

## REGULATION

on the Distribution and Payment of the Royalties Collected for the usage of Musical Works' Phonograms  
by the Georgian Copyright Association

### Chapter I

#### General Provisions

##### Article 1. Goals and Scope of the Regulation

1. The Regulation on the Distribution and Payment of the Royalties Collected for the usage of Musical Works' Phonograms (Regulation) is elaborated at the basis of the Statute of the LEPL Georgian Copyright Association and acting legislation.
2. The terms of the Regulation provide the mechanisms of the distribution and payment procedures of the royalties collected by the Georgian Copyright Association.

##### Article 2. Competence

1. The main function of the Georgian Copyright Association, as of the exploitation rights' collective management organization is to establish the license agreement with the users on behalf of the right-holders, collect the royalties, distribute and pay to the relevant right-holders. The Association has the competence to collect royalties for all right holder categories based on the agreement with the right holders / their representatives and the regulations set by Georgian Legislation.
2. Georgian Copyright Association, within its competence granted by the statute, collectively manages the exploitation rights of right-holders according to the Articles 21, 47, 48, 51, 52 and Chapter X of the Georgian Law on "Copyright and Neighbouring Rights".
3. The Association has established the bilateral agreements with the similar collective management organizations (CMO) and thus is conferred the right for representing the foreign repertoire and to issue the licenses for the usage of foreign works' phonograms at the territory of Georgia, as well as to collect and distribute the royalties to the relevant foreign CMOs. The Regulation also includes the terms on the distribution and payment of the royalties belonging to the GCA members remitted from foreign CMOs.

### Chapter II

#### Registration of the Rights and Proportions of Distribution of Collected Royalties

##### Article 3. Registration of the Rights

1. With the signing of the membership agreement, the member takes the responsibility of registration the rights on the phonogram(s)/performance(s), according to the rules and procedures set by the Georgian Copyright Association.
2. In case of existence of several right-holders per phonogram, and their right shares differ from the simple rules of distribution proportions set by the GCA, or there exist other factors which should be taken into consideration during the registration of the phonogram(s), the right-holders must submit the relevant written documentation proving in which cases the phonogram(s) can be registered by one certain right-holder as well.
3. In case if the relevant documentation is not submitted for the cases described in item 2 above, the registration of the phonogram(s) is regulated according to the GCA set rules of simple proportions of royalty distribution.
4. The information submitted on phonogram(s) is integrated into both local, and international relevant databases.
5. Any kind of changes within the registration data should be performed in written form between the relevant parties.
6. The information accumulated in the database is the basis of the distribution of collected royalties.

#### Article 4. Proportions of Distribution

1. For the distribution of the royalties, the following proportions are set by the Association:

Communication to the public and public performance of the phonograms		
Simple Proportions		
Phonogram of the music work	Phonogram Producer 50%	Performer 50%

2. Simple proportions of the royalty distributions are not used when the right holders have submitted relevant documentation indicating different proportions.

#### Chapter III

#### Rules of Distribution and Payment

#### Article 5. General Rules

1. Georgian Copyright Association distributes the royalties at the basis of the usage data submitted by the users.
2. The information on the usage of phonograms, as usual, shall contain the following data: quantity, title, names of right-holders and number of performances. In certain cases, can be requested the provision of the additional information for proper distribution.
3. Submission of the information on the usage of phonograms by the user for the proper distribution is the legal obligation of the user, which is defined by the license agreement. The form of the information is set by the Association and agreed with the user. The period in which a user has to provide relevant information is set by the license agreement.
4. At the basis of the following information on phonogram: number, title, names of right holders and number of performance, the distribution of royalties is conducted through the following rules: The amount of relevant royalty payable per each provided information is divided on the total number of phonograms performed, thus determining the value of a phonogram, which is then multiplied by the number of the phonograms performed and the amount of royalty belonging to this phonogram is calculated.
5. In case if the phonogram(s) usage information contains only the data on number, title, right holders the distribution of royalties is conducted through the following rules: the amount of relevant royalty payable per each provided information is divided on the total number of phonograms performed, thus the amount of royalty belonging to a phonogram is calculated.
6. In case if the usage information submission is not mandatory, the distribution is conducted according to the statistically valid "Analogy Method" basis.
7. In case if, due to objective circumstances, obtaining of the phonogram usage information is impossible, and in cases, if the data does not allow the identification of the right-holder, the royalties are considered as the royalties collected for the Unidentified Phonograms or other protected works and is exploited according to the Georgian legislation.
8. In case if the usage data contains the phonograms on which protection period has expired - Public Domain, the royalties for such phonograms are proportionally distributed among the other right-holders mentioned in the provided information log.
9. After the distribution of the royalties, the relevant generated file is submitted to the finance department for further payment procedures.

