

COPYRIGHT AGENCY LIMITED®

How does CAL collect and distribute licence fees?

Updated March 2009



More information

Copyright Agency Limited
Level 15, 233 Castlereagh Street,
Sydney NSW 2000

Tel: 1800 066 844
Fax: +612 9394 7601

Email: info@copyright.com.au
Website: www.copyright.com.au

Who is CAL?

Copyright Agency Limited (CAL) is a not-for-profit, member-based organisation that manages licensed copying and communication of literary, dramatic and artistic works. Our members are Australian authors, journalists, visual artists, illustrators, surveyors and newspaper, magazine and book publishers.

CAL acts as a channel between copyright rightsholders and those who use their works by:

- licensing, or giving permission to, organisations and individuals to use works;
- collecting a licence fee; and
- distributing that money to relevant entitled CAL members.

Collecting licensing fees

CAL collects licence fees from organisations that copy, such as universities, schools, TAFEs, State and Federal governments, corporations, associations and press clipping agencies. CAL distributes this money to the rightsholders whose works have appeared in CAL's copying records.

CAL collects fees under two types of licences. They are:

Statutory licences: These are set out within the *Copyright Act 1968* (the Act) and cover educational institutions such as universities and State, Territory and Federal Governments. CAL's role is to administer the licences and negotiate some of the terms on behalf of copyright owners.

Voluntary licences: Many organisations, including corporations and press clipping agencies, choose to take out a voluntary copying licence. Here, CAL sets the terms of the licence and administers them on behalf of CAL members who have agreed to participate in the licence scheme.

CAL also distributes payments to Australian rightsholders for works used overseas where money has been collected by a collecting society in that country.

How are licence fees determined?

The licence fees are generally a fee for the volume and type of use, not for use of specific works. The basis of the fee varies depending on the type of licence. For example, some corporations pay based on the number of administrative or professional staff they employ, other fees are based on an estimate of the volume of use, and others are based on the number of students enrolled in an educational institution.

The majority of licence fees are paid annually, however a small number of schemes provide for payments to be made quarterly.

What happens to licence fees once collected?

The licence fees go directly into CAL's Trust Fund, as they can't be distributed until we get records on which to base a distribution. Therefore, the amount of money in the Trust Fund can vary throughout the year, depending on where we are in the cycle of collections or payments.

Do other payments go into the Trust Fund?

Yes. Sometimes, CAL receives additional payments, such as back-payments from licensees. In these cases CAL's Board may decide that it would be unfair to members to distribute these unusually large amounts all in one year, so the distribution of these extra payments is spread over several years.



COPYRIGHT AGENCY LIMITED®



More information

Copyright Agency Limited
Level 15, 233 Castlereagh Street,
Sydney NSW 2000

Tel: 1800 066 844
Fax: +612 9394 7601

Email: info@copyright.com.au
Website: www.copyright.com.au

Fees held in the Trust Fund also earn interest. All interest earnings are added annually to the pool of money available to members.

How does CAL fund its operations?

As a not-for-profit organisation, CAL funds its operations by deducting its costs from the licence fees received each year.

Every financial year CAL prepares a revenue and expenditure budget, within which it must operate. The funds used to run CAL are then drawn down from the Trust Fund as required throughout the year.

Under the Attorney-General's Guidelines for Collecting Societies, CAL is able to allocate up to 1% of licence fees to CAL's Cultural Fund, which grants funds for cultural purposes as approved by the Board.

How does CAL distribute the licence fees?

All amounts received by CAL after deduction of CAL's costs and the Cultural Fund are available for distribution to members.

CAL distributes the licence fees received under each scheme separately.

This is done because the works used in each scheme can be different.

For example, the types of works used by schools are quite different to those used by government. This means that the rightsholders in each scheme can be different. Distributing the licence fees separately is the most equitable way to calculate the distributions.

In addition, the licence fees received under each scheme may be distributed in separate pools. For example, there is a separate pool within many licence schemes for 'stand alone artistic works'. This is done to reflect the fact that under many licence schemes a different licence fee is charged for different types of works or for different types of use.

Licence fees are distributed using records of use provided by licensees. These may be full records (as in the Digital Press Clipping Scheme) or part of a sampling system (as in Schools and Universities).

Calculation of a distribution is a huge exercise and is the culmination of a number of tasks.

These are:

- ensuring that the distribution calculation has followed the Distribution Rules approved by the Board;
- ensuring that all of the usage information provided by the licensees has been collected and processed; and
- undertaking extensive research of usage records. This can include finding out information ranging from basic contact details for an author, to tracking down who owns a publishing company or imprint that may have been bought and sold several times since the particular work was published.

This is a huge task that requires CAL to annually process millions of usage records. Also, in most instances, these records are themselves a sample of the millions of copy pages representing total copying of more than two billion copy pages.

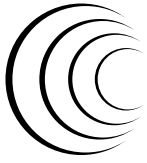
And once the information has been processed?

As part of this process, CAL has to find who owns or controls the rights in the work. If that rightsholder is not a member, CAL then has to encourage them to join, as we can't distribute directly to someone who isn't a member of CAL.

