

Distribution Rules: how Copyright Agency allocates licensing fees to rightsholders

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Contents

1	Introduction	3
2	About Copyright Agency	3
3	Licence schemes managed by Copyright Agency.....	3
3.1	‘Blanket’ licence schemes and ‘transactional’ licences.....	3
3.2	Information about usage under licence schemes	4
4	Role of Copyright Tribunal	4
5	Copyright Agency’s Constitution.....	4
5.1	Fees paid under statutory licences	5
5.2	Fees paid under voluntary licences.....	6
5.3	Artists’ resale royalties.....	6
6	Overview of the distribution process.....	6
7	Calculation of a Distribution Pool.....	7
7.1	Licence fees included in a Distribution Pool	7
7.2	When is a Distribution Pool calculated?	7
7.3	Method for calculating a Distribution Pool.....	7
7.4	Interest.....	8
7.5	Deductions	8
7.6	Calculation of operating costs.....	8
7.7	Indemnity fees	8
8	Scheme of allocation for a Distribution Pool	8
8.1	Determining which works will be allocated payment.....	9
8.2	Allocation to works of non-members	9
8.3	Works excluded from allocation	10
8.4	Relative value for classes of works or types of use	10
8.5	Allocation pools.....	10
8.6	Relative proportion of a pool allocated to each work	10
8.7	Ex gratia payments.....	11
9	Assigning allocated payments to rightsholders	11
9.1	Who is a rightsholder?	11
9.2	Presumptions about who is a rightsholder	11
9.3	Notified payment shares.....	12
9.4	Where payment shares do not apply.....	12
10	Claiming an allocated payment.....	13
10.1	Payments made without claim form.....	13
10.2	Payments requiring claim form.....	14
10.3	Recovery of overpayments	14
10.4	Disputes.....	14
11	Information to rightsholders about allocated payments	14
11.1	Information about payments allocated to rightsholder’s work.....	15
11.2	Information about how an allocation was calculated	15
12	Trust Fund	15
12.1	Money that is allocated but not paid	15
12.2	Minimum payment.....	15
12.3	Rollover of unpaid allocations.....	16
13	Audits	16
13.1	Auditing of distributions	16
13.2	Audit of recipients on-payments to other rightsholders	16

1 Introduction

This document sets out to explain Copyright Agency's current policies and practices in relation to allocating licence fees received by Copyright Agency to rightsholders.

This document aims to explain:

- the framework for Copyright Agency's current policies and practices;
- how Copyright Agency allocates licence fees received to works; and
- how Copyright Agency identifies and pays allocated amounts to recipients.

2 About CAL

Copyright Agency Limited is a not for profit organisation known as a rights management organisation (or copyright collecting society). It collects and distributes copyright licence fees for rightsholders who include writers, artists and publishers, and royalties under the artists' resale royalty scheme. Copyright Agency currently has more than 20,000 members.

Copyright Agency has reciprocal arrangements with similar organisations overseas, which enable it to include foreign works in its licence schemes, and to distribute payments for overseas uses of Australian works. There is a list of Copyright Agency's overseas affiliates on its website at [Information and Resources > Copyright links > International rights management organisations](#).

3 Licence schemes managed by Copyright Agency

Copyright Agency has been appointed by the Australian government to manage 'statutory licences' in the Copyright Act that allow the use of copyright material by educational institutions and by governments in return for fair payment. Copyright Agency has also been appointed to manage the statutory licence for use of copyright material by people with a disability, but has decided not to seek payment for these uses. Finally, Copyright Agency has been engaged by the Australian government to manage the artists' resale royalty scheme. For these statutory schemes, Copyright Agency is required to identify and locate rightsholders entitled to payment, including those who are not current members.

In addition to its management of these statutory schemes, Copyright Agency offers a number of licences on behalf of members who have appointed Copyright Agency as their agent for this purpose. These are referred to as 'voluntary licences', because, unlike statutory licences, rightsholders choose to participate in them. Members appoint Copyright Agency as their agent by electing, when becoming a Copyright Agency member, to participate in our Commercial Reproduction Schemes and/or New Media Licence Schemes.¹ Copyright Agency members can change the agency arrangement at any time, to opt in or out of each class of scheme.

There is an overview of the licence schemes Copyright Agency manages on our website at: [Copyright users > About licensing](#).

