



**MUSIC AUTHORS' COPYRIGHT PROTECTION (MACP) BERHAD**

**Distribution Rules of Performing Royalties**

**2008**

**February 2009**

<b><u>No.</u></b>	<b><u>Table of Contents</u></b>	<b><u>Pages</u></b>
1.	Pool Division	1
2.	Frequency of Distribution	1
3.	Timing of Distribution	1
4.	Minimum Payment	1
5.	Distribution Numbering System	1
6.	Calculation of Net Distributable Royalties	2
7.	Unlogged Performance Allocation (UPA)	2
8.	Programme Returns	3
9.	Division of fees	
	9.1 Guidelines relating to Non-Member's share	4
	9.2 Guidelines relating to Performances	5
	9.3 Guidelines relating to Sub-Published works	5
	9.4 Guidelines relating to Arrangement	5
10.	Music Classification	
	10.1 Featured Work	5 & 6
	10.1 Programme Music	6
11.	Points Awards Table	7
12.	Special Accounts	
	12.1 Public Domain Special Account (PD)	7
	12.2 Non-Member Special Account (NM)	8
	12.3 Incomplete Special Account (INC)	8
	12.4 Dispute Special Account (DIS)	8
	12.5 Credits In Suspense Account (CIS)	8
	12.5 Missing Deed of Assignment	8
13.	Dramatico-musical works	
	13.1 Overseas Works	8 & 9
	13.2 Local Works	9
14.	Royalties received from affiliated societies	9
15.	Adjustments	9
16.	AMALFI Resolution of CISAC	9



6. **Calculation of Net Distributable Royalties**

The total amount of royalties to be distributed is arrived at as follows :-

	<b>TOTAL REVENUE IN A FISCAL YEAR</b>
LESS	TOTAL ADMIN COSTS ( pro-rated over each pool )
LESS	TAXES AND MDF EXPENSES
LESS/ADD	ADJUSTMENTS, if any
EQUALS	<b>NET DISTRIBUTABLE ROYALTIES</b>

7. **Unlogged Performance Allocation (UPA)**

The UPA is made to compensate for performances that are omitted in our analysis due to sampling and other factors. This allocation is paid to local and overseas members.

a. For MACP members

UPA is fixed by the Board of Directors at RM300 for each participating MACP member. A participating MACP member is one who was admitted to MACP membership in or before the Distribution Year in question and who earns performing royalty in the Distribution Year.

UPA will be allocated to MACP member who earns performing royalty (exclusive of UPA) and cease to be allocated to a MACP member who has not earned any performing royalties for more than a year.

However, UPA will reapply in the year the member begins to receive royalties again.

b. For overseas societies

The UPA (Overseas) ratio for a Distribution Year will be based on the ratio of the royalties distributed to MACP members against royalties paid to all overseas societies in the previous performance year.

The amount of UPA is then calculated according to the UPA (overseas) ratio, and allocated to all overseas societies in a lump sum pro-rated over their performing royalties' income of that Distribution Year.

No UPA is allocated to the interested parties of works in the Public Domain Special Account, Non-Member Special Account and Dispute Special Account.

8. **Programme Returns**

MACP obtains details of music performed (program returns) from broadcasters, general licensees, live concert licensees, airlines, Pos-ad & retail outlets, entertainment outlets, cinemas, and hotels. In this distribution, such program returns are analysed based on the frequency as below:

<b>Pool – TV</b>	<b>Program Returns</b>	<b>Performance Year</b>
RTM TV1	1 in 6 days	2007
RTM TV2	1 in 6 days	2007
TV3	1 in 6 days	2007
NTV7	1 in 6 days	2007
8TV	1 in 6 days (effective from July 08 - 1 in 3 days)	2008
Astro TV	1 in 6 days	2008
TV9	1 in 6 days	2008

