

Distribution Rules of Music Copyright (Thailand) Limited MCT

Approved by the Board of Directors of MCT

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Performing Right and Reproduction Right Royalties

1. Introduction

1.1 Music Copyright (Thailand) Ltd.: MCT (hereinafter referred to as “MCT” or “the Society”) principally administers performing and reproduction rights assigned by our members and those of our overseas affiliated societies under the reciprocal agreements. This document aims to detail the Society's distribution rules for performing right and reproduction right.

1.2 **Performing Right** is defined as the right to do, or authorize other persons to carry out any of the following acts:

1.2.1. To perform the musical work including any literary work associated therewith in public

1.2.2. To broadcast the musical work including any literary work associated therewith, or include it in a cable programme

1.3. **Reproduction Right or Mechanical Right** includes any method of copying, imitation, duplication, molding, sound recording, or audio and video recording from the significant part of the original, copy or publication whether in whole or in part. This also includes synchronization purposes, whether in whole or in part, on any audiovisual medium, but not limited to television programs, TV dramas, films, movie trailers, advertisements, video games, websites, or application programs. It also includes copying from computer systems and/or any communication devices connected to the internet such as computers, mobile phones, or any other devices that can receive and display audio and/or visual content via internet signals, wireless systems, or other connectivity equipment for the communication to the public purposes.

The rights mentioned above shall remain as long as permitted by Thai Copyright Law and shall also encompass the right of communication to the public and the right of reproduction under the copyright laws of other countries.

1.4 In its scope of administration, the Society licenses music users and collects royalties from them in return. The royalties can broadly be classified as “public performance royalties”, such as royalties from retail shops, hotels and karaoke boxes and “broadcasting royalties” which refer to royalties from radio and TV stations and cable programme services and reproduction rights.

1.5 For the purpose of distributing the collected royalties, the Society's Council of Directors is responsible for determining the Distribution Rules. Decisions made by the Council of Directors on the Rules will be final and binding. On the other hand, management of the Society has the role to propose changes on the Rules if circumstances necessitate.

2. Notification of Works for Distribution Purpose

2.1 IT IS IMPORTANT FOR songwriter and music publisher members to notify their musical works to the Society once a work is created and/or published. Upon receipt of the notification, the Society will immediately proceed with the proper documentation for distribution purposes.

2.2 For the sake of analysis, the Society has a deadline for works notification. This deadline at the end of September will be informed to all members at the beginning of each calendar year for notification of works created in the preceding year. A notification is considered timely if it is received on or before the deadline. All notifications received thereafter will NOT be included for distribution until the next distribution by means of adjustment.

3. Notification of Live Performance

Oftentimes, there are musical works performed live at venues and other premises where programme returns are not normally obtainable. The Society however does recognise these performances and are prepared to distribute royalties accordingly provided that details of the performed works are available and the licence fees are THB 10,000 or over. Therefore, members are encouraged to notify the Society in advance of such performances. In so doing, the Society may have sufficient time to license each and every performance in question. For distribution purposes, members are advised to fill out and return to the Society the 'Notification of Live Performance' form and please have it signed by the premises owner or the event organizer for endorsement purposes.

4. Distribution Categories

To the extent that a music user can accurately provide programme returns and the corresponding revenue reaches a reasonable level, and individual distribution category will be set up accordingly. This will enable the Society to precisely distribute royalties collected from a music user to the interested parties whose work have been performed or broadcast in that particular distribution category.

4.1 Television Broadcasting Distribution Categories

In television broadcasting, revenue is collected from a program supplier in each channel. The Society realizes that different program suppliers have different audience sizes. It has therefore been decided that audience rating will be used to split the station royalties among its channels. The rationale behind is that the higher the audience rating of a channel, the bigger the audience size a musical work has reached. The earnings for such work shall be relatively higher than the same piece of work broadcast on the channel with a lower audience rating. In case audience rating is not obtainable, the revenue share and or music content index of a station will be used. In the future when new stations or channels appear, individual distribution categories will be set up accordingly.