3.1 'Blanket' licence schemes and 'transactional' licences

Copyright Agency manages two types of licences for rightsholders:

¹ On previous member application forms, members were invited to participate in New Media Licence Schemes, blanket licence schemes and the copyright clearance service.

- ‘blanket’ licence schemes, that enable the licensee to use all works covered by a statutory licence, or (for voluntary licences) all works in Copyright Agency’s repertoire; and
- ‘transactional’ licences, which enable the licensee to use individual works.

For most blanket licences, Copyright Agency has agreements with licensees under which the licensee pays an agreed fee, or an agreed per capita amount, irrespective of the extent of their usage during the agreement period. For example, the current agreement between Copyright Agency and schools’ representatives for 2010–12 provides for a payment of \$16 per student (plus CPI).

3.2 Information about usage under licence schemes

Copyright Agency receives information about licensees’ usage of copyright material in two ways: information about each use (‘full records’) or information about a sample of uses from surveys of licensees.

Copyright Agency’s data collection processes balance the collection of sufficient and accurate data for distribution against the costs of obtaining and processing the information and the administrative burden on licensees. There is more information about collection of usage information in surveys in Copyright Agency’s information sheets *How does Copyright Agency collect and distribute funds?* and *Copyright Agency’s sampling and distribution: how do they work?*.

4 Role of Copyright Tribunal

The Copyright Tribunal is an independent body established by the Copyright Act. It consists of a President, Deputy Presidents and other members appointed by the Governor-General. The President must be a judge of the Federal Court of Australia, and a Deputy President must be a current or former judge.²

The Copyright Tribunal has power to determine:

- aspects of a licence scheme managed by Copyright Agency, including how much is paid by licensees; and
- aspects of a distribution arrangement that Copyright Agency has adopted or is proposing.

Copyright Agency has made a number of applications to the Copyright Tribunal in relation to licence schemes. Its policies and practices regarding allocation of licence fees take into account two decisions of the Copyright Tribunal: the 1999 universities case³ and the 2002 schools case.⁴

Those cases set a base rate for works used under the licence schemes, and higher rates for some types of works (such as certain artistic works), and reproductions for certain purposes (such as inclusion in university course packs).

To date, Copyright Agency has not made an application in relation to a distribution arrangement.

5 Copyright Agency’s Constitution

Copyright Agency’s Constitution reflects the requirements in the Copyright Act and Regulations, and in the Attorney-General’s Guidelines for Declaration of Collecting Societies (the Guidelines), relating to the government’s appointment of Copyright Agency to manage the statutory licences for

² www.ag.gov.au/www/agd/agd.nsf/Page/CopyrightCopyright_Tribunal.

³ *Copyright Agency Ltd v University of Adelaide* [1999] ACopyT 1.

⁴ *Copyright Agency Limited v Queensland Department of Education* [2002] ACopyT 1.

education and government. It also reflects requirements in the government's contract with Copyright Agency to manage the artists' resale royalty scheme.

Copyright Agency's Constitution and the Guidelines are available from our website at [About CAL > Corporate Governance](#).

5.1 Fees paid under statutory licences

In Copyright Agency's Constitution, licence fees paid under the statutory licences are referred to as 'equitable remuneration', which is the term used in the Copyright Act.

The Constitution requires the Board to approve a scheme of allocation for each Distributable Fund, which comprises licence fees plus interest, less operating costs.

A scheme of allocation has two components:

- allocation of a proportion of licence fees collected to a copyright work; and
- a determination of the rightholder or rightsholders to whom the allocated amount will be paid.

The Board must take all reasonable steps to ensure that any person's share of a Distributable Fund is determined equitably and accurately.

When determining a scheme of allocation, the Board must take into account, amongst other things:

- the extent of copying under the statutory licence indicated by records of copying, surveys of usage, and other sources of relevant information; and
- Copyright Agency's obligations under arrangements with other copyright collecting societies, professional associations or similar bodies.

The Guidelines also allow the following to be taken into account:

- the nature and value of the material;
- the effect of such copying on the value of, or the potential (sale, rental, broadcast etc.) market for, the material; and
- if there is more than one rightsholder, the relative contribution of each.

The Guidelines also say:

Criteria [for the scheme of allocation] should not be such as to discriminate between members and non-members, or between relevant copyright owners from Australia and those from other countries. No qualified person should be arbitrarily excluded from the allocation.⁵

...

