



DISTRIBUTION RULES AND POLICIES

DEFINITIONS

"**Airplay Pool**" means the total **Distributable Amount**, derived from **Licence Fee Revenue** earned from radio stations, in a particular **Financial Year**;

"**Communication to the Public Pool**" means the total **Distributable Amount** derived from **Licence Fee Revenue** earned from commercial users in respect of the communicating to the public and diffusion rights, in a particular **Financial Year**;

"**Distributable Amount**" means the amount available for royalty allocation and distribution, which is the net amount after the deduction of actual administrative expenses from SAMPRA's **Licence Fee Revenue** in a particular financial year as disclosed in the annual financial statements;

"**Distribution Pool**" means either the **Airplay Pool** or the **Communication to the Public Pool**, as the case may be.

"**Financial Year**" means the financial year, currently from April 1st to March 31st in any given year. The first financial reporting period is 1st January 2008 to 31st March 2009.

"**Licence Fee Revenue**" means the gross earnings, from broadcasters and other commercial users of sound recordings in SAMPRA's repertoire, in terms of assessment fees arising out of licence agreements issued by SAMPRA, in a particular **Financial Year**, and determined in accordance with the financial statements. Licence fees are only recognized to the extent that there is certainty that the economic benefits will flow to the organisation.

"**RiSA**" means the Recording Industry of South Africa (a Section 21 company);

"**SAMPRA Repertoire**" means all the sound recordings owned or controlled by the members of RiSA, from time to time and as may be extended by the Executive Committee of SAMPRA from time to time.

"Royalty Payable" means the **Track Pool Percentage** multiplied by the **Distributable Amount**.

"Track Pool Percentage" means the actual number of times the usage of a track is reported for purposes of a particular **Distribution Pool**, divided by the total number of tracks attributable to such **Distribution Pool**;

GENERAL PRINCIPLES:

The process of allocating and distributing SAMPRA's annual licence fee revenue, is as follows:

1. SAMPRA assesses, invoices and collects licence fees during the relevant **Financial Year**, in terms of the relevant Licence Agreement(s) it issues to broadcasters and other music users. SAMPRA processes and distributes the Distributable Amount—within six months after the end of the Financial Year.
2. SAMPRA's licence agreements are only in respect of copyright sound recordings in the **SAMPRA Repertoire**, and do not cover any non-SAMPRA repertoire. For the avoidance of doubt, it is confirmed that SAMPRA can only administer the rights granted to copyright owners in S9 (c), (d) and (e) of the Copyright Act, 1978 on behalf of copyright owners who are members of **RISA**. SAMPRA reserves the right to extend the scope of this clause, by resolution of the SAMPRA Executive Committee, to include other copyright owners and beneficiaries who are not members of RISA, if deemed necessary.
3. The actual expenses of managing and operating SAMPRA's business as reported in the annual financial statements, are deducted from SAMPRA's licence fee revenue. Administrative expenses are capped at 20%, as per the Collecting Society Regulations issued in terms of the Copyright Act, 1978. This leaves the **Distributable Amount** available for allocation and distribution to copyright owners of sound recordings and, through them, to properly designated performers' or their collecting societies, whichever the case may be.

4. DISTRIBUTION POOLS

There are two main Distribution Pools that SAMPRA uses for the purpose of dividing and allocating the Distributable Amount: Each of the Distribution Pools may be sub classified further to give effect to the

equitable allocation of various sources of pool revenue to the relevant music usage.

Airplay Pool -SAMPRA allocates the Airplay Pool using Airplay Logs as defined in Schedule One

Communication to the Public Pool -SAMPRA allocates the Communication to the Public Pool based on the information/logs and play lists SAMPRA has received as to how copyright protected sound recordings were used, or alternatively as detailed in Schedule One.

5. SAMPRA uses airplay and other logs that are available and relevant, to determine the percentage (the **Track Pool Percentage**) of the relevant Distribution Pool that should be allocated to each track or sound recording for copyright protected uses during the relevant Financial Year.
6. The **Track Pool Percentage** is then multiplied by the amount in the relevant Distribution Pool to arrive at a royalty monetary amount for each track or recording.
7. These amounts are then totaled and formatted into statements with payments being made to owners of the copyright in sound recordings, and the relevant performers' collecting societies (if applicable) for further distribution to performers.
8. It is the intention of SAMPRA to extend its systems to accommodate performers with a view to introducing direct reporting and payment to performers who are not affiliated to any collection society in a time frame to be agreed with the owners of sound recordings.

As a prerequisite SAMPRA would need to be provided with:

- a) the clearance to make such direct payments to performers from the record company or label who owns the sound recording(s) and who is entitled to receive payment;
- b) the relevant division or share of royalty earnings per track. i.e. performers share/record company share; and
- c) In the event of SAMPRA entering into a recognition agreement with a performers' collecting society, any appropriate information as regards the payment details to performers should be furnished by the record company concerned directly to SAMPRA.