<b>Pool – Radio</b>	<b>Program Returns</b>	<b>Performance Year</b>
Astro – Era, Hitz, Lite, Mix, My & XFresh	7 days in each month	2008
Cats Radio	1 in 3 days	2007
Fly FM	1 in 3 days	2008
Hot FM	1 in 3 days	2008
Radio Ikim	1 in 3 days	2008
RFM – 98.8 & 104.9	1 in 3 days	2008
RTM Klasik FM, Muzik FM, KLFM, Traxx FM, Ai FM, Minnal FM, Melaka FM, Sibul FM & Tawau FM	1 in 3 days	2007
THR	1 in 3 days	2007
Capital FM	1 in 3 days	2008
Sinar FM	1 in 3 days	2007
Suria FM	1 in 3 days	2008
R24 & BFM media (pending receipt of logs)	1 in 3 days	2008
BEST 104	1 in 3 days	2007

<b>Pool - Others</b>	<b>Program Returns</b>	<b>Performance Year</b>
Concerts	All returns >RM1,000	2008
Airlines	100% census	2008
Cinemas	1 in 6 days	2008
Hotels	All returns received	2008
	Notification of Live Performances	2008
	Weekly Radio Charts	2008
	TV & Radio Channels	2008
Pos-Ad & other retail outlets	Pos-ad 100% census	2008
	All returns received	2008
	Weekly Radio Charts	2008
	Radio Channels	2008
Entertainment outlets	All returns received	2008
	Notification of Live Performances	2008
	Weekly Radio Charts	2008
	Radio Channels	2008
General	All returns received	2008
	Notification of Live Performances	2008
	Weekly Music Charts	2008
	TV & Radio Channels	2008
Ringtones	All returns received	2008

9. **Division of Fees**

The distribution of performing royalties to interested parties shall be based on the schedule below. The divisions are subject to modifications that may be agreed upon in writing between the interested parties, except that in no case may the share of publisher, or the combined share of all publishers of a particular work, exceed one-half (50%) of the total distribution fees.

<b>Published Works</b>			
Composer	50.00%	Composer	25.00%
Publisher	50.00%	Author	16.70%
		Translator	8.30%
		Publisher	50.00%
Composer	25.00%	Composer	25.00%
Author	25.00%	Author	16.70%
Publisher	50.00%	Sub-Author	8.30%
		Publisher	50.00%
Composer	PD	Composer	16.70%
Arranger	50.00%	Arranger	8.30%
Publisher	50.00%	Author	25.00%
		Publisher	50.00%
Composer	PD	Composer	25.00%
Author	25.00%	Author	16.70%
Arranger	25.00%	Sub-Author & Translator	8.30%
Publisher	50.00%	Publisher	50.00%

<b>Unpublished Works</b>			
Composer	100.00%	Composer	PD
		Arranger	100.00%
Composer	50.00%	Composer	PD
Author	50.00%	Author	50.00%
		Arranger	50.00%

9.1 **Guidelines relating to Non-Member's share**

9.1.1 **Works originating from MACP repertoire**

When a composer, lyricist or publisher is not a member, his/her/its share is placed in the Non-member Special Account.

9.1.2 **Foreign-originated works**

Non-member writer

Where a composer or author is not a member, his/her share will be paid to the society of the original publisher.

Non-member publisher

Where a publisher is not a member, its allocated share will be divided equally between the composer and author. If the work is unpublished, the non-member writer share will be paid to the society of the co-writer, if any.

## 9.2 **Guidelines relating to Performances**

9.2.1 For any performances of a work originally in the form of vocal, the lyricist will receive his/her normal share. If however, a vocal version is made of a work originally in the form of instrumental, the lyricist will receive a share only when the vocal version is performed.

9.2.2 Where there is a doubt as to whether the original or local version was performed, the CISAC Amalfi Resolution will apply where the composer, author, sub-author and publisher will receive 25%, 16.7%, 8.3% and 50% respectively.

## 9.3 **Guidelines relating to Sub-Published works**

9.3.1 Where the contract between the writer (s) and its original publisher of work provides for a specific total publisher share, that share alone is divisible in accordance with the provisions of the sub-publication contract.