... the scheme would need to spell out data upon which the claims of qualified persons are to be quantified or assessed. The data specified should address the criteria, directly or indirectly, having regard to the cost of collecting or obtaining that data. There need not be a one-to-one correspondence between each datum and each criterion. 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, etc. It would be permissible to use statistical "smoothing" techniques to even out extremes in samples which are assumed to represent random fluctuations.⁶

⁵ Guideline 11.

⁶ Guideline 12.

...

There need be no exact correspondence between the statistical or recordkeeping basis for assessing (agreeing or awarding) quantum of royalty due to [CAL] and the statistical basis for quantifying amounts to be allocated to those entitled. For example, it would be permissible (provided it was in line with the "criteria" in force for the society under para 11) for different weightings to be applied to different categories of material for allocation purposes, whether or not they are taken into account in assessing equitable remuneration/royalties due. Inadequacy in copying records might be another reason to apply fresh considerations to the allocation task.⁷

Further, the Guidelines provide that:

- distributions be done as expeditiously as practicable;⁸
- any cross-subsidy between statutory licence schemes and other activities be minimised;⁹
- there should be no discrimination between members and non-members;¹⁰
- there should be even-handedness between current and future members;¹¹ and
- the scheme of allocation should leave to directors the minimum discretion that is consistent with necessity.¹²

5.2 Fees paid under voluntary licences

The Constitution provides that licence fees from voluntary licences are allocated and distributed to Copyright Agency members 'in accordance with a method of entitlement to be fixed from time to time' by the Board.

The Board has decided to adopt a similar approach to distribution of licence fees from voluntary licences as applies to licence fees from statutory licences.

5.3 Artists' resale royalties

Each resale royalty is paid to the rightholder or rightholders determined according to the Resale Royalties for Visual Artists Act 2009.

6 Overview of the distribution process

The distribution of licence fees involves the following steps:

- **Calculation of Distribution Pool;**
- **Scheme of allocation for the Distribution Pool**, including identification of works to be allocated payment from the Pool;
- **Calculation of amount of allocated payment for each work;**
- **Identification of rightsholders:** identification of one or more rightsholders to whom an allocated payment will be made; and
- **Notification to rightsholders** of the allocated payment.

⁷ Guideline 13.

⁸ Guideline 16.

⁹ Guideline 22.

¹⁰ Guideline 23.

¹¹ Guideline 24.

¹² Guideline 14.

7 Calculation of a Distribution Pool

The calculation of a Distribution Pool involves:

- deciding which licence fees received are included in the Distribution Pool;
- calculating the interest that has accrued on the licence fees; and
- deducting an administrative fee (a fixed percentage) or operating costs (which vary from year to year).

In the Constitution and Guidelines, the Distribution Pool for statutory licences is referred to as the Distributable Fund.

7.1 Licence fees included in a Distribution Pool

In most cases, a Distribution Pool will include fees from a single licence scheme. A Distribution Pool may, however, include licence fees from more than one licence scheme, so that the fees generated schemes that generate relatively low amounts can be distributed more efficiently.

A Distribution Pool can also include:

- unclaimed allocated payments (rollover payments) that have been held in trust for four years; and
- late payments for a previous period.

7.2 When is a Distribution Pool calculated?

In most cases, a Distribution Pool is calculated annually for a licence scheme. This occurs at different times in the year for different licence schemes, depending on when Copyright Agency has received both the payment and the usage data for the scheme of allocation.

For some licence schemes, more than one Distribution Pool is calculated in a year, where Copyright Agency has received licence fees and usage data that enables this to occur.

On the other hand, in some cases Copyright Agency may calculate a Distribution Pool that includes licence fees from more than one year. This can occur when:

- the licence fees received for a licence scheme are relatively low and it is not efficient to form a Scheme of Allocation solely for those fees;
- licence fees were paid late;
- the licensee has made a payment for licence fees for more than one year; or
- there was insufficient data at the time for equitable allocation.

7.3 Method for calculating a Distribution Pool

In general, the licence fees received and costs incurred are calculated on a cash basis, which means licence fees actually received during the period rather than attributable to the period, and costs actually paid in the period rather than attributable to the period.

Two situations in which a different approach can be adopted are:

- the Board can elect to include in a Distribution Pool licence fees that were paid late; and
- large one-off costs can be amortised over a number of years.

In its financial reporting, however, Copyright Agency reports on an accrual basis (revenue and expenses attributable to a financial year) in accordance with Australian accounting standards.