#### Article 6. Analogy Method

1. Analogy Method distribution means the "background music" (music performed via the technical means, excluding such performance at the hotel rooms) collections' distribution at the basis of the usage information submitted by the local radio broadcasting organizations. The distribution is conducted with the following rules initially is defined as the proportional share of one radio station payments in correlation with the total sum paid by all licensed radio broadcasting organizations. Afterward, the sum collected from the "Background Music" is divided according

to the already defined proportional share and is distributed according to the rules set for the distribution of collections for the radio broadcasters at the basis of used phonograms' program submitted by them.

2. Analogy Method distribution contains information provided by every radio broadcasting organization despite their royalty payment status at the stage of the distribution period.

#### Article 7. Radio broadcasting Organization

1. Royalties collected from the radio broadcasting organization for the public broadcasting is distributed at the basis of the submitted information relevant of used copyright protected phonograms with the following rule: the royalties paid by each radio broadcaster is divided on the number of phonograms broadcasted and thus the value per phonogram is defined, later the value is multiplied to the amount of performance of certain phonogram for final determination of the royalties for the relevant phonogram.
2. In case when radio broadcaster user(s) do not submit the relevant usage program twice successively within the set terms, the royalties paid by them will be distributed at the basis of the usage information submitted by other radio broadcaster, with the following rules: the proportion of each radio broadcaster share of the paid royalties will be defined through summing the total collections from the radio broadcasters, afterward the to-be-distributed royalties are divided in accordance with the set respective proportional share - and is distributed due to the distribution rules set for radio broadcasters at the basis of the submitted usage program.
3. The rules described in the article above are applied to the internet radio broadcasters.

#### Article 8. TV Broadcasting organization

1. In case of the primary broadcasting via TV broadcasting organization, the royalties paid for such transmission is distributed according to the relevant phonogram usage program submitted by the TV broadcasting organization: the royalties accrued during the accounting period from each TV broadcasting is divided to the total music broadcasting time and thus the amount of the minute per price is defined. Afterward, the minutes are multiplied to the number of music phonograms used and the royalties per right-holder are determined.
2. In cases when TV broadcaster user(s) do not submit the relevant usage program twice successively within the set terms, the royalties paid by them will be distributed at the basis of the usage information submitted by other TV broadcaster, with the following rules: the other TV broadcasters ratings defined in percentages are used for identification in correlation with the TV broadcast missing the information, afterward the total royalties received from the certain TV broadcaster is divided by defined proportional share and is distributed according to the rules set for distribution of royalties form TV broadcasters at the basis of the submitted phonogram usage program.
3. The rules described in the article above are applied to the internet TV broadcasters.

#### Article 9. Transit Operator

1. The distribution of copyright royalties paid by transit operators by cable and/or wireless communications for the retransmission will be distributed according to the ratings of the broadcasting channels in the following manner: royalties collected from a transit operator for the retransmission, the rating of which is above 0.1% is distributed according to the proportions set for the channels broadcasted within the transit operator, but in cases when the rating is below the 0.1% indicator, the royalties are distributed by the following equation: they are divided equally on the number of similar rating operators.
2. The Royalties belonging to the foreign TV broadcasters are distributed for the favour of the foreign CMOs which licenses such TV broadcasters for the primary transmission of the protected phonograms.
3. Royalties for the local TV broadcasting channels are distributed at the basis of the submitted phonogram usage information by the TV channels according to the set rules.
4. The royalty paid by the transit operators for the local TV broadcasters which are not licensed is distributed according to the information which is presented by the licensed TV broadcasters.

5. The rules described in this article are applied to the distribution of the royalties received from the retransmission via the internet and the performance of phonograms via technical means at the hotel rooms.

