

Standard Distribution Principles for Music Licensing Companies (“MLCs”)

October 2018

The aim of these standard principles is to ensure that each MLC offers high quality services in every country around the world. Harmonising the principles applied to distribution rules will allow MLCs to share resources and increase efficiency and transparency.

This document sets out the standards to be met by the distribution policies of all MLCs. These principles will be updated on occasion as technology and good practices develop over time. It is also understood and accepted that MLCs may be forced to deviate from these principles in order to comply with national law or other binding regulations.

When applying and implementing these principles, consideration should be given to the relevant provisions of the IFPI MLC Code of Conduct.

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ALLOCATION OF REVENUES

1. General Principles

MLCs shall apply the following principles when allocating revenues to right holders:

- 1) revenues shall be distributed to all right holders at track level; and
- 2) revenues shall be distributed based on actual use in respect of the services to which the revenue relates,

insofar as it is economically reasonable and unless otherwise stated in this Standard Distribution Principles document.

MLCs shall allocate and distribute revenues only to the eligible and protected recordings. The criteria for eligibility for collections and distributions shall be explained and made available on MLCs' websites.

2. Radio Broadcasting

MLCs allocate the revenues based on actual use. MLCs obtain usage reports in a cost-effective way from broadcasters or Automatic Content Recognition (ACR) service providers to identify the use of recordings.

Standard Practice

Revenues shall be distributed based on actual use.

Revenues shall be allocated for each station or channel separately, taking into account:

- 1) the distributable amount for the station or channel;
- 2) the cumulative reported duration of all recordings broadcast on that station or channel; and
- 3) the cumulative reported duration of usage of each individual recording; revenues should be allocated per recording.

Allocation shall be based on duration of recordings and partial use of recordings in seconds. System implementation may permit for different weighting (e.g. by day/night), in which case objectively justifiable weightings need to be applied.

Where it is not economically feasible to allocate all revenue separately per channel, revenues from channels with similar profiles may be pooled and distributed based on reports from a statistically representative sample of channels.

An amalgamation of revenue and usage sources into pools for allocation purposes may only occur where the stations or channels in the pool have verifiably similar licence value and/or similar usage and shall take account of relative usage and audience.

For small and medium radio stations that do not supply playlists or for which the cost of processing the playlist is not reasonable compared to the revenue collected from that station, a statistically representative sample of stations, for which playlists of good quality are available, may be used to determine the allocation of revenues collected from all similar stations.

The principles and criteria for the selection of reports from radio stations for a statistically representative sample must be transparent and made available to right holders. The selection of the reports must be based on objective criteria and analysis and reflect actual use of recordings as closely as possible. The appropriateness of the sample stations for the other stations they represent shall be regularly reviewed and re-assessed. Only high-quality reports reflecting actual use may be selected for the sample. Revenue shall be allocated according to the total duration of the recordings broadcast by all the stations in the sample.

Dubbing for radio broadcasting is to be allocated based on dubbing rules (see dubbing rules below).

Notes

It is recognised that not all situations permit economically feasible distribution based on complete recording usage data. Allocation based on usage reports is strongly recommended where economically feasible, but in cases where this requires higher administration costs than there is revenue to distribute, other alternative approaches can be taken on a condition that any such alternative approach shall reflect actual use as close as possible.

The use of radio usage data as a proxy for TV, or TV usage data for radio, must be avoided.

3. TV Broadcasting

MLCs allocate the revenues based on actual use. MLCs obtain usage reports in a cost-effective way from broadcasters, Automatic Content Recognition (ACR) or other service providers to identify the use of recordings.

Standard Practice

Revenues collected from TV broadcasters and original cable-casters shall be distributed based on actual use.

Revenues shall be allocated for each station or channel separately, taking into account:

- 1) the distributable amount for the station or channel;
- 2) the cumulative reported duration of all recordings broadcast on that station or channel;
- 3) the cumulative reported duration of usage of each individual recording; revenues should be allocated per recording; and
- 4) the duration of recordings and partial use of recordings in seconds.

Revenues per individual TV station shall be allocated per recording in proportion of the cumulative duration of the broadcasting of the recording compared to the cumulative duration of the recordings broadcasted.

Any application of weighting factors shall be based on objectively justifiable criteria such as audience size at day and night.

Where it is not economically feasible to allocate all revenue separately per channel, revenues from channels with similar profiles may be bundled and distributed based on reports from a statistically representative sample of channels.

An amalgamation of revenue and usage sources into pools for allocation purposes may only occur where the stations or channels amalgamated have verifiably similar license value and/or similar usage and shall take account of relative usage and audience.

For small and medium TV stations or channels that do not supply playlists or for which the cost of processing the playlist is not reasonable compared to the revenue collected from that station, a statistically representative sample of stations, for which playlists of good quality are available, may be used to determine the allocation for a wider group of similar stations.