4.2 Radio Broadcasting Distribution Categories

Similar to television broadcasting, listener-ship is used to assign distributable royalties to each channel of a radio station. In the future when new stations or channels appear, individual distribution categories will be set up accordingly.

4.3 General Performance Distribution Categories

Individual distribution categories are set up for the following:

Hotel	Single Event	Bowling
Airline	Concert	Hospital
Restaurant	Internet	Other
Bar/ Pub/ Lounge/ Disco	Mobile Business	
Karaoke	Cinema	
Retail & Shop	Fitness	

4.4 Digital Service Distribution Categories

4.4.1 The royalty allocation between the performing and reproduction rights is split 50:50

4.4.2 MCT shall make payment under the actual usage report received from the digital service providers.

In unique cases, where the revenue distributed to MCT contains the portion of MCT non-member, the non-member could claim the royalty from MCT provided that they indemnify MCT against all future claims from a third party and all liability that may occur from distributing such royalties. The non-member also needs to provide essential information or documents i.e. proof of ownership, song titles, artist names, and relevant identifying numbers.

MCT shall keep the unidentified portion from such distribution for the maximum time the laws allow.

4.5 Reproduction Right or Mechanical Right Distribution Categories

The Society will allocate royalties based on music usage reports.

5. Music Programme Returns Analysis

Music programme returns serve as the fundamental tools for distributing the collected royalties. The Society strictly requires broadcasters and certain selected music users to supply music programme returns for this purpose. The deadline for receiving music programme returns is the end of January. It is the intention of the Society to completely analyse the programme returns. In reality, though, it is not always cost efficient to conduct a complete analysis due to the immense amount of data involved. Instead, the analysis will be based on a sampling plan which is determined under the principles of accuracy, fairness and economy.

In addition to music usage reports, MCT has also implemented the Music Fingerprint System, which is an international standard and effective method for royalty distribution.

5.1 TV Broadcasting Performances

The current process for calculating the programme returns from all television channels involves two types of reports.

1. Music usage reports from BMAT (Music Fingerprint System).
2. A sampling basis. Revenue generated by each channel, the corresponding audience rating and the music content are reviewed and used as the basis for adjusting the sampling plan. However, for local free-to-air TV music channels that broadcast music videos and similar content, the royalties will be calculated based on the reports from all programs (without sampling).

5.2 Radio Broadcasting Performances

There are two types of reports used to calculate the royalties from Radio:

1. Music usage reports from BMAT and Intensive Watch (Music Fingerprint System).
2. The sampling plan for radio broadcasting performances is based on audience and revenue classification. Using computer system tools, radio stations have submitted music usage reports via electronic media files. Then, this information will be fully analyzed, leading to reduced workload and costs.

5.3 General performances

The following selected music users, who are allocated with individual distribution categories, are required to submit programme returns and the corresponding analyses are:

Music User Revenue Source	Analysis
Background music supplier	Sampling from big music supplier company.
In-flight music	Data from big airlines.
In-store music	100% census
Karaoke boxes	Sampling on selected karaoke's popularity charts
Live concerts	100% census
Music-on-hold (specific works known)	100% census
Telecommunications-mobile phone	100% census

5.4 Alternative Reports, in case the music usages are unobtainable

However, in reality, music users could not keep records or were unable to provide music programme reports. On the other hand, obtaining these reports would require an unjustified amount of manpower and time. In such cases, when the general performance reports are typically unobtainable, the following alternative reports should be used for analysis:

1. Radio pool
2. TV pool
3. Digital pool
4. Background Music Service Providers' song list pool
5. Other

The proportion of report number 1-4 applied to analyze each source of income for music users shall be at the discretion of the Board of Directors to determine as a Distribution Practice (or Distribution Policy) from time to time.