7.4 Interest

The Distribution Pool includes interest earned on licence fees pending allocation. This effectively reduces the deduction for administrative fees or operating costs.

7.5 Deductions

Copyright Agency deducts either:

- a fixed administrative fee (between 7.5% and 25%, depending on the complexity of administration); or
- operating costs actually incurred, which will vary from year to year.

Fixed administrative fees are deducted from licence fees received from Digital Press Clipping licences to media monitors, Copyright Express transactional licences, and from overseas collecting societies.

There is also a fixed administrative fee of 10% for resale royalties, in accordance with Copyright Agency's contract with the Australian government.

Copyright Agency's Constitution entitles the Copyright Agency Board to authorise an allocation of up to 1.5% of revenue for a period (except artists' resale royalties) for Copyright Agency's Cultural Fund. This allocation is included in the deductions for both operating costs and fixed administrative fees.

7.6 Calculation of operating costs

Operating costs include capital costs, but not non-cash costs such as allowances for depreciation.

Copyright Agency calculates overall operating costs for all licence schemes for a calendar year and apportions the costs to each of the schemes.

On receipt of licence fees, Copyright Agency makes a deduction of estimated operating costs, based on a rolling average of the actual costs in the last three years. When actual costs are known, Copyright Agency adjusts for any differences between the estimated and actual costs.

In some cases, the Distribution Pool is calculated according to estimated costs. In these cases, any adjustments for actual costs are carried forward to the next Distribution Pool for that licence scheme.

7.7 Indemnity fees

Some licence arrangements include an amount for indemnity for past usage. These amounts are not included in the Distribution Pool, but are retained in Copyright Agency's Indemnity Fund to meet any claims relating to that past usage.

8 Scheme of allocation for a Distribution Pool

Copyright Agency formulates a scheme of allocation for the Distributable Fund, according to its Constitution and with reference to the Guidelines.

A scheme of allocation will include the method for determining the following:

- **which works:** the information used to determine which works will be allocated payment;
- **relative value of classes of works or types of use:** for example, artistic works have a higher relative value, and use of a copy in a coursepack has a higher relative value in schemes of allocation for licence fees from universities;
- **Allocation Pools:** if the Distribution Pool is divided into Allocation Pools, the information to calculate the proportion of each pool; and
- **allocated payment to each work:** the relative proportion of the Distribution Pool or Allocation Pool allocated to each work, having regard to the relative value of the work and the estimated extent of its usage; and
- **assignment of payments to rightsholders:** the policy regarding which rightsholder or rightsholders receive payment.

8.1 Determining which works will be allocated payment

In most cases, Copyright Agency determines which works will be allocated payment according to information about usage by licensees in the period for which the licence fees were paid.

In some cases, Copyright Agency does not receive sufficient information from licensees to do this in a way that is equitable to rightsholders. In those cases, it uses other data to identify works that could be reasonably presumed to have been used by the licensee during the period. This can include:

- works used by the same licensee in a different period; and
- works used by a similar licensee.

If licence fees from a foreign rights management organisation are accompanied by information about the works used, that information is used to determine which works will be allocated payment. If not, the Board determines how the licence fees will be allocated.

8.2 Allocation to works of non-members

Copyright Agency's Constitution currently requires Copyright Agency to only pay rightsholders who are members, except rightsholders under the artists' resale royalty scheme. This reflects requirements in the Copyright Act, Regulations and Guidelines for statutory schemes. One of the reasons for this requirement is that Copyright Agency's Constitution is effectively a contract between Copyright Agency and its members, and between each member and all other members. This means that members are legally bound by the provisions in the Constitution, and decisions that are made in accordance with the Constitution.

At the 2011, Copyright Agency's members will be asked to approve an amendment to the Constitution that will allow the Board to approve payments to non-member rightsholders from certain voluntary licence schemes.

Copyright Agency must, however, make allocations from statutory licence fees for all rightsholders, both members and non-members, whose works are known or presumed to have been used in reliance on the statutory licence. Copyright Agency must hold allocations for non-members in its trust fund until they become members.

Copyright Agency is not required to make any allocation from licence fees paid for voluntary licences to non-members. In some cases, however, it makes allocations to non-member rightsholders from a licence scheme in the reasonable belief that those rightsholders wish to participate in the scheme.

