

# COPYRIGHTAGENCY

## Distribution Policy

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## 1 ABOUT COPYRIGHT AGENCY

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Copyright Agency is a not-for-profit copyright management organisation. We negotiate, collect and distribute copyright fees and royalties for the copying and sharing of text and images.

We have more than 28,000 members, who include writers, artists and publishers. We are also affiliated with similar copyright management organisations in other countries, enabling use of Australian works in other countries, and use of foreign works in Australia.

We are appointed by the Australian Government to manage statutory licence schemes in the Copyright Act. These schemes allow educational and government use of content without the permissions usually required, but subject to fair compensation to content creators.

We also license our members' works, and works represented by affiliated copyright management organisations, as their agent (e.g. for use in corporations, local governments and not-for-profit organisations).

We distribute the copyright licence fees we receive in accordance with our distribution policy.<sup>1</sup> This document describes the main aspects of our distribution policy and practices.

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<sup>1</sup> This policy does not apply to revenue from [LearningField](#), the artists resale royalty scheme or Viscopy licences, each of which is governed by arrangements particular to them.

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## 2 FACTORS AFFECTING DISTRIBUTION POLICY

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### 2.1 EXTERNAL FACTORS

External factors affecting distribution policy include:

- our [Constitution](#);
- [Attorney-General's Department Guidelines for Declared Collecting Societies](#);
- [Copyright Act](#);
- [Copyright Regulations](#);
- member entitlements under corporations law;
- agreements with members, including foreign copyright management organisations;
- [IFRRO Code of Conduct](#); and
- fiduciary obligations regarding money held in trust.

The external factors affecting distribution of fees paid under statutory licences are more extensive than those affecting fees from voluntary licensing.

### 2.2 GOVERNING PRINCIPLES

The major governing principles, which can be competing, are:

- equity; and
- efficiency.

In practice, this means using the best data available to us at reasonable cost (for acquisition and processing) to:

- identify rightsholders; and
- apportion licence fees.

### 2.3 REVIEW BY COPYRIGHT TRIBUNAL

Distribution arrangements can be reviewed by the Copyright Tribunal, on application by Copyright Agency or by a member.

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### 3 OVERVIEW OF DISTRIBUTION PROCESS

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A distribution of licence fees usually involves:

- Receipt of licence fees
- Calculation of a distributable amount
- A scheme of allocation
- Selection of data sources to be used for allocation
- Receipt of the data to be used for allocation
- Research of the data, including:
  - categorisation of content by source, 'material type' and use type;
  - application of presumptions regarding entitlement to receive allocations; and
  - application of exclusions (uses presumed to be outside the licence)
- Allocation of licence fees to rightsholders
- Quality assurance checks and audits of research and allocation
- External audit (where applicable)
- Confirmation by nominated recipients of entitlement to receive payments, where required
- Payments

Licence fees may be received after a scheme of allocation is formulated, and/or after receipt and research of data.

#### 3.1 FREQUENCY OF DISTRIBUTIONS

Distributions are calculated on an ongoing basis, in accordance with a range of factors including:

- what data is available;
- when data is received;
- extent of data research and analysis required;
- when licence fees are received;
- commitments to members; and
- external factors such as Copyright Tribunal determinations.

We publish information about forthcoming and recent distributions on our website.<sup>2</sup>

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<sup>2</sup> [copyright.com.au/distribution-schedule](http://copyright.com.au/distribution-schedule)

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## **4 RECEIPT OF LICENCE FEES**

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Copyright Agency receives licence fees from various sources throughout a financial year.

### **4.1 STATUTORY AND VOLUNTARY LICENCE SCHEMES**

Copyright Agency is appointed by the Australian Government to manage statutory licence schemes in the Copyright Act for the education sector and the government sector, for text, images and print music. These are sometimes referred to as compulsory licences, because rightsholders cannot withhold permission for the use of their content.

Copyright Agency also manages a range of licence schemes as agent for its members, such as those for corporations. These are known as voluntary licences, because rightsholders choose to participate in them.

### **4.2 LICENCE FEES NEGOTIATED WITH PEAK BODIES**

In some cases, licence fees are negotiated with a peak body for a particular sector. For example, licence fees for most schools are negotiated with the Copyright Advisory Group (CAG) to the Council of Australian Governments (COAG) Education Council, and licence fees for most universities are negotiated with Universities Australia (UA).