EXPENSES

In terms of its accreditation by CIPRO, SAMPRA is entitled to deduct an administration fee from licence fee revenue to cover the expenses of the management, promotion and operation of SAMPRA. The most important categories of expenses include, but are not limited to, the following:

- Salaries and associated costs.
- Licensing and processing costs.
- Establishment of a database and updating thereof.
- Information technology systems and support.
- Audit, accounting, training, advertising and sundry office expenses.
- Printing, stationary, postage and couriers.
- Property related expenses.
- Legal.
- Purchase and processing of airplay logs.
- Telephone and fax.
- Travel and accommodation.
- Bad debts and debt collection expenses.
- Motor vehicle costs.
- Other costs.

TIMING OF DISTRIBUTIONS

SAMPRA will normally make one distribution annually, no later than six (6) months after the end of the Financial Year. Any variation to this policy would only occur in exceptional circumstances. The first distribution will take place at the end of April 2009 as per agreement with CIPRO.

BASIS OF ACCOUNTING

SAMPRA uses accrual as a basis of accounting. Accordingly, the distribution as above will include revenue and expenses which are accrued in the Financial Year in which the right to receive the revenue or the obligation to pay the expense actually arises. Licence revenue is only recognized to the extent that it is certain that economic benefits will flow to the organisation. Licence revenue not recognized due to the uncertainty of realization is carried forward to the following year. It is envisaged that in very exceptional circumstances, revenue and expenses may need to be handled on a receipt basis (i.e. when actually received) but this would be subject to approval by the SAMPRA board. SAMPRA's accounting systems comply with IAS (International Accounting Standards) and financial

statements are audited annually by SAMPRA's appointed Auditors.

DISTRIBUTED LABELS

In some cases, a RiSA member distributes a label owned or controlled by another copyright owner. In order to reduce SAMPRA's administrative costs, SAMPRA will encourage distributed labels to authorize payment to the distributing company.

OVERSEAS COPYRIGHT OWNERS

Where there is a local (South African) copyright licensee or distributor for protected sound recordings owned or controlled by an overseas copyright owner, SAMPRA will pay any royalties to the local distributor, if that distributor is a member of RiSA. If an overseas copyright owner does not have a local licensee or distributor and has signed a SAMPRA Bilateral Agreement, and the copyright protected sound recordings owned by that company appears in the logs, SAMPRA will pay directly to the overseas copyright holder until a local copyright licence or distribution arrangement is in place. The application of this clause is subject to the provisions of the Copyright Act, 1978 and the Regulations published in terms thereof.

"NO RETENTIONS" POLICY

SAMPRA's policy is always to pay out the full Distributable Amount within 6 months of the end of the Financial Year based on the information outlined above. SAMPRA will not retain any reserve funds and will distribute all monies that have been identified as having been broadcast or performed in public in the relevant financial year.

In the event of SAMPRA being unable to make payments to copyright owners that are entitled to receive them, such amounts will be held in a Holding Account while it is determined how to make such payments.

There are two specific situations in which SAMPRA will hold a payment:

- Where there is a dispute between copyright owners as to who is legally entitled to receive the royalty payment.
- Where there is insufficient information to enable SAMPRA to identify the copyright work or copyright owner or to effect the payment.

SAMPRA will generally hold payments for a maximum of four years, although this may be extended at the discretion of

the Board of SAMPRA. At the end of that period, if SAMPRA is still unable to identify the recipient, such amount will then be included in the next year's Distribution and proportionally divided amongst all recipients. During the four-year holding period, SAMPRA will distribute amounts when copyright owners are able to justify their right to be able to receive such payments. In the case of an amount in dispute, SAMPRA will require evidence of the satisfactory resolution of the dispute in favour of the copyright owner claiming the amount. If the dispute has been referred to mediation by SAMPRA, SAMPRA will make payment as soon as confirmation of the resolution of the dispute is received.

INTEREST

A. PAYMENT OF INTEREST ACCRUED

It is the policy of SAMPRA for interest to accrue from the date of receipt of monies pertaining to 1) the Airplay Pool and 2) the Communication to the Public Pool with such interest being allocated in proportion to royalty earnings and paid over to the copyright owner in the sound recording when the first possible distribution is made.

B. HOLDING & INVESTMENT ACCOUNTS AND PAYMENT OF INTEREST

All monies held in Holding and Investment Accounts will be invested in a financial institution investment account, which the SAMPRA Executive Committee considers appropriate. A Portfolio committee comprising members of the SAMPRA board and professional financial advisors will review Holding and Investment Accounts on a quarterly basis.

STATEMENTS

SAMPRA will prepare and send out a statement with each payment to copyright owners, which provides the following minimum information for sound recordings:

- The total earnings allocated to each track;
- The total earnings for the copyright owner; and
- The total earnings from specific Distribution Pools.