Under the Resale Royalties for Visual Artists Act 2009, and Copyright Agency's contract with the government, Copyright Agency is required to pay rightsholders entitled to resale royalties irrespective of whether or not they are a Copyright Agency member.

8.3 Works excluded from allocation

Payment is not allocated to a work if:

- copyright has expired;
- there is insufficient information to identify a rightsholder; or
- the Distribution Pool is for a voluntary licence scheme and the rightsholder has specifically excluded the work from that scheme;
- the licensee has used the work under a direct licence from the rightsholder.

Examples in which Copyright Agency will not allocate to a work used under a direct licence (which could be for payment or for free) include:

- the licensee has informed Copyright Agency that it has a direct licence;
- the rightsholder has notified Copyright Agency that it has given a direct licence;
- the rightsholder has applied an 'open' licence such as a Creative Commons licence to the work; or
- the work is available on a website whose terms of use allow free use of the work by the licensee.

8.4 Relative value for classes of works or types of use

In some Distribution Pools, Copyright Agency assigns a different relative value to different classes of works (such as artistic works) or uses of copies (such as in coursepacks). In most cases, these are based on decisions of the Copyright Tribunal, and provisions in licence agreements about different classes of works.

For example, a higher value is applied to certain artistic works.

8.5 Allocation pools

In some cases, a Distribution Pool is divided into a number of Allocation Pools. This can be to reflect:

- the relative values of different classes of works or types of use; and/or
- the source of the usage data (for example, there is a separate pool for works used electronically in universities, because there are separate surveys for hard copy use and electronic use).

8.6 Relative proportion of a pool allocated to each work

In some cases, Copyright Agency has information about each work used under a licence scheme. In most cases, however, it has information from surveys that it uses to determine which works have been used by the licensees covered by a licence scheme, and to estimate the extent of use (how often the work was used and, in some cases, how much of the work was used).

The proportion of a pool (Distribution Pool or Allocation Pool) allocated to a work depends on:

- the amount of money in the pool;
- the number of works for that pool;
- the relative value of the work and type of use; and
- the estimated extent of usage for each work.

8.7 Ex gratia payments

The Board has discretion to approve an ex gratia payment to a rightsholder who can demonstrate that their work was substantially copied under a licence administered by Copyright Agency, but did not receive a payment from Copyright Agency reflecting that use.

In determining whether an ex gratia payment should be made the Board will take into account payments to the rightsholder from previous distributions.

9 Assigning allocated payments to rightsholders

Copyright Agency is dependent on the information in usage data to identify rightsholders. For example, Copyright Agency is dependent on attribution of illustrations and extracts included in a publication with permission to identify the rightsholders for those works.

If there is only one rightsholder in a work, an allocated payment for that work is assigned to them.

If there is more than one rightsholder, this will depend on:

- whether Copyright Agency has been notified by the rightsholders about how the allocated payment is to be divided between or amongst them ('payment shares', also referred to as 'notified splits'); and
- whether the scheme of allocation includes payment shares.

9.1 Who is a rightsholder?

For distribution purposes, a rightsholder is a person who has a legal right to claim all or part of an allocated payment. A rightsholder may be the first owner of copyright under the provisions of the Copyright Act (for example, an author), or may have acquired their entitlement (for example by contract or inheritance).

Copyright Agency can assign an allocated payment to:

- a rightsholder entitled to claim the payment;
- the rightsholder's agent for the purposes of claiming Copyright Agency payments; or
- the rightsholder's estate.

Membership of Copyright Agency is open to:

- a person who holds a right to reproduce or communicate copyright works;
- an agent, licensee, executor or administrator of the holder of a right to reproduce or communicate; and
- a person who holds an artists' resale royalty right.

In some cases, a person may have a legal right to claim Copyright Agency payments for certain works, but not to authorise the inclusion of those works in Copyright Agency's voluntary licences. Copyright Agency refers to people who are able to authorise inclusion of works in a licence scheme as 'rights controllers'.

9.2 Presumptions about who is a rightsholder

In identifying rightsholders entitled to claim payments, Copyright Agency's presumptions (unless it receives information to the contrary) include:

- an editor is not a rightsholder;
- the rightsholder for an attributed work included in a publication is the person or organisation attributed (for example, a wire service for an article attributed to it in a newspaper, or a photographer attributed for a photograph in a book); and
- where there are multiple editions but Copyright Agency does not have information about which edition, that the most recent Australian edition has been used (if there is no Australian edition, then the most recent edition).