### **4.3 SOURCES OF LICENCE FEES**

The following are the main sources of licence fees:

- Statutory licences:
  - Schools represented by CAG
  - Universities represented by UA
  - TAFEs represented by CAG
  - Victorian TAFEs
  - Individually licensed educational institutions
  - Commonwealth, State and Territory governments
- Voluntary licences:
  - Digital press clippings
  - Corporations
  - Not-for-profit organisations
  - Quasi-government organisations
  - Pay per use (transactional) licences
- Licence fees collected by affiliated copyright management organisations

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## 5 CALCULATION OF DISTRIBUTABLE AMOUNT

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### 5.1 CALCULATION METHOD

The calculation of a distributable amount involves:

1. deciding which revenue forms the basis of the fund;
2. deducting an administrative fee (a fixed percentage) or operating costs, which includes an allocation for the Cultural Fund.

### 5.2 WHICH REVENUE

In most cases, a distributable amount is based on licence fees from a single licence scheme, but can comprise licence fees from more than one scheme.

The fees are usually those received in a given period, (e.g. a financial or calendar year), or fees received since the previous distribution of that class of fees.

There can also be more than one distribution for licence fees from a licence scheme for a particular period. This would usually occur where there is a different source of data for distribution of a portion of the licence fees received (e.g. for the use of newspapers).

#### 5.2.1 Interest

A distributable amount can include interest received between receipt of licence fees and calculation of the distribution. This is determined by the Board. Interest may also be applied in other ways, such as provision for the long term interests of members.

#### 5.2.2 Allocations not paid within four years

The Board can determine that a distributable amount includes allocations that were not paid within the four year trust period (e.g. because rightsholders were not identified or not located). The Board can also determine that these funds be applied in other ways, such as provision for the long term interests of members.

#### 5.2.3 Indemnity fees

Some voluntary licence agreements include an amount for indemnity for certain uses made outside the licence. These amounts are not included in the distributable amount, but are retained as a provision for any claims on indemnities by licensees.

### 5.3 DEDUCTION OF FIXED ADMINISTRATIVE FEE

There is a currently a fixed administrative fee for:

- Copyright Agency pay-per-use licensing (e.g. through RightsPortal): 15%;
- licence fees from digital press clippings licence: 10%;
- full text database services: 20%;
- payments to Viscopy members (in accordance with the services agreement with Viscopy);<sup>3</sup> and
- the artists' resale royalty scheme, in accordance with the contract with the Australian government: 10%; and
- Classic Australian Works: 14.2891%.

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<sup>3</sup> Set out on the Viscopy website at <https://viscopy.net.au/artistservices/payments-fees>.

#### **5.4 DEDUCTION OF OPERATING COSTS**

Where there is no fixed administrative fee, we deduct operating costs. This varies according to the projected costs for the financial year. The difference between the projected costs and actual costs are carried forward and adjusted against distributions in the next year.

The Board can decide that large one-off costs are amortised over a number of years, in accordance with the [Attorney-General's Department Guidelines](#).<sup>4</sup>

#### **5.5 DEDUCTION FOR CULTURAL FUND**

Our Constitution entitles the Board to authorise an allocation of up to 1.5% of revenue for a period for our Cultural Fund.<sup>5</sup> This allocation is included in the deductions for both operating costs and fixed administrative fees.

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<sup>4</sup> Art 24.

<sup>5</sup> [www.copyright.com.au/cultural-fund](http://www.copyright.com.au/cultural-fund). The deduction does not apply to LearningField, Viscopy licences or the artists' resale royalty scheme.

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## 6 SCHEME OF ALLOCATION

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A scheme of allocation is a set of decisions that determine:

1. *who* is allocated a portion of a Distributable Amount; and
2. *how much* is allocated to each recipient.