The principles and criteria for the selection of reports from TV stations for a statistically representative sample must be transparent and made available to right holders. The selection of the reports must be based on objective criteria and analysis and reflect actual use of recordings as closely as possible. If required, different weighting based on objectively justifiable criteria may be applied. The appropriateness of the sample TV stations for the other TV stations they represent shall be regularly reviewed and re-assessed when necessary. Only high-quality reports reflecting actual use may be selected for the sample. Revenue shall be allocated according to the total duration of the recordings broadcasted by all the TV stations in the sample.

Recordings which do not qualify for remuneration, for instance recordings that do not meet the criterion of “published for commercial purposes” if such a criterion is applied, or recordings for which the right holder has already been remunerated directly by the user, must be excluded from the usage reports used for distribution.

Dubbing for TV broadcasting to be allocated based on dubbing rules (see under Dubbing below).

Notes

MLCs should verify the quality and accuracy of the reports provided by the broadcasters (e.g. reported recordings and duration of usage versus actual etc.) and the ACR companies and other service providers.

4. Cable Retransmission

MLCs shall allocate the revenues as closely to the actual use as possible. MLCs obtain usage reports in a cost-effective way from users, Automatic Content Recognition (ACR) or other service providers to identify the use of recordings.

The packages offered by cable operators generally consist of local and international channels.

Standard Practice

MLCs shall divide the fund for distribution according to:

- 1) the proportion of domestic/international channels/programs retransmitted by the cable operator; and
- 2) the proportion of households using the packages.

Domestic: revenues paid by the cable operator for the retransmission of the eligible sound recordings in domestic radio or TV broadcasts shall be distributed on the basis of the usage reports provided by domestic terrestrial broadcasters or by ACR companies or other providers.

International: MLCs shall distribute monies paid by the cable operator for the retransmission of the sound recordings in international radio or TV broadcasts obtaining actual usage reports from:

- 1) foreign MLCs licensing the broadcaster in the territory from which the retransmitted broadcast is originating or being uplinked/transmitted; or
- 2) ACR companies or other providers.

The reports of international channels/programs shall be prioritised according to the revenue generated (e.g. based on the number of subscribers to the channel) by the channels/programs. MLC shall request usage reports from foreign MLCs and/or other service providers if it is economically feasible, i.e. the distributable value of the channel/program is sufficiently high.

Notes

It is recognised that obtaining detailed usage reports for all retransmitted channels is not always feasible (due to economic and/or factual reasons, e.g. technical feasibility). In that case the following alternative approach could be applied:

- where it is not economically feasible to allocate all revenue separately per channel, revenues from channels with similar profiles may be bundled and distributed based on reports from a statistically representative sample of channels as long as it reflects actual use as close as possible;

- an amalgamation of revenue and usage sources for allocation purposes should only occur where the stations or channels amalgamated have verifiably similar license value and/or similar usage and should take account of relative usage and audience.

5. Public Performance

Reports on actual usage are not available from all users. Therefore, the majority of MLCs take other sources into consideration. Some MLCs obtain reports from background music providers or use ACR solutions/technologies to identify the use of recordings. Others take into account statistical usage information from a representative number of certain users (e.g. discotheques) or allocate pursuant to market shares. Others use audio broadcast data as a proxy for (part of the) public performance usage. There is currently no universally applied method for allocation established by all MLCs.

Standard Practice

Revenues collected from public performance shall be distributed based on actual use and usage reports as far as they are available.

Considering that not all users are able to provide usage reports or usage reports are not available at all, MLCs shall allocate the collected revenues as closely as possible to the actual use and taking into account the following or a mix of potential sources for obtaining data on the actual use and the relevant proxies (in the order of preference), considering the value of the use of sound recordings in the different sectors:

- 1) reports from users (using statistically representative samples where relevant);
- 2) reports from ACR companies;
- 3) reports from background music providers (on what has been copied and ideally playout data); and
- 4) radio reports.

If an MLC licenses the public performance of sound recordings in TV broadcasts, the share of collected revenues distributed on the basis of TV usage reports must be proportionate to and reflect the actual use of TV as a source of background music. MLCs shall carry out regular user surveys to obtain information on the extent of use of TV programs/channels as the source of background music by public performance users and allocate revenues collected for the use of TV in public performance on the basis of relevant usage reports. Only high-quality reports reflecting actual use may be used for allocation of revenues.

Recordings which do not qualify for remuneration, for instance, recordings that do not meet the criterion of "phonograms published for commercial purposes" if such criterion is applied, or recordings for which the right holder has already been remunerated directly by the user, must be excluded from the usage reports used for distribution.

Dubbing revenue for public performance shall be allocated according to dubbing rules (see dubbing rules below).