9.3 Notified payment shares

Copyright Agency has invited members to provide it with information about whether they are the sole rightsholder in a work, or whether they share entitlement to Copyright Agency payments with others (and, if so, in what proportions).

Each rightsholder entitled to all or a share of a Copyright Agency payment for a work is referred to as a 'payment shareholder'.

Copyright Agency has adopted the following policies regarding notified payment shares where there is more than one payment shareholder in a work:

- Copyright Agency will not allocate according to payment shares unless all shares have been notified to, and accepted by, Copyright Agency;
- Copyright Agency's acceptance will rely on warranties provided by members who provide payment share information, rather than assessment of the legal basis for the payment share (for example, by reviewing a publishing contract);
- once Copyright Agency has accepted payment shares, it will presume that those shares continue to apply unless notified otherwise (but will adopt measures to encourage members to review and update their payment share information from time to time);
- payment shareholders will be advised of the amount allocated to them and their share of the amount allocated to the work (for example, 50%);
- Copyright Agency is adopting a range of measures to encourage authors with an entitlement to Copyright Agency payments to become Copyright Agency members;
- if, however, an author is not a member at the time payment of an allocated amount is made, Copyright Agency will pay the author's payment share to the author's publisher to on-pay to the author (in these cases, publisher will be informed of the author's share as well as the publisher's share);
- Copyright Agency will use reasonable endeavours to allocate payments according to notified payment shares where it has sufficient information to identify a work as one for which payment shares have been notified; and
- where a payment from a foreign rights management organisation is accompanied by information regarding payment shares between authors and publishers under that organisation's rules, Copyright Agency will pay according to those payment shares.

There is more information about Copyright Agency's direct payments to rightsholders on Copyright Agency's website at www.copyright.com.au/caldirect including:

- Introductory Guide for Authors;
- Introductory Guide for Publishers; and
- CALdirect Business Rules;

9.4 Where payment shares do not apply

Copyright Agency may not assign an allocated payment according to payment shares if:

- payment shares have not been notified; or
- payment shares are not included in the scheme of allocation.

In these cases, Copyright Agency assigns an allocated payment to a single rightsholder, who is required to undertake to on-pay within 60 days any proportions of the payment due to other rightsholders.

Copyright Agency determines that rightsholder as follows:

- if the author became a member before 1 October 2011, or Copyright Agency has not previously made payments for author via the author's publisher, the allocated payment is assigned to the author;
- if the author became a member after 30 September 2011 and Copyright Agency has previously made payments for the author via the author's publisher, the allocated payment is assigned to the publisher;
- if there is more than one author member, the allocated payment is assigned to the author whose surname appears first if sorted alphabetically, except where that author:
 - became a Copyright Agency member after 30 September 2011, in which case payment is assigned to the next author in the alphabetical list who was a member on 30 September 2011; or
 - is an 'indirect' Copyright Agency member via the Media Entertainment and Arts Alliance, and one or more of the other authors is a direct Copyright Agency member, in which case payment is assigned to the direct Copyright Agency member whose surname appears first if sorted alphabetically;
- if the work is fine art, the allocated payment is assigned to the artist (whether or not a member);
- if the author of a published work is not a member, but Copyright Agency has been advised that the publisher is not a rightsholder (for example, because the rights have reverted to the author following the work going out of print), the allocated payment is assigned to the author;
- if the author is an employee of a newspaper, magazine or similar periodical, the allocated payment is assigned to the author for hardcopy reproductions from hardcopy editions of the publication, and the publisher otherwise (based on section 35(4) of the Copyright Act);
- if a foreign publisher has authorised payment to an Australian representative, the allocated payment is assigned to that representative;
- an allocated payment under a transactional New Media Licence scheme is assigned to the rightsholder who authorised CAL to include the work in the scheme; and
- in all other cases, an allocated payment is assigned to the publisher.

10 Claiming an allocated payment

To claim an allocated payment, other than an artists' resale royalty, a person must be a Copyright Agency member.

10.1 Payments made without claim form

Copyright Agency makes payments without requiring a completed and signed claim form warranting entitlement where a payment is made:

- according to notified payment shares (warranties are made at the time of notification);
- according to the distribution rules of the foreign rights management organisation that collected the payments (Copyright Agency relies on that organisation's processes); and

- from Copyright Agency's transactional licence schemes (warranties are given at the time Copyright Agency is authorised to include the works in the scheme).