9.3.2 If the original publishing contract does not specify the share payable to the writer (s) and publisher respectively, but provides that the division shall be in accordance with MACP rules, the society will allocate the publisher a maximum of 50% of the total share and the balance of 50% will be divided equally between the composers and authors of the musical work.

9.3.3 The share of sub-author/translator, if any, is 8.3%, taken from the author share (subject to the approval of copyright owners).

## 9.4 **Guidelines relating to Arrangement**

### 9.4.1 Arrangement of Copyrighted works

The share of arranger, 8.3%, is taken from the composer share (subject to the approval of copyright owners). If the publisher agrees to pay the arranger higher than 8.3%, the addition must come from the publisher.

### 9.4.2 Arrangement of Non-copyright works

Arranger of non-copyright works will be entitled to full distribution share.

## 10. **Music Classification**

The following definition is used to identify types of musical works or types of usage for works registration and royalties distribution: -

### 10.1 **Featured Work**

#### Serious Music (WS)

All serious music performed live in concert or by TV or radio broadcast.

#### Pop Music (WP)

All featured music not included as serious music performed in concert or by TV or radio broadcast and general licensees which are originated and published outside Malaysia.

### Popular Music (PM)

All featured music not included as serious music performed in concert or by TV or radio broadcast and general licensees which are originated and published in Malaysia.

## 10.2 **Programme Music**

Music used in cinema film, TV/radio programmes.

### Title Music (FT)

Music used for an event, cinema film, radio and TV programme and is found at the beginning and/or end of an individual programme, an event or a film.

### Visual Music (FV)

Music used in a TV programme or cinema film that facilitates the flow of the programme of film and is audible to the actors in the programme or film.

### Background Music (FB)

Music which is heard by viewers as an accompaniment to the scene portrayed but not audible to the actors in the programme or film.

### Signature Tune (ST)

Music used on radio and TV to identify or set the mood of an individual programme or each programme of a series of a film used before and after each commercial break, or music used on radio and is found at the beginning and/or end of each non-music programme including traffic news, financial report, weather report and news.

### Commercial Jingle (CJ)

A short musical item performed on radio and TV to advertise a product or promote an event.

### Trademark/Emblem/Logo (TM)

A short musical item performed at the beginning or end of (but not specially related to) a film or TV programme, and advertises the producer or distributor of that film or programme.

### Station Identification Music (SI)

A short musical item on radio or TV performed to identify and performed to identify and promote a particular broadcasting station or channel.

### Interval Music (IM)

Music used on TV which does not form part of advertised programmes and which is played during a voluntary or involuntary break in transmission e.g. music video.

### Programme Identification Music (PI)

Music used on TV at the end of a voluntary or involuntary break in transmission, which does not form part of advertised programmes but relates to subsequent programme.

11. **Points Awards Table**

WS	Serious Music	T1
WP	Pop Music	T1
FT	Title Music	T2
FV	Visual Music	T2
IM	Interval Music	T2
FB	Background Music	T3
PI	Programme Identification Music	T3
TM	Trademark/Emblem Music	T3
ST	Signature Tune	T3
CJ	Commercial Jingle	T3
ST	Station Identification Music	T3

**T1**

From	To	Points (T1)
0' 1"	4' 0"	3.0
4' 1"	6' 0"	4.0
6' 1"	8' 0"	6.0
8' 1"	10' 0"	7.5
10' 1"	15' 0"	13.0
15' 1"	20' 0"	17.0
Above 20'		30.0

**T2**

Time	Points
First 30 seconds	0.3
Every 10 seconds thereafter	0.01 per second

**T3**

Time	Points
First 30 seconds	0.2
Every 10 seconds thereafter	0.01 per second

12. **Special Accounts**

At each Distribution, royalties payable to a work or to certain interested party (parties) of a work may be held in suspense in the following Special Account: -

12.1 **Public Domain Special Account (PD)**

Works that are arrangements of works in the public domain may have a share of royalties withheld for the non-copyright element in the work. The share will be placed in this account. The amount allocated to this account will be ploughed back into the distribution pool and allocated proportionally to all other parties receiving royalties in the current distribution category.