### 6.1 STATUTORY LICENCE FEES

#### 6.1.1 Criteria for a scheme of allocation

The main criteria are:

- rightsholders whose works were used, or are likely to have been used, under the licence;
- the likely extent to which each rightsholder's works were used; and
- Copyright Agency's obligations under arrangements with other copyright collecting societies, professional associations or similar bodies.<sup>6</sup>

Other criteria can include:

- the nature of a use;
- the effect of a use on the value of, or the potential market for, the material; and
- where there is more than one rightsholder for a work, the relative contribution of each.<sup>7</sup>

A scheme of allocation should provide for non-members for whom there is evidence of usage under the licence, and should not arbitrarily exclude any rightsholders.

#### 6.1.2 Members representing many rightsholders

If a member, such as a collecting society or professional association, is entitled to receive allocations for many rightsholders, an aggregate allocation can be made to the member without apportionment to the rightsholders it represents.<sup>8</sup>

### 6.2 NON-STATUTORY LICENCE FEES

The Constitution provides broad discretion for the Board to allocate non-statutory licence fees 'in accordance with a method of entitlement to be fixed from time to time by the Directors'.<sup>9</sup>

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<sup>6</sup> [Constitution](#) Article 75.

<sup>7</sup> [AGD Guidelines](#) Article 11.

<sup>8</sup> [AGD Guidelines](#) Article 11.

<sup>9</sup> [Constitution](#) Article 73.

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## 7 SELECTION OF DATA SOURCES

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### 7.1 ATTORNEY-GENERAL'S DEPARTMENT GUIDELINES ON DATA

The [Attorney-General's Department Guidelines](#) (applicable to statutory licence fees) say:

- a scheme of allocation should specify the data to be used for allocating a distributable amount;
- the data should address the criteria in the Constitution, directly or indirectly (having regard to the cost of collecting or obtaining the data);
- there need not be a one-to-one correspondence between data and criteria;
- indirect correspondence may entail, for example, that copying is presumed, wholly or in part, to be in proportion to sales or airplay, library holdings or lending, newspaper circulation figures, amounts earned by feature writers;
- statistical 'smoothing' techniques can be used to even out extremes in samples which are assumed to represent random fluctuations;
- there does not need be exact correspondence between the statistical or record-keeping basis for assessing (agreeing or awarding) licence fees and the statistical basis for quantifying amounts to be allocated to those entitled;
- different weightings can be applied to different categories of material for allocation purposes, whether or not they are taken into account in assessing licence fees; and
- inadequacy in copying records can be a reason to apply fresh considerations to the allocation of licence fees.

### 7.2 CATEGORIES OF DATA FOR DISTRIBUTION

We broadly categorise data for distribution as:

1. transactional licence data (information about a licence for a single work);
2. full records (information about each use under a blanket licence);
3. survey data (information from surveys of samples of licensees); and
4. indicative data (information from other sources indicating likely or potential use by licensees).

### 7.3 SOURCES OF INDICATIVE DATA

Sources include:

- material requested from, and/or provided by libraries;
- server logs;
- subscriptions;
- data from other licence schemes;
- sales;
- newspaper circulation figures;
- analyses of database records by licensees;
- interviews with officers of licensees;
- investigations by independent statisticians;
- surveys of members;
- information from members about works available for copying;
- website data such as subscriptions, searches, visits, hits, rankings, downloads, links to, favourites/bookmarks; and
- reading lists and citations.

## **7.4 FACTORS INFLUENCING SELECTION OF DATA SOURCES**

Factors include:

- Data quality:
  - types and amount of data available;
  - extent to which data indicates the material likely to have been used and/or available for use;
  - number and types of recipients; and
  - indicators of likely relative usage of the works of recipients.
- Costs:
  - of acquiring the data;
  - of processing data; and
- Time and resources required to process the data.

## **7.5 SUBSAMPLING**

A random selection of data available for allocation may be made if the cost of processing each piece of data would entail unacceptably high operating costs. This is sometimes referred to as 'subsampling'.

## **7.6 USES OF NON-MEMBERS' WORKS**

In most cases we do not allocate for uses of non-members' works, but we retain the usage information.

We use reasonable efforts to notify non-members who may be entitled to a share of licence fees. If a non-member subsequently joins the company, we enable allocation of remuneration to that person for uses of that person's content during the previous four years recorded in the our usage database.

When selecting data for allocation, we include any retained usage relating to rightsholders who have since become members.

We allocate and hold payments in trust for non-members who:

- are named by another collecting society as entitled to receive an allocation made by it;
- have authorised a transactional (pay per use) licence; or
- whose work has been used under the digital press clipping scheme.