Recipients of these payments receive a remittance advice and statement that complies with relevant taxation and other regulatory requirements.

10.2 Payments requiring claim form

In all other cases, a recipient must complete and sign a claim form, warranting that they are entitled to claim the payment, undertaking to on-pay within 60 days any amounts due to any other rightsholders, and undertaking to indemnify Copyright Agency if that warranty or undertaking is breached.

10.3 Recovery of overpayments

In the rare case that Copyright Agency makes an overpayment to a member, the member is asked to refund the overpayment. The overpayment may be refunded by deducting the amount from future allocations to the member.

10.4 Disputes

If Copyright Agency is notified of a dispute between members about entitlement to claim money from Copyright Agency's distributions, Copyright Agency holds any money allocated for the relevant work or works pending resolution of the dispute. Members are encouraged to resolve the dispute themselves.

Where members cannot resolve the dispute between themselves, Copyright Agency's dispute resolution procedure applies.

For disputed allocations of less than \$2,000 or where no allocation has been made, Copyright Agency offers to refer the dispute to an independent expert for binding resolution. 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, Copyright Agency may offer facilitated mediation or expert determination, in accordance with the process set out in *Copyright Agency's Disputed Allocations Resolution Procedure*. There is information about Copyright Agency's dispute resolution procedures on its website at: About CAL > CAL's operations.

Any determinations made as part of the dispute resolution procedure will only apply to entitlements to claim money from Copyright Agency's distributions. It will not affect payments from any other source for use of those works.

11 Information to rightsholders about allocated payments

Copyright Agency provides information about allocated payments in its Notifications of Copied Works and remittance advices to members. Members with online accounts can also view information via their account (see Copyright Agency's website at Creators & Publishers > CAL's online member facility).

11.1 Information about payments allocated to rightsholder's work

Copyright Agency can provide a rightsholder with information about payments allocated to the rightsholders' works. Copyright Agency 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), Copyright Agency will inform the payment recipient of the information it has provided to the rightsholder who requested it.

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

11.2 Information about how an allocation was calculated

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

Copyright Agency can also provide information about how a scheme of allocation for a Distribution Pool was calculated. In doing so, however, it does 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.

12 Trust Fund

Licence fees allocated to rightsholders are held in Copyright Agency's Trust Fund until paid or expiry of the trust period. Copyright Agency uses its 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.

Any interest earned on the money held in trust, except that relating to the artists' resale royalty scheme, is included in Distribution Pools. Any interest on a resale royalty is paid to the rightsholder.

12.1 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 Copyright Agency 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.

12.2 Minimum payment

Copyright Agency holds money for a rightsholder until the amount they are entitled to claim exceeds:

- for domestic electronic funds transfers where communication with the member is by email: \$10;
- for other domestic payments: \$50;
- for payments to members whose taxation status is that of an overseas resident: \$200.

12.3 Rollover of unpaid allocations

Copyright Agency is required to hold unpaid allocations from statutory licence fees in the Trust Fund for a minimum of four years from the calculation of the Distribution Pool. This is referred to as the trust period. The Board has discretion to extend the trust period to six years, but has decided on a four-year period.

At the end of the trust period, the amount of an unpaid allocation from statutory licence fees must be included in a Distribution Pool for statutory licence fees in the next accounting period.

Copyright Agency's practice is to include an unpaid allocation in the next Distribution Pool for the licence scheme the allocation was made from. For example, if an amount allocated from the schools' licence scheme is unpaid after four years, it is included in the next Distribution Pool for schools' licence fees.

There is no deduction of costs from rolled over funds.

The Board has also decided that unpaid allocations under voluntary licence schemes are held for four years (for example, amounts less than the minimum payment).

13 Audits

13.1 Auditing of distributions

Copyright Agency's external auditors examine the calculation of each Distribution Pool and Allocation Pool. They also review a random selection of allocated payments assigned to rightsholders, to ensure the allocations were made according to the scheme of allocation.

The distribution audits are carried out as part of Copyright Agency's risk management procedures and are separate to the annual financial audit.

13.2 Audit of recipients on-payments to other rightsholders

Copyright Agency may, from to time, request members who have undertaken to on-pay other rightsholders to provide details of any on-payments.

For example, Copyright Agency may ask a publisher who has undertaken to on-pay an author to provide details of the on-payment.