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At the general meeting of 25 August 2020, in accordance with Article 25(1) of the Collective Management of Copyright and Related Rights Act (hereinafter referred to as 'ZKUASP'), the IPF, k.o. general assembly of members adopted the following

## **PERFORMERS' RIGHTS REVENUE DISTRIBUTION RULES**

### **Basic provision**

#### Article 1

IPF, k.o. shall regularly, diligently and accurately distribute and pay out collected rights revenue to performers' rights holders in accordance with the ZKUASP provisions, a permit issued by the Slovenian Intellectual Property Office, and these Rules.

### **Exploitation period**

#### Article 2

According to these Rules, the exploitation period shall be a calendar year (from 1 January to 31 December).

### **Distribution fund**

#### Article 3

IPF, k.o. shall collect the rights revenue separately for each right and type of use. The collected rights revenue added to the income from investing in bank deposits as a result of managing each individual right and type of use shall initially be divided into two equal revenue streams:

- a performers' rights holders' revenue stream, and
- a phonogram producers' rights holders' revenue stream.

Subsequently, in accordance with Operating Costs Rules, half of the collective management organisation (hereinafter referred to as 'CMO') costs due to managing an individual performers' right according to an individual type of use, in addition to other costs of the performers' rights holders resulting from the management of this right according to an individual type of use (e.g. membership fees for umbrella organisations), shall be allocated to the performers' rights holders revenue stream. In compliance with Performers' Dedicated Fund Rules, part of the remaining performers' rights

holders' revenue stream may be granted to the Performers' dedicated fund. The remaining amount shall represent the performers' distribution fund of the collected rights revenue from managing an individual right according to an individual type of use.

The rights revenue collected on behalf of the performers' rights holders by foreign collective management organisations shall be kept separately and remuneration payments shall be made according to the allocation reports IPF, k.o. receives from the foreign collective organisations and shall not be subject to the procedure defined in paragraphs 1 and 2 of this Article. Possible costs under this paragraph may be deducted in the same amount from such rights revenue stream and its part may also be allocated to the dedicated funds if so provided in representation agreement with a foreign collective management organisation.

#### Article 4

The performers' distribution fund monies shall be allocated and paid to the entitled performers' rights holders (hereinafter also referred to as 'the beneficiaries') in accordance with these Rules.

### **Distribution**

#### Article 5

The basic principle of the collected rights revenue distribution among the rights holders is the principle of actual usage, according to which the CMO shall aim to ensure the rights revenue collected with respect to the collective management of related rights is distributed among the beneficiaries whose performances in phonograms have actually been used according to the data submitted to IPF, k.o. by users, or IPF, k.o. obtained from freely accessible and/or credible sources (hereinafter referred to as 'the defined use').

Only in case the actual usage information is not available (hereinafter referred to as 'the undefined use') or the cost of obtaining such information and the rights revenue distribution based on it, considering the nature of the phonogram usage, would be disproportionate with respect to the revenue from such usage, the rights revenue shall be allocated according to the provisions of these Rules defining the distribution of the rights revenue collected on the basis of the undefined use.

### **Known beneficiaries**

#### Article 6

The rights holders entitled to the collected rights revenue are:

- performers whose performances are fixed in a phonogram, or
- third parties entitled to receive remuneration based on a rights transfer.

The known beneficiaries are the performers' rights holders for whom the rights revenue has been collected based on the defined use and for whom IPF, k.o. received the data required for the allocation and remuneration payment within the period of five years after the end of an individual exploitation period during which this rights revenue was collected.

### **Unknown beneficiaries**

## Article 7

The unknown beneficiaries are the performers' rights holders for whom IPF, k.o. did not receive the data required for the allocation and remuneration payment within the period of five years after the end of an individual exploitation period during which this rights revenue was collected.

IPF, k.o. shall reserve the remunerations for the unknown beneficiaries for the period of five years.

### **Payments to beneficiaries**

## Article 8

The beneficiaries shall be paid the remuneration to which they are entitled when its total amount exceeds 5€.

The rights revenue left unpaid shall remain in the beneficiary's account for a period of five years after it has been allocated to the beneficiary.