## **7.7 RIGHTSHOLDERS IN OTHER COUNTRIES**

Copyright Agency's members include copyright management organisations in other countries. We presume that a rightsholder from another country is a member of a copyright management organisation in that country if the material used, and type of use, are of a type licensed by that society.

Usage relating to a rightsholder who is presumed not to be member of an affiliated copyright management organisation is retained, and can be used in a future allocation.<sup>10</sup>

## **7.8 USES EXCLUDED FROM ALLOCATION**

The main reasons for an allocation not being made to a use of a work are:

1. Copyright has expired;
2. Use is quotation or extract of three paragraphs or less;

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<sup>10</sup> Except if the rightsholder is from a country in which there is a copyright management organisation with which we have a rights exchange (Type B) agreement (whereby each organisation is authorised to license the works represented by the other but retains any licensing fees).

3. Rightsholder is 'unidentifiable': there is no reasonable prospect of efficiently identifying a rightsholder;
4. Rightsholder is from a country to which a 'Type B' (rights exchange only) agreement applies;<sup>11</sup>
5. Published by US Federal government;<sup>12</sup>
6. Usage is outside the scope of licence, for example:
  - o the Distributable Amount is for a voluntary licence scheme and the rightsholder has specifically excluded the work from that scheme;
  - o work used is an advertisement (including a catalogue), logo or media release;
  - o examination papers/materials if used for assessment purposes;
  - o material created by the surveyed institution's current employees (e.g. teacher's own work);
7. The licensee has used the work under a direct licence from the rightsholder, for example:
  - o the licensee has informed us that it has a direct licence;
  - o the rightsholder has notified us that it has given a direct licence;
  - o the rightsholder has applied an 'open' licence such as a Creative Commons licence to the work; or
  - o the work is available on a website whose terms of use are presumed to allow free use of the work by the licensee.
8. The rightsholder does not want to receive payments.
9. The use is excluded under a Data Processing Protocol applicable to the licensee.

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<sup>11</sup> We have agreements with some copyright management organisations whereby each is authorised to license the works represented by the other but retains any licensing fees (sometimes referred to as a rights exchange or Type B agreement).

<sup>12</sup> US government material is explicitly covered in [data processing protocols](#) agreed with licensees. Uses of material published by other governments, such as the Commonwealth, are excluded in accordance with the terms of use for that material (e.g. if a Creative Commons licence applies).

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## **8 RECEIPT OF DATA**

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### **8.1 MAJOR TYPES OF EXTERNAL DATA**

There are two major types of data that we import or enter into our systems:

1. data relevant to the actual, likely or potential use of works in reliance on a licence we manage;  
and
2. data relating to contractual payment shares.

### **8.2 DATA RELEVANT TO USE OF WORKS**

Data relevant to usage varies from licence scheme to licence scheme. Some data, such as that for the digital press clipping licence scheme, is provided electronically. Other data is provided as paper records that we scan into digital form.

### **8.3 CONTRACTUAL PAYMENT SHARES**

Data relating to contractual payment shares is usually provided by members using spreadsheet templates.

The use of this information in a distribution is dependent on our receiving the data in a form that is easily imported into our database.

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## 9 DATA RESEARCH

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### 9.1 AREAS OF DATA RESEARCH

There are four main areas of data research:

- Categorisation of usage data by:
  - material source (e.g. book, journal, newspaper);
  - material type (e.g. poem, short story, article, image);
  - material terms and conditions (e.g. Creative Commons licence);
  - use context (e.g. in coursepack); and
  - use types (e.g. print, photocopy, scan).
- Identification of uses that we presume were not made in reliance on the relevant licence ('exclusions');
- Identification of works used; and
- Identification of likely rightsholders.

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## 10 ALLOCATION TO RECIPIENTS

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When we do not have information about every use made under a licence, we apply a series of processes to apportion licence fees to rightsholders based on the best data available.

This is typically done by:

- dividing the distributable fund into pools for different types of content or use;
- calculating the extent to which each usage instance in the data is likely to be representative of the overall use by the licensees;
- apportioning each pool to works; and
- identifying rightsholders for each of the works.

