

At its session held on 18 December 2019 the General Assembly of AIPA, k.o. (Collecting Society of Authors, Performers and Producers of Audiovisual Works of Slovenia, hereinafter: AIPA) based on the provisions of Item 3 of Paragraph 1 of Article 25 of Collective Management of Copyright and Related Rights Act (hereinafter: CMCRRRA) adopted the following

RULES ON THE DISTRIBUTION OF ROYALTIES COLLECTED FOR THE RIGHT OF REBROADCASTING IN CASE OF CABLE RETRANSMISSION OF AUDIOVISUAL WORKS

Introductory Provisions

Article 1

- (1) These Rules on the distribution of royalties collected for the right of rebroadcasting in case of cable retransmission of copyright works (hereinafter: Rules) shall be equally applied to all rights holders that are entitled to collected royalties from cable retransmission of audiovisual (hereinafter: AV) works (hereinafter: cable retransmission) irrespective of membership in AIPA.
- (2) For the purpose of these Rules the royalty distribution means the distribution and pay-out of royalties in line with the provisions of the CMCRRRA and of these Rules.

General distribution principles

Article 2

- (1) These Rules take into account the actual usage of a particular AV work, whenever this is possible and economical with regard to the costs of supervising the actual usage.
- (2) The actual usage of AV works retransmitted via cable is defined by analysing the viewership data for all TV programmes that are retransmitted via cable (hereinafter: retransmitted). These data are received from agencies, which make TV audience measurements. Viewership data must be sorted by the percentage of viewership of TV programmes from largest to smallest.
- (3) AIPA analyses all TV programmes with at least 2% of total viewership¹ annually and with the sum of their total viewership annually reaching at least 51% of the total viewership of all TV programmes (hereinafter: analysed TV programmes).
- (4) If the sum of viewership of all TV programmes with more than 2% of total viewership does not amount to 51% or more of the total viewership of all the TV programmes on an annual base, additional TV programmes with less than 2% of total viewership are added to the analysed TV programmes until the sum of all analysed TV programmes reach at least 51% of the total viewership of all the TV programmes on an annual base.

¹ The percentage of total viewership means the percentage of people, who at a certain time watched a certain TV programme in relation to the total number of people who watched television at that time.

- (5) It shall be regarded that the monitoring of actual usage of an AV work is not economically viable, if the TV programme reaches less than 2% of total viewership, except in the case from the previous Paragraph.
- (6) It shall be regarded that the actual usage of an AV work cannot be established, if AIPA, after concluding all the available procedures according to the CMCRRRA cannot obtain the necessary data to establish the actual usage of an AV work.

Original and non-original right holder

Article 3

- (1) The original right holder is the person who is the original co-author of an AV work. For the purposes of distribution the heirs shall also be considered original right holders, provided that they submit evidence of being an heir.
- (2) The non-original right holder is the person or entity which has received the rights on the basis of a legal presumption of the transfer of rights, a legal transaction, or a court decision, except the decision on inheritance.

Presumption of rights ownership

Article 4

- (1) If the AV work has been produced up to and including 28 April 1995, the original co-authors of the AV work shall be considered right holders of the right of cable retransmission, unless the right holder proves otherwise by presenting appropriate documentation.
- (2) If the AV work has been produced on 29 April 1995 or later, the film producers of the AV work shall be considered right holders of the right of cable retransmission according to the provisions of the Copyright and Related Rights Act (Zakon o avtorski in sorodnih pravicah; hereinafter: CRRRA), unless the right holder proves otherwise by presenting appropriate documentation.
- (3) If it is not possible to ascertain the precise date of the production of the AV work, it shall be considered that the AV work has been produced before 29 April 1995, unless the right holder proves otherwise by presenting appropriate documentation.

Distribution fund

Article 5

- (1) For the purposes of defining and distributing the distribution fund only actually collected income shall be taken into account (not the invoiced amount).
- (2) The distribution fund for a particular financial year shall be defined by taking the sum of the collected royalties from cable retransmission of AV works and the income from bank deposits and subtracting from them the business costs and expenses of AIPA, which have arisen because of collective management of this right, and the dedicated funds in accordance with General Assembly decisions.