Notes

For illustration purposes only, some examples how the above principles could be applied in practice are the following:

- **Discotheques.** *A small panel of discos statistically representative of the overall population of discotheques may be created and reviewed frequently. Details of the panel must be confidential to prevent 'manipulation' of the reference venues. The actual use of phonograms by discos in the panel shall be recorded (for example, from the soundboard of the disco), enabling the preparation of annual statistics for the cumulated duration of use of each recording. The revenue shall be allocated according to the total duration of the recordings used by the discos in the panel.*
- **Shows, Expos, Music on Hold.** *Revenues shall be allocated per recording when invoiced (this is possible because of the small number of the recordings used).*
- **All other spaces.** *Market studies should be made regularly in order to obtain reliable statistics on the source of the public performance in these public places: recordings purchased, radio (identifying the individual radio stations used), background music suppliers, others. In assessing the suitability of reference sources, their appropriateness and the quality of their reporting shall be taken into account. Once 'representative sources' have been identified that will be used as a basis to allocate 'other spaces' revenues, these revenues should be allocated in the same proportion as the allocation of revenues collected from these reference sources.*

Analysis shows that, in general, much public performance use is generally similar to broadcast repertoire (partly also because radio may be used as the source of background music), but with the proviso that there can be specialist niche repertoire usage in specific cases. Therefore, in the absence of actual usage reports from background music providers and/or ACR companies or other service providers, MLCs should seek to analyse and complement the information used for the distribution of public performance revenue, with radio usage data, while taking into account that radios may be subject to content quotas and different rules as to the protection of recordings. Since broadcast usage reports are generally available to MLCs, while public performance reports and surveys are inherently limited, a combined approach may offer greater potential accuracy. In assessing the suitability of reference sources, their appropriateness and quality of reporting shall be taken into account. If economically feasible, this would include user surveys on the sources of background music (radio, background music service, etc.) and using data from identified sources where possible. Where clear data isn't available, other information must be requested, such as genre and/or vintage of music played.

6. Dubbing

6.1 Dubbing for public performance

MLCs mostly allocate their dubbing revenues according to usage reports provided by public performance users, which undertake dubbing, or usage reports provided by background music providers (or in some cases by ACR companies). MLCs are obliged to request users to provide usage reports and introduce the mechanisms which ensure that users provide reports.

Standard Practice

MLCs shall allocate revenues according to usage reports from background music providers, public performance users which undertake dubbing, and/or ACR companies, and taking into account what has been copied and whether the copies have been retained, as well as the play out reports (where that can be provided).

With respect to the dubbing revenues for which the reports on actual usage are not available (e.g. general reproduction rights' licence for government entities covering reproduction carried out by educational institutions, and similar), MLCs shall carry out regular surveys and allocate revenues according to proxies, which must reflect the actual use as closely as possible.

Notes

MLC shall obtain details of recordings retained and used as well as recordings dubbed, so as to assist in detecting and preventing manipulation of the reported usage.

MLCs should be aware that when dubbers use hard-disk systems (jukeboxes or background music systems) there is a higher possibility that popular recordings, once dubbed to the unit, do not need to be dubbed again, and will not be reported in respect of dubbing unless data on retained recordings is also obtained.

6.2. Dubbing for broadcasting

The MLCs mostly allocate their revenues according to usage reports provided by users. Usage reports are normally provided by broadcasters (or in some cases by ACR companies or other service providers).

Standard Practice

Dubbing – radio broadcasting

MLCs shall allocate revenues according to the playlists supplied by radio broadcasters for each station or channel separately.

Option 1: the revenues shall be allocated per individual recording disregarding reported duration of usage in broadcasting, or

Option 2: the revenues shall be allocated taking into account the cumulative reported frequency and duration of usage of each individual recording.

Dubbing – TV broadcasting

MLCs shall allocate revenues for synchronisation rights and reproduction for secondary exploitation markets (reproduction of sound recordings incorporated in an audio-visual production for the purpose of the sale of programs to other broadcasters (local and international), or sales of copies of the audio-visual productions to consumers as DVDs, DTO etc.) per recording on the basis of the report from the respective user.

MLCs shall allocate revenues collected for broadcast mechanicals according to the usage reports from TV broadcasters, ACR companies or other service providers. Only high-quality reports reflecting actual use may be selected for the panel.

Library, commissioned or production music recordings licensed directly to TV broadcasters shall be excluded from the report used for allocation of the respective revenues.

7. Private Copying

MLCs' annual private copying levy collections are EUR 130 million (2016, producers only).

The most common allocation method for private copying revenues is according to (physical) sales' market shares, as private copying seems to be linked to sales figures. Some MLCs allocate based on duration of recordings and sales of these recordings.

Standard Practice

Remuneration for private copying shall be allocated as closely as possible to the actual use, and, to the extent relevant, allocation should take into account the different media types being used to copy, and the best available proxies.

Market studies shall be made regularly to allocate revenues as closely as possible to the actual use and in order to obtain statistics on the legal sources used for private copying (recordings purchased, radio stations, web radios).

Private copying – audio

The revenues shall be allocated proportionally taking into consideration the various data for each source of private copying, in the same proportion as for the allocation of revenues collected from these sources. For the source "recordings purchased", a combination of physical and digital market share may be used as a proxy.