### 10.1 CALCULATION OF POOLS

#### 10.1.1 Reasons for pools

Under our current practices, there are three major bases for pools:

- to reflect, in the distribution, the relative proportions of licence fees attributable (actually or notionally) to different types of works (e.g. images; poetry), uses (e.g. in coursepacks; digital use), or users (e.g. primary schools);
- implementation of the requirement in the statutory licence for education to evenly divide licence fees for images copied with text between the images component and the text component; and
- to enable allocation to a class of rightsholders (e.g. journalists for photocopying of printed newspapers).

#### 10.1.2 Pools for 'material types' and 'use types'

Our current practice is to calculate pools for 'material types' and 'use types' taking into account:

- the number of 'pages' for the relevant material type or use type; and
- the relative value of that material type or use type for licence negotiations (if applicable).

#### 10.1.3 Pools for user types ('scaling')

Our current practice is to create pools for user types in two circumstances:

1. schools: for use in primary and secondary schools respectively, based on enrolments; and
2. universities: estimated national usage based on enrolments stratified by subject classifications, for 'hardcopy' uses.

#### 10.1.4 Adjustments to relative proportions of pools

We may take historical data and other factors into account in calculating the relative proportions of a distributable amount allocated for a particular material type and/or use type, such as poetry, to provide greater consistency from year to year.

#### 10.1.5 Portion of licence fees distributed with a different dataset

In some cases, we do a separate distribution for a portion of licence fees attributable to a particular type of use or material for which we have data from another source. For example, we may calculate the portion of licence fees attributable to the use of newspapers, and distribute that amount using relevant data from the digital press clipping scheme.

## **10.2 ADJUSTING 'USAGE' IN A SURVEY RECORD**

In general, we treat information provided by participants in surveys of usage as representative of the licensee population as a whole.

In some cases, however, we treat aspects of a usage event recorded in a survey as not representative of the licensee population as whole.

### **10.2.1 Work unrelated to concurrent or previous usage**

We treat a usage of a work as unrepresentative if there are no concurrent or previous instances of usage for that work, or its author or publisher, in our database.

### **10.2.2 'Normalising' number of pages copied**

Survey data can sometimes provide instances of an atypically high number of pages copied from a publication. In determining the allocation to the work copied, we may have regard to the typical number of pages copied from works of that type.

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## **11 AUDITS AND QUALITY ASSURANCE**

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### **11.1 AUDIT AND QUALITY ASSURANCE**

We have internal audit and quality assurance processes that we apply to all distributions.

### **11.2 AUDITS BY EXTERNAL SERVICE PROVIDERS**

#### **11.2.1 Audit of data entry of usage data**

The independent research company that manages the collection of usage data from surveys of licensees checks that the information from the usage records has been accurately entered into our systems.

#### **11.2.2 Audit of distributions**

In accordance with our risk management procedures, external auditors examine the calculation of distributable amounts and pools. They also review a random selection of allocated payments, to ensure the allocations were made according to the scheme of allocation.

### **11.3 RECIPIENTS' ON-PAYMENTS TO OTHER RIGHTSHOLDERS**

We may request members who are obliged to on-pay other rightsholders to provide details of any on-payments.

For example, we may ask a publisher who has undertaken to on-pay a creator to provide details of the on-payment.

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## **12 ENTITLEMENT TO RECEIVE A PAYMENT**

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### **12.1 ALLOCATIONS TO RIGHTSHOLDERS IN WORKS**

In most cases, Copyright Agency's distribution process results in an allocation to the rightsholder or rightsholders in a work.

We then identify who the likely rightsholders are.

### **12.2 RIGHTSHOLDERS**

A rightsholder is, in relation to the use for which an allocation is made:

1. an owner of copyright in the work;
2. an exclusive licensee; or
3. a trustee, executor or administrator of an estate.

### **12.3 AGENTS**

A rightsholder's agent can be a member of Copyright Agency and receive payment on behalf of the rightsholder.

### **12.4 DIFFERENT RIGHTSHOLDERS FOR DIFFERENT USES OF SAME WORK**

There may be different rightsholders for different uses of the same work. For example, a staff journalist may be entitled to receive allocations for photocopying from a printed newspaper, but not for scanning from the same newspaper.