If the sum of the collected and unpaid rights revenue does not exceed the minimum amount defined in paragraph 1 of this Article after a period of five years, the CMO shall transfer this sum to the beneficiary's bank account.

### **Performers' rights revenue distribution**

## Article 9

In accordance with these Rules, the collected rights revenue shall be distributed within classes according to the type of use (hereinafter referred to as 'distribution classes') as follows.

The individual distribution class allocation shall be performed in accordance with the data on the defined use of phonograms in the past exploitation period.

Distribution classes:

### **1. Communication to the public**

#### **1.1. Public communication and secondary broadcasting in case of continuous use of phonograms in public places as a background to different business activities (shops, bars, hairdressing salons, hotels, etc.; hereinafter referred to as small-scale users)**

Class 1.1.1.: Includes the Gorenjska, Goriška, Obalno-kraška, and Primorsko-notranjska statistical regions. In this class, 70% of the rights revenue collected in these regions with respect to the public communication and secondary broadcasting of phonograms shall be distributed based on the playlists received from 80% of the radio stations with most secondary broadcasts in these regions and the most-listened radio station broadcasted by Radiotelevizija Slovenija.

Class 1.1.2.: Includes the Osrednjeslovenska statistical region. In this class, 70% of the rights revenue collected in this region with respect to the public communication and secondary broadcasting of phonograms shall be distributed based on the playlists received from 80% of the radio stations with most secondary broadcasts in this region and the most-listened radio station broadcasted by Radiotelevizija Slovenija.

Class 1.1.3.: Includes the Savinjska, Zasavska, Posavska, and Jugovzhodna Slovenija statistical regions. In this class, 70% of the rights revenue collected in these regions with respect to the public communication and secondary broadcasting of phonograms shall be distributed based on the playlists received from 80% of the radio stations with most secondary broadcasts in these regions and the most-listened radio station broadcasted by Radiotelevizija Slovenija.

Class 1.1.4.: Includes the Koroška, Podravska, and Pomurska statistical regions. In this class, 70% of the rights revenue collected in these regions with respect to the public communication and secondary broadcasting of phonograms shall be distributed based on the playlists received from 80% of the radio stations with most secondary broadcasts in these regions and the most-listened radio station broadcasted by Radiotelevizija Slovenija.

Class 1.1.5.: In this class, the remaining rights revenue from each geographic area, i.e., 30% of the rights revenue collected in areas determined by classes 1.1.1. to 1.1.4., shall be distributed. The basis for the distribution in this class shall be the playlists of all radio stations not included in the distribution classes 1.1.1. to 1.1.4. and the playlist of the most-listened radio station broadcasted by Radiotelevizija Slovenija.

#### 1.2. Public communication and secondary broadcasting in case of single use of phonograms at events

Class 1.2.1.: In this class, the rights revenue collected with respect to the public communication and secondary broadcasting of phonograms in case of single use at events shall be distributed on the basis of the defined use.

In this class, only the user compensation payments and playlists for events shall be considered for which the amount of the compensation equals or exceeds 100€ and for which the cost of processing the playlist does not exceed 25% of the calculated compensation for an individual event of an individual user. Such rights revenue shall be distributed separately for each event.

If the user compensation payments for the public communication and secondary broadcasting of phonograms in case of single use at events amount to less than 100€ and/or the cost of processing the playlist exceeds 25% of the calculated compensation for an individual event of an individual user, such rights revenue shall be distributed in three classes and 1/3 of such compensations shall be allocated to each class. The individual events compensations shall be allocated to the Individual classes based on the amount charged for the individual phonograms (the value of an individual phonogram is calculated according to the following formula: the amount of compensation divided by the number of phonograms used) and distributed on the basis of the defined use as follows:

Class 1.2.2. shall include the third of the collected compensations for the events with the lowest value of compensation per individual phonogram. The amounts of the compensations charged for individual events at which these phonograms have been used shall be cumulated until they reach one third of the compensations for such events;

Class 1.2.3. shall include the third of the collected compensations for the events with the medium value of compensation per individual phonogram. The amounts of the compensations charged for individual events at which these phonograms have been used shall be cumulated until they reach one third of the compensations for such events; and

Class 1.2.4. shall include the third of the collected compensations for the events with the highest value of compensation per individual phonogram. The amounts of compensations charged for individual events at which these phonograms have been used shall be cumulated until they reach one third of the compensations for such events.