If no reliable usage data is available, private copying levies may be distributed using radio broadcasting usage as a proxy on the condition that the panel of selected sources are proportionate to the findings of the market studies. If an allocation of revenue according to market shares is applied by an MLC, MLCs must ensure that the sales figures in the country of the MLCs correspond to the actual private copying usage as established in the market studies.

Private copying – music video

MLCs shall allocate the revenues according to the reports from users for the broadcasting of those audiovisual products for which the private copying levy is collected. This can include online sources where appropriate. If the quality of the reports from TV broadcasters is too poor to properly reflect actual use, the use of other proxies must be considered.

8. Webcasting

Those MLCs managing webcasting rights mostly allocate the revenues based on usage, according to actual usage reports, subject to availability. Where usage reports cannot be provided by users (e.g. lack of technical infrastructure of non-commercial webcasters), usage reports by similar users or radio broadcasting reports are taken into account, while also taking into account that radios may be subject to the content quotas, and different rules as to the protection of recordings.

Standard Practice

Webcasting revenues shall be allocated similarly to the process for radio broadcast, i.e. according to the actual usage using playlists supplied by the webcaster or podcaster. Due to data volumes and the smaller reach or value of some streams there may be a need to manage the allocation of small revenues that can't be economically processed using full usage data for all webcast channels. If possible, data should be carried between reporting periods so that amounts may accumulate to a level where they can be economically processed.

If usage reports are not available, or allocation based on usage reports may not be economically feasible, then usage reports of broadcasters or reports by [a sample of] similar webcasters may be used as a proxy. If this is done, it should be on the basis of establishing, at the time of licensing, a suitable similar radio proxy, and the suitability of the proxy should be re-assessed frequently. A robust method of establishing proxy sources shall be established and maintained.

9. Other Revenues

There are certain other rights managed only by some MLCs, such as rental and lending of sound recordings, music videos or certain exclusive making available rights.

Standard Practice

Revenues shall be allocated based on usage reports.

If reports on actual usage are not available, MLCs shall allocate according to best available proxies, taking into account their appropriateness as a reference and their quality of reporting.

Interest income on collected amounts held on account by the MLCs, and unless used to offset operating costs, shall be distributed to the right holders on pro-rata basis.

10. Acceptable Practices When no Other Alternative is Available

For all kind of revenues, if despite good faith efforts, parts of user reports cannot be processed (for example poor quality playlists that nevertheless have a significant proportion of the recordings properly identified), the following practices can be used in the following order of preference, on the condition that the chosen approach reflect the actual use as close as possible:

- 1) allocation using the standard practice for the portion of the users' reports that can be processed;
- 2) allocation using reports supplied by other users of the same sector, when the recordings used are supposed to be similar to those of the other users;
- 3) allocation using reports supplied by users of a different sector, but linked to the sector concerned.

FAIR AND EQUITABLE APPLICATION OF DISTRIBUTION RULES

Standard Practice

The distribution rules and their implementation shall be overseen by a distribution committee, consisting of a fair and balanced representation of right holders whose rights are managed by the MLC, and competent to bring expertise and objectivity to the task.

A non-discriminatory application of distribution rules is essential. There shall be fair and equitable treatment regarding distribution for all represented right holders either directly or through a bilateral agreement with another MLC.

DISTRIBUTION SCHEDULE AND PRACTICES

Standard Practice

MLCS shall distribute collected revenues to all right holders no later than six months after the end of financial year in which such revenue is collected.

MLCs must develop, approve, and publish their distribution schedule well in advance of the distribution taking place. MLCs shall publish the following year's distribution schedule before the end of the current financial year.

The distribution schedule includes distribution to local members and distribution under unilateral or bilateral agreements.

MLCs shall provide to the right holders they represent and to other MLCs with which they have unilateral or bilateral agreements, royalty statements itemised per track and as per Annex 2 Distribution File Template.

FUNDS FOR DISTRIBUTION

Standard Practice

MLCs shall segregate the funds for each revenue stream. The method for preparing each fund for distribution shall be set out within the distribution rules.

The method shall clearly establish processes for:

- 1) deducting operating costs/fees (see Operating Costs and Fees);
- 2) deductions for general reserves (see General Reserves);
- 3) deductions of applicable taxes;
- 4) any other authorised deductions;
- 5) any additional sources of revenue, such as interest, income arising from investments of rights revenue etc; and
- 6) any reserves for redistribution (unclaimed or General Reserves, see below).

MLCs shall maintain information about the funds in a manner that enables these details to be reported to right holders as a part of the distribution file (see Distribution Schedule and Practices).

OPERATING COSTS AND FEES

. Most MLCs deduct their operating costs or charge management fees, as the case may be, based on cost analysis. Only a few MLCs have established fixed rates. Almost all MLCs apply the same fee structure for all rights holders.