#### Article 10 Interactive streaming

1. The royalties collected from the communication to the public in an interactive manner will be distributed according to the types of phonograms broadcasted interactively with the following rule: royalties from the phonograms broadcasted as the audio recording will be distributed at the basis of the information provided by the radio broadcasting organizations and according to the set rules. Meanwhile, the royalties from the broadcasted as phonograms reproduced in the video recording will be distributed at the basis of the information provided by the TV broadcasting organizations and according to the set rules.

#### Article 11. Distribution Period

1. Distribution of the royalties on the local repertoire is conducted within 3 months, but the royalties for the foreign repertoire is conducted once per 6 months' period after submission of the complete usage information from the users and payment of the license fee.
2. In cases when user does not submit the phonograms' usage information within the set terms, the royalties paid by them will be put on hold until the requested usage information is not submitted, unless the cases which are described in the second part of the article 7, the second part of the article 8 and the second part of the article 9.
3. Due to the volume and/or complexity of processing the submitted usage information, the period of distribution can be increased with the necessary essential time.

#### Article 12. Deductions

1. According to the legislation, the deductions are applied to the collected royalties for their collection distribution and payment, as well as the deductions are conducted from the amounts collected for the Unidentified Phonograms and other protected works, the royalties accumulated in the special social fund and is considered as the income of the Association and source for the operational expenses.
2. The amounts of deductions are set by the Board of the Association within the authority conferred by the statute.

Type of Usage	Amount of deduction
Musical Works' Phonogram Usage	20%

3. In case of necessity, for covering the operational expenses, the Association is entitled to use the collected and to-be-distributed royalties and reimburse them later through future deductions.
4. Deductions for the royalties collected on usage of Foreign CMO's repertoire are indicated in the respective bilateral agreements signed with them

#### Article 13. Payment

1. The Financial department after receiving the final document on distribution is making systematization of the information. The final calculation of the number of royalties is conducted at the basis of the Georgian legislation and is taxed relevantly. After paying the state taxes, the remained royalties are transferred to the local and foreign neighbouring right holders.
2. The payment of the royalties distributed to the local repertoire should be conducted within a month's period after submission of the final distribution files to the finance department.
3. The royalties for the local repertoire, the amount of which does not reach 100 (one hundred) GEL can be postponed until it reaches the transferable minimum amount.
4. Royalties for the foreign repertoire, as usual, is transferred once per year no later than 31<sup>st</sup> December.

5. Royalties for the foreign repertoire under 500 (five hundred) USD defined in national currency, can be postponed until it reaches the transferable minimum amount.
6. When the information about the usage of the phonograms is presented by the user but the royalties are not paid yet, or the distribution procedures are not completed, it is possible to distribute royalties in advance that will be compensated after payment by the user in the future.
7. The royalties, which are to be transferred to foreign CMOs are taxed with the taxes set for the non-resident entity according to the Georgian legislation unless the CMO represents the country benefiting with the privileges from the agreement on avoiding double taxation.

Chapter IV  
Additional Issues  
Article 14. Transparency

1. For ensuring the transparency of the Association's activities, the annual detailed financial report is published and distributed among the Association's members and the e-version of the report is uploaded at the Association's website.
2. Information related to the royalty distribution and payment is maintained at the special virtual cards belonging to the member right-holders. The e-cards can be accessed by the right-holders via the Association's webpage through the granted access key.
3. The annual report is sent to the International Umbrella Organizations and National Intellectual Property Centre of Georgia - SAKPATENTI.

Article 15. Claims and Disputes

1. In case of disputes, the Association keeps the right to postpone the distribution and payment the royalties. The suspension is possible in cases if the dispute is related to a certain phonogram/right holder and the Association is informed on this in a written manner.
2. Association refrains from any involvement into disputes, besides the cases which are considered by the statute of the Association.

Article 16. Final Provisions

1. The Regulation is effective upon its signature.
2. The issues of distribution and payment, which are not defined with this Regulation is regulated by the decision of the Board of the Association.
3. The Regulation is to be published on the Association's website within the 2 calendar weeks upon its signature or shall be available to the Association's members via other means.

Approved by the Georgian Copyright Association Board on 11.05.2015