### 1.3. Broadcasting

Class 1.3.1.: In this class, the rights revenue collected with respect to broadcasting phonograms by radio stations not broadcasted by Radiotelevizija Slovenija shall be distributed on the basis of the defined use (only the compensation payments and playlists of the radio stations for which the cost of processing the playlist does not exceed 25% of the calculated yearly compensation for an individual radio station of an individual user shall be considered).

Class 1.3.2.: In this class, the rights revenue collected with respect to broadcasting phonograms by radio stations and television channels broadcasted by Radiotelevizija Slovenija shall be distributed on the basis of the defined use and playlists provided by the Radiotelevizija Slovenija stations and channels.

Class 1.3.3.: In this class, the rights revenue collected with respect to broadcasting phonograms by television channels not broadcasted by Radiotelevizija Slovenija shall be distributed on the basis of the defined use (only the compensation payments and playlists of the channels for which the cost of processing the playlist does not exceed 25% of the calculated yearly compensation for an individual television channel of an individual user shall be considered).

### 1.4. Cable retransmission

Class 1.4.1.: In this class, 50% of the rights revenue collected with respect to the cable retransmission of phonograms shall be distributed on the basis of the playlists of stations and channels broadcasted by Radiotelevizija Slovenija and retransmitted via cable.

Class 1.4.2.: In this class, 50% of the rights revenue collected with respect to the cable retransmission of phonograms shall be distributed on the basis of playlists of 5 most watched channels and/or most-listened-to stations according to the cable service subscribers.

## **2. Reproduction of phonograms for private or other internal use**

### 2.1. Reproduction of phonograms for private or other internal use (private reproduction)

Class 2.1.1.: 40 % of the rights revenue collected with respect to the private reproduction shall be distributed in equal amounts between all IPF, k.o. members who are original performers' rights holders.

Class 2.1.2.: 30% of the rights revenue collected with respect to the private reproduction shall be distributed between all the original performers' rights holders for performances fixed in phonograms registered at IPF, k.o., based on the number of minutes of the registered phonograms including performances of an individual performers' rights holder (each started registered minute of a phonogram is considered).

Class 2.1.3.: 30% of the rights revenue collected with respect to the private reproduction shall be distributed between the original performers' rights holders for performances fixed in phonograms on the basis of all the processed playlists submitted by the broadcasted radio stations and television channels for the exploitation period during which the phonograms have been communicated to the public.

### **3. Rental of phonograms**

#### 3.1. Rental of phonograms

Class 3.1.1.: In this class, the rights revenue collected with respect to the rental of phonograms shall be distributed on the basis of the defined use (only the compensation payments and data on usage of phonograms for which the cost of processing does not exceed 25% of the calculated yearly compensation for an individual user are considered). The remaining amount is then distributed in equal shares with respect to an already performed distribution on the basis of the defined use.

### **4. Reproduction of phonograms for the purpose of users conducting their business**

#### 4.1. Reproduction of phonograms for the purpose of users conducting their business

Class 4.1.1.: In this class, the rights revenue collected with respect to the reproduction of phonograms for the purpose of users conducting their own business shall be distributed between the performers' rights holders who have granted the mandate to the CMO to manage these rights based on the actual usage of an individual protected work (user's actual usage reports).

### **5. Transformation of phonograms for the purpose of use in non-material form (communication to the public)**

#### 5.1. Transformation of phonograms for the purpose of use in non-material form (communication to the public)

Class 5.1.1. In this class, the rights revenue collected with respect to the transformation of phonograms for the purpose of use in non-material form (communication to the public) shall be distributed between the performers' rights holders who have granted the mandate to the CMO to manage these rights based on the information received from the users regarding an individual protected work transformation.

## **Roles of performers**

### Article 10

With respect to their performance fixed in a phonogram, the performers are either:

- featured or
- non-featured.