Standard Practice

Fees shall be reasonable in relation to the services provided, shall not exceed the appropriate, actual and documented costs, and shall be based on objective criteria which should reflect the fact that different costs may relate to managing different rights and usages.

The fees applied by the MLCs shall reflect only true and documented operating costs. Variable costs deductions from different revenue streams must be fair and based on the costs actually attributable to the relevant revenue streams.

MLCs shall treat all right holders equally and apply the same distribution fees.

RIGHTS CONFLICTS

Technical support for early detection of claims conflicts prior to distribution, flagging them to the parties, and amending errors may dramatically reduce the number of conflicts and held revenue.

Standard Practice

MLCs shall implement fair and transparent procedures for resolving claims conflicts, including robust processes and reasonable deadlines for the processing of double claims by right holders. If the ownership is contested with credible claim and proof of ownership, MLCs shall not pay out monies for the recordings in question until the claim has been resolved.

Notes

MLCs shall implement this section according to the Recommendations in Annex 1.

UNMATCHED USAGE

The key for minimising unclaimed usage is to have good quality and comprehensive repertoire data and a good quality usage reporting.

Standard Practice

Where an MLC licenses only on behalf of members who have actively appointed the MLC, the MLC may exclude unmatched usage from allocations and need not share the unmatched usage. In such a case the MLC should take all reasonable steps to encourage and enable members to register repertoire.

If the MLC collects for all repertoire, it must take all reasonable steps to identify recordings and right holders and retain adequate reserves to meet claims from unrepresented right holders within the prescription periods.

MLCs shall carry out the work with unmatched and unclaimed prioritised of the basis of value.

MLCs shall implement this section according to the Recommendations in Annex 1.

REVENUES FOR UNCLAIMED REPERTOIRE

The key for minimising unclaimed usage is to have good quality and comprehensive repertoire data, good quality usage reporting, and to have processes for exchanging data about unclaimed usage with right holders so that usage can be claimed.

Standard Practice

MLCs shall apply a three-year prescription period unless national laws provide otherwise.

MLCs shall hold throughout the prescription period relevant monies against the recordings used, if the payee:

- 1) cannot be located despite all reasonable endeavours, or
- 2) has not provided the details required to enable the payment.

At the expiry of the prescription period, revenue for recordings, owners of which have not been identified, shall, unless prohibited by applicable legislation, be distributed to right holders, taking into account in particular allocations made previously to right holders in the relevant financial year, and with the objective of allocating revenue to the right holders most likely to have a claim to such revenue.

MLCs shall freeze the relevant revenue for a time beyond the prescription period if the unpaid revenue is due to claims conflicts and parties to the dispute can show evidence of arbitration/legal proceedings ongoing.

MLCs shall hold revenues for unclaimed repertoire separately from the general reserve.

GENERAL RESERVES

Standard Practice

General reserves shall only be maintained at a level reasonably required to deal with third party claims and to account for legal risks, and must not apply to any other types of deductions. At the expiry of the prescription period, revenue held in reserve should be distributed to right holders in proportion to allocations made to those right holders in the relevant financial year.

Deductions or reserves for purposes other than third party claims and legal risks shall not occur unless national law provides for it and right holders have given their consent. No amounts shall be deducted for social and/or cultural purposes from amounts due to a right holder pursuant to a representation agreement unless the express consent has been given.

MLCs shall ensure that during the respective prescription period, revenues held in reserve may be allocated to right holders making valid claims, e.g. where usage was not properly reported or missing from the usage report.

APPROVAL AND PUBLICATION

Standard Practice

Each MLC shall adopt and publish distribution policies and a set of written Distribution Rules approved by the General Meeting or the Board, as the case may be, of that MLC.

QUALIFICATION

Standard Practice

MLCs shall distribute the revenues only in respect of recordings that were eligible and protected at the time of their exploitation, unless this would be contrary to local legal requirements.

DISTRIBUTION TO RELEVANT RIGHT HOLDER

Standard Practice

Distribution of revenue allocated to a recording should be made to the person that owned the rights at the time in which the recording was exploited or as that person instructs. Allocations of revenue may be offset against previous overpayments made to the party due the allocation or to associated parties.

Annex 1

Recommendations for the Implementation of the Standard Distribution Principles to Ensure Compliance

October 2018

This paper gives guidance to MLCs on data quality standards, procedures and processes to ensure MLC's compliance with the Standard Distribution Principles.

REPORTS FROM USERS

1. Contracts with users should stipulate that they are obliged to provide a mandatory minimum data set regarding their use and the recordings used. Small scale public performance users may be exempt from reporting obligation, but they should at least be obliged to report the source of background music used.
2. In some countries (including in the European Union) users have a legal obligation to report to MLCs.
3. When engaging with an ACR¹ service provider, MLC shall ascertain that:
 - the service provider has the repertoire to cover the usage monitored or has the capacity to obtain it within a reasonable period of time; and
 - the use of service is cost effective.

Whenever possible, the costs of the ACR service should be borne by users. If not possible, costs sharing with authors' CMOs should be examined.