### **12.5 MORE THAN ONE RIGHTSHOLDER FOR SAME USE OF SAME WORK**

More than one person may be entitled to receive an allocation for a work if:

- there are co-owners of copyright (e.g. the work has been jointly authored, or several heirs have jointly inherited a copyright); or
- the copyright owner and exclusive licensee have agreed to share Copyright Agency allocations (e.g. as part of a publishing contract).

### **12.6 CONTRACTUAL ENTITLEMENT TO SHARE OF COPYRIGHT AGENCY ALLOCATION**

Copyright Agency invites members to provide information about contractual arrangements to share a Copyright Agency allocation for a text work published as a book that has an International Standard Book Number (ISBN). This is typically a contract between an author and a publisher that provides for payments from Copyright Agency to be shared in agreed proportions (e.g. 50% to each).

We also invite members to provide information about the division of Copyright Agency payments for scholarly journals between the journal publisher and learned society associated with the journal.

If we have information about payment shares (notified payment shares information), we can allocate payments in accordance with it.

We allocate according to notified payment shares where we have sufficient information about usage to link it to a work with notified payment shares.

If a person has assigned copyright but has a contractual entitlement to Copyright Agency payments, we can apportion an allocation in accordance with that contractual entitlement.

If a shareholder is not a member of Copyright Agency (even though they may be a member of another collecting society), we allocate their share to the member who provided the payment share information, for on-payment to the non-member.

We do not allocate according to notified payment shares information until all payment shareholders have been given an opportunity to confirm or correct the information.

### **12.7 INDIRECT PAYMENTS WHERE MORE THAN ONE RIGHTSHOLDER**

If there is more than one rightsholder for a work, but we do not have information about contractual arrangements between or among them, we pay the allocated amount to one rightsholder on their undertaking to on-pay shares of the allocation due to other rightsholders within 60 days.

### **12.8 PAYMENT PRIORITY WHERE MORE THAN ONE RIGHTSHOLDER: 'CREATOR FIRST'**

If we do not have notified payment shares information, and two or more members are entitled to share an allocation to a work, we pay the member who is a creator on their undertaking to on-pay other rightsholders.

If there is more than one creator member, we pay the one whose surname appears first in alphabetical listing.

Where, however, a creator has become a member as a result of information provided by a publisher in connection with notified payment shares, we only pay the creator directly for allocations based on the notified payment share information. For any other allocations for the creator's works that are published by the same publisher, we pay the publisher on their undertaking to on-pay others.

### **12.9 ALLOCATIONS MADE BY FOREIGN COLLECTING SOCIETIES**

Allocations by foreign collecting societies may be made:

1. to a particular person; or
2. to an unspecified rightsholder or rightsholder, presumed to be Australian, in a work; or
3. to unspecified rightsholders, presumed to be Australian, for a class of works.

If (1), we pay the allocated amount to the identified person. In some cases, the person entitled to receive a payment for the same use of the same work in Australia may be different (e.g. because the law and/or distribution policy in the country where the allocation apply differently).

In other cases, we determine who is entitled to receive the allocation as if the use occurred in Australia.

### **12.10 ALLOCATIONS TO NON-MEMBERS**

A person must be a member to be paid an amount allocated to a work. This is partly so that the person abides by the terms of membership in relation to the payment. Membership is free.

Allocations made to works of non-members are held in trust for four years from allocation.

Under our current policy, we no longer allocate to non-members in most distributions. Instead, we retain the usage information, so that we can make an allocation when a rightsholder becomes a member.

### **12.11 PAYMENTS MADE IN ERROR**

Copyright Agency may seek a refund of an amount paid in error to a person who is not entitled to receive it. This can be by deductions from future allocations.

## **12.12 DISPUTES ABOUT ENTITLEMENTS**

If we are notified of a dispute between members about entitlement to receive allocations for a work, we hold any allocations already made in trust and encourage the members to resolve the dispute themselves. If they are unable to do so, we have a dispute resolution procedure which is described on our website.<sup>13</sup>

If allocations total less than \$2,000, or if we have not yet made any allocations, we may offer to refer the dispute to an independent expert. All parties to the dispute must agree to the referral and they must also agree to bear their own costs.

For disputed allocations of \$2,000 or more, we may offer facilitated mediation or expert determination.