OVERPAYMENTS

If SAMPRA makes an error that results in an overpayment to a copyright owner, the copyright owner involved will be notified and requested to repay the monies within 14 days from notification. If the money is not repaid, SAMPRA may, at the discretion of the Executive Committee

of SAMPRA, institute legal proceedings to recover the monies or may deduct the amount of the overpayment from the next distribution to that copyright owner.

ALLOCATION AND DISTRIBUTION ISSUES NOT COVERED BY THE POLICIES

Occasionally, an issue will arise in relation to the allocation and distribution of licence fee revenue that is not covered by this Policy. In such cases, the SAMPRA Board will determine by resolution how to handle the issue, taking into account appropriate professional advice. Any such resolution will be treated by SAMPRA in accordance with this Policy for the purpose of allocating and distributing licence fee revenue. If the issue is likely to have an ongoing effect on SAMPRA's activities (for example where it has arisen as a result of legislative change), this Policy may be amended to incorporate the directive as determined by the SAMPRA Board.

ALLOCATION PROCESS

Refer to Schedule One.

SCHEDULE ONE:

ALLOCATION PROCESS

Introduction:

SAMPRA has published 33 tariffs for different categories of users in respect of the right of communicating copyright music sound recordings of RiSA members to the public, but can implement new tariffs, should it become necessary to provide for new or different types of usage. The aforementioned music users are contractually obliged to report their usage of sound recordings to SAMPRA. Complete and accurate reports received from commercial users of copyright sound recordings, enables SAMPRA to effect accurate distributions of licence fees received.

It was resolved to deal with those instances where complete and accurate reports may not be available, in the manner described below:

Revenue Stream	Relevant User Reports for year end February 2009	Tariff Specific Enhancements
BROADCASTING	Accurate reports in respect of broadcast playlists for commercial radio stations, with verification from monitoring services.	
COMMUNICATION TO THE PUBLIC Tariffs: <ol style="list-style-type: none"> 1. Shops and Stores 2. Restaurants, Cafes, Bars and Coffee Shops 3. Dance Clubs 4. Factories, Workshops and Offices 5. Aircraft 6. Buses, Trains & Taxis 7. Fitness Centres, Gyms & Health Clubs 8. Aerobics, Spinning and Fitness Classes 9. Sport Stadiums and Arenas 	<p><u>General Principles to be followed in the following sequence, with enhancements in the next column being utilized where applicable.</u></p> <ol style="list-style-type: none"> A. Accurate and comprehensive playlists are used for the distribution of funds in a particular pool in the first instance. B. Subject to Principle D here below, the playlist of the radio station or information pertaining to specific music chosen by the user on SAMPRA's application form will be used in the absence of accurate and comprehensive playlists supplied, C. Subject to Principle D here below, should the information under both points A and B not be available, either the combined playlists of: <ul style="list-style-type: none"> • the public broadcasting radio station with the greatest number of listeners in the relevant geographical area; and 	<p>General:</p> <ol style="list-style-type: none"> 1. Playlists sourced from DMX where relevant. 2. Playlists provided in the form of copies of CD inlays where appropriate. <p>Tariff 3: Information obtained from dance charts, where available.</p> <p>Tariff 13: Dubbing reports sourced from Mobile DJs in terms of their dubbing licences.</p> <p>Tariff 14: Dubbing reports sourced from Jukebox dubbing operators/manufacturers can</p>

<ul style="list-style-type: none"> 10. Exhibitions, Trade Fairs, Theme and Amusement Parks 11. Members' Clubs 12. Telephone Music On Hold 13. Mobile DJ 14. Jukebox 15. Game Arcades 16. Dance Teachers & Dance Schools 17. Hairdressing & Beauty Salons 18. Waiting Rooms & Reception Areas 19. Halls and Conference Centres 20. Theatre & Concert Venues 21. Cinema Complex 22. Circus 23. Festivals & Related Events with Ticket Sales 24. Railway Stations, Taxi Ranks & Bus Stations 25. Festivals & Related Events without Ticket Sales 26. Classical Ballet Dancing 27. Puppet/Marionette/Magic Shows 28. Museums and Art Galleries 29. Ships & Other Waterbound Craft 30. Swimming Pools 31. Skating Rinks 32. Guest Houses & B & B's 33. Caravan Parks 	<ul style="list-style-type: none"> • the commercial radio broadcaster with the greatest number of listeners in the relevant geographical area will be used. • OR • public and/or commercial broadcasting radio stations that are readily available and that are considered to be the most appropriately representative of music used, according to information available as to the music usage in music user premises. <p>D. Where accurate playlists are available from similar users in the same tariff, this will substitute General Principle B.</p>	<p>be used.</p> <p>Tariff 16: The submission of copies of CD inlays to be used to cater for genre specific usage.</p>
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