Defining the value of the point

Article 6

The value of a single point (in EUR) for a particular financial year shall be defined by dividing the distribution fund by the sum of all points of all instances of cable retransmission of AV works in a given financial year.

Defining the value of an individual retransmission of an AV work

Article 7

- (1) An individual retransmission of an AV work is categorised (evaluated) according to these criteria:
- the type or category of the AV work,
 - the duration of the AV work,
 - the time period (daypart) in which the AV work has been retransmitted, and
 - the viewership factor (ratings) of the TV programme in which the AV work has been retransmitted.
- (2) The number of points of an individual retransmission of an AV work is calculated by multiplying the points based on the criteria in Articles 8, 9, 10, and 11 of these Rules:

$$\begin{array}{c}
 \text{No. of points of an individual retransmission of an AV work} \\
 = \\
 \text{No. of points for the type or category of the AV work} \times \text{No. of points for the duration} \times \text{No.} \\
 \text{of points for the time period (daypart)} \times \text{No. of points for the viewership factor (ratings) of} \\
 \text{the TV programme}
 \end{array}$$

- (3) The value of an individual retransmission of an AV work (in EUR) is calculated by multiplying the No. of points of an individual retransmission of an AV work with the value of a single point (in EUR). The resulting figure represent the gross royalty attributed to an individual instance of a retransmission of an AV work.

Categorisation of an AV work by type or category

Article 8

- (1) A retransmitted AV work shall be categorised and evaluated as follows:

Category	Type of copyright work	Points
A 1	CINEMATO-GRAPHIC FILMS films that have been premiered and distributed in the Republic of Slovenia, regardless of the type and genre (fictional, documentary, animated, etc.)	10

A 2	TELEVISION FILMS regardless of the type, format and genre (fictional, documentary, animated, specified-purpose, including TV dramas, theatre play adaptations, TV miniseries/serials with up to and including 10 episodes)	7
B 1	TELEVISION AV WORKS 1 documentary and fictional series, serials with up to 30 episodes per season and more than 10 episodes in total	4
B 2	TELEVISION AV WORKS 2 serials and series with more than 30 and up to 100 episodes per season, TV shows, concert videos, theatre performance videos	1
B 3	TELEVISION AV WORKS 3 serials and series with more than 100 episodes per season	0.5
B 4	TELEVISION AV WORKS 4 AV works that cannot be categorised in any other category of AV works	0.1
C	ADVERTISING FILMS	0.1
D	SHORT MUSIC VIDEOS	0.1

- (2) The number of points is doubled for an AV work that had its world television premiere on a television programme, which is broadcasted by a television broadcaster registered in Slovenia.

Categorisation of an AV work by duration

Article 9

Each second of the duration of an individual retransmission of an AV work shall be considered as 1 point.

Categorisation of an AV work by the time period (daypart) in which the AV work has been retransmitted

Article 10

- (1) The No. of points for retransmission in a certain daypart shall be determined as follows:

Time period	Time (daypart) of retransmission	Points
A	02:00 – 06:59	1
B	07:00 – 15:59	3
C	16:00 – 18:59	6
D	19:00 – 22:59	10
E	23:00 – 01:59	4

(2) The calculation shall take into account the period in which the retransmission started.

Categorisation by the viewership factor (ratings) of the TV programme in which the AV work has been retransmitted

Article 11

(1) The No. of points for an individual class of a TV programme is determined as follows:

Class	Annual rating of the TV programme	Points
A	above 12%	5
B	6% - 11.99%	3
C	2% - 5.99%	1

(2) If new TV programmes shall be added among the analysed TV programmes in accordance with Paragraph 4 of Article 2 of these Rules, they shall be categorised under class C.