A determination made as part of the dispute resolution procedure will only apply to entitlements to claim allocations made by Copyright Agency. It will not affect payments from any other source for use of those works.

## **12.13 EX GRATIA PAYMENTS**

Copyright Agency can make an ex gratia payment to a rightsholder who can establish that their work was substantially copied under a licence administered by us, but received little or no payment from us for that use.<sup>14</sup> The [Attorney-General's Department Guidelines](#) provide that ex gratia payments should be kept to a minimum.

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<sup>13</sup> [copyright.com.au/disputes](http://copyright.com.au/disputes)

<sup>14</sup> See AGD Guidelines Article 20

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## 13 INFORMATION ABOUT ALLOCATIONS

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### 13.1 OBLIGATION TO NOTIFY ALLOCATIONS

As part of the membership terms, Copyright Agency undertakes to notify members of allocations to them. Notification can be made after an allocation has been paid.

### 13.2 INFORMATION TO RIGHTSHOLDERS ABOUT ALLOCATED PAYMENTS

We provide information about allocated payments in our notifications and remittance advices to members. Members with online accounts can also view information via their account.<sup>15</sup>

#### 13.2.1 Information about payments allocated to a rightsholder's work

We may provide a rightsholder with information about payments allocated to another rightsholder's works, in accordance with our privacy policy. We will seek confirmation that the rightsholder is entitled to the information.

If an allocated payment was paid to someone other than the rightsholder requesting information (for example, another rightsholder in the work), we will inform the payee about the information we have provided to the rightsholder who requested it.

We may charge a fee to recover the cost of finding and providing that information.

#### 13.2.2 Information about how an allocation was calculated

We may, on request, provide information about how a payment allocated to a rightsholder's work was calculated.

We can also provide information about the scheme of allocation for a distributable amount. In doing so, however, we do not disclose information that would identify a person or organisation that is providing, or has provided, information about usage (for example, under a survey of usage).

This policy is intended to encourage licensees to provide as much information as possible about their usage.

#### 13.2.3 Remittance advices

Remittance advices have two components: a payment summary, and a payment breakdown spreadsheet.

Our remittance advices to members display deductions from the licence fees we received. Deductions include operating costs or a fixed administrative fee, which include any allocation to the Cultural Fund.

The operating costs displayed on remittance advices will vary for each distribution for a range of reasons that include:

- variations in the amount of revenue received;
- the proportion (if any) of funds that are rolled over (from which costs were deducted previously);
- variations in the percentage deducted from each licence scheme for costs; and
- the distribution may include licence fees from a previous year from which a different cost percentage was deducted.

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<sup>15</sup> Members can login at <https://members.copyright.com.au>.

The Input Tax Credits (the GST charged on the amounts deducted for our costs associated with statutory licences) can also vary for similar reasons, so that they are not simply 10% of the costs deducted.

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## **14 LICENCE FEES HELD IN TRUST**

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### **14.1 TRUST FUND**

Licence fees allocated to rightsholders are held in trust until paid or expiry of the trust period (currently four years).<sup>16</sup> We use our best endeavours to identify and locate non-members to whom payments have been allocated, to inform them of the allocation and invite them to claim it.

#### **14.1.1 Money that is allocated but not paid**

The Trust Fund includes money that has been allocated but not paid to a rightsholder. This includes allocations for rightsholders:

- who our researchers have been unable to identify and/or locate;
- who have elected not to claim; and
- that, in aggregate, are less than the minimum payment.

#### **14.1.2 Minimum payment**

We hold allocations to a member until the total amount exceeds \$10, unless the member has overseas resident taxation status, in which case it is \$200.<sup>17</sup>

### **14.2 ALLOCATION 'ROLLED OVER' ON EXPIRY OF TRUST PERIOD**

On expiry of the trust period, an unpaid allocation is 'rolled over'. The Board determines how the allocated amount will be re-applied. Once an allocation has rolled over, a member has no further entitlement to claim it.

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<sup>16</sup> Copyright Regulations Copyright Regulations, Reg 23J(i) and Copyright Agency Constitution Article 83. (a) (ix).

<sup>17</sup> In most cases, payments are made by EFT. If a payment is made by cheque, we can hold allocations to a member until the total amount exceeds \$50.