REPertoire REGISTRATION

A data quality policy helps improve registration of good repertoire data and drives up data quality.

1. MLCs shall establish a data quality policy clearly setting out required data.
2. MLCs shall establish and communicate to the right holders the registration processes such that right holders are facilitated in registering their repertoire and claims.

¹ Automated Content Recognition

Registration processes must not impede the distribution of revenues to right holders based on discriminatory and restrictive requirements for repertoire registration.

- a. The rights owner shall register the data for its recordings with the MLC in accordance with the schedule published by the MLC. (It is noted that failure to register the repertoire or late registration if there have not been any impediments due to a discriminatory or restrictive requirement may entail delays in, or no payment.)
 - b. Where an appropriate industry portal or database is established, right holders shall provide for MLCs to retrieve repertoire data via that mechanism, and may direct MLCs to this source.
3. Where there is usage, but the repertoire has not been provided to the MLC, the MLC shall inform the rights owners on line about the missing repertoire.
 4. MLCs shall obtain repertoire data from right holder directly or from a source that the right holder has declared is authoritative for its repertoire. MLCs shall work with the producers in the local market and emphasise the importance of registering repertoire.
 5. MLCs may not use data from product packaging or derived from airplay reports: such data is not authoritative and does not generally identify the rights owner for the relevant usages. If an MLC holds such data as a temporary measure, it must not be used as equivalent to repertoire data provided by the right holders.
 6. MLCs shall use identifiers for record companies to obtain clarity, especially internationally, about the relevant rights holders and payees, linked to repertoire.
 7. MLCs shall use ISRC as the identifier for recordings and to the maximum possible extent ensure that ISRC is included with all repertoire registrations.
 8. MLCs shall check the supplied repertoire data prior to ingesting it in its database in order to detect errors and to identify and, if possible, resolve duplicates, rights conflicts and double claims.

DATA FORMAT AND FIELDS

Common technical standards shall be implemented as a priority wherever possible, in areas of data transfer, the standardization of fields and their meanings, the establishment of agreed mappings between different terms where necessary, and in the use of identifiers.

1. MLC shall implement the DDEX MLC Message Suite both for data exchange between MLCs and for supply of repertoire data to the MLCs. In due course MLCs will be invited to join the proposed data Portal.
2. The mandatory data fields that recording rights holders shall supply as a minimum to MLCs have been established by the DDEX MLC Working Group and set out in section 8.2 of DDEX MLC Suite Implementation Guide².

² The DDEX MLC Suite Implementation Guide,
<https://kb.ddex.net/display/GBK/Implementing+the+DDEX+MLC+Message+Suite+Standard?preview=/9112838/9505817/MLC-2073%20-%20DDEX%20MLC%20Rights%20Claim%20-%20Implementation%20-%202017-11-30.pdf>

RIGHTS DATA

MLCs shall maintain producer rights data at the recording level, by time-period, use-type and territory.

1. MLCs shall implement reasonable procedures to ensure that repertoire declarations and rights ownership claims are legitimate and credible³.
2. The data from ACR companies and other providers of usage reporting shall not be taken as indicative of rights ownership unless specifically verified by right holders and only in respect of specifically identified recording repertoire⁴.
3. MLCs operating under an extended collective licensing regime may claim from foreign/overseas MLCs only on behalf of those right holders which have expressly mandated the MLC and only for the territories covered by the mandate and the specified sound recordings.

RIGHTS CONFLICTS

1. MLCs shall evaluate the rights data of recordings to determine if there are rights conflicts taking into account the time period, use-type and territory. MLC shall work to achieve early detection/resolution of claims conflicts wherever possible.
2. If there is a rights conflict the two rightsholders will have to solve the conflict in accordance with the MLC's disputes policy before the MLC will register the rights holder to the track.
3. MLCs shall, when claims are resolved, update their records with the authoritative data and not retain or promulgate incorrect recording claims data. The same obligation is applicable to the parties to the dispute and those who may still hold copies of inaccurate data.
4. MLCs shall employ a data quality policy to ensure high quality of registered data and shall ensure that recording version and corresponding ISRC data is provided to achieve clarity on different versions of recordings. Clarity on versions can reduce the occurrence of 'false' claims conflicts. In appropriate circumstances, MLC should split revenue between different versions of a recording.
5. For international mandates, at the time of data registration or otherwise, MLCs should make absolutely clear to right holders or agents that mandates should not be given where rights are otherwise properly claimed in the relevant territories, for parts or all of their repertoire. Processes that automatically or by default grant international rights to an MLC on all recordings registered locally should be discontinued.

³ The preferred instrument to ensure legitimacy of declared repertoire and rights claims is a legal agreement executed between the MLC and the party providing data/claims. Other mechanisms such as provision of artist contracts, scans of physical product packaging, UPC numbers for digital files and the like are often inaccurate in terms of proof value and can be burdensome for both the right holder and the MLC. MLCs should maintain reasonable provisions for the eventuality that some parties do breach agreements to provide accurate repertoire and claims data.