The featured performers are classified as soloists or permanent band members whose names, artist names, or titles are included in a phonogram line-up as featured performers and whose performances are included in a phonogram.

The non-featured performers are defined as musicians and sound designers who are not permanent band members and/or whose names, artist names, or titles are not included in a phonogram line-up as featured performers, but whose performances are included in a phonogram.

For the purpose of these Rules, the performers shall be defined as persons who actively and directly participate in making of a phonogram and their contribution to the performance, which must be simultaneous with the performance recording or making of a phonogram, exceeds the mere technical service or tasks required for it.

### **Classification of phonograms**

#### Article 11

Based on the number of performers, whose performances are included in a phonogram, the phonograms shall be classified as:

- phonograms including performances of 1 to 40 performers, or
- phonograms including performances of 41 or more performers.

### **Allocation of rights revenue between performers**

#### Article 12

Each performer may perform several roles in a phonogram.

Each started minute of a used phonogram shall stand for 1 point in each individual distribution class.

The value of a point in each individual distribution class shall be set by dividing the distribution fund of an individual distribution class for an individual exploitation period by the sum of all points of that distribution class for that exploitation period.

The value of an individual phonogram in each individual distribution class shall be calculated according to the following formula: the number of points of an individual phonogram x the value of 1 point.

In case of communication to the public of advertisements in duration of up to 60 seconds, intro music, trailers, jingles, or other phonograms recorded or used for such purpose, such use shall stand for 0.1 point.

#### Article 13

The value of an individual phonogram shall be allocated between the registered featured and non-featured performers in the following ratio:

- a) with phonograms including the performances of 1 to 40 performers, 60% of an individual phonogram value shall be allocated between the featured performers and 40% shall be allocated between the non-featured performers; by means of which:
- the featured performers' share shall be allocated between the registered featured performers in equal shares based on the number of their roles;
  - the non-featured performers' share shall be allocated between the registered non-featured performers based on the number of their roles. Nevertheless, the share of an individual non-featured performer, if there are no other non-featured performers' performances included in a phonogram, cannot exceed 16% of the calculated value of an individual phonogram. If a phonogram includes the performances of less than three non-featured performers, the remaining share shall be allocated between the featured performers in accordance with the shares to which they are entitled based on the previous indent provision.
- b) with phonograms including performances of 41 or more performers, 20% of the phonogram value shall be allocated between the featured performers and 80% shall be allocated between the non-featured performers.

The allocation rules defined in this Article shall only be applicable if not otherwise determined in individual agreements between performers and/or rights holders.

#### Article 14

The distribution in all distribution classes shall be performed according to the provisions of Articles 15 and 16, with the exception of distribution classes 2.1.1 and 2.1.2, in which the distribution shall be performed based on their definition in Article 12 of these Rules.

### **Remuneration payments**

#### Article 15

The CMO shall allocate and pay remuneration to the beneficiaries not later than nine months after the end of an exploitation period unless the allocation and payment shall not be possible for objective reasons not due to the CMO or its outsourced service provider and defined by ZKUASP.

#### Article 16

In case of errors in calculation or missing remuneration, the rights holder may, according to the Statute provisions, lodge a complaint regarding the performed distribution.

### **Transitional and final provisions**

#### Article 17

Points 4 and 5 of Article 9 of these Rules shall enter into force at the time of their adoption and shall be applied from the finality of the permit issued by the Slovenian Intellectual Property Office (hereinafter referred to as 'SIPO') to the CMO to manage the rights from Article 3a of the IPF Statute. If SIPO rejects the application and refuses to issue the permit or the CMO withdraws its application or the CMO's permit is finally revoked, the provisions of points 4 and 5 of Article 9 of these Rules shall cease to be in force.



#### Article 18

On the day these Rules enter into force, the Performers' Rights Revenue Distribution Rules from 23 August 2019, which shall apply to the distribution of the rights revenue collected up to and including 31 December 2019, shall cease to be in force.

#### Article 19

These Rules shall enter into force on the day of their adoption and shall apply to the rights revenue collected from 1 January 2020 inclusive.