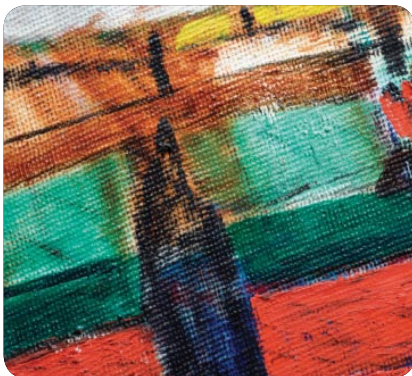
Once the records have been processed and are ready for distribution CAL identifies what works have been used, the volume of use (normally by page), and who controls the rights in the works.

Then:

- the licence fees available for distribution are broken down into separate pools (for example for artistic works);
- the pool is then divided by the total number of pages to be included in the distribution for that pool;



COPYRIGHT AGENCY LIMITED®



More information

Copyright Agency Limited
Level 15, 233 Castlereagh Street,
Sydney NSW 2000

Tel: 1800 066 844
Fax: +612 9394 7601

Email: info@copyright.com.au
Website: www.copyright.com.au

- this gives a distribution rate per page, and the payment is allocated accordingly based on the number of pages used multiplied by the distribution page rate;
- CAL then starts the process of notifying members of the amounts allocated to them as copyright owners and inviting them to claim the money; and
- CAL also contacts non-members whose works have been allocated money as part of the distributions and invites them to join CAL.

How do members know if they will be paid?

Once a distribution is calculated, the first step that CAL takes is to notify members of the amount CAL believes they can claim. Because this is a legal right, CAL has to be sure that it has found the right person to send the money to. This means CAL sends out a Notification of Copied Works (Notification) setting out the works allocated money as part of the distribution and asks members to sign a Claim Form stating that they control the rights in those works. This is done in preference to just sending out a cheque without any guarantee of entitlement to collect copying fees.

Once a member does confirm that they own or control the rights, CAL sends them a cheque for that amount.

All members who receive money have to share payment with any other rightsholders in the works listed on their Notification. For example, a payment to a publisher may be for 100 works. That publisher is required to account to the other rightsholders in those works (such as authors, photographers, visual artists). These are referred to as secondary recipients.

This means that there are many more secondary recipients of CAL payments than direct recipients.

What happens where both the author and publisher are members of CAL?

CAL's Distribution Rules state that where author and publisher are both members, the author is paid the full amount and they must share this with any other rightsholders. However, many authors prefer their publishers to collect on their behalf, so their CAL payments are included in the royalty statements they receive from their publishers.

Are all payments made immediately?

No. Some money stays in the Trust Fund. This can occur for a range of reasons. For example, if a rightsholder is entitled to payment but is not a member, CAL needs to contact them and encourage them to join. CAL can only make direct payments to members. A delay can also occur if members don't return their Claim Forms immediately or if they complete them incorrectly.

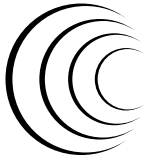
CAL doesn't notify members of amounts less than \$50 — this money remains in the Trust Fund. This is basically a cost-saving exercise — to send the paperwork and raise the cheque will cost CAL more than \$50. However, the money is available if members request it. CAL holds money for a recipient for up to four years or until the amount exceeds \$50. For overseas residents the amount is \$200.

CAL may also receive incomplete copying records, which means it is impossible to track down the relevant rightsholders.

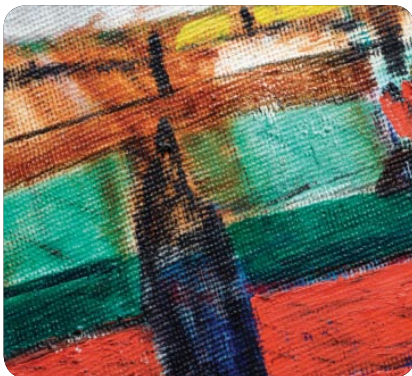
In these cases, CAL holds the money in the Trust Fund for up to four years while continuing to research these records.

If after four years CAL cannot find the rightsholder in a work or that person has not joined as a member, then the amount owing to them rolls over into the pool of money for that licence scheme available for the next distribution.

This means that when you take into account the licence fees that CAL is holding in advance, plus money from previous distributions waiting to be claimed and money for copying that CAL is still researching, the Trust Fund may be holding a significant amount of money at any one time.



COPYRIGHT AGENCY LIMITED®



More information

Copyright Agency Limited
Level 15, 233 Castlereagh Street,
Sydney NSW 2000

Tel: 1800 066 844
Fax: +612 9394 7601

Email: info@copyright.com.au
Website: www.copyright.com.au

Remember!

- In addition to the *Copyright Act 1968*, CAL's operations have to comply with a wide range of legal requirements. Examples include trade practices legislation, corporations law and National Privacy Principles.
- The Attorney-General has issued *Guidelines for Collecting Societies*, and CAL's operations have to comply with these. CAL must also comply with its own Constitution.
- CAL's data processing activities are audited by independent statisticians. CAL's distribution calculations and financial accounts are independently audited. CAL is required to submit its annual report to members, the Australian Securities and Investments Commission and the Attorney-General, who tables the report in Federal Parliament.

Copies of all of these documents, including CAL's most recent annual report and its constitution, are available from CAL's website at www.copyright.com.au, or call CAL on 1800 066 844 to request a copy.

Code of Conduct

CAL is a signatory to the Code of Conduct for Copyright Collecting Societies (the Code). It is designed to ensure that the rights of all members and licensees are clearly stated, and that the operations of collecting societies are transparent and accessible.

The Code includes requirements for the Complaints Handling and Dispute Resolution procedures that collecting societies must follow. The Code and these procedures are available from CAL's website and on request.