors of ERA approves a budget to cover the administrative and running costs and incidental expenses of running ERA in the form of management fees.

The deductions that may be made and retained by ERA from sums otherwise payable to an ERA Member under the ERA Distribution Policy are:-

An appropriate share of ERA's management fees and reasonable allocations to reserves as are approved by ERA Members from time to time.

Fees or commissions charged by ERA or its sub-agents and agreed by the Member for any additional tasks specifically undertaken for the Member at its request.

Sums which are to be paid to ERA as a result of the Member being in breach of the warranties and undertakings that have been given to ERA by the Member in mandating ERA to act on its behalf.

Withholding of any taxes required to be deducted or withheld under the laws applicable within the United Kingdom or within any country in which relevant fees or other sums become payable to ERA.

3. Authorisation of Distributions

At least twice during each calendar year, but more usually on a quarterly basis, the Board reviews the royalties and fees that have been both received and earned from application of the ERA Licence.

Fees shall be earned by reference to ERA Licences held by the following User Group:

Funded schools (primary and secondary)
Independent schools
Educational Establishments of Further Education
Educational Establishments of Higher Education
Other Educational Establishments (such as foreign language schools).

Following review and consideration of the management fees incurred in line with the approved budget, the Board shall identify the total amount which the Members shall be asked to approve for distribution (“Net revenue”) together with the date of the proposed distribution to be made as provided in the approved Distribution Policy.

Once the Board identifies the amount of a proposed distribution ERA shall give to all relevant Members appropriate notice of a proposed resolution to ratify the distribution and the date upon which the distribution shall be made.

Following ratification of the distribution by ERA Members, ERA shall remit to Member(s) such royalties fees and other monies as have then been agreed due between the Member and ERA within the approved distribution.

4. Shares of Distribution – Category level

There are five categories of ERA membership.

Category 1 – Broadcasts

Category 2 – Literary, dramatic, musical and artistic works

Category 3 – Performers

Category 4 – Sound Recordings

Category 5 – Films

Each Member of ERA is either a collective management organisation, society, guild, association or other body (whether incorporated or unincorporated) which is a substantial copyright owner or represents a substantial number of copyright owners not otherwise represented by one of the other members of ERA for the purposes of licensing repertoire relevant to the ERA Licence.

When applying for ERA membership prospective members identify the Category of ERA membership which most accurately reflects the nature of the majority of rights within the repertoire of the Member to be mandated to ERA.

The shares of distributable revenues allocated to each Category of ERA membership are agreed and set by unanimous decision of all members of ERA at the time when the revenue shares are confirmed.

With effect from 14 April 2014, the Members of ERA have agreed and have instructed ERA to apply a specified Net revenue percentage allocated to each of the five Categories of ERA membership.

For this purpose “Net revenue” is the amount that ERA Members approve as the total sum due to be distributed and paid to ERA Members when approval for a relevant distribution is confirmed.

The agreed Net revenue percentage allocated to each Category of ERA Membership shall be applied for the purposes of any distributions approved by ERA Members unless or until all ERA Members shall agree with ERA to vary the Net revenue shares in place up to the point of such further agreement.

The Members within each Category of ERA Membership are listed below.

The Net revenue percentage agreed applicable to each Category of ERA Membership is specified by Category below.

The Members within each category of ERA Membership have agreed how the total Net revenue percentage allocated to their Category of ERA Membership is to be divided between the Members of that Category and have entered into Category Split Agreements whereby ERA is instructed to apply such agreed allocation of Net revenues for any and all distributions approved by ERA Members in accordance with this Distribution Policy unless and until further agreement is entered into between all the ERA Members in the relevant Category and ERA.

Categories of ERA Membership
ERA Members within each Category of ERA Membership
Percentage of Net revenue allocated to each Category of ERA
Membership

Category 1 (Net revenue percentage 37.98%)
BBC Worldwide Limited
Channel 5 Broadcasting Limited
Channel Four Television Company Limited
The ITV Network Limited
Sianel Pedwar Cymru
Compact Collections Limited

Category 2 (Net revenue percentage 27.25%)
Authors' Licensing and Collecting Society Limited
Design and Artists' Copyright Society
Mechanical Copyright Protection Society Limited
The Performing Right Society Limited
Directors UK Limited

Category 3 (Net revenue percentage 20.85%)
Equity
Musicians' Union
Incorporated Society of Musicians

Category 4 (Net revenue percentage 4.35%)
BPI (British Recorded Music Industry) Limited
Phonographic Performance Limited
Radio Independents Group

Category 5 (Net revenue percentage 9.57 %)
AGICOA
FOCAL International Limited
Open University Worldwide Limited

Total 100%

5. Shares of Distribution within Categories of Membership

The Members of ERA have delegated to the Members in each Category of Membership the right to agree between the members in the Category, the way in which the total Net revenue percentage for the Category is split between the members of the Category.

The agreed splits are set out in written agreements between ERA and the ERA Members concerned (Category Split Agreements).

With the agreement of all Members of ERA, any distributions approved and made will allocate and pay the Net revenue percentage agreed for a Category of ERA Membership in the shares allocated to each member of the Category as set out in the relevant Category Split Agreement.

No changes to the revenue shares specified in any Category Split Agreement shall be made or applied unless ERA and all current ERA members who were party to a Category Split Agreement shall agree and enter into a revised agreement to approve the terms.

6. Policy on the use of non-distributable amounts

ERA only licences the use of works and performances which fall within the definition of ERA Repertoire under the ERA Licence.

If rights fall outside the definition of ERA Repertoire, the copyright exception and limitation provisions in s 35 and paragraph 6 Schedule 2 Copyright, Designs and Patents Act 1988 apply for the benefit of educational establishments making use of rights falling outside ERA Repertoire.

Additionally, the proportions in which ERA revenue allocated amongst its Members are determined by agreement between the Members as reflected in the approved ERA distribution policy and, unlike some other CMOs, are not directly related to the proportion of works and performances used by ERA licensees controlled by each Member. ERA distributions are therefore not affected by any uncertainties over the ownership or control of any work or performance or uncertainty over whether any rights subsist in the same.

ERA is therefore able to allocate all distributable revenue to its Members as owners of ERA Repertoire in accordance with the approved ERA distribution policy without provision for claims from owners who are not ERA Members or represented by ERA Members at the time when approval for distributions is confirmed.

A policy for the use of non-distributable amounts is therefore not required or relevant to ERA activities.

7. Statements requesting invoices for payments

For each accounting period for which ERA Members shall have approved a distribution (and not less than once a year) ERA shall send a statement in the form of a request for invoice setting out in detail the royalties fees and other sums to be distributed to the Member on a specified Distribution Date.

Statements will include:

Contact details for the Member as held by ERA.

The Net revenue percentage and amount attributed to the Member in the proposed distribution as provided in this Distribution Policy and any current and relevant Category Split Agreement.

The share of Net revenue percentage proposed for distribution to the Member by reference to their Category of ERA Membership and to User Group.

The period during which the Net revenue distributed was earned against ERA Licences.

A date by which an invoice for the specified payment must be received by ERA to enable payment to be made on the agreed Distribution Date.

8. Invoicing for payments due under agreed Distributions

ERA Members will be required to submit to ERA an invoice for payment of sums stated as due in Statements sent to the ERA Member (together with any relevant VAT).

Subject to receipt of an invoice from an ERA Member in appropriate form, ERA will pay the sum approved for distribution on the specified Distribution Date.

Any changes to this Distribution Policy will be first discussed and agreed by the Board before being put to the ERA Members for approval in general meeting.

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