⁴ The data provided to ACR companies is typically obtained from a variety of sources which may not be authoritative as regards the relevant, current rights ownership data for collective management purposes in any given territory, time period or particular use type. In cases where such rights data is expressly supplied and maintained by authoritative sources, these sources should inform the MLC that this is the case.

6. MLC shall make claims internationally only for the repertoire for which it holds an explicit right holder's mandate.
7. If necessary, parties in disputes concerning rights ownership may use alternative dispute resolution (ADR) and mediation/arbitration to resolve claims conflicts. MLCs should point the parties in dispute to the WIPO arbitration service if ADR is unavailable locally.
8. MLCs shall apply, where appropriate, proof of ownership criteria to the data provided by aggregators and distribution companies regarding claims that they make with respect to the repertoire data of their clients.

UNMATCHED AND UNCLAIMED USAGE

1. MLCs shall minimize occurrences of unmatched/unclaimed repertoire by establishing a data quality policy clearly setting out required data and by utilizing good data matching technology that is effective in generating accurate matches/candidate matches and which accommodates spelling alternatives and errors.
2. MLCs, in particular, if operating under statutory provisions, e.g. extended collective licence, shall operate an effective claiming process, including for the non-members for whose repertoire they collect, accessible on a non-discriminatory basis to all right holders, to establish claims when unmatched/unclaimed repertoire does arise. If an MLC has unmatched/unclaimed repertoire, it shall:
 - centralise and aggregate unclaimed usage/repertoire into a single place;
 - publish and make accessible to all right holders, members, other MLCs and agents claiming procedures and lists of unclaimed and unmatched repertoire; and
 - seek a competent, cost-effective partner/service provider to process and see if they can match unmatched/unclaimed repertoire.

PROCESSED / NOT ALLOCATED

1. Allocation should always take place if the recordings are identifiable. MLCs shall operate a claiming process and/or proactively seek the required data as provided under Unmatched and Unclaimed Usage.
2. MLCs shall hold unallocated revenue against the usage and seek the authoritative information that would enable the revenue to be distributed.
3. MLCs shall evaluate usage through the year and work proactively with right holders to secure repertoire and rights ownership data to minimise occurrence of unallocated revenue at the time of distribution or exclusion of non-reported/non-registered repertoire from the distribution.
4. Revenue that remains unallocated following a prescription period shall be distributed to right owners pro-rata on the basis of their allocations in the relevant period, subject to local legislation.
5. Poor quality usage reports or report data with low economic value may be excluded from the distribution only if absolutely necessary. This is only within reason, and is not preferred, and:

- must be based on economics; and
 - may apply to small funds but not large funds; and
 - all efforts must be made to secure good quality data to minimise such exclusions (within the bounds of commercial feasibility).
6. As a guideline, processes could be considered ineffective if less than 80 percent of usage value is not initially able to be allocated to repertoire and right holders, although it is accepted that newly incorporated MLCs would not reach this standard.
 7. The exclusion from the distribution process of data that could be economically processed is not acceptable.
 8. Instances in which unallocated revenue is not returned to the relevant funds, e.g. due to local legislation (which may stipulate cultural funds etc) should be an exception.