Music User Revenue Sources:

1. Amusement parks
2. Banks
3. Bars
4. Bowling centres
5. Car parks
6. Dance parties
7. Department stores
8. Dinner parties
9. Fan club gatherings
10. Fashion shows
11. Hair salons
12. Health centres
13. Jukeboxes
14. Music by band
15. Music fountains
16. Music-on-hold, where large quantity of works are used
17. Passenger Elevators
18. Record Companies
19. Hospitals

20. Restaurants
21. Retail shops
22. Shopping malls
23. Skating rinks
24. Trade fairs & Exhibitions
25. Clinics
26. Video walls
27. Hotels
28. Discos
29. Other

6. Performance Credit Award System

6.1 In the course of distribution, the Society assigns performance credits to each work based on several factors listed in section 6.2 below. A value per performance credit is calculated by dividing the total distributable royalties of a distribution category by the total number of performance credits in that distribution category. The earnings of each piece of work are then determined by the number of performance credits that it carries.

6.2 The Calculation of Performance Credits are derived from the following method:

Performance credit(s) of a work

= Music Usage Value x Duration point x Time Zone Weight (if applicable)

6.2.1 Music Usage Value (MUV)

The same piece of musical work can be used in different contexts such as in a movie, TV programme or broadcast. MUV is used to reflect the differences in the values of various music usages.

6.2.1.1 Definition of music usages

Music usage	Definition
Serious Music (SER)	All serious works performed live in concert or by radio broadcast.
Pop music (POP)	Musical works, other than serious works, performed live in concert or by radio broadcast.
Theme title (FT)	A work that is specifically composed for an event, a broadcasting programme or a cinema film, or is a preexisting work adopted to represent an event, a broadcasting programme or a cinema film. It is usually performed or broadcast at the beginning and ending of an event, a programme or a film.
Visual (FV)	A work used in a television programme or a cinema film that facilitates the flow of the programme or the film AND is audible to the actors in the programme or the film. It includes live performance and music video broadcasting on TV.
Background (FB)	A work used in a television programme or a cinema film that facilitates the flow of the programme or the film BUT is not audible to the actors in the programme or the film. In a radio programme, a work used to accompany a disc jockey's presentation or music used to facilitate a radio drama.
Interval (IM)	A work broadcast on television for the purpose of filling a sporadic and brief time gap between programmes. Music video is usually employed to fulfill this role.
Commercial Jingle (COM)	A work used in a commercial spot or a government public announcement.
Programmer promo (PI)	A work used in a television or a radio's promotion in advertising its own programmes.
Signature tune of commercial break (ST)	In television only, a work that appears before and after a commercial break of a programme.
Signature tune of news, traffic, weather & finance (ST)	In radio only, a work that signifies news, traffic, weather or finance report.
Station ID (SI)	A work that accompanies a television or a radio's station identity filler.
Trademark (TM)	A work performed or broadcast at the beginning or the end of a television programme or a film which identifies the producer or distributor

6.2.1.2 TV Music Usage Value

Music usage	Music Usage Value (MUV)
Theme title (FT)	1.00
Visual (FV)	2.00
Background (FB)	0.90
Interval (IM)	0.80
Background (FB)	0.50
Commercial Jingle (COM)	0.45
Programmer promo (PI)	0.35
Station ID (SI)	0.30
Trademark (TM)	0.30

6.2.1.3 Radio/ Concert/ Movie Music Usage Value

Music usage	Music Usage Value (MUV)
Serious music/ Pop music	1.00
Theme title	1.00
Visual	1.00
Signature tune for news, traffic, weather & finance	0.80
Interval	0.80
Background	0.50
Commercial Jingle	0.45
Station ID	0.40
Programme promo	0.40
Trademark	0.30

6.2.2 Duration-point conversion

6.2.2.1 For serious music and pop music performed live in concert or broadcast on radio

Conversion Table:

From	To	Duration-points
0'01"	1'00"	0.50
1'01"	2'00"	1.00
2'01"	3'00"	1.50
3'01"	4'00"	2.00
4'01"	5'00"	2.50
5'01"	6'00"	3.00
6'01"	7'00"	3.50
7'01"	8'00"	4.00
8'01"	9'00"	4.50
9'01"	10'00"	5.00
10'01"	11'00"	5.50
11'01"	12'00"	6.00
12'01"	13'00"	6.50
And so on		