Shares of co-authors

Article 12

(1) The shares of individual co-authors of a particular AV work with regard to the sum of points of all co-authors shall be based on the following categorisation:

Category	Co-authors	Points
A	principal director	12
B	author of screenplay	9
C	director of photography	7

D	composer of film music	2
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- (2) In case there are multiple co-authors within a single category (i.e. more than one principal director or author of screenplay) on an individual AV work the points of any single category shall be equally distributed between the co-authors within that category (e.g. two principal directors of an individual AV work shall obtain 6 points each), or a ratio, if properly reported to AIPA by the co-authors themselves, shall be applied.
- (3) In case of an AV work where the animation is an imperative ingredient the principal animator shall be added to the co-authors of an individual AV work and he shall be awarded 7 point, whereby the shares of individual co-authors shall be changed to take into account the change in the total sum of points on this AV work.
- (4) The sum of points assigned to the author of the screenplay, the author of the adaptation, and the author of the dialogue is 9 points. In case where a co-author is also the co-author of the adaptation and/or the dialogue, such a co-author is added to the list of co-authors of the AV work. In such a case the author of the adaptation is awarded 3 points, the author of the dialogue 2 points and the points for the author of the screenplay shall be reduced accordingly (ie. for 2, 3, or 5 points).
- (5) In case a foreign AV work is synchronised into Slovene language:
- the author of the Slovene adaptation shall be added to the authors of the adaptation and awarded 3 points, while the points of the author of the original screenplay shall be reduced according to the rules in this Article;
 - the principal director of the original AV work and the principal director of the Slovene synchronisation shall share the 12 points in the ratio of 80:20 respectively.

Calculation of the final gross royalty of a co-author

Article 13

- (1) The gross royalty of an individual co-author of an AV work (in EUR) is calculated by multiplying the gross royalty for an individual retransmission of an AV work from Article 7 of these Rules by the share of an individual co-author of an AV work with regard to the total No. of points of all co-authors of this AV work.
- (2) The share of an individual co-author is calculated by dividing the No. of points of an individual co-author of an AV work from Article 12 of these Rules by the sum of points of all co-authors (30 or 37 points) on this AV work:

gross royalty of an individual co-author of an AV work (in EUR)
=
gross royalty of an individual retransmission of an AV work (in EUR) x
(No. of points of an individual co-author ÷ sum of points of all co-authors)

Notification of awarded royalties

Article 14

- (1) AIPA shall distribute and pay-out the royalties according to the data available to it or obtained in the procedure of managing the undistributable royalties as provided for in the CMCRRRA.
- (2) In case of irregularities originating from claiming rights ownership on AV works (eg. double claims) AIPA shall withhold the payment of the royalties for individual retransmissions of an AV work until it receives correct information on the rights ownership on the AV work.
- (3) AIPA shall send notifications of awarded royalties, which are the basis for pay-outs, to all right holders that have been successfully identified and located or have provided their contact information themselves.
- (4) AIPA shall identify and locate the right holders according to the provisions in the CMCRRRA, the Statute of AIPA and these Rules, and according to data available to it at the time of distribution of royalties.

Pay-out of royalties

Article 15

- (1) The awarded royalty shall be paid out to the right holders if AIPA has all the necessary information to execute the payment.
- (2) If the rights of an individual co-author on an AV work have been transferred on the basis of the law (presumption of transfer), a contract, or a court decision to a film producer, the gross royalty, which would otherwise belong to the co-author according to the calculation under these Rules, shall be paid out to the film producer. This provision shall also be applied by analogy to other legal successors of the co-author of an AV work, or the film producer.
- (3) If more than one film producer is entitled to a pay-out of a royalty for retransmission of an AV work (eg. a main producer and one or more co-producers), the royalty shall be distributed and paid out to them according to the shares which were properly reported to AIPA.
- (4) AIPA shall pay out the royalties to the right holders in 30 days from the date of dispatch of the notifications of awarded royalties, unless this is not possible because of objective reasons.
- (5) If the awarded royalties (to a known entitled right holder on an AV work) cannot be paid out (eg. because he did not submit the data necessary for executing the payment), AIPA shall withhold the royalties on a separate account. After the statute of limitations expires the General Assembly of AIPA may decide to use these funds for reducing the business costs of AIPA according to the Rules on business costs adopted by the General Assembly.

Transitional and final provisions

Article 16

- (1) From the day of the adoption of these Rules onwards the *Rules on the distribution of royalties collected for the right of rebroadcasting in case of cable retransmission of copyright*

works from 10 July 2018 are no longer valid, however they remain in use for distribution of royalties collected for the year 2019 and previous financial years.

- (2) These Rules come into force on the day of their adoption at the General Assembly of AIPA and shall be used for the distribution of royalties collected for the year 2020.

In Ljubljana on 18 December 2019