## 12.2 **Non-Member Special Account (NM)**

### 12.2.1 **MACP-originated work**

If one of the interested parties of a MACP originated work is not a member, that non-member share will be placed in this account. The royalties will be held for up to 3 years until the non-member becomes a member only then will the amount held be released. If the non-member does not become a member within the 3 years, the non-member royalties will be ploughed back into the distribution pool in the 4th year's distribution and allocated proportionally to all parties receiving royalties in the current Distribution Year.

### 12.2.2 **Non-MACP-originated work**

When a composer or author is not a member, his/her share will be paid to the society of the original publisher for the society to admit this non-member having his/her business relationship with the original publisher.

## 12.3 **Incomplete Special Account (INC)**

If at the time of distribution, there is no complete documentation available of all the interested parties to a work that has been performed or broadcast, but if one of the writers is identified as a member or copyright owner belonging to a sister-society, the CISAC Warsaw Rule will apply for the royalties distribution. The total royalties for this work will be forwarded to this sister-society. The receiving society will carry out the distribution according to the documentation available to it.

## 12.4 **Dispute Special Account (DIS)**

Royalties or a share of royalties for a work in dispute (e.g. arising from alleged infringement or conflicting ownership claim) would be held in this account. Royalties will remain in suspense until MACP is notified of a settlement.

## 12.5 **Credits in Suspense (CIS)**

In case there is no documentation and in which case even the CISAC Warsaw Rule is not applicable, royalties will be placed in this special account. If the work is identified before the next distribution, the royalties will be paid to the interested parties accordingly. The balance royalties will be ploughed back into the corresponding distribution category and be allocated proportionally to all parties receiving royalties in the current distribution category.

## 12.6 **Missing Deed of Assignment**

Distributable royalties will be held in this account in case a member fails to submit the Deed of Assignment by the time of distribution. The amount will not be released until the member submits the Deed.

## 13. **Dramatico-musical works**

Under the present Deed of Assignment of performing right with MACP members, the Society is empowered to administer a number of performing rights for its member. However, as a matter of policy, MACP does not administer and license Grand Right Performances in Malaysia in its normal licensing distribution work unless specifically requested by its interested parties to do so. The reasons are as follows: -

13.1 **Overseas Works**

Overseas societies are not given the right to license Grand Right performances by their members in the first place. Consequently, MACP is not empowered to license in Malaysia.

13.2 **Local Works**

Grand Right Performances of local works are infrequent. MACP members may prefer to collect royalties directly from the presenters involved.

14. **Royalties received from affiliated societies**

These royalties are distributed to members together with the performance royalties on an annual basis. MACP do not deduct any administrative cost for such royalty payments.

15. **Adjustments**

In the normal course of distribution, error may occur due to misidentification of works or their interested parties. Members and foreign societies are entitled to adjustments if MACP is notified within 3 years of such distribution.

Royalties due to sampled audio visuals not payable owing to lack documentation will be paid if MACP is notified with the relevant cue sheets from the members or affiliated societies within 3 years of distribution.

16. **AMALFI Resolution of CISAC**

16.1 That the author of an authorised local version should be entitled to receive a share in the distribution of performance royalties only if :

- a. it is the local version which has been performed; or
- b. the performance was a performance of an instrumental version ; or
- c. there is genuine doubt as to which version was performed.

16.2 That the societies distribution rules should provide :

- a. that for performances of a local version the shares distributed to the original lyricist and the local sub-lyricist respectively should be equal;
- b. that for performances of an instrumental version, or where it is not known whether the original version or the local version was performed, the share distributed to the original lyricist should be double the share distributed to the local sub-lyricist.

16.3 That this recommendation be applied :

- a. in respect of all performances which take place from the 1 January 1991 onwards, and
- b. regardless of when the performed works were originally composed.