Durations receive 0.5 duration-point per minute or part thereof

6.2.2.2 For music usages other than section 6.2.2.1 above

Music Usages	Conversion table	Basic point	0.000
Theme title		Increment	0' 15"
Visual		Increment point	0.125
Commercial Jingle		Maximum	999'30"
Programme promo		Maximum point	499.750
Signature tune			
Station ID			
Trademark			
Background			
Interval			

6.2.3 Time Zone Weight (TZW) for TV broadcasters

TV broadcasters remain as the most dominant TV stations in Thailand in spite of rivalry from new broadcasters. Since there are significant variance in audience rating among different time zones, it is considered necessary to reflect the audience rating in assigning performance credits to a work broadcast on these channels. According to the local viewing pattern, the following time zones are established for TV broadcasters. Corresponding average audience ratings are obtained from BMAT Program, or other international standard researcher on a yearly basis as the Time Zone Weights (TZW)

Time Zones for TV Broadcasters

Time zone	Duration
Primetime	19.00 - 22.59 hour
Shoulder prime	17.30 - 18.59 hour and 23.00 - 00.29 hour
Slack time	00.30-17.29 hour

MCT will keep on monitoring the development of the local broadcasting scene to evaluate the appropriateness of time zone weights for other channels as well.

7. Net Distributable Royalties

The general principle of arriving at the net distributable royalties is listed below:

	Actual licence revenue	
+	Other sources of revenue	e.g. investment earnings
=	<hr/>	
	Gross Revenue	
-	Administration Cost	
=	<hr/>	
	Net Distributable Royalties	
	<hr/>	

8. Division of Fees

8.1 The distribution of performing royalties to interested parties shall be made in accordance to the following basic share division. The divisions are in every case subject to any modification that may be agreed upon in writing between the interested parties, except that in no case may the share of the publisher, or the combined share of all the publishers of a particular work, exceed one-half (50%) of the total distributable fees.

Work without Publisher(s)

No.	Description	Share
1.	Composer/s	100.00%
2.	Composer/s	50.00%
	Author/s	50.00%
3.	Composer/s	100.00%
	Author/s (Public Domain)	0.00%
4.	Composer/s (Public Domain)	0.00%
	Author's	100.00%
5.	Composer/s	50.00%
	Author/s (Public Domain)	0.00%
	Authors of new lyrics	50.00%
6.	Composer/s (Public Domain)	0.00%
	Arranger's	100.00%
7.	Composer/s & Author/s (Public Domain)	0.00%
	Arranger/s	100.00%
8.	Composer/s & Author/s (Public Domain)	0.00%
	Author/s of new lyrics	50.00%
	Arranger/s	50.00%

Work with Publisher(s)

No.	Description	Share
1.	Composer/s Publisher's	50.00% 50.00%
2.	Composer/s Author/s Publisher/s	25.00% 25.00% 50.00%
3.	Composer/s Author/s Publisher/s (for composer/s) Publisher/s (for author/s)	25.00% 25.00% 25.00% 25.00%
4.	Composer/s Author's Publisher/s & Sub-Publisher's	25.00% 25.00% 50.00%
5.	Composer/s Author/s Sub-Author/s Publisher/s & Sub-Publisher/s	16.66% 16.66% 16.66% 50.00%
6.	Composer/s (Public Domain) Author/s Publisher/s (for author/s)	0.00% 50.00% 50.00%
7.	Composer/s Author/s (Public Domain) Publisher/s (for composer/s)	50.00% 0.00% 50.00%
8.	Composer/s (Public Domain) Arranger/s Publisher/s (for arranger/s)	0,00% 50.00% 50.00%
9.	Composer/s (Public Domain) Author/s Arranger/s Publisher/s (for author/s) Publisher/s (for arranger/s)	0.00% 25.00% 25.00% 25.00% 25.00%

8.2 Guidelines in regards to Performance Mode

8.2.1 For any and all performances of a work originally vocal in form, the author receives his/her normal share. If, however, a vocal version is made of a work originally instrumental in form, the author receives a share only when the vocal version is performed.