Annex 2

DISTRIBUTION FILE TEMPLATE



Distribution File Header Rows				
RowType	Information carried in row	Explanation of Data Supplied		
SenderId	Sender ID	Society code of the distributing MLC (For DDEX we would also include DPID)		
RecipientName	The name of the recipient rights holder			
RecipientID	The ID of the recipient	This will be the society local ID of the recipient and, if using DDEX, the DPID		
RecipientType	producer, licensee, heir etc	Category of Right Ownership		
FileDate	Distribution file date	Date when this Distribution File was prepared for right holder.		
Distribution File Summary Rows				
RowType	Information carried in row	Explanation of Data Supplied		
Currency	The currency used in the report	Reports are to use the currency of the reporting society.		
TotGrossRev	The total gross revenue within this report			
TotNetRev	Total net revenue per the entire report	This is the summation of the net revenue reported throughout the report body. It should tally with the amount paid to the right holder.		
TotLines	Total number of reported lines	This is the number of data rows in the report body. Recipients would use this to check their ingestion process has ingested all the report lines.		
Distribution File Body - Column Headings (Note: each ReportData row will contain all the fields below)				
RowType	Field Name	Description of data field	Value - examples listed	Remarks
ReportData	Source	Source Collecting Society	(a society code where the revenue was collected)	
ReportData	UseTerritory	Territory of Performance/Usage	DE, FR, DK... one territory per line/use type/isrc...)	
ReportData	ISRC	ISRC	ISRC	
ReportData	LocalId	The MLC ID of the recording in its local system (this is the <u>reporting</u> MLC's ID)	alphanumeric identifier	local society = reporting society
ReportData	DisplayArtist	The artist/band name associated with the recording		
ReportData	DisplayTitle	The title of the recording (including version)		(DDEX has the 'subtitle' as a separate data field)
ReportData	Type	Content Type (Sound Recording / Music Video)	"SR" or "MV"	
ReportData	UseType	Use Type (Allowed Value Set, see separate table below)	BR, PP, CR, PC...	
ReportData	Category	Broadcast Category. This flag is set against use types BR, SIM, DUB when these are related to radio or TV. This flag shows whether the income originated from radio or TV. Can be left blank if inapplicable.	R or TV	This flag is to save having different 'radio' and 'TV' types for each usage area: broadcasting, simulcasting, dubbing etc.
ReportData	UserName	The name of the user entity	BBC, RTL, Pret a Manger, TopShop etc	
ReportData	SubUser	The sub-part of the user entity (can be a broadcast channel or a specific PP venue within a licensed group)	BBC One, BBC Two, Sky One, Fox Kids Channel, Nickelodeon, Disney Kids etc etc	optional (it isn't clear if this maps onto the DDEX UserRole)
ReportData	StartPeriod	The start date of the period which spans the usages aggregated into this report line.	2017-01-01	For example if there is money from a prior period then the dates declared can differ and be described
ReportData	EndPeriod	The end date of the period which spans the usages aggregated into this report line.	2017-06-30	
ReportData	Pool	The name used by the MLC for a fund or pool where several funds have been combined.	"Small Webcasters" etc	This is a descriptive name that make it clear what money has been pooled.
ReportData	DistBasis	Basis of Distribution. This describes whether the distribution used a usage log, full census or sample census, proxy or a derived type. (Attaches at the user and use type level, splitting across different lines if necessary)	usage, census, sample, proxy, derived etc	We probably need to develop a defined set of Allowed Values for this. 'A 'derived' basis of distribution is when a blended basis has been used.
ReportData	UnitBasis	Unit Basis. This is the basis used for the current line. It is possible to have mixed types within a report.	plays, seconds	
ReportData	UnitRate	Unit Rate	\$/£ per usage/play - in local currency	Some MLCs do not like to report this or cannot. Can leave blank if unavailable.

ReportData	PlayCount	Playcount	a number	Number of distinct usages of track within this use-type/user/period
ReportData	TotSec	Usage_Seconds	a time in seconds	Total consolidated seconds for the track within this use-type/user/period
ReportData	SharePct	Share percentage	a percentage (>0, <=100)	% of track for this right owner
ReportData	GrossAmt	Gross Amount Allocated (€)	a financial amount in the declared currency	This is the gross amount per this report line. Financial amount allocated to the track for this right holder within this use-type/user/period.
ReportData	Commission	Commission Source Society (%)	a percentage (0-100)	% as deducted from the gross. Commission as per the type of usage being reported in this line (Companies have this info as a lower priority)
ReportData	CostPct	Admin Cost (%)	a percentage (0-100)	Admin cost as per the type of usage being reported in this line (Companies have this info as a lower priority)
ReportData	InterestPct	Interest (%)	a percentage (0-100)	As added to the amount reported in this line. This data is lower priority to record companies. It needs to be reported at the line level because the amount might vary per administrative area.
ReportData	DednPct	Deduction (%)	a percentage (0-100)	This is for reserves. This data needs to be reported at the report line level because the amount may vary per admin area reported. It is a lower priority for record companies.
ReportData	VatPct	VAT (%)	a percentage (0-100)	Can be zero if not applicable. This data needs to be reported at the report line level because the amount may vary per admin area reported. It is a lower priority for record companies.
ReportData	NetAmt	Share Net Amount (€)	a financial amount in the declared currency	Net that is distributed to this RO within this use-type/user/period. I.e. this is the net amount for the usage reported on this line.
ReportData	NQPA	Non-Qualified Performer Allocation	a financial amount in the declared currency	This amount is shown for each relevant track, for the MLCs which have this rule. It may be only a very few MLCs need to report this. Others may leave this blank.

Use Type Key	
BR	Radio and TV Broadcast (including communication to the public by satellite)
SIM	Online simulcasting of broadcast programs
PP	Public Performance
CR	Cable Retransmission
PC	Private Copying Levies
WEB	Linear non-interactive webcasting
CUS	Catch Up of TV or radio programs
DUB	Dubbing (for TV, Radio, PP)
Other	other income types

If in DDEX, 'other' will be a user defined type

Type of Recording	
SR	Sound Recording
MV	Music Video

Notes

When an amount is zero, write it as zero. No blanks for money or rates.
 MLC must also provide a summary with all of the licensees and the amounts allocated to RO from that licensee.
 MLC shall provide a separate report detailing its proxies used (if any) and their constituent elements. This shall be linked to the distribution file so that a right

holder may see the details of the proxies used for a given report line.

The MLC should report the basis used in calculating any value that isn't simply usage-based, i.e. by tariff, flat fee, minimum guarantees etc.