8.2.2 The performances of an instrumental version, where there is doubt as to whether the original version or the local version was performed, the CISAC Amalfi Resolution will apply, and the division of shares will be as follows:

Composer/s	25.00%
Author/s	16.67%
Sub-Author/s	8.33%
Publisher/s & Sub-Publisher/s	50.00%

8.3 Guidelines in regards to Sub-Publication

8.3.1 Where the contract between the writer(s) and the work's original publisher of a work provides for a specific total publisher-share, this share alone is to be divided between the original publisher and the sub-publisher in accordance with the provisions of the sub-publication contract. No share will be taken away from the writer(s).

8.3.2 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 under MCT Distribution Rules, the Society recognizes, in the case of effective sub-publication, an automatic increase in the total publisher-share to the maximum of 50% and a corresponding decrease in the writer-share if the publisher-share is originally not 50%

8.4 Guidelines in regards to Arrangement

8.4.1 MCT does not allocate any share to the Arranger of a copyrighted work.

8.4.2 The Society allocates 100% total share to the interested party of the new arrangement of a non-copyright work.

8.5 Guidelines in regards to Non-Member's Share

8.5.1 MCT-Originated Work

- (i) Where a publisher is not a member, its share will be paid to the society of the composer(s) and author(s).
- (ii) When a composer or author is not a member, his/her share will be paid to the co-writer(s) of such work equally, and/or allocated by the proportion of the right holders.

8.5.2 Foreign-Originated Work

- (i) Non-member publisher (foreign) - Where a publisher is not a member, its allocated share will be paid to the society of the composer(s) and author(s).
- (ii) Non-Member Writer (foreign) - When a composer or author is not a member, his/her share will be paid to the society of the original publisher. If the work is unpublished, the non-member writer's share will be paid to the society of the co-writer.
- (iii) In case the non-member share is returned by the receiving society for whatever reason (Fee in Error), it will be ploughed back into the next distribution and be allocated on a pro-rata basis to all other parties receiving royalties in that distribution.

9. Special Allocations

The Unlogged Performance Allocation (UPA) is made to compensate for performances incidentally omitted in the analyses due to sampling and other factors. By allocating from the public performance rights and reproduction rights under the General Licensing. This allocation is paid to MCT members and overseas affiliated societies, receiving the royalties in each distribution cycle according to the specified method.

The net amount of UPA will be allocated between Thai music members of MCT and international music members of Overseas Affiliated Societies at a 70% to 30% ratio. (This proportion is finalized by the resolution of the Board of Directors Meeting).

9.1 UPA for members of MCT

The UPA proportion for MCT members will be calculated from:

1. UPA divided equally by all members of MCT - 80%
2. UPA divided equally per song. Only for members who wrote songs and published in the year before the distribution* - 20%

*Remark: *If the musical work of the General Member (author and composer) has not been used for three (3) consecutive years, such member will not receive this allocation.*

9.2 UPA for Overseas Affiliated Societies

- (i) An amount of UPA is calculated according to the UPA (Overseas) ratio and allocated to all overseas affiliated societies in a lump sum pro-rated, based on the proportion of revenue from the General License of each society in that Distribution Year.
- (ii) No UPA is allocated to the interested parties of works in the Non-members Special Account and Dispute Special Account (See section 10).

10. Special Accounts

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

10.1 Non-member Special Account (SN)

10.1.1 MCT-originated Work and Overseas Affiliated Societies

If any of the interested parties in a MCT-originated work or its affiliates is not a member, his/her share will be placed in a special account. The royalties will be retained until he/she becomes a member. Subsequently, the held amount will be disbursed in the next distribution period and/or within the specified timeframe.

10.1.2 Non MCT work

If at the time of distribution, there is no documentation available for 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 be applied for royalty distribution. The total royalty payments for this work must be forwarded to this sister-society. And the receiving society will carry out the distribution according to the documentation available to it.

10.2 Dispute Special Account (SD)

10.2.1 Affiliated Society

If an affiliated society notifies the Society of a dispute with a written request for royalties to be placed in suspense, the Society will place the royalties, if any, allocated to the disputed shares of the work affected into this account.

10.2.2 MCT member

- (i) If a dispute arises among members of which the Society has received written notice by a member, the Society will first consult the other interested party or parties, as registered in the Society's records, to obtain their comments about the dispute.
- (ii) Failing a response within one month, the Society will notify all parties that the royalties, if any, allocated to the disputed shares of the work or works affected are placed in suspense for a specified period.
- (iii) The suspense will be maintained until it is finally settled if a copy of the court proceedings issued by the claimant has been produced to the Society within the specified period.
- (iv) The Society may, at her discretion, remove the royalties from the suspense and make a distribution according to the allocation of shares prior to the date that the dispute arose if legal action has not been commenced within the specified period or if the dispute is not otherwise settled.

10.2.3 Settlement of Disputes

When the Society is notified by members or affiliated societies that a dispute has been resolved, the royalties held in suspense shall be made according to the terms of settlement, provided that those terms do not conflict with the distribution rules.

10.3 Un-distributable Royalties Special Account

In case, there is no documentation available and even the CISAC Warsaw Rule* cannot be applied, royalties will be placed in this special account. The amounts withheld under these conditions may be used to make retrospective payments after verification for any performances that were excluded from the previous distribution.

Unallocated royalties from both Thai and international musical works will be suspended on the special account for two (2) years. After this period, any royalties without supporting documentation will be returned to the distribution system in the next allocation cycle.

*[*The CISAC Warsaw Rule states that if works were performed or broadcasted but have no reporting documents, all royalties for those works shall be allocated to the identified creator or copyright holder by transferring them to the affiliated society once the creators are identified as a member or copyright holder of that society.]*

10.4 Member Termination

When a member terminates the membership, the effective period shall continuously enforce not exceeding 12 months after the Society receives written notice from a member. However, if there is unpaid royalty which is collected before the effective date of termination, such royalties shall be paid to the member until there is no outstanding amount.

11. Royalties Adjustment

Incomplete music usage reports from music users or incomplete work submissions to MCT may result in incomplete performance reports. In each distribution cycle, a portion of the net royalties will be paid to other songwriters.

12. Royalties received from Affiliated Societies

Regularly, in each cycle of distribution, the royalties allocated to members shall strictly adhere to the information received from affiliated societies.

13. Minimum Payment

To avoid the uneconomic accounting cost, the Society does not make payment if, at any distribution, the total credit issued by cheque or demand draft, or cable transfer is less than 10,000 baht for overseas affiliated societies.

14. Distribution Frequency

MCT distributes royalty fees - which covers the royalties that were collected from January to December of the previous year - divided into 4 times a year. The distribution cycle is as follows:

First March	Second June	Third September	Fourth December
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15. Distribution Numbering System

The Society's distribution numbering system consists of four alphanumeric codes.

(i) The first code indicates the type of distribution

“P” -Local performing royalties

“O” -Overseas performing royalties

“M” -Mechanical royalties

“S” -Synchronization fees

(ii) The second two digits represent the year in which royalties are collected

(iii) The last digit represents the number of times that a distribution takes place

16. Administration of Grand Right Performances

Under the present Deed of Assignment of performing right with members, the Society is empowered to administer a number of performing rights for its members. However, as a matter of policy, the Society does not administer nor license Grand Right performances unless specifically requested by its interested parties to do so. The reasons are as follows:

16.1 Overseas Work

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

16.2 Local Work

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

The Society however does license performances of excerpts of dramatic-musical works and ballet in various channels. For further information, please refer to the Society's Memorandum